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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
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Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

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Rules and Regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

[INS No. 1640–93]

RIN 1115–AC24

Contracts With Transportation Lines; Signatory Authority

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends agency regulations by adding the names of airlines who have entered into agreements with the Immigration and Naturalization Service (Service) under the purview of the Immigration and Nationality Act (the Act). This rule is necessary so that air carriers who become signatory to preinspection or transit without visa (TWOV) agreements with the Services are listed in agency regulations. This rule also adds Aruba and Paradise Island, Bahamas to the list of preinspection stations.

EFFECTIVE DATE: This rule is effective January 12, 1994.

FOR FURTHER INFORMATION CONTACT: Una Brien, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., room 7228, Washington, DC 20536, telephone (202) 514–2681.

SUPPLEMENTARY INFORMATION: Under the current regulations, air carriers are required to enter into contracts with the Service in order to participate in the preinspection and Transit Without Visa (TWOV) programs. Contracts have been signed using Forms I–425 (Agreement for Preinspection) and I–426 (Immediate and Continuous Transit Agreement) under the purview of section 238 of the Immigration and Nationality Act. Accordingly, §§ 238.3 and 238.4 of title 8 of the Code of Federal Regulations are being amended to include these carriers.

The Service's implementation of this rule as a final rule is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons for immediate implementation of this final rule are as follows: A notice and comment period for a proposed rule is unnecessary because this regulation merely updates the listing of carriers and preinspection stations signatory with the agency. Moreover, it imposes a benefit rather than a burden or penalty of any kind to applicable persons.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. It is anticipated that this rule will not have a significant adverse economic impact since this rule merely amends agency regulations by adding to the list of airline carriers and preinspection stations. This rule is not significant within the meaning of section 3(f) of Executive Order 12866, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 8 CFR Part 238

Administrative practice and procedures, Air carriers, Aliens, Government contracts, Travel.

Accordingly, part 238 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for part 238 continues to read as follows:

Authority: 8 U.S.C. 1103, 1228; 8 CFR part 2.

2. In § 238.3, paragraph (a) is revised to read as follows:

§ 238.3 Aliens in immediate and continuous transit.

(a) *Form I–426 agreements.* A transportation line bringing aliens to the United States pursuant to § 212.1(f)(1) of this chapter shall enter into an agreement on Form I–426. Such an agreement shall be negotiated directly by the Service's Headquarters Inspections Office and the head offices of the transportation lines.

* * * * *

3. In § 238.3, paragraph (b) is amended by adding the following airline carriers, in alphabetical sequence, to the list of signatory lines to read as follows:

§ 238.3 Aliens in immediate and continuous transit.

* * * * *

(b) * * *

* * * * *

Aerolineas Centrales De Colombia (ACES).

* * *

Aeroposta, S.A.

* * *

Air Aruba.

* * *

AirBC Limited.

* * *

Air Belgium.

* * *

Air Columbus.

* * *

Air Gambia Limited.

* * *

Alliance Air.

* * *

Asiana Air.

* * *

Atlantic Air BVI.

* * *

Aviateca, S.A.

* * *

Balkan Bulgarian.

* * *

Dominair.

* * *

Eva Air.

* * *

Florida Air, Inc.

* * *

J. D. Valenciana De Aviacion.

* * *

KIWI International Airlines.

* * *

Leisure International Airways.

* * *

Miami Air.

* * *

Nicaraguense De Aviacion S.A. (NICA).

* * *

Polynesian Airlines.

* * *

SAETA.

* * *

Transbrasil Airlines.

* * *

Translift Airways.

* * *

Transworld Express.

* * *

Turkish Airlines.

* * *

VASP Brazilian (Viacao Aerea Sao Paulo S.A.).

* * * * *

§ 238.3 [Amended]

4. In § 238.3, paragraph (b) is amended by removing "Aerovias Venezolanas, S.A. (AVENSA)" and "Avensa Airlines" from the list of carriers.

5. Section 238.4 is amended by adding the following preinspection stations and airline carriers in alphabetical sequence within each location, to read as follows:

§ 238.4 Preinspection outside the United States.

* * * * *

At Aruba

Air Aruba.
Airmark Aviation, Inc.
ALM Antillean Airlines.
American Airlines, Inc.
Jet Fleet Corporation.
Miami Air International, Inc.
Rich International Airways, Inc.
Servicious Avensa S.A. (SERVIVENSA).

At Bermuda

* * * * *

Miami Air International, Inc.

* * * * *

Northwest Airlines, Inc.

* * * * *

At Calgary

* * * * *

Miami Air International, Inc.

* * * * *

At Edmonton

* * * * *

Miami Air International, Inc.

* * * * *

At Freeport

* * * * *

Miami Air International, Inc.

* * * * *

Trinity Air Bahamas

* * * * *

At Montreal

* * * * *

Comair, Inc.

* * * * *

Miami Air International, Inc.

* * * * *

At Nassau

* * * * *

Miami Air International, Inc.

* * * * *

Trinity Air Bahamas

* * * * *

At Paradise Island

Paradise Island Airlines, Inc.

At Toronto

* * * * *

Atlantic Coast Airlines dba United Express

* * * * *

Conifair Aviation Inc. dba Royal Airlines

* * * * *

Miami Air International, Inc.

* * * * *

At Shannon

Aeroflot

* * * * *

Translift Airways Limited

At Vancouver

* * * * *

Miami Air International, Inc.

* * * * *

At Victoria

* * * * *

Miami Air International, Inc.

* * * * *

At Winnipeg

* * * * *

Miami Air International, Inc.

* * * * *

Dated: January 6, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–754 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 70, 72

RIN 3150–AE16

Self-Guarantee as an Additional Financial Assurance Mechanism; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule, correction.

SUMMARY: This document corrects a final rule that appeared in the **Federal Register** on December 29, 1993 (58 FR 68726), that amended NRC regulations for decommissioning licensed facilities to allow certain non-electric utility licensees to use self-guarantee as a means of financial assurance. This action is necessary to correct the designation of an appendix in the final rule.

EFFECTIVE DATE: January 28, 1994.

FOR FURTHER INFORMATION CONTACT: Clark Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555, telephone (301) 492–3734.

SUPPLEMENTARY INFORMATION:

PART 30—[AMENDED]

1. On page 68730, in the first column, in the last line of § 30.8(b) the reference to "appendix A and B" should be changed to read "appendix A and C".

2. On page 68730, in the first column, in the 20th line of § 30.35(f)(2), the reference to "appendix B" should be changed to read "appendix C".

3. On page 68730, in amendatory instruction number 4, the reference to "appendix B" should be changed to read "appendix C".

4. On page 68730, in the first line of the second column, "Appendix B" should be changed to read "Appendix C".

PART 40—[AMENDED]

5. On page 68731, in the first column, in the 20th line of § 40.36(e)(2), the reference to "appendix B" should be changed to read "appendix C".

PART 50—[AMENDED]

6. On page 68731, in § 50.75(e)(2)(iii), in the third column, in the sixth line, the reference to "appendix B" should be changed to read "appendix C".

PART 70—[AMENDED]

7. On page 68731, in § 70.25(f)(2), in the last line of the third column, the reference to "appendix B" should be changed to read "appendix C".

PART 72—[AMENDED]

8. On page 68732, in § 72.30(c)(2), in the second column, in the 12th line, the reference to "appendix B" should be changed to read "appendix C".

Dated at Bethesda, Maryland, this 6th day of January 1994.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 94–702 Filed 1–11–94; 8:45 am]

BILLING CODE 7590–01–P–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–ANM–20]

Alteration of Jet Route J–171; CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes a portion of Jet Route J–171 from Hugo, CO, to Kiowa, CO, because the Kiowa, CO, Very High Frequency Omnidirectional Range/Tactical Navigation (VORTAC) facility will be decommissioned after the new Denver International Airport becomes operational. This action supports the new Denver International Airport airspace realignment.

EFFECTIVE DATE: 0901 U.T.C., March 9, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

History

On August 6, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove that portion of Jet Route J–171 from Hugo, CO, to Kiowa, CO (58 FR 42038).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The jet route listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes a portion of Jet Route J–171 from Hugo, CO, to Kiowa, CO. The Kiowa, CO, VORTAC will be decommissioned after the new Denver International Airport becomes operational. This accommodates the new Denver International Airport airspace realignment.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–171 [Revised]

From Tobe, CO, to Hugo, CO.

* * * * *

Issued in Washington, DC, on January 3, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–783 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASO–11]

Designation of Class E Airspace, Dunnellon, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Dunnellon, Florida. A Standard Instrument Approach Procedure (SIAP) for Runway 23 at the Dunnellon Airport has been developed and controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain instrument flight rules (IFR) operations when using this SIAP.

EFFECTIVE DATE: 0901 u.t.c., March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Armando Castro, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5588.

SUPPLEMENTARY INFORMATION:

History

On June 23, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Dunnellon, Florida, to accommodate a Runway 23 instrument approach procedure to the Dunnellon Airport, Dunnellon, Florida (58 FR 41211). The proposal was to add controlled airspace extending upward from 700 feet above the surface to contain IFR operations in controlled airspace during portions of the terminal operation, while transiting between the en route and terminal environments, and to change the operating status of the airport from visual flight rules (VFR) operations to include IFR operations concurrent with publication of the SIAP. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Airspace Reclassificaiton, in effect as of September 16, 1993, has discontinued the use of the term "transition area" and has replaced it with the designation "Class E airspace" for airspace extending upward from 700 feet above the surface. The coorindates for this airspace docket are based on North American Datum 83. Designation for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of

FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Dunnellon, Florida, to accommodate a Runway 23 SIAP based on the Ocala Very High Frequency Omnidirectional Range/ Tactical Air Navigation facility (VORTAC) to the Dunnellon Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the approach.

Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable VFR requirements.

In addition, the operating status of the Dunnellon Airport is changed from VFR operations to include IFR operations concurrent with the publication of the SIAP.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporated by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963, Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designation and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005—Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ASO FL E5 Dunnellon, FL [New]

Dunnellon Airport, FL
(lat. 29°03′45″ N., long. 82°22′38″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Dunnellon Airport, excluding that portion that coincides with the Ocala, FL, Class E airspace.

* * * * *

Issued in College Park, Georgia, on December 28, 1993.

Stephen P. Alogna,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 94–777 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–21]

Amendment of Class E Airspace; Blanding, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Blanding, Utah, Class E airspace. Controlled airspace extending from 700 feet above ground level (AGL) is necessary for a new instrument approach procedure and missed approach holding pattern at Blanding Municipal Airport, Blanding, Utah. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," replacing it with the designation "Class E airspace." The airspace will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 u.t.c., February 15, 1994.

FOR FURTHER INFORMATION CONTACT: James E. Riley, ANM–537, Federal Aviation Administration, Docket No. 93–ANM–21, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On October 1, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Blanding, Utah, Class E Airspace (58 FR 51256). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," and airspace extending upward from 700 feet or more above the surface of the earth is now Class E airspace. Class E airspace designations for airspace areas extending 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the Class E airspace at Blanding, Utah, to provide controlled airspace for aircraft executing a new instrument approach procedure and missed approach holding pattern at Blanding Municipal Airport, Blanding, Utah.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005—Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM UT E5 Blanding, UT [Revised]

Blanding Municipal Airport, UT
(lat. 37°34′59″ N., long. 109°29′00″ W.)
Blanding NDB
(lat. 37°31′03″ N., long. 109°29′34″ W.)
Dove Creek VORTAC
(lat. 37°48′32″ N., long. 108°55′53″ W.)

That airspace extending upward from 700 feet above the surface within a 5.3-mile radius of the Blanding Municipal Airport, and within 5 miles east and 3.1 miles west of the 188 degree bearing from the Blanding NDB extending from the 5.3-mile radius to 10.1 miles south of the NDB; that airspace extending upward from 1,200 feet above the surface within 8.3 miles east and 5 miles west of the 188 and 008 degree bearings from the Blanding NDB extending from 16.1 miles south to 6.1 miles north of the NDB, and within 4.3 miles each side of a direct line between the Blanding NDB and the Dove Creek VORTAC.

* * * * *

Issued in Seattle, Washington, on December 16, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–781 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–29]

Amendment of Class E Airspace; Moab, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Moab, Utah, Class E airspace. Controlled airspace extending from 700 feet above ground level (AGL) is necessary for a new instrument approach procedure at Canyonlands Field Airport, Moab, Utah. The airspace will be depicted on aeronautical chats for pilot reference.

EFFECTIVE DATE: 0901 u.t.c., February 15, 1994.

FOR FURTHER INFORMATION CONTACT: James E. Riley, ANM–537, Federal Aviation Administration, Docket No. 93–ANM–29, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On October 1, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Moab, Utah, Class E airspace (58 FR 51257). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace designations for airspace areas extending 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the Class E airspace at Moab, Utah, to provide controlled airspace for aircraft executing a new instrument approach procedure at Canyonlands Field Airport, Moab, Utah.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005—Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM UT E5 Moab, UT [Revised]

Canyonlands Field Airport, UT
(lat. 38°45′18″ N., long. 109°45′17″ W.)
Moab VOR/DME
(lat. 38°45′22″ N., long. 109°44′58″ W.)

That airspace extending upward from 700 feet above the surface within an 8.7-mile radius of the Canyonlands Field Airport, and within 6.1 miles northeast and 8.7 miles southwest of the Moab VOR/DME 301° radial extending from the 8.7-mile radius to 16.1 miles northwest of the airport and within 2 miles each side of the 040° bearing from Canyonlands Field Airport extending from the 8.7-mile radius to 10 miles northeast of the airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by V–134, on the east by V–391, on the south by V–244, and on the west by V–208, excluding the Price Carbon County Airport, Utah, and the Grand Junction, Walker Field, Co. Class E Airspace Areas and all Federal Airways.

* * * * *

Issued in Seattle, Washington, on December 16, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–780 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–10]

Modification of Class D Airspace; Seattle, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Class D airspace for Seattle-Tacoma

International Airport, Boeing Field Airport, and Renton Municipal Airport. These changes are necessary to reflect the actual airspace delegated to each airport traffic control tower and show this airspace on appropriate aeronautical charts for pilots' use.

EFFECTIVE DATE: 0901 UTC, March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–10, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On August 17, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class D airspace for Seattle-Tacoma International Airport, Boeing Field Airport, and Renton Municipal Airport, Washington (58 FR 43573).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice, except some coordinates of the airspace descriptions have been changed slightly to delete a small amount of Class D airspace south of Boeing Field which was found to be unnecessary. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83. Class D airspace areas are published in paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends the Class D airspace for Seattle-Tacoma International Airport, Boeing Field Airport, and Renton Municipal Airport, Washington. These changes are necessary to reflect the actual airspace delegated to each airport traffic control tower and to show this airspace on appropriate aeronautical charts for pilots' use.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000—General

* * * * *

ANM WA D Seattle-Tacoma International Airport, WA [Revised]

Seattle—Tacoma International Airport, WA
(lat. 47°26′56″ N, Long. 122°18′34″ W)
Seattle, Boeing Field/King County International Airport, WA
(lat. 47°31′48″ N, long. 122°18′07″ W)

That airspace extending upward from the surface to but not including 3,000 feet MSL beginning at lat. 47°22′37″ N., long. 122°14′53″ W., clockwise along the 5-mile radius of the Seattle-Tacoma International Airport to lat. 47°29′38″ N., long. 122°24′46″ W., thence clockwise along the 5-mile radius of Boeing Field/King County International Airport to lat. 47°30′00″ N., long. 122°25′00″ W., thence east along a line to lat. 47°30′00″ N., long. 122°18′00″ W., thence southeast along a line to lat. 47°26′00″ N., long. 122°14′51″ W., thence south along a line to lat. 47°25′49″ N., long. 122°14′54″ W., thence south along a line to the point of beginning excluding that airspace within the Seattle, Washington, Class B airspace area.

* * * * *

ANM WA D Seattle, Boeing Field/King County International Airport, WA [Revised]

Seattle, Boeing Field/King County International Airport, WA
(lat. 47°31′48″ N., long. 122°18′07″ W)
Seattle VORTAC
(lat. 47°26′07″ N., long. 122°18′35″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL beginning at lat. 47°30′00″ N., long. 122°25′00″ W., clockwise along the 5-mile radius of Boeing Field/King County International Airport to lat. 47°34′32″ N., long. 122°11′57″ W., thence southwest along a line to lat. 47°33′41″ N., long. 122°14′03″ W., thence southwest along a line to lat. 47°31′13″ N., long. 122°15′32″ W., thence southeast along a line to lat. 47°30′00″ N., long. 122°13′33″ W., thence south along a line to lat. 47°28′09″ N., long. 122°13′33″ W., thence southeast along a line to lat. 47°27′45″ N., long. 122°12′58″ W., thence south along a line to the intersection with a Seattle VORTAC 097 bearing at lat. 47°25′36″ N., long. 122°12′19″ W., thence west along the Seattle VORTAC 097 bearing to lat. 47°25′49″ N., long. 122°14′54″ W., thence north along a line to lat. 47°26′00″ N., long. 122°14′51″ W., thence northwest along a line to lat. 47°30′00″ N., long. 122°18′00″ W., thence west along a line to the point of beginning excluding that airspace within the Seattle, Washington, Class B airspace area.

* * * * *

ANM WA D Renton, WA [Revised]

(lat. 47°29′35″ N., long. 122°12′57″ W)
Seattle, Boeing Field/King County International Airport, WA
(lat. 47°31′48″ N., long. 122°18′07″ W)
Seattle VORTAC
(lat. 47°26′07″ N., long. 122°18′35″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL beginning at the intersection of a 5-mile radius of Boeing Field/King County International Airport and a 5-mile radius of Renton Municipal Airport at lat. 47°34′32″ N., long. 122°11′57″ W., thence clockwise along the 5-mile radius of Renton Municipal Airport to the intersection with a Seattle VORTAC 097 bearing at lat. 47°25′20″ N., long. 122°09′05″ W., thence west along the Seattle VORTAC 097 bearing to lat. 47°25′36″ N., long. 122°12′19″ W., thence north along a line to lat. 47°27′45″ N., long. 122°12′58″ W., thence northwest along a line to lat. 47°28′09″ N., long. 122°13′33″ W., thence north along a line to lat. 47°30′00″ N., long. 122°13′33″ W., thence northwest along a line to lat. 47°31′13″ N., long. 122°15′32″ W., thence northeast along a line to lat. 47°33′41″ N., long. 122°14′03″ W., thence northeast along a line to the point of beginning.

* * * * *

Issued in Seattle, Washington, on December 14, 1993.

Helen M. Parke,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–785 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–40]

Revocation of Jet Route J–201

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Jet Route J–201 located between the Myton, UT, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility and the Scottsbluff, NE, VORTAC. This jet route failed to meet the necessary criteria required for extended service volume protection during the latest flight check. The FAA has issued several notices to airmen (NOTAM) stating that J–201 is canceled and flight is not authorized. These NOTAM's will be canceled once this final rule becomes effective on March 3, 1994.

EFFECTIVE DATE: 0901 u.t.c., March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes J–201 between the Myton, UT, VORTAC and the Scottsbluff, NE, VORTAC. During the latest flight check, this jet route failed to meet the necessary criteria required for extended service volume protection. The FAA has issued several NOTAM's stating that J–201 is canceled and flight is not authorized. These NOTAM's will be canceled once this final rule becomes effective on March 3, 1994. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this is a minor technical amendment in which the public is not particularly interested. Jet routes are published in Paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The jet route listed in this document will be removed subsequently from the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–201 [Removed]

* * * * *

Issued in Washington, DC, on January 5, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–790 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27567; Amdt. No. 1580]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

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

For Purchase

Individual SIAP copies may be obtained from:

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

By Subscription

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 91 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form

8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control Approaches, Standard Instrument, Incorporation by reference (1) navigation.

Issued in Washington, DC on December 30, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

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

Effective	State	City	Airport	FDC No.	SIAP
12/12/93	FL	Jacksonville	Craig Muni	3/6787	ILS RWY 32 AMDT 2A...
12/14/93	AR	Fort Smith	Fort Smith Regional	3/6660	VOR OR TACAN RWY 25 AMDT 20...
12/17/93	LA	New Orleans	New Orleans Intl/Moisant Fld	3/6685	ILS RWY 10 AMDT 1...
12/17/93	PA	Cortland	Cortland County-Chase Fld. Cortland.	3/6674	VOR A ORIG...
12/21/93	CA	Redding	Redding Muni	3/6728	VOR RWY 34 AMDT 10A...
12/21/93	ND	Bowman	Bowman Muni	3/6709	NDB RWY 29 AMDT 2...
12/21/93	WA	Lawrenceburg	Lawrenceburg Muni	3/6768	NDB RWY 17 AMDT 3...
12/23/93	WA	Friday Harbor	Friday Harbor	3/6718	RADAR–1 AMDT 1...
12/22/93	PA	Allentown	Allentown-Bethlehem-Easton	3/6749	ILS RWY 13 AMDT 5...
12/22/93	PA	Hazleton	Hazleton Muni	3/6755	VOR RWY 28 AMDT 8...
12/22/93	PA	Johnstown	Johnstown-Cambria Co	3/6680	ILS RWY 33 AMDT 2A...
12/22/93	PA	St Marys	St Marys Muni	3/6741	RNAV RWY 10 AMDT 5...
12/23/93	FL	Jacksonville	Jacksonville Intl	3/6785	LOC BC RWY 31 AMDT 8A...
12/23/93	MS	Philadelphia	Philadelphia Muni	3/6765	NDB RWY 18 AMDT ORIG...
12/23/93	MS	Ripley	Ripley	3/6766	VOR/DME–A AMDT 1...

Effective	State	City	Airport	FDC No.	SIAP
12/23/93	NC	Asheville	Asheville Regional	3/6791	ILS RWY 34 AMDT 23...
12/23/93	NC	Edenton	Edenton Muni	3/6772	NDB RWY 5 AMDT 4...
12/23/93	NC	Edenton	Edenton Muni	3/6773	NDB RWY 19 AMDT 5...
12/23/93	NC	Mt Airy	Surry County	3/6790	NDB–A AMDT 2...
12/23/93	NC	New Bern	Craven County Regional	3/6770	VOR RWY 22, AMDT 1A...
12/23/93	NC	Oxford	Henderson-Oxford	3/6771	NDB RWY 6 AMDT 1...
12/23/93	PA	Coatesville	Chester Co G. O. Carlson	3/6756	VOR RWY 29 AMDT 5...
12/23/93	PA	Easton	Easton	3/6776	VOR/DME–D ORIG
12/23/93	PA	Latrobe	Westmoreland County	3/6762	RNAV RWY 5 AMDT 1...
12/23/93	TN	Philadelphia	Northeast Philadelphia	3/6778	LOC BC RWY 6 AMDT 6...

[FR Doc. 94–778 Filed 1–11–94; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27566; Amdt. No. 1579]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

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

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

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

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

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

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

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on December 30, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

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

** * * Effective March 3, 1994*

Bunnell, Fl, Flager County, VOR–A, Orig.
Bunnell, Fl, Flager County, VOR/DME–A, Amdt. 1, CANCELLED

** * * Effective February 3, 1994*

Fullerton, CA, Fullerton Muni, VOR–A, Amdt. 6
San Francisco, CA, San Francisco Intl, LDA/DME RWY 28R, Amdt. 3
San Francisco, CA, San Francisco Intl, ILS RWY 28L, Amdt. 20
San Francisco, CA, San Francisco Intl, BAY ILS/DME RWY 28L, Orig.
Point Lookout, MO, M. Graham Clark, NDB RWY 29, Amdt. 7
Point Lookout, MO, M. Graham Clark, VOR/DME RNAV RWY 29, Amdt. 2
Circleville, OH, Pickaway County Memorial, NDB RWY 19, Orig.
Pittsburgh, PA, Pittsburgh International, Converging ILS RWY 28R, Amdt. 1
Pittsburgh, PA, Pittsburgh International, ILS RWY 28L, Amdt. 5
Pittsburgh, PA, Pittsburgh International, ILS RWY 28R, Amdt. 6

** * * Effective December 23, 1993*

Fort Huachuca-Sierra Vista, AZ, AAF/Sierra Vista Muni, VOR RWY 26, Amdt. 2
Fort Huachuca-Sierra Vista, AZ, AAF/Sierra Vista Muni, NDB RWY 26, Amdt. 2
Fort Huachuca/Sierra Vista, AZ, Libby AAF/Sierra Vista Muni, ILS RWY 26, Amdt. 1
Fort Huchauca/Sierra Vista, AZ, Libby AAF/Sierra Vista Muni, RADAR–1, Amdt. 4

[FR Doc. 94–779 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA26

Rule Concerning Disclosures of Energy Consumption and Water Use Information About Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: Under the Energy and Water Use Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. This notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used on labels on refrigerators, refrigerator-freezers, and freezers manufactured on and after April 12, 1994, and in advertising of refrigerators, refrigerator-freezers, and freezers in catalogs printed after April 12, 1994. Properly labeled refrigerators, refrigerator-freezers, and freezers manufactured prior to the effective date need not be relabeled. Catalogs printed prior to the effective date in accordance with 16 CFR 305.14 need not be revised.

EFFECTIVE DATE: April 12, 1994.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including refrigerators, refrigerator-freezers, and freezers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all refrigerators, refrigerator-freezers and freezers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a refrigerator, refrigerator-freezer or freezer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report estimated annual operating cost or energy efficiency annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for refrigerators, refrigerator-freezers, and

[1] 44 FR 66466. On December 10, 1987 (52 FR 46888), the Commission amended the Appliance Labeling Rule by extending coverage to include central air conditioners and heat pumps. On October 25, 1993 (58 FR 54955), the Commission extended the Rule's coverage to include certain plumbing products (showerheads, faucets, water closets and urinals).

[2] 42 U.S.C. 6294.

[3] Reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

freezers, which were calculated using the 1993 representative average energy cost for electricity (8.30 cents per kilowatt-hour) published by DOE on January 5, 1993,[4] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission amends Appendices A–1, A–2 and B of its of its Energy and Water Use Rule as follows effective beginning April 12, 1994.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In appendices A1, A2 and B, Paragraph 1 of each and the introductory text in Paragraph 2 of each are revised to read as follows:

Appendix A1 to Part 305—Refrigerators

1. Range Information:

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 2.5	$21	$30
2.5 to 4.4	5	35
4.5 to 6.4	22	34
6.5 to 8.4	31	35
8.5 to 10.4	9	37
10.5 to 12.4	38	43
12.5 to 14.4	41	46
14.5 to 16.4	19	19
16.5 and over	37	38

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 8.30¢ per kilowatt hour.

* * * * *

Appendix A2 to Part 305—Refrigerator-Freezers

1. Range Information:

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 10.5	$17	58
10.5 to 12.4	43	65
12.5 to 14.4	25	71
14.5 to 16.4	31	73
16.5 to 18.4	47	87
18.5 to 20.4	50	108
20.5 to 22.4	52	106
22.5 to 24.4	60	122
24.5 to 26.4	61	116
26.5 to 28.4	71	129
28.5 and over	73	122

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 8.30¢ per kilowatt hour.

* * * * *

Appendix B to Part 305—Freezers

1. Range Information

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 5.5	$14	$42
5.5 to 7.4	23	34
7.5 to 9.4	25	46
9.5 to 11.4	29	52
11.5 to 13.4	32	80
13.5 to 15.4	35	83
15.5 to 17.4	44	72
17.5 to 19.4	39	92
19.5 to 21.4	42	74
21.5 to 23.4	45	46
23.5 to 25.4	47	47
25.5 to 27.4	(1)	(1)
27.5 to 29.4	(1)	(1)
29.5 and over	140	223

[1] No data submitted.

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 8.30¢ per kilowatt hour.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–747 Filed 1–11–94; 8:45 am]

BILLING CODE 6750–01–M

[4] 58 FR 345. The Commission published these figures on January 25, 1993, at 58 FR 5925. The cost for electricity was published as 8.30 cents per kilowatt-hour; for natural gas: 59.46 cents per therm; for propane: 73 cents per gallon; for No. 2 heating oil: $1.00 per gallon.

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16 CFR Part 305

RIN 3084–AA26

Rule Concerning Disclosures of Energy Consumption and Water Use Information About Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: Under the Energy and Water Use Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. This notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule must be used on labels on dishwashers manufactured on and after April 12, 1994, and in advertising of dishwashers beginning April 12, 1994. Properly labeled dishwashers manufactured prior to the effective date need not be relabeled. Catalogs printed prior to the effective date in accordance with 16 CFR 305.14 need not be revised.

EFFECTIVE DATE: April 12, 1994.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA)[1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Dishwashers are included as one of the categories. Before these labeling requirements may be prescribed, the statute requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a customer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule[2] covering seven of the thirteen appliance categories, including dishwashers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all dishwashers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a dishwasher is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then on each page of the catalog that lists the product shall be included the range of estimated annual energy costs for the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be

[1] 42 U.S.C. 6294.

[2] 44 FR 66466. On December 10, 1987 (52 FR 46888), the Commission amended the Appliance Labeling Rule by extending coverage to include central air conditioners and heat pumps. On October 25, 1993 (58 FR 54955), the Commission extended the Rule's coverage to include certain plumbing products (showerheads, faucets, water closets and urinals).

based on the results of the DOE test procedures.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[3] The data submitted by manufacturers are based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for dishwashers, which were calculated using the 1993 representative average energy costs published by DOE on January 5, 1993,[4] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission amends appendix C of its Energy and Water Use Rule by publishing the following ranges of comparability for use in the labeling and advertising of dishwashers beginning April 12, 1994.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In appendix C, Paragraph 1 and the introductory text in Paragraph 2 are revised to read as follows:

Appendices to Part 305

* * * * *

Appendix C to Part 305—Dishwashers

1. Range Information: "Compact" includes countertop dishwasher models with a capacity of fewer than eight (8) place settings.

"Standard" includes portable or built-in dishwasher models with a capacity of eight (8) or more place settings.

Place settings shall conform to AHAM Specification DW–1 for chinaware, flatware and serving pieces. Load patterns shall conform to the operating normal for the model being tested.

Ranges of comparability	Ranges of estimated yearly energy costs			
	Electrically heated water		Natural gas heated water	
	Low	High	Low	High
Compact	(1)	(1)	(1)	(1)
Standard	$39.00	$89.00	$21.00	$47.00

[1] No data submitted.

2. Yearly Cost Information: Estimates on the scales are based on national average electric rate of 8.30¢ per kilowatt hour, a national average natural gas rate of 59.46¢ per therm, and 6.2 loads of dishes per week.

* * * * *

Donald S. Clark,

Secretary.

[FR Doc. 94–748 Filed 1–11–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM94–8–000]

Revision of the Regulations Governing Commission Review of Department of Energy Remedial Orders

Issued January 4, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations governing Commission review of contested Department of Energy remedial orders. The Commission is removing as not necessary the requirement that the presiding officer submit a revised proposed order to the Commission at the same time as he or she certifies and files with the Secretary the record in the proceeding and copies of written comments by the parties.

EFFECTIVE DATE: The final rule is effective on January 4, 1994.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0457.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this document will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in Wordperfect format may also

[3] Reports for dishwashers are due by June 1.

[4] 58 FR 345. The Commission published these figures on January 25, 1993, at 58 FR 5925. The cost for electricity was published as 8.30 cents per kilowatt-hour; for natural gas: 59.46 cents per therm; for propane: 73 cents per gallon; for No. 2 heating oil: $1.00 per gallon.

be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is revising its regulations in part 385 governing Commission review of contested Department of Energy (DOE) remedial orders. The Commission is removing the requirement that the presiding officer submit a revised proposed order to the Commission at the same time as he or she certifies and files with the Secretary the record in the proceeding and copies of written comments by the parties.

II. Background and Discussion

The Commission reviews contested DOE remedial orders pursuant to section 503(c) of the Department of Energy Organization Act (DOE Act).[1] Under the current Rules of Practice and Procedure, the Commission Administrative Law Judge (ALJ) who presides over a remedial order proceeding issues a public decision and proposed order following the hearing in the matter. The parties then have an opportunity to file comments and reply comments. The ALJ receives the comments and certifies the record to the Commission. In addition, the Judge also submits to the Commission a nonpublic "revised proposed order." The revised proposed order is not part of the record of the proceeding.

The Commission is eliminating the requirement in § 385.913(d) of the Commission's regulations that ALJs submit a revised proposed order. This action will expedite the appeal process by removing an unnecessary, duplicative step in remedial order proceedings. Since the Commission now finds that revised proposed orders are not necessary, draft orders that have already been submitted by ALJs to the Commission in pending and recently completed remedial order cases will be placed in the public docket of each proceeding. Parties do not have any additional procedural rights or opportunities by virtue of the inclusion of these draft orders in the public docket. Under the Commission's Rules of Practice and Procedure in remedial order cases, the parties already enjoy ample opportunities to present their positions fully before the Commission.[2]

[1] See 42 U.S.C. 7193(c).

[2] Apart from the procedural opportunities available to parties before DOE, once a matter is appealed to the Commission, the petitioner files a detailed answer to the RO; the petitioner, DOE and intervenors may seek discovery and permission to raise new facts or issues not raised before DOE. The parties then have an opportunity to file briefs (Rule 906); to obtain a hearing including an opportunity for the submission of oral or documentary evidence and oral argument (and to ask the ALJ's permission for cross-examination) (Rule 909); and to file with the ALJ proposed findings of fact and conclusions of law and replies to these pleadings. Finally, after the ALJ has issued a decision and proposed order, the parties may file written comments and reply comments on the ALJ's decision. (Rule 913)

III. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980 (RFA)[3] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities.[4] Pursuant to section 605(b) of the RFA, the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IV. Environmental Statement

Issuance of this rule will not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[5] This rule is procedural and falls within the categorical exemptions provided in the Commission's regulations. Neither an environmental impact statement nor an environmental assessment is required.[6]

V. Information Collection Statement

Office of Management and Budget (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.[7] This rule contains no information collection requirements and is not subject to OMB approval.

VI. Administrative Findings and Effective Date

This final rule is a rule of agency organization and procedure that does not alter any substantive rights or interests, but merely deletes a nonpublic, revised proposed order in remedial order proceedings that is unnecessary and duplicative in Commission deliberations. Prior notice and comment under section 4 of the Administrative Procedure Act are therefore unnecessary.[8] The Commission finds good cause to make this rule effective immediately upon issuance. This rule, therefore, is effective January 4, 1994.

[3] 5 U.S.C. 601–602.

[4] Section 601(c) of the RFA defines a "small entity" as a small business, a small not-for-profit enterprise, or a small governmental jurisdiction. A "small business" is defined by reference to section 3 of the Small Business Act as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 15 U.S.C. 632(a).

[5] See Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990, ¶ 30,783 (Dec. 10, 1987) (codified at 18 CFR part 380).

[6] See 18 CFR 380.4(a)(1).

[7] 5 CFR part 1320.

[8] 5 U.S.C. 553(b).

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission is amending part 385, chapter I, title 18, Code of Federal Regulations, as set forth below:

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 1–27.

2. In § 385.913, paragraph (d) is revised to read as follows:

§ 385.913 Proposed order (Rule 913).

* * * * *

(d) The presiding officer will certify and file with the Secretary of the Commission a copy of the record in the proceedings and copies of the written and reply comments filed pursuant to paragraphs (b) and (c) of this section.

* * * * *

[FR Doc. 94–681 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

RIN 0960–AC88

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Standards Applicable in Certain Determinations of Good Cause, Fault, and Good Faith

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations amend the existing regulations to reflect the provisions of section 10305 of the

Omnibus Budget Reconciliation Act of 1989 (OBRA 1989).

Section 10305 requires that the Secretary of Health and Human Services (the Secretary), in making certain determinations of good cause, without fault, and good faith under title II of the Social Security Act (the Act), take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

In addition, section 10305 amended title XVI of the Act to require that the Secretary take these limitations into account in determining with respect to an individual's eligibility for title XVI benefits, whether the individual acted in good faith or was without fault, and in determining fraud, deception, or intent.

EFFECTIVE DATE: These final regulations are effective January 12, 1994.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 (410) 965–1769.

SUPPLEMENTARY INFORMATION: On October 30, 1991, we published a notice of proposed rulemaking (NPRM) at 56 FR 55848. We received comments from a nonprofit public interest law center and a national nonprofit organization. Both organizations represent people who are hearing impaired and both strongly supported the proposed rule and urged its adoption. The final rule, with the exception of several technical changes we have made and which we discuss below, is the same as the NPRM.

Sections 10305 (a), (b), (c), and (d) of OBRA 1989 amended sections 203(l), 204(b), 223(f), and 223(g)(2)(B) of title II of the Act, respectively, to require that the Secretary, in making certain determinations and decisions of good cause, fault, and good faith under the respective sections of the Act, take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, section 10305(e) of OBRA 1989 amended section 1631(c)(1) of title XVI of the Act to require that the Secretary take these limitations into account in determining with respect to the eligibility of an individual for benefits under title XVI, whether the individual acted in good faith or was without fault, and in determining fraud, deception, or intent. The Conference Committee Report on OBRA 1989 indicates that the Congress intended that the amendment to section 1631(c)(1) of the Act would apply to provisions of title XVI that are similar to the title II provisions amended by sections 10305 (a) through (d). (H.R. Rep. No. 386, 101st Cong., 1st Sess. 708 (1989).) The amendments made by section 10305 are effective for determinations or decisions made after June 30, 1990.

Generally, it has been our policy to take into account the limitations described in section 10305 in making determinations or decisions of good cause, without fault, or good faith (or determinations or decisions concerning fraudulent or similar intent) with respect to the rights and duties of applicants and beneficiaries under the title II and title XVI programs. However, our existing regulations were not explicit in this respect. Therefore, we are revising our regulations under the title II and title XVI programs to reflect explicitly the amendments to the Act made by section 10305 of OBRA 1989. The changes to the regulations make it clear that we will take into account any physical, mental, educational, or linguistic limitations of an individual (including any lack of facility with the English language) in making a determination of good cause, without fault, or good faith, as appropriate, under section 203(l), 204(b), 223(f), or 223(g)(2)(B) of the Act (as required by the amendments made by sections 10305 (a) through (d)), and in determining with respect to an individual's eligibility for benefits under title XVI of the Act, whether such individual acted in good faith or was without fault, and in determining fraud, deception, or intent (as required under the amendment made to section 1631(c)(1) of the Act by section 10305(e)). Also, in keeping with the intent of Congress and in the interest of consistency, we are amending certain provisions of the title II regulations to provide expressly for the consideration of the limitations described in section 10305 in making certain determinations and decisions under the title II program which relate to good cause or fraudulent intent and which are not covered expressly by the amendments under sections 10305 (a) through (d) of OBRA 1989. The changes we are making are discussed below.

• Good Cause for Failure to Make Timely Reports

Generally, in certain cases described in section 203 of the Act, a title II beneficiary who (1) Works for more than 45 hours during a month in noncovered employment outside the United States, (2) ceases to have a child in his or her care, or (3) has earnings in excess of the annual exempt amount under the earnings test, is subject to a penalty (in the form of benefit deductions) if he or she fails to report these facts to us within a specified time. However, under section 203(l) of the Act, a penalty does not apply if the individual can demonstrate to the satisfaction of the Secretary that he or she has good cause for failing to make a timely report.

Section 10305(a) of OBRA 1989 amended section 203(l) to provide that the Secretary, in making determinations and decisions of good cause, must take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

Section 404.454 is the regulation which implements section 203(l). Accordingly, we are amending § 404.454(a) to provide that in making determinations and decisions of good cause for failure to make timely reports, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, we are adding a new paragraph, (a)(9), to § 404.454 to illustrate that good cause may be found where failure to file a timely report was due, for example, to a failure on the part of the individual to understand reporting responsibilities due to his or her physical, mental, educational, or linguistic limitation(s).

Under section 1631(e)(2) of the Act, an individual who is required under rules prescribed by the Secretary to make a timely report of circumstances affecting eligibility for, or the amount of, title XVI benefits is subject to a penalty (in the form of benefit deductions) if the individual fails to make the required report on time. However, the penalty under section 1631(e)(2) does not apply if the individual is without fault or has good cause for not reporting timely.

Section 416.732 of our current regulations explains how we determine whether an individual has good cause for failure to make a timely report for purposes of section 1631(e)(2). We are adding a new paragraph to § 416.732 to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in making determinations and decisions of good cause for failure to make timely reports.

• Fraudulent Behavior or Failure To Cooperate or To Take Any Required Action in Disability Determinations

Under sections 223(f) and 1614(a)(4) of the Act, title II or title XVI disability benefits may be terminated if a prior favorable determination of disability was fraudulently obtained or if the

beneficiary fails, without good cause, to cooperate with the Secretary in reviewing his or her entitlement or to follow prescribed treatment which is expected to restore his or her ability to work.

Section 10305(c) of OBRA 1989 amended section 223(f) of the Act to provide that in making, for purposes of section 223(f), any determination or decision relating to fraudulent behavior by any individual or failure by any individual without good cause to cooperate or to take any required action, the Secretary shall take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. In addition, with respect to making similar determinations and decisions for purposes of section 1614(a)(4) of the Act, section 1631(c)(1) of title XVI of the Act, as amended by OBRA 1989, requires the Secretary to take these limitations into account in determining whether an individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

Sections 404.1518, 404.1530, 404.1579, 404.1594, 416.918, 416.930, 416.994 and 416.994a reflect the pertinent provisions of sections 223(f) and 1614(a)(4) of the Act. We are making the following changes in these regulations:

• Amend §§ 404.1518 and 416.918 to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has when determining if the individual has a good reason for failing to attend a consultative examination which we have arranged for the individual. These specific amendments were not included in the NPRM. Current §§ 404.1518 and 416.918 provide that we may determine that an individual who is applying for benefits based on disability or blindness is not disabled or blind, or that an individual who is entitled to or eligible for benefits based on disability or blindness is no longer disabled or blind, if we find that the individual failed or refused to attend a consultative examination without a good reason. While §§ 404.1518 and 416.918 provide rules for determining whether an individual has a good reason for such failure or refusal and, thus, are within the scope of the amendments to sections 223(f) and 1631(c)(1) of the Act, we inadvertently failed to include these regulations when we developed the proposed regulations to implement section 10305 of OBRA 1989. We are amending §§ 404.1518(a) and 416.918(a) in the final rule to make it clear that we will consider an individual's physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) in determining whether the individual has a good reason for failing to attend a consultative examination. In connection with this change, we also are making related changes, which were not in the NPRM, to §§ 404.1579(e)(2), 404.1586(d), 404.1594(e)(2), 416.986(c), 416.994(b)(4)(ii) and 416.994a(g)(2) to include in these sections a cross-reference to § 404.1518 or § 416.918, as appropriate, to clarify that §§ 404.1518 and 416.918 provide the rules for determining whether an individual has a good reason for not attending a consultative examination. Current § 416.994a(g)(2) already contains such a cross-reference.

• Amend §§ 404.1530(c) and 416.930(c) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has when deciding if the individual has acceptable reasons for failure to follow prescribed treatment.

• Amend §§ 404.1579 (e)(1) and (e)(2), 404.1594 (e)(1) and (e)(2), 416.994 (b)(4)(i) and (b)(4)(ii) and 416.994a (g)(1) and (g)(2) to indicate that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether a prior favorable determination or decision was fraudulently obtained or in determining whether an individual has good cause for failure to supply evidence we ask for or to go for a physical or mental examination. The amendments to these sections of the regulations include certain technical changes that were not reflected in the NPRM. For the final rule, we are adding the phrase "or decision" to §§ 404.1579(e)(1), 404.1594(e)(1), 416.994(b)(4)(i) and 416.994a(g)(1) to clarify that these provisions apply not only to determinations we make, but also to decisions we make. Section 416.994a(g)(1) already contains this language. Also, as discussed above, §§ 404.1579(e)(2), 404.1586(d), 404.1594(e)(2), 416.986(c), 416.994(b)(4)(ii) and 416.994a(g)(2) of the final rule include a cross-reference to § 404.1518 or § 416.918, as appropriate, which provides rules for determining whether an individual has good cause for failing to attend a consultative examination.

Consistent with the NPRM, the final changes to §§ 404.1579(e)(2), 404.1594(e)(2), 416.994(b)(4)(ii) and 416.994a(g)(2) also explain that we will consider the factors described in §§ 404.911 and 416.1411 for purposes of determining generally whether an individual has good cause for failure to cooperate in a review of his or her entitlement to benefits based on disability. (Current §§ 404.911 and 416.1411 explain the factors we consider in determining whether an individual has good cause for missing a deadline to request review of a determination or decision under our administrative review process. As explained later in this preamble, we are amending §§ 404.911 and 416.1411, which apply to title II and title XVI cases, respectively, to provide explicitly for the consideration of the limitations described in section 10305 of OBRA 1989 in determining whether an individual has good cause for missing a deadline to request review.) We are also revising §§ 404.1586(d) and 416.986(c) to clarify that we will consider the factors described in §§ 404.911 and 416.1411, respectively, for purposes of determining generally whether an individual has good cause for failure to cooperate in a review of his or her continuing entitlement to title II benefits, or continuing eligibility for title XVI benefits, based on blindness.

• **Without Fault—Waiver of Adjustment or Recovery of Overpayments**

Under sections 204(b) and 1631(b)(1)(B) of the Act, recovery or adjustment of overpayments to a title II or title XVI beneficiary may be waived in situations where the individual is without fault in connection with the overpayment and recovery or adjustment would defeat the purposes of the program or would be against equity and good conscience or, with respect to the title XVI program, would impede efficient or effective administration of title XVI because of the small amount involved. Our existing regulations explain that in determining whether an individual was without fault, all pertinent factors surrounding the overpayment will be considered, including the individual's age, intelligence, education, and physical and mental capabilities.

Section 10305(b) of OBRA 1989 amended section 204(b) of the Act to provide that the Secretary, in making determinations or decisions of "without fault" for purposes of section 204(b), must take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. In addition, the

amendment to section 1631(c)(1) of the Act made by section 10305(e) of OBRA 1989 provides that, for the purposes of the title XVI program, the Secretary must take these same limitations into account in determining, among other things, whether an individual is without fault.

We are making the following changes in our regulations which implement sections 204(b) and 1631(b)(1)(B) of the Act to reflect the pertinent amendments made by section 10305.

• Amend § 404.507 to provide that in making determinations of without fault with respect to title II overpayments, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• Amend § 404.510 to provide that in determining whether an individual is without fault with respect to a title II deduction overpayment, we will consider all pertinent circumstances, including an individual's age and intelligence and any physical, mental, educational, or linguistic limitations of the individual (including any lack of facility with the English language). In addition, to eliminate any ambiguity with respect to the application of the amendment to section 204(b) of the Act made by section 10305(b) of OBRA 1989 in cases involving title II deduction overpayments, the changes to § 404.510 will: (1) clarify that the situations described in § 404.510 in which an individual will be considered without fault in connection with a deduction overpayment are not all-inclusive; and (2) eliminate the provision in paragraph (n) of § 404.510 which requires that for an individual to be considered without fault with respect to a deduction overpayment in certain circumstances described in paragraph (n), such individual must have made a bona fide attempt to restrict his or her annual earnings or otherwise comply with the deduction provisions of the Act.

• Amend § 404.511(b) to show that the Social Security Administration generally will not find an individual to be without fault when, after having been exonerated for a title II "deduction overpayment" and after having been advised of the correct interpretation of the deduction provision, the individual incurs another "deduction overpayment" under the same circumstances as the first overpayment. The change to § 404.511(b) also explains that in determining "without fault" under such circumstances, however, any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has will be taken into consideration.

• Amend § 416.552 to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether the individual is without fault for purposes of the waiver of adjustment or recovery of a title XVI overpayment.

In general, under section 1631(b)(4) of the Act and the implementing regulation, § 416.556, if any title XVI overpayment is attributable solely to the ownership or possession by an individual (or by an individual and his or her spouse, if any) of countable resources having a value which exceeds, by $50 or less, the applicable limitation on resources specified in the Act and regulations, such individual (and spouse if any) will be deemed to have been without fault in connection with the overpayment, and waiver of adjustment or recovery will be made, unless the failure to report the value of the excess resources correctly and in a timely manner was willful and knowing. Based on the amendment to section 1631(c)(1) of the Act made by section 10305(e) of OBRA of 1989, we are amending § 416.556(b) to provide that in determining whether failure to report the excess resources correctly and in a timely manner was willful and knowing, and, thus, whether the individual was at fault, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• Good Faith—Waiver of Recovery of Overpayments—Continuation of Disability Benefits Pending Appeal

Under sections 223(g) and 1631(a)(7) of the Act and the implementing regulations at §§ 404.1597a and 416.996, a title II or title XVI beneficiary receiving benefits based on disability whom the Secretary determines is no longer disabled based on medical factors has the option of having his or her benefits continued through a hearing before an administrative law judge (ALJ). Benefits paid during this period are considered overpayments if the beneficiary loses the appeal. However, if the beneficiary acted in good faith in pursuing the appeal, repayment can be waived (sections 223(g)(2)(B) and 1631(a)(7)(B)(ii) of the Act and 404.1597a(j) and 416.996(g) of our regulations). Our regulations establish a presumption that appeals are made in good faith unless the beneficiary fails, without good cause, to cooperate during the appeal.

Section 10305(d) of OBRA 1989 amended section 223(g)(2)(B) of the Act to require that the Secretary take into account any physical, mental, educational, or linguistic limitations an individual may have (including any lack of facility with the English language) in determining whether an individual's appeal is made in good faith.

Based on this amendment and the amendment to title XVI of the Act made by section 10305(e) of OBRA 1989, we are amending §§ 404.1597a(j)(3) and 416.996(g)(2) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining whether the individual acted in good faith in pursuing the appeal.

• Determinations of Good Cause or of Fraud or Similar Fault in Connection With the Administrative Review Process

Section 10305(e) amended section 1631(c)(1) of the Act to provide that the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitations of an individual (including any lack of facility with the English language) in determining, with respect to the eligibility of the individual for benefits under title XVI, whether the individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

The changes we are making in part 416 of the regulations in connection with the administrative review process are based on the amendment to section 1631(c)(1). We are making comparable changes in part 404 in the interest of consistency.

Our current regulations provide that a determination or decision which we make about an individual's rights under title II or title XVI of the Act is generally final and binding unless the individual files a request for review of the determination or decision within a specified time period. However, the time period to request review will be extended if good cause can be established for missing the deadline to request review (§§ 404.911 and 416.1411). Also, under our regulations, we may reopen a determination or decision at any time if it was obtained by fraud or similar fault (§§ 404.988(c)(1) and 416.1488(c)), or, in title II cases, if certain other circumstances exist (§ 404.988(c)).

Under our regulations, a request for a hearing before an ALJ may be dismissed if neither the person requesting the hearing nor his or her designated

representative appears at the time and place set for the hearing. However, if good cause for failure to appear can be established, the hearing request will not be dismissed (§§ 404.957(b) and 416.1457(b)).

We are making the following changes to §§ 404.911, 404.936, 404.957, 404.988, 416.1411, 416.1436, 416.1457, and 416.1488 to reflect the consideration of the factors described in section 10305 of OBRA 1989.

• Amend §§ 404.911(a) and (b)(9) and 416.1411(a) and (b)(9) to provide that in determining whether an individual had good cause for missing a deadline to request review, we will take into account any physical, mental, educational, or linguistic limitations of the individual (including any lack of facility with the English language) which may have prevented the individual from filing a timely request or from understanding or knowing about the need to file a timely request for review.

• Amend §§ 404.936 and 416.1436 to further describe circumstances which an individual, who will not be represented at a hearing before an ALJ, may give for requesting a change in the time or place of the hearing.

• Amend §§ 404.957(b) and 416.1457(b) to require that in making determinations of whether an individual had good cause for failure to appear for a hearing before an ALJ, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

• Amend §§ 404.988(c)(1) and 416.1488(c) to indicate that in determining whether a determination or decision was obtained by fraud or similar fault for the purposes of reopening, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has.

Good Cause for Refusal To Accept Rehabilitation Services

Under sections 222(b) and 1615(c) of the Act and the implementing regulations at §§ 404.422 and 416.1328, deductions may be imposed against title II benefits, or title XVI benefits may be suspended, if a disabled or blind beneficiary refuses without good cause to accept certain rehabilitation services. If good cause can be established for the refusal, benefits will not be affected. The final regulations amend the pertinent regulations relating to good cause for refusal of rehabilitation services.

The change we are making in part 416 of the regulations is based on the amendment to section 1631(c)(1) of the Act. We are making a comparable change in part 404 in the interest of consistency.

Sections 404.422 and 416.1715 of our regulations discuss how we determine whether an individual has good cause for refusing rehabilitation services. We are amending §§ 404.422(e) and 416.1715(a) to provide that in making good cause determinations concerning the refusal of rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. We are also making a technical correction in a cross-reference contained in § 416.2203 to indicate that "good cause" for refusal of vocational rehabilitation services is defined in § 416.1715.

Good Reason for Not Applying for Other Benefits

Section 1611(e)(2) of the Act requires that SSI applicants and beneficiaries apply for other benefits for which they may be eligible within 30 days from the date the individual receives our notice about any other benefits for which the individual is likely to be eligible. Our existing regulations §§ 416.210(e) and 416.1330(a) provide that individuals are not eligible for SSI benefits if they do not apply for the other benefits when told to do so. However, both §§ 416.210(e) and 416.1330(a) provide that the individual will not be found ineligible for SSI benefits if the individual had good reason (§ 416.210(e)) or good cause (§ 416.1330(a)) for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them.

We are amending § 416.210(e)(2) to provide that we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has in determining good reason or good cause for not filing for other benefits. Since § 416.1330(a) refers to § 416.210(e), we are not amending § 416.1330(a).

Regulatory Procedures

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules will affect only individuals and States.

Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 through 93.805 Social Security; and 93.807 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-age, Survivors, and Disability insurance; Reporting and recordkeeping requirements.

20 CFR Part 416

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: November 3, 1993.

Shirley Chater,

Commissioner of Social Security.

Approved: January 3, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subparts E, F, J, and P of part 404 and subparts B, E, G, I, N, Q and V of part 416 of 20 CFR chapter III are amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart E continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205(a), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

2. Section 404.422 is amended by adding two new sentences immediately before the second sentence of the introductory text of paragraph (e) to read as follows:

§ 404.422 Deductions because of refusal to accept rehabilitation services.

* * * * *

(e) * * * In determining whether an individual has good cause for refusing rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have which may have caused the

individual to refuse such services. We also consider other factors that may have caused an individual to refuse such services. * * *

* * * * *

3. Section 404.454 is amended by revising the third and fourth sentences of the introductory text of paragraph (a), by removing the word "or" that follows the semicolon at the end of paragraph (a)(7), by removing the period at the end of paragraph (a)(8) and replacing it with "; or", and by adding a new paragraph (a)(9) to read as follows:

§ 404.454 Good cause for failure to make required reports.

(a) *General.* * * * The failure of the individual to submit evidence to establish good cause within a specified time may be considered a sufficient basis for a finding that good cause does not exist (see § 404.705). In determining whether good cause for failure to report timely has been established by the individual, consideration is given to whether the failure to report within the proper time limit was the result of untoward circumstances, misleading action of the Social Security Administration, confusion as to the requirements of the Act resulting from amendments to the Act or other legislation, or any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. * * *

* * * * *

(9) Failure of the individual to understand reporting responsibilities due to his or her physical, mental, educational, or linguistic limitation(s).

* * * * *

4. The authority citation for subpart F continues to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 1102 of the Social Security Act; 42 U.S.C. 404(a)–(d), 405(a), and 1302.

5. Section 404.507 is amended by revising the third sentence of the introductory text to read as follows:

§ 404.507 Fault.

* * * In determining whether an individual is at fault, the Social Security Administration will consider all pertinent circumstances, including the individual's age and intelligence, and any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. * * *

* * * * *

6. Section 404.510 is amended by revising the section heading, by removing the last sentence of paragraph (n) and by revising the introductory text of § 404.510 to read as follows:

§ 404.510 When an individual is "without fault" in a deduction overpayment.

In determining whether an individual is "without fault" with respect to a deduction overpayment, the Social Security Administration will consider all pertinent circumstances, including the individual's age and intelligence, and any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual has. Except as provided in § 404.511 or elsewhere in this subpart F, situations in which an individual will be considered to be "without fault" with respect to a deduction overpayment include, but are not limited to, those that are described in this section. An individual will be considered "without fault" in accepting a payment which is incorrect because he/she failed to report an event specified in sections 203 (b) and (c) of the Act, or an event specified in section 203(d) of the Act as in effect for monthly benefits for months after December 1960, or because a deduction is required under section 203 (b), (c), (d), or section 222(b) of the Act, or payments were not withheld as required by section 202(t) or section 228 of the Act, if it is shown that such failure to report or acceptance of the overpayment was due to one of the following circumstances:

* * * * *

7. Section 404.511 is amended by revising the section heading and by revising paragraph (b) to read as follows:

§ 404.511 When an individual is at "fault" in a deduction overpayment.

* * * * *

(b) *Subsequent deduction overpayments.* The Social Security Administration generally will not find an individual to be without fault where, after having been exonerated for a "deduction overpayment" and after having been advised of the correct interpretation of the deduction provision, the individual incurs another "deduction overpayment" under the same circumstances as the first overpayment. However, in determining whether the individual is without fault, the Social Security Administration will consider all of the pertinent circumstances surrounding the prior and subsequent "deduction overpayments," including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which the individual may have.

8. The authority citation for subpart J of part 404 is revised to read as follows:

Authority: Secs. 201(j), 205 (a), (b) and (d)–(h), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), and 1302, sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

9. Section 404.911 is amended by removing the period after paragraph (a)(3) and replacing it with "; and", by adding a new paragraph (a)(4) after paragraph (a)(3), and by revising paragraph (b)(9) to read as follows:

§ 404.911 Good cause for missing the deadline to request review.

(a) * * *

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review

(b) * * *

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known of the need to file timely, or which prevented you from filing timely.

10. Section 404.936 is amended by revising paragraph (d)(7) to read as follows:

§ 404.936 Time and place for a hearing before an administrative law judge.

* * * * *

(d) * * *

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

11. Section 404.957 is amended by redesignating paragraphs (b)(1) and (b)(2) as paragraphs (b)(1)(i) and (b)(1)(ii) and by adding a new paragraph (b)(2) to read as follows:

§ 404.957 Dismissal of a request for a hearing before an administrative law judge.

* * * * *

(b) * * *

(2) In determining good cause or good reason under this paragraph, we will consider any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

* * * * *

12. Section 404.988 is amended by revising paragraph (c)(1) to read as follows:

§ 404.988 Conditions for reopening.

* * * * *

(c) * * *

(1) It was obtained by fraud or similar fault (see § 416.1488(c) of this chapter for factors which we take into account in determining fraud or similar fault);

* * * * *

13. The authority citation for subpart P is revised to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 1302, sec. 505(a) of Pub. L. 96–265, 94 Stat. 473; secs. 2(d)(2),5,6, and 15 of Pub L. 98–460, 96 Stat. 1797, 1801, 1802, and 1808; sec. 10103 of Pub. L. 101–239, 103 Stat. 2472.

14. Section 404.1518 is amended by adding a new sentence at the end of paragraph (a) to read as follows:

§ 404.1518 If you do not appear at a consultative examination.

(a) * * * We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when determining if you have a good reason for failing to attend a consultative examination.

* * * * *

15. Section 404.1530 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 404.1530 Need to follow prescribed treatment.

* * * * *

(c) *Acceptable reasons for failure to follow prescribed treatment.*

We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when determining if you have an acceptable reason for failure to follow prescribed treatment. The following are examples of a good reason for not following treatment:

* * * * *

16. Section 404.1579 is amended by revising the section heading and by revising paragraphs (e)(1) and (e)(2) to read as follows:

§ 404.1579 How we will determine whether your disability continues or ends.

* * * * *

(e) * * *

(1) *A prior determination or decision was fraudulently obtained.* If we find that any prior favorable determination or decision was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 404.988. In determining whether a prior favorable determination or decision was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 404.911 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 404.1518 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

17. Section 404.1586 is amended by revising paragraph (d) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

* * * * *

(d) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a medical examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 404.911 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 404.1518 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

* * * * *

18. Section 404.1594 is amended by revising the section heading and by revising paragraphs (e)(1) and (e)(2) to read as follows:

§ 404.1594 How we will determine whether your disability continues or ends.

* * * * *

(e) * * *

(1) *A prior determination or decision was fraudulently obtained.* If we find that any prior favorable determination or decision was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 404.988. In determining whether a prior favorable determination or decision was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 404.911 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 404.1518 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

19. Section 404.1597a is amended by adding a new sentence at the end of paragraph (j)(3) to read as follows:

§ 404.1597a Continued benefits pending appeal of a medical cessation determination.

* * * * *

(j) * * *

(3) * * * In determining whether an individual has good cause for failure to cooperate and, thus, whether an appeal was made in good faith, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have which may have caused the individual's failure to cooperate.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for subpart B continues to read as follows:

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634, of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. Section 416.210 is amended by revising the introductory text of paragraph (e)(2) to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(e) * * *

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. In

determining whether a good reason exists, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which may have caused you to fail to apply for other benefits. You may have a good reason if, for example—

* * * * *

3. The authority citation for subpart E is revised to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611(c), and 1631(a)–(d) and (g) of the Social Security Act; 42 U.S.C. 1302, 1381, 1381a, 1382(c), and 1383(a)–(d) and (g).

4. Section 416.552 is amended by adding after the fifth sentence of the introductory text a new sentence to read as follows:

§ 416.552 Waiver of adjustment or recovery—without fault.

* * * In determining whether an individual is without fault based on a consideration of these factors, the Social Security Administration will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have. * * *

* * * * *

5. Section 416.556 is amended by revising paragraph (b) to read as follows:

§ 416.556 Waiver of adjustment or recovery—countable resources in excess of the limits prescribed in § 416.1205 by $50 or less.

* * * * *

(b) Failure to report the excess resources correctly and in a timely manner will be considered to be willful and knowing and the individual will be found to be at fault when the evidence clearly shows the individual (and spouse if any) was fully aware of the requirements of the law and of the excess resources and chose to conceal these resources. When an individual incurred a similar overpayment in the past and received an explanation and instructions at the time of the previous overpayment, we will generally find the individual to be at fault. However, in determining whether the individual is at fault, we will consider all aspects of the current and prior overpayment situations, and where we determine the individual is not at fault, we will waive adjustment or recovery of the subsequent overpayment. In making any determination or decision under this section concerning whether an individual is at fault, including a determination or decision of whether the failure to report the excess resources correctly and in a timely manner was willful and knowing, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) of the individual (and spouse if any).

6. The authority citation for subpart G of part 416 continues to read as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

7. Section 416.732 is revised to read as follows:

§ 416.732 No penalty deduction if you have good cause for failure to report timely.

(a) We will find that you have good cause for failure to report timely and we will not impose a penalty deduction, if—

(1) You are "without fault" as defined in § 416.552; or

(2) Your failure or delay in reporting is not willful. "Not willful" means that—

(i) You did not have full knowledge of the existence of your obligation to make a required report; or

(ii) You did not intentionally, knowingly, and purposely fail to make a required report.

However, in either case we may require that you refund an overpayment caused by your failure to report. See subpart E of this part for waiver of recovery of overpayments.

(b) In determining whether you have good cause for failure to report timely, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) you may have.

8. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 1102, 1614(a), 1619, 1631 (a), (c) and (d)(1), and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c(a), 1382h, 1383 (a), (c) and (d)(1), and 1383b; secs. 2, 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808.

9. Section 416.918 is amended by adding a new sentence at the end of paragraph (a) to read as follows:

§ 416.918 If you do not appear at a consultative examination.

(a) * * * We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when determining if you have a good reason for failing to attend a consultative examination.

* * * * *

10. Section 416.930 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 416.930 Need to follow prescribed treatment.

* * * * *

(c) *Acceptable reasons for failure to follow prescribed treatment.* We will consider your physical, mental, educational, and linguistic limitations (including any lack of facility with the English language) when determining if you have an acceptable reason for failure to follow prescribed treatment. The following are examples of a good reason for not following treatment:

* * * * *

11. Section 416.986 is amended by revising paragraph (c) to read as follows:

§ 416.986 Why and when we will find that you are no longer entitled to benefits based on statutory blindness.

* * * * *

(c) *If you do not cooperate with us.* If you are asked to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your blindness ended if you fail, without good cause, to do what we ask. Section 416.1411 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 416.918 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your blindness ends will be the month in which you fail to do what we asked.

* * * * *

12. Section 416.994 is amended by revising the section heading and by revising paragraphs (b)(4)(i) and (b)(4)(ii) to read as follows:

§ 416.994 How we will determine whether your disability continues or ends.

* * * * *

(b) * * *

(4) * * *

(i) *A prior determination or decision was fraudulently obtained.* If we find that any prior favorable determination or decision was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 416.1488. In determining whether a prior favorable determination or decision was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(ii) *You do not cooperate with us.* If there is a question about whether you

continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 416.1411 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 416.918 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

13. Section 416.994a is amended by revising the section heading and by revising paragraphs (g)(1) and (g)(2) to read as follows:

§ 416.994a How we will determine whether your disability continues or ends, disabled children.

* * * * *

(g) * * *

(1) *A prior determination or decision was fraudulently obtained.* If we find that any prior favorable determination or decision was obtained by fraud, we may find that you are not disabled. In addition, we may reopen your claim under the rules in § 416.1488. In determining whether a prior favorable determination or decision was fraudulently obtained, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

(2) *You do not cooperate with us.* If there is a question about whether you continue to be disabled and we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail, without good cause, to do what we ask. Section 416.1411 explains the factors we consider and how we will determine generally whether you have good cause for failure to cooperate. In addition, § 416.918 discusses how we determine whether you have good cause for failing to attend a consultative examination. The month in which your disability ends will be the first month in which you failed to do what we asked.

* * * * *

14. Section 416.996 is amended by adding a new sentence at the end of paragraph (g)(2) to read as follows:

§ 416.996 Continued disability or blindness benefits pending appeal of a medical cessation determination.

* * * * *

(g) * * *

(2) * * * In determining whether you have good cause for failure to cooperate and, thus, whether an appeal was made in good faith, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) you may have which may have caused your failure to cooperate.

15. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; section 6 of Pub. L. 98–460, 98 Stat. 1802.

16. Section 416.1411 is amended by removing the word "and" which follows the semicolon at the end of paragraph (a)(2), by removing the period after paragraph (a)(3) and replacing it with "; and", by adding a new paragraph (a)(4), and by revising paragraph (b)(9) to read as follows:

§ 416.1411 Good cause for missing the deadline to request review.

(a) * * *

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

(b) * * *

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known of the need to file timely, or which prevented you from filing timely.

17. Section 416.1436 is amended by revising paragraph (d)(7) to read as follows:

§ 416.1436 Time and place for a hearing before an administrative law judge.

* * * * *

(d) * * *

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of a physical, mental, educational, or linguistic limitation (including any lack of facility with the English language) which you may have.

18. Section 416.1457 is amended by redesignating paragraphs (b)(1) and (b)(2) as paragraphs (b)(1)(i) and (b)(1)(ii) and by adding a new paragraph (b)(2) to read as follows:

§ 416.1457 Dismissal of a request for a hearing before an administrative law judge.

* * * * *

(b) * * *

(2) In determining good cause or good reason under this paragraph, we will consider any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

* * * * *

19. Section 416.1488 is amended by revising paragraph (c) to read as follows:

§ 416.1488 Conditions for reopening.

* * * * *

(c) At any time if it was obtained by fraud or similar fault. In determining whether a determination or decision was obtained by fraud or similar fault, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time.

20. The authority citation for subpart Q continues to read as follows:

Authority: Secs. 1102, 1611(e)(3)(A), 1615, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382(e)(3)(A), 1382d, and 1383.

21. Section 416.1715 is amended by revising paragraph (a) to read as follows:

§ 416.1715 Effect of your rejecting vocational rehabilitation services.

(a) *Ineligible for benefits if you do not have good cause.* If we refer you to the State agency providing vocational rehabilitation services, you are not eligible for SSI benefits for any month that you refuse, without good cause, to accept services available to you (see § 416.1328(a) on suspension because of a refusal). In determining whether you have good cause for refusing vocational rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which may have caused you to refuse such services. If you believe good cause exists to refuse these services, you will be asked to submit proof showing this.

* * * * *

22. The authority citation for subpart V continues to read as follows:

Authority: Secs. 1102, 1615, and 1631(d)(1) and (e) of the Social Security Act; 42 U.S.C. 1302, 1382d, and 1383(d)(1) and (e); sec. 2344 of Pub. L. 97–35, 95 Stat. 867.

§ 416.2203 [Amended]

23. In § 416.2203, the eighth paragraph, definition of *good cause*, is amended by changing the cross-reference following the parenthetical phrase from "§ 416.1715(b)" to "§ 416.1715."

[FR Doc. 94–711 Filed 1–11–94; 8:45 am]

BILLING CODE 4190–29–P

Food and Drug Administration

21 CFR Part 109

[Docket No. 89N–0014]

RIN 0905–AC91

Requirements for Decorative Ceramicware To Be Deemed not for Food Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to require that decorative ceramicware bear a conspicuous stick-on label on a surface that is clearly visible to consumers and a permanent statement on the exterior surface of the base of the ceramicware stating that the piece is not for food use, and that it may poison food. Alternatively, the regulation provides that a hole may be bored through the possible food-contact surface of the piece. This final rule is intended to ensure that decorative ceramicware is not mistakenly used to hold food.

DATES: Effective July 13, 1994, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

FOR FURTHER INFORMATION CONTACT: Cora E. Weeks, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4681.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of June 1, 1989 (54 FR 23485), FDA issued a proposed rule: (1) To establish a regulatory limit on the amount of lead that may leach from glazes and decorations on the food-contact surface of ceramic food service pitchers, excluding creamers; and (2) to provide that all decorative or ornamental ceramicware that appears to be suitable for food use will be considered to be for food use, and will be regulated as such, unless it bears a conspicuous, permanent statement molded or fired onto the exterior surface of the base of the ceramic piece. The agency proposed to require that this statement say, "Not for Food Use—May Poison Food," in letters at least 3.2 millimeters (mm) (0.125 inch (in)) in height, or that a hole be bored through the potential food-contact surface to make it unsuitable for food use.

The proposal requested comments on various concerns regarding ceramic foodware and on the impact of the proposed requirements on decorative ceramicware that resembles foodware and that contains leachable lead.

FDA received requests to extend the comment period on the proposed rule from representatives of domestic and foreign ceramicware manufacturers, 3suppliers of glazes and decorations containing lead for the ceramics industry and related trade associations, the European Economic Community, and the Italian Embassy. The requests stated that additional time was needed to address the issues raised and to provide information solicited by FDA in the proposal. FDA responded in a notice published in the Federal Register of September 1, 1989 (54 FR 36324), that reopened and extended the comment period until November 30, 1989.

In the Federal Register of July 6, 1992 (57 FR 29734), the agency announced the availability of revised Compliance Policy Guide (CPG) 7117.07 "Pottery (Ceramics); Imported and Domestic—Lead Contamination." This revision lowered the guidelines on lead release from all ceramic foodware. This revision was based, among other things, on the agency's review of data submitted pursuant to its proposal of June 1, 1989 (54 FR 23485), and the agency's concerns about the need to reduce human exposure to lead.

The lead release levels in CPG 7117.07 are guides that the agency uses in evaluating ceramic foodware for possible adulteration within the meaning of section 402(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a)(2)(C)). In this final rule, the agency is not acting on its proposal regarding a legally binding regulatory limit on the amount of lead that may leach from the food-contact surfaces of ceramic food service pitchers. The agency is continuing to review whether the CPG provides adequate protection for the public health, which would mean that the agency could withdraw its proposal to establish a regulatory limit, or whether further rulemaking is necessary.

This final rule pertains only to ornamental and decorative ceramicware. In the June 1, 1989 (54 FR 23485), proposal, the agency stated that the then existing policy guidance concerning decorative and ornamental ceramicware in CPG 7117.07 was too general and vague, subject to misinterpretation, and not sufficient to ensure that decorative articles will be distinguishable from food-service articles. Therefore, the agency's purpose in adopting this final rule is to ensure that such ware, which may leach hazardous amounts of lead into food, bear adequate indications to distinguish it from ceramic foodware (i.e., ceramicware intended for holding, storing, or serving food). The agency has made revisions in the language of § 109.16(a) and (b) (21 CFR 109.16(a) and (b)) to make clear that this regulation pertains only to ornamental and decorative ceramicware and not to any ceramicware intended to hold or store food, e.g., ceramic pitchers.

FDA also notes that the provisions of this final rule are not applicable to items such as children's ceramic tea sets. Such items are usually small copies of articles intended for food use. They are designed for use only by children in play activities that may involve eating or drinking foods placed in or on these products (see *HHS News*, April 20, 1993.) Lead in these products could leach into food. Those that leach excessive amounts of lead will be subject to regulatory action, and such ware may not obtain status as a nonfood item by virtue of its bearing any statement that it is not for food use.

On the effective date of this final rule, all ornamental or decorative ceramicware that appears to be suitable for food use upon initial introduction or initial delivery for introduction into interstate commerce will be considered to be foodware and will be evaluated for lead release by the agency as foodware. Ware that meets the requirements of this final rule will not be considered to be for food use.

The agency is also providing notice that it is deleting the exemption for nonfood service plates from CPG 7117.07. These articles will be subject to the provisions of this final rule.

II. Summary of and Response to Comments

A. Summary of Comments

Seven letters, containing one or more comments, were received in response to the proposal on the requirements for decorative ceramicware that resembles foodware. The comments were submitted by consumer and environmental advocacy organizations, ceramicware manufacturers and their suppliers, and individuals.

B. Responses to Comments

1. Several comments requested that FDA allow more flexibility regarding the exact wording of the permanent statement of unsuitability for food use and suggested statements for inclusion in the final rule as alternatives to the proposed statement. These comments expressed concern that the word "poison" would alarm potential purchasers and could lead them to believe that handling the product is

hazardous. The following alternative statements were suggested: (a) "Decorative—Not for Food Use. Pigments are Potentially Toxi66c if Ingested," (b) "Not for Food Use—Metallic Pigments Fired into Surface are Potentially Toxic. For Decorative Purposes Only," or (c) "Warning. Glaze Contains Soluble Lead. Not for Food Use."

The agency accepts the recommendation to allow for alternative statements of unsuitability for food use. FDA agrees that some number of alternative statements can convey the same basic concept as the proposed statement while providing flexibility in the wording of the message. However, to adequately denote that the ceramicware is unsuitable for food use, the permanent statement must clearly advise the purchaser or potential user that if the article is used to hold food, a toxic substance may be added to the food as a result. Alternative (c) does not do so. The alternative statements (a) and (b) suggested by the comments state that the surface of the ceramic piece itself contains a toxic substance, but they do not make clear that if the ceramicware is used for food purposes, such use may result in the addition of a toxic substance to the food. Therefore, the agency is not accepting the statements suggested in the comments as acceptable alternatives.

In § 109.16(b)(1)(i), FDA is providing three alternative statements of unsuitability that meet the criterion of informing the purchaser that if the article is used for food, a toxic substance may be added to the food as a result. The alternative statements are, "Not for Food Use. May Poison Food," "Not for Food Use. Glaze contains lead. Food Use May Result in Lead Poisoning," and "Not for Food Use—Food Consumed from this Vessel May be Harmful."

The agency concludes that these three alternative statements of unsuitability provide the industry with a choice without providing so many different statements as to confuse consumers. Limiting the number of variations in the statement is necessary to ensure that consumers understand that a consistent message is being presented by the statements that they find on decorative ceramicware.

As an additional matter, the agency believes that statements that the ware is intended to be decorative may provide useful information to the consumer about the intended use of the ware. Therefore, FDA is providing in § 109.16(c)(1) for the use of additional optional statements such as "Decorative" or "For Decorative Purposes Only" when such statements are placed after the required statement.

2. Some comments expressed concern that statements that ornamental or de2corative ceramicware is unfit for food use will not protect very young, illiterate, or non-English speaking people. One of the comments suggested that FDA permit the use of a symbol to designate ceramicware that is not suitable for food use. The comments stated that the symbol should accompany the statement that the ceramicware is unfit for food use. One comment maintained that the symbol is responsive to concerns regarding understanding by illiterate persons, non-English speaking people, and children. The comment suggested that the following symbol, which includes a goblet and a fork, symbols used in the United Kingdom to indicate materials and articles that are intended to come into contact with food, be enclosed within a circle with a bar running diagonally across the design to indicate that food use is prohibited.

The agency agrees that the symbol may communicate to individuals, to whom a written statement may not be readily meaningful, that an article is not foodware. However, because the agency does not have any information concerning the extent to which the symbol is understood or recognized by consumers, it is not requiring use of the symbol but is making its use optional in § 109.16(c)(2), as an additional cautionary statement to those required in § 109.16(b).

3. Some comments expressed concern that a statement placed on the exterior surface of the base of a piece, in letters that are only 3.2 mm (0.125 inch) in height, may not be seen by many people. Some comments requested that the agency require that the statement be placed on the side of the ceramicware, and that the required size of letters in the statement be related to the size of the ceramicware on which it is placed.

FDA agrees that a statement on the side of a piece is more conspicuous than one placed on the exterior surface of the base. However, a permanent statement on the side would likely render the piece useless for ornamental or decorative purposes. To respond to the concern of the comments, and to better protect the public, FDA is requiring in § 109.16(b)(1)(i) that a stick-on temporary label bearing one of the alternative statements, in letters at least 3.2 mm (0.125 in) in height, be placed on a surface of the piece that is clearly visible to the consumer. The temporary label will advise the consumer that the piece is not for food use and of the reason why it is not for food use. The determination as to the appropriate surface for the temporary label will depend on the shape of the piece. For example, the appropriate place on a plate for the temporary label would be the potential food-contact surface, while on a pitcher a temporary label on the exterior of the side would be suitable.

The requirement for a temporary label is in addition to the requirement of a permanent label that the agency proposed (54 FR 23485). The purpose of the proposal was to ensure that decorative ceramicware would not be used in a manner that is unsafe. The comments have convinced the agency that the additional requirement for a temporary label placed on a conspicuous surface is necessary to ensure that the purposes of this final rule are realized. Without this requirement, as the comments suggested, there is a significant chance that a consumer will miss the warning on the base of the ceramicware.

The agency does not agree that the size of the letters in the permanent statement must be directly related to the dimensions of the ornamental or decorative ceramicware piece to be seen. If the statement meets the minimum letter height requirements of § 109.16(b)(1)(ii) and is adequately contrasted or otherwise differentiated or set out from the background of the piece, the statement will fully serve its

function. The agency notes that the requirement for conspicuousness in declarations of net quantity of contents on food labels (§ 101.105(i)) includes the specification that the letter height is not less than one-eighth inch (or 3.2 mm (0.125 in)) if the declaration is blown, embossed, or molded on a surface. Using this precedent, the agency believes that the minimal letter height of the statement of nonfood use should generally be not less than 3.2 mm (or one-eighth in) because letters that are less than 3.2 mm (0.125 in) in height may not be conspicuous enough to be readily seen.

However, the agency recognizes that there may be some ceramicware articles that appear to be suitable for food use that have bases with surface areas that are too small to fit the required statement if it were to be in letters that are 3.2 mm (0.125 inch) in height. For such articles, the agency is providing in § 109.16(b)(1)(ii) that the statement be written in the largest letters possible, provided the letters are at least 1.6 mm (0.062 inch) high.

4. One comment stated that the agency should not impose a minimum letter size for the permanent statement because of the limited space available on some articles.

The agency believes that ceramicware pieces that could be mistaken as being intended for holding, storing, or serving food would have a size and configuration similar to food-use ware and would have bases sufficiently large for88 the required statement. The agency has accommodated size problems in § 109.16(b)(1)(ii). Therefore, the agency rejects this comment.

5. One comment expressed concern that, in the past, it has been difficult, if not impossible, to keep decorative or ornamental ceramicware from being used to hold food. Therefore, the comment argued that FDA should not rely on statements to distinguish ceramicware used for food storage from decorative or ornamental ceramicware. The comment suggested that FDA consider only ceramicware that has holes bored in the food-contact surface to be decorative or ornamental.

The agency disagrees with this suggestion. A hole bored through some decorative or ornamental ceramicware articles would render them useless for their intended purpose, e.g., pieces in the shape of pitchers intended for use as vases for fresh flowers, and would damage the decorative value of others, e.g., commemorative plates. The intent of this regulation is to distinguish decorative ceramicware from food-service articles by using specified statements and an optional symbol in a manner that ensures that those statements will be readily seen and understood by the consumer. FDA concludes, based on the available information, that the measures required under this final rule are appropriate for this purpose.

6. One comment suggested that FDA also require that decorative ceramicware (when first sold) be accompanied by a booklet in which the permanent statement is printed in large type. The comment stated that the booklet should include a paragraph stating that the object is not to be used to hold, serve, or store food and provide a brief explanation of the dangers of lead to pregnant women, infants, and children. The comment further suggested that FDA set out the exact wording of the text of the suggested booklet in the final rule.

FDA does not have information and data that demonstrate that such a booklet is necessary to protect consumers from the use with food of decorative ceramicware. Accordingly, FDA is not requiring manufacturers to provide such a booklet, although FDA believes that a booklet describing the potential hazards of misusing decorative ceramicware may be useful in helping to make consumers aware of the adverse effects of lead. Therefore, the agency has no objection to the manufacturers providing such a booklet on their own initiative.

The requirement for a temporary label will respond to the comment's objective of ensuring that consumers are informed about the intended use of the ware. In addition, FDA uses consumer education vehicles such as the *FDA Consumer* magazine to inform the public about issues concerning misuse of ornamental ceramicware to avoid lead exposure from this source. The agency, in "Lead Threat Lessens, But Mugs Pose Problem" in the *FDA Consumer* of April 1993, and in "Reducing Exposure to Lead from Ceramic Ware," an *FDA Backgrounder* of November 1991, advised consumers to follow label directions on any ornamental product with a warning that the article is not for food use.

7. One comment stated that the requirement that ornamental or decorative pieces either bear a permanent statement on the base or have a hole bored into the food-contact surface is not appropriate for antique or secondhand articles of value.

The agency advises that this final rule applies to new ornamental or decorative articles initially introduced, or initially delivered for introduction, into interstate commerce after the effective date of the rule and would not apply to antique or secondhand articles of value.

The agency considers the safe use of antique or secondhand ceramicware to be a subject for consumer education. The agency, in "Pretty Poison: Lead and Ceramicware" in the *FDA Consumer* of July/August 1987, and in "Reducing Exposure to Lead from Ceramic Ware" in the *FDA Backgrounder* of November 1991, recommended limiting food use of ceramicware manufactured before Federal standards were imposed. Dealers and merchants can help inform consumers about the risk posed by such ware by affixing stick-on labels or decals to articles of questionable origin or safety. The labels or decals should state that the articles are to be used only for decorative or ornamental purposes. The agency intends to continue to caution consumers that substantial amounts of lead may leach from antique and other ceramic collectibles into food.

8. One comment stated that certain types of hand-painted and hand-carved decorative ceramicware, such as "coromandel porcelain," are not subject to kiln firing as part of or after the decoration and painting processes. Thus, the required statement cannot be fired onto the base of such articles. The comment requested that FDA permit the statement to be painted on the base of the decorative ceramicware with a permanent paint. The comment further stated that this is the only commercially practical and feasible method of applying a conspicuous and permanent statement to this type of ceramicware.

FDA agrees that there is a need to provide for the application of the permanent statement to decorative or ornamental ceramicware that are not fired after decoration. Accordingly, the agency is providing in § 109.16(b)(1)(ii) that the statement may be painted onto ceramicware using permanent paint when the ceramicware is not fired after decoration.

9. Ceramic product manufacturers commented that if FDA requires the use of the symbol in the final rule, 6 months is not sufficient time to have molds or decals available. These manufacturers requested that the effective date of the final rule be delayed in order to have time to phase in use of the symbol.

Because FDA is making the use of the symbol optional, manufacturers who decide to use it are not subject to an FDA-imposed time constraint in phasing in its use. Therefore, the agency is not extending the effective date.

III. Conclusions

After review and consideration of comments received in response to the portion of its June 1, 1989, proposal that

relates to ornamental and decorative ceramicware (54 FR 23485), the agency is adopting that portion of the proposal as a final rule. The purpose of the regulation that FDA is adopting is to distinguish ornamental or decorative ceramicware that may leach excessive amounts of lead into food from ceramic foodware (i.e., ceramicware intended for holding, storing, or serving food). Section 109.16 provides that FDA will consider all decorative or ornamental ceramicware that appears to be suitable for food use to be for food use and will regulate it as such, unless a stick-on label bearing one of three specified statements in letters that are at least 3.2 mm (0.125 in) in height is placed on a readily visible surface of the ceramicware, and one of the three specified statements in letters that are at least 3.2 mm (0.125 in) in height is permanently affixed to the exterior surface of the base of the ceramicware. However, if insufficient space exists for the permanent statement to be presented in letters of such height, the statement shall be in the largest letters that will allow it to fit on the base of the piece, provided that the letters are at least 1.6 mm (0.062 in) in height. In the alternative, the manufacturer may bore a hole through the potential food-contact surface of the decorative ceramicware to make it unsuitable for food use. The final rule also provides that the required statement can be painted onto the exterior surface of the base if the piece is not fired after decoration. Further, the final rule provides that a symbol may be used, in addition to the statement or hole bored through the ware, to advise the consumer that the article is not for food use.

IV. Economic Impact

FDA has examined the economic implications of this final rule to amend 21 CFR part 109 as required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 compels agencies to use a cost-benefit analysis as a component of decisionmaking. The Regulatory Flexibility Act requires regulatory relief for small businesses where feasible. FDA has received no new information or comments that would alter its tentative finding in the proposal that there is no substantive economic issue, and that this rule is not a major rule as defined by either Executive Order 12866 or the Regulatory Flexibility Act.

V. Environmental Impact

The agency considered the environmental effects of this action in the context of the proposed rule (54 FR 23485). At that time, the agency prepared an environmental assessment (EA) and concluded that the proposed action would not have a significant impact on the human environment and that an environmental impact statement (EIS) was not required.

One comment received by the agency on the proposed rule stated that the continued use of lead in consumer products has a major environmental impact when these products are disposed of, and that FDA had failed to consider fully the environmental impact of its proposal. As explained above, the aspect of the proposed rule concerned with the reduction in limits on the levels of lead leaching from ceramic foodware has been addressed by a compliance policy guide (CPG) that was announced in the Federal Register of July 6, 1992 (57 FR 29734). At that time the agency prepared an EA for the issuance of this CPG in which, among other things, it addressed the above comment. The conclusion of that EA was that the agency's action to reduce the limits on the levels of lead leaching from ceramic foodware may also reduce the amount of lead that could potentially enter the environment from landfill leachate. This EA is on public display at the Dockets Management Branch (address above).

The other part of the proposed rule is covered by this final rule, i.e., the establishment of labeling requirements for decorative ceramicware that appears to be suitable for food use. FDA actions that establish regulations for labeling requirements normally do not require the preparation of an EA or an EIS under § 25.24(a)(11) (21 CFR 25.24(a)(11)) because such actions meet specific criteria that are intended to ensure that they will not cause significant environmental effects. These criteria are that there will be no increase in the existing levels of use or change in the intended uses of the product or its substitutes. Because the intent of this final rule is to prevent decorative ceramicware from being used for food service, we conclude that these criteria are met, and that the categorical exclusion in § 25.24(a)(11) applies to the action in this final rule. Therefore, the comment cited above does not provide a basis to change the agency's previous determination that there is no significant impact on the human environment from this action, and that an EIS is not required.

List of Subjects in 21 CFR Part 109

Food labeling, Food packaging, Foods, Polychlorinated biphenyls (PCB's).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 109 is amended to read as follows:

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIALS

1. The authority citation for 21 CFR part 109 is revised to read as follows:

Authority: Secs. 201, 306, 402, 406, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 336, 342, 346, 346a, 348, 371).

2. New § 109.16 is added to subpart A to read as follows:

§ 109.16 Ornamental and decorative ceramicware.

(a) Lead is a toxic metal that is used as a component of glazes and decorative decals on ceramics, including some ornamental and decorative ceramicware. The use of ornamental or decorative ceramicware to prepare, serve, or hold food may result in the leaching of lead from the glaze or decoration into the food. The provisions of paragraph (b) of this section are necessary to ensure that ornamental or decorative ceramicware bear adequate indications that they are not to be used for food-handling purposes.

(b) Ornamental or decorative ceramicware initially introduced or initially delivered for introduction into interstate commerce on or after July 13, 1994 appears to be suitable for food use will be considered to be for food use unless:

(1) It bears:

(i) A conspicuous stick-on label on a surface clearly visible to consumers that states in legible script in letters at least 3.2 millimeters (0.125 inch) in height one of the following messages: "Not for Food Use. May Poison Food," "Not for Food Use. Glaze contains lead. Food Use May Result in Lead Poisoning," and "Not for Food Use—Food Consumed from this Vessel May be Harmful," and

(ii) A conspicuous and legible permanent statement of the message selected from paragraph (b)(1)(i) of this section molded or fired onto the exterior surface of the base or, when the ceramicware is not fired after decoration, permanently painted onto the exterior surface of the base. This permanent statement shall be in letters at least 3.2 millimeters (0.125 inch) in height, except that if insufficient space exists for the permanent statement in letters of such height, the statement shall be in the largest letters that will allow it to fit on the base of the piece,

provided that the letters are at least 1.6 millimeters (0.062 inch) in height; or

(2) A hole is bored through the potential food-contact surface.

(c) In addition to steps required under paragraphs (b)(1) and (b)(2) of this section, the following optional information may be provided on the ware:

(1) A further explanatory statement concerning the decorative nature of the piece, such as "Decorative" or "For Decorative Purposes Only," may be used; however, such additional statement shall be placed after the required statement.

(2) A symbol may be used to advise that a piece of ornamental or decorative ceramicware is not to be used with food as illustrated below.

The circle of the above symbol should be at least 2.54 centimeters (1 inch) in diameter. The symbol may be used on the temporary label or applied to the base of the piece in the same manner as the permanent statement.

Dated: January 5, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–706 Filed 1–11–94; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 104

[Docket No. R–93–1699; FR–3485–F–01]

Administrative Proceedings Under Section 812 of the Fair Housing Act

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations involving discovery procedures in HUD administrative proceedings. The revision more clearly sets a standard whereby a party or a person in the custody or under the legal control of a party will not be required to submit to a physical or mental examination, except upon order of the presiding administrative law judge pursuant to a motion by the party requesting the examination and a showing by the moving party that the physical or mental condition of the person who is the subject of the request is in controversy and that good cause exists for the requested examination.

EFFECTIVE DATE: February 11, 1994.

FOR FURTHER INFORMATION CONTACT: Harry L. Carey, Assistant General Counsel for Fair Housing, Office of the General Counsel, Department of Housing and Urban Development, room 9238, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone: (202) 708–0570. (This is not a toll-free number.) A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION:

Background

Part 104 of Title 24 of the Code of Federal Regulations contains HUD's regulations governing administrative proceedings under section 812 of the Fair Housing Act. Under 24 CFR 104.500 and 104.540, any party may serve on any other party a request to submit to a physical or mental examination by a physician, specifying the time, place, manner, conditions, and scope of the physical or mental examination, and the person or persons who will make the examination. Relevancy is the only explicit requirement regarding all methods of discovery provided in the Fair Housing Act's implementing regulations, 24 CFR 104.500(b) (1992).

The Department is revising 24 CFR 104.500 and 104.540 to conform more closely to Rule 35 of the Federal Rules of Civil Procedure, as interpreted in certain Federal court precedents. This regulatory revision is designed to further the already developed practice of Federal administrative law judges looking to Federal Rules of Civil Procedure in instances in which they construe HUD's regulations governing administrative filings and hearings. See, *e.g., HUD* v. *Jerrard,* Fair Housing-Fair Lending (P–H) para. 25,081 at 25,086 (HUDALJ Sept. 28, 1990) (Accepting analogy to Rules 41(b) and 8(c), Fed. R. Civ. P.); *HUD* v. *Downs,* HUDALJ 02–89–0322, Order at 2 (June 21, 1991) (Reliance on Rules 28(a), 30(b)(7), and 32(d)(3)(B), Fed. R. Civ. P., to reject respondents' claim that deposition was technically defective); and *Downs,* Memorandum Opinion at 2 (Nov. 22, 1991) (Finding Rule 24(a), Fed. R. Civ. P., to provide guidance for resolution of motion to intervene).

1. Rule 35 Standard

Under Federal Rule of Civil Procedure 35, relevancy is not a sufficient basis for a court to order a physical or mental examination. *Schlagenhauf* v. *Holder,* 379 U.S. 104, 118 (1964). Rather, because such examinations are a more intrusive form of discovery than other available discovery methods, Rule 35 requires stringent standards for their use in Federal court litigation. Such examinations are only provided for by leave of court and in limited circumstances.

Rule 35 provides:

> When the mental or physical condition (including the blood group) of a party or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

As stated in *Guilford National Bank* v. *Southern R. Co.,* 297 F.2d 921, 924 (4th Cir. 1962), "Under Rule 35, the invasion of the individual's privacy by a physical or mental examination is so serious that a strict standard of good cause, supervised by the district courts, is manifestly appropriate." The Supreme Court, in *Schlagenhauf, supra,* emphasized the limited circumstances under which a court may order mental or physical examinations under Rule 35:

Sweeping examinations of a party who has not affirmatively put into issue his own mental or physical condition are not to be automatically ordered * * * Mental and physical examinations are only to be ordered upon a discriminating application by the district judge of the limitations prescribed by the Rule. To hold otherwise would mean that such examinations could be ordered routinely * * * The plain language of Rule 35 precludes such an untoward result.

Schlagenhauf, 379 U.S. at 121–22. See also *In re Mitchell*, 563 F.2d 143 (5th Cir. 1977) (Rule 35 order requires greater showing than general discovery under Rule 26).

The requirements under Rule 35 differ from those imposed by other discovery provisions in the Federal Rules of Civil Procedure, such as the taking of oral and written depositions (Rules 26–32), interrogatories to parties (Rule 33), and the production of documents (Rule 34). None of these other discovery methods require that a matter be "in controversy" and only Rule 34 imposes a requirement that the moving party affirmatively demonstrate "good cause." See *Schlagenhauf*, 379 U.S. at 117. In general, other discovery devices under the Federal Rules of Civil Procedure do not require leave of court.

Rule 35 requires that the party requesting a physical or mental examination make a motion and meet notice requirements. For such a motion to be granted, the following standard must be met:

1. The physical or mental condition of the person to be examined must be in controversy; and

2. There must be a showing of good cause.

These requirements are not met by "mere conclusory allegations of the pleadings—nor by mere relevance to the case—but require an affirmative showing * * * that each condition as to which the examination is sought is really and genuinely in controversy and that good cause exists for ordering each particular examination." *Schlagenhauf*, 379 U.S. at 118. Precedent establishes that it is the moving party which has the burden of demonstrating that this standard is met. *Id.*

a. "In Controversy" Requirement

Federal precedents have varied in their interpretation of the "'in controversy" requirement. In negligence cases, courts generally have been receptive to defendants' requests for such examinations where physical or mental injury is claimed. See *Brandenberg* v. *El Al Israel Airlines*, 79 F.R.D. 543 (1978) (ordering psychiatric examination of plaintiff alleging negligent, careless and reckless treatment caused her "physical, emotional, mental stress, and mental and psychiatric injuries"); *Martin* v. *Tindell*, 98 So.2d 473, *cert. denied*, 355 U.S. 959 (negligence case indicating physical exams are granted as a matter of course in such cases). Even in negligence cases, however, examinations may not be ordered where damages only for past injury are alleged, rather than damages for present suffering. *Winters* v. *Travia*, 495 F.2d 839 (2d Cir. 1974); *Coca-Cola Bottling Co.* v. *Torres*, 255 F.2d 149 (1st Cir. 1958).

In the civil rights cases, however, courts have demonstrated greater reluctance to order such examinations. In *Cody* v. *Marriot Corporation*, 103 F.R.D. 421, 422–23 (D. Mass. 1984), the court indicated that the standard for ordering such examinations in discrimination cases is more stringent than in tort cases involving negligence.

The reported civil rights cases interpreting Rule 35 have generally involved requests by defendants for mental examinations of plaintiffs. A review of employment discrimination cases interpreting Rule 35 demonstrates that mental examinations of plaintiffs are not routinely ordered in such cases simply because plaintiffs may claim damages for emotional distress. Furthermore, a claim of emotional distress is not considered to place automatically a plaintiff's mental condition in controversy.

Cody, referred to, *supra*, was one important employment discrimination case involving the application of Rule 35. Citing *Schlagenhauf*, Cody refused to order a mental examination of a plaintiff who claimed emotional distress as a result of employment discrimination. *Cody* indicated that the outcome might have been different had the plaintiff not merely "made a claim of emotional distress" but instead had made "a claim of a psychiatric disorder requiring psychiatric or psychological counseling." *Cody*, 103 F.R.D. at 423. This distinction, based on the severity of the injury alleged, has also been applied in other tort contexts. See, *e.g.*, *Anson* v. *Fickel*, 110 F.R.D. 184, 186 (N.D. Ind. 1986) (traffic accident case citing *Cody* and making same distinction).

Cody also noted that the moving party had shown no authority for the proposition that "emotional distress" is synonymous with "mental condition," as that term is used in Rule 35. *Cody*, 103 F.R.D. at 422 n.2. *Cody* indicated that if, in contrast, the plaintiff were to use the services of a psychiatrist or psychologist at a later date for use at trial, the court would consider allowing the defendants to conduct the Rule 35(a) examination. *Cody*, 103 F.R.D. at 423.

Thus, *Cody* suggested two factors that differentiate the circumstances in which the "in controversy" requirement would or would not be met.

b. "Good Cause" Requirement

In addition to the "in controversy" requirement, an examination may only be ordered if "good cause" is also shown. The good-cause requirement is not a "mere formality," but is a "plainly expressed limitation on [Rule 35's] use * * *." *Schlagenhauf*, 379 U.S. at 118.

Schlagenhauf noted with approval the discussion of the "good cause" requirement in *Guilford National Bank* v. *Southern R. Co.*, 297 F.2d 921, 924 (4th Cir. 1962). In *Guilford*, the court stated that "the Rules indicate that there must be a greater showing of need under Rules 34 and 35 than under the other discovery rules," and that the requirement would be "meaningless" if it could be established by "merely" showing that the information sought is relevant. *Guilford*, 297 F.2d at 924. Although the *Guilford* court discussed the "good cause" requirement in the context of the plaintiff's Rule 34 request for production of documents (which the court denied), it stated the policy reason for imposing the "good cause" requirement of Rule 35: "the invasion of an individual's privacy by a physical or mental examination is so serious that a strict standard of good cause, supervised by the district courts, is manifestly appropriate." *Id.* The court further stated, "'[R]elevancy is not the equivalent of good cause * * *." *Guilford*, 297 F.2d at 925.

Other precedents establish that "The ability of the movant to obtain the desired information by other means is also relevant" to the determination of whether good cause is shown. *Schlagenhauf*, 379 U.S. at 118. This principle has been applied in several subsequent reported decisions. In *Anson*, 110 F.R.D. at 186, a traffic accident case, the court considered the fact that the defendants had utilized other discovery procedures before seeking a mental examination of the plaintiff. In ordering a mental examination of the plaintiff, *Anson* considered the defendant's attempts first to obtain information through alternative means such as submitting the plaintiff's medical records to the defendants' own expert for analysis. Other tort cases have recognized that where medical reports are provided, good cause may no longer exist for ordering a mental examination. See *Hughes* v. *Groves*, 47 F.R.D. 52, 57

(1969); *Petition of Trinidad Corp.*, 238 F. Supp. 928, 935 (1965).

This principle has been applied as well in cases where the plaintiff seeks a mental examination of the defendant. For example, in *Marroni* v. *Matey*, 82 F.R.D. 371 (1979), a tort case involving a child injured in a boating accident, the plaintiff requested a psychological exam of the defendant boat operator to show that he was incapable of properly operating it and understanding safety rules. The court denied the request holding that the plaintiff first had to utilize less intrusive methods of discovery to attempt to obtain the desired information. *Marroni*, 82 F.R.D. at 372.

2. Application of Rule 35 Standard to Fair Housing Cases

Two recent Federal Administrative decisions, *HUD* v. *Ocean Sands, Inc.*, HUDALJ 04–90–0231–1, Order (April 20, 1993); *HUD* v. *Ocean Parks Jupiter Condominium Association, Inc.*, HUDALJ 04–90–0589–1 and 04–90–0604–1, Order Denying Motion for Protective Order (December 8, 1992), appear to set a standard under which a defendant may obtain a mental examination of an aggrieved person simply because damages for emotional distress are being sought.

The Secretary believes such a standard is inappropriate in fair housing cases. Rather, as provided for in this revised rule, fair housing cases are governed by a more restrictive standard, consistent with the standards that have been applied in other civil rights contexts. The Department, following the lead of courts, has commonly relied on civil rights cases in other contexts, especially employment discrimination precedents, for guidance in housing discrimination cases under the Fair Housing Act. See, *e.g.*, *Huntington Branch, N.A.A.C.P.* v. *Town of Huntington*, 844 F.2d 926, 935 (2d Cir.), aff'd, 488 U.S. 15 (1988); *HUD* v. *Blackwell*, Fair Housing-Fair Lending (P–H) para. 25,001 at 25,005 (1989). This rule furthers that practice by looking to Federal court precedents construing Rule 35 to allow such examinations only in limited circumstances.

Under the revised standard, the fact that the Secretary, on behalf of an aggrieved person, or an intervening aggrieved person, may request a large amount of monetary relief and/or significant relief for emotional distress, would not support an order requiring the aggrieved person to submit to a mental examination. Rather, the Department adopts a standard consistent with Rule 35 which requires that the moving party demonstrate that the aggrieved person's mental condition is "in controversy" and that "good cause" exists.

a. Application of "In Controversy" Requirement

The Department believes that a claim of emotional distress is different from putting mental condition "in controversy." See *Cody*, 103 F.R.D. at 422 n.2. Rather, the Department adopts the two factors cited in *Cody*, to distinguish circumstances in which the "in controversy" requirement is met from those in which the requirement is not met, where the respondent is seeking a mental examination of an aggrieved person. In general, unless one or more of these factors is met, an aggrieved person should not be ordered to undergo a mental examination.

The first factor that the Department will apply is whether the plaintiff has made "a claim of a psychiatric disorder requiring psychiatric or psychological counseling" or "a claim of emotional distress." See *Cody*, 103 F.R.D. at 423. Generally, in the former circumstance, the "in controversy" requirement would be met, while in the latter circumstance it would not be met.

The second factor that the Department will apply under the revised standard is whether the aggrieved person intends to introduce at hearing the expert testimony of a psychiatrist or psychologist to support a claim of mental or emotional injury. See *Cody*, 103 F.R.D. at 423. In general, if so, the "in controversy" requirement will be met but if not, the "in controversy" requirement will not be met.

b. Application of "Good Cause" Requirement

In determining whether the second requirement, "good cause" is met, the Department will require more than mere relevancy. Instead, where there is a claim of mental or emotional distress, the Department will consider whether the respondents have had and exercised the opportunity to obtain and present information about an aggrieved person's mental or emotional state through other less intrusive means. These alternatives may, in appropriate circumstances, include deposing the aggrieved person in advance of trial as to his or her injuries, using direct or cross examination of the aggrieved person at hearing as to such injuries, interrogatories, requests for production of documents, and, where aggrieved persons have consulted psychiatrists or psychologists, evaluation of those records by respondents' own experts. See *Schlagenhauf*, 379 U.S. at 118; *Hughes, supra; Petition of Trinidad Corp., supra; Anson*, 103 F.R.D. at 186. Where a mental examination is requested, the burden shall be on the moving party to establish why these alternative methods have not been used, or where used, why these alternative methods have proven insufficient.

The Department believes that the same policy reason for applying strict standards in federal court litigation in civil rights cases applies equally to the administrative process, where litigants should not be forced to abandon their right to privacy by choosing the administrative forum rather than electing, pursuant to 42 U.S.C. 3612, to have the matter tried in Federal district court. The current administrative standard has been interpreted in a manner that may make it easier for respondents to obtain orders requiring aggrieved persons to submit to physical or mental examinations than would be the case in Federal court litigation. Such a situation, if allowed to continue, could lead HUD complainants to elect to have their matter heard in federal court, rather than in the administrative forum, since the differing standards would make federal courts better protectors of their privacy rights. This regulatory revision is intended to ensure that aggrieved persons who have been victims of alleged discrimination will not be victimized again by being made to undergo unjustified probing into their physical or mental condition by respondents while the Government endeavors to protect their civil rights. The regulation, however, still allows for examinations in those limited circumstances where such examinations are shown to be necessary.

A further negative consequence of recent administrative rulings on this issue is less expeditious and more expensive discovery and hearings contrary to the dictates of 42 U.S.C. 3612(d)(1) and (2); 24 CFR 104.500(b) (1992). See *HUD* v. *Downs*, 2 Fair Housing-Fair Lending (P-H) para. 25,234 at 25,235 n.1 (Nov. 22, 1991). The cost of expert psychiatric or psychological testimony is prohibitive in many administrative hearings. While expert testimony for both sides in Fair Housing Act cases might be necessary to the trier of fact in limited circumstances, in general the time and expense involved in their use would clash directly with Congress's mandate that discovery and hearings be conducted "as expeditiously and inexpensively as possible". 42 U.S.C. 3612(d)(1) and (2). See also 24 CFR 104.500(b); *HUD* v. *Downs*, 2 Fair Housing-Fair Lending at 25,235 n.1. Recent interpretations of the current regulation, which appear to order

examinations without the need for the moving party to meet strict "in controversy" and "good cause" requirements, could lead to more time-consuming and expensive administrative litigation.

3. Examination by Non-Physicians

This final rule is revised to conform to Rule 35 in another respect as well. Federal Rule of Civil Procedure 35 was revised effective December 1, 1991, subsequent to the Department's promulgation of 24 CFR 104.540 at 54 FR 3232 (Jan. 23, 1989). That revision authorized courts to require physical or mental examinations conducted by any person who is suitably licensed or certified, rather than limiting such examinations to those conducted by a physician, as under the literal language of HUD's current regulation.

The Advisory Committee Notes to the 1991 Amendment to Rule 35 are particularly useful in understanding how this change to the revised rule shall operate. The Advisory Committee Note states:

> The rule was revised in 1988 by Congressional enactment to authorize mental examinations by licensed clinical psychologists. This revision extends that amendment to include other certified or licensed professionals, such as dentists or occupational therapists, who are not physicians or clinical psychologists, but who may be well-qualified to give valuable testimony about the physical or mental condition that is the subject of dispute.
>
> The requirement that the examiner be suitably licensed or certified is a new requirement. The court is thus expressly authorized to assess the credentials of the examiner to assure that no person is subjected to a court-ordered examination by an examiner whose testimony would be of such limited value that it would be unjust to require the person to undergo the invasion of privacy associated with the examination. This authority is not wholly new, for under the former rule, the court retained discretion to refuse to order an examination, or to restrict an examination. 8 Wright & Miller, Federal Practice & Procedure section 2234 (1986 Supp.). The revision is intended to encourage the exercise of this discretion, especially with respect to examinations by persons having narrow qualifications.
>
> The court's responsibility to determine the suitability of the examiner's qualifications applies even to a proposed examination by a physician. If the proposed examination and testimony calls for an expertise that the proposed examiner does not have, it should not be ordered, even if the proposed examiner is a physician. The rule does not, however, require that the license or certificate be conferred by the jurisdiction in which the examination is conducted.

The Department is publishing this rule as a final rule without prior public notice and opportunity to comment because the rule's content is technical in nature and limited to the practices and procedures associated with administrative proceedings.

Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary because this rule relates to agency administrative procedures governing discovery of evidence.

This final rule was determined to be non-significant and therefore was not reviewed by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review, which was signed by the President on September 30, 1993.

The Secretary, in approving the publication of this rule, certifies in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), that this rule does not have a significant economic impact on a substantial number of small entities. The rule is a technical, procedural change which only affects operations within HUD. The rule does not affect substantive rights.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule would have no significant impact on family formation, maintenance, and general well-being.

The General Counsel, as the Designated official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule, if implemented, would have no significant impact on federalism.

This rule was listed as item 1623 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56408, 56445) under Executive Order 12866 and the Regulatory Flexibility Act.

(The catalog of Federal Domestic Assistance program number and title is 14.400, Equal Opportunity in Housing.)

List of Subjects in 24 CFR Part 104

Administrative practice and procedure, Aged, Fair Housing, Individuals with disabilities, Mortgages, Penalties.

Accordingly 24 CFR part 104 is amended as follows:

PART 104—ADMINISTRATIVE PROCEEDINGS UNDER SECTION 812 OF THE FAIR HOUSING ACT

1. The authority citation for part 104 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 3600–3620.

2. Section 104.500 is amended by revising paragraph (c)(3) and by adding paragraph (c)(5) to read as follows:

§ 104.500 Discovery.

* * * * *

(c) * * *

(3) Requests for the production of documents or other evidence, for inspection and other purposes.

* * * * *

(5) Upon motion of a party, the presiding administrative law judge may issue an order requiring a physical or mental examination of a party or of a person in the custody or under the legal control of a party.

* * * * *

3. Section 104.540 is amended by revising the section heading, by removing paragraphs (a)(3) and (b)(4), and by adding paragraph (d) to read as follows:

§ 104.540 Physical and mental examinations.

* * * * *

(d) Upon motion of any party, when the mental or physical condition (including the blood group) of a party or of a person in the custody or under the legal control of a party, is in controversy, the presiding administrative law judge may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. A report of the examiner shall be made in accordance with Rule 35(b) of the Federal Rules of Civil Procedure.

Dated: December 17, 1993.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–691 Filed 1–11–94; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40a

Defense Contracting; Reporting Procedures on Defense-Related Employment

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1993 revision of the section listing DoD contractors receiving contract awards of $10 million or more. This part is published to comply with the provisions of section 1, Public Law 97–295, October 12, 1982; 10 U.S.C. 2397.

EFFECTIVE DATE: September 30, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R.S. Drake, Acting Director, Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302; Telephone (703) 746–0334.

List of Subjects in 32 CFR Part 40a

Armed forces, Conflicts of interest, Government employees, Government procurement, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 40a is revised to read as follows:

PART 40a—DEFENSE CONTRACTING: REPORTING PROCEDURES ON DEFENSE-RELATED EMPLOYMENT

Authority: 10 U.S.C. 2397.

§ 40a.1 Department of Defense contractors receiving awards of $10 million or more.

Fiscal Year 1993

A&E Industries, Inc.
AAI Corp.
AAR Corp.
ABB Flakt Inc.
Abu Dhabi National Oil Co.
ACS Construction Co. of Miss.
AEL Defense Corp.
AIL Systems, Inc.
AM General Corp.
AT&T Communications, Inc.
AU's Plumbing & Metal Work
AWD Technologies, Inc.
Abacus Technology Corp.
Abbott Laboratories
Access Energy Corp.
Accudyne Corp.
Actus Corp. & Sundt Corp. JV
Advance, Inc.
Advanced Electronics Co.
Advanced Marine Enterprises
Aepco, Inc.
Aerojet
Aerospace Corp., The
Afram Lines, Ltd., USA
Agip Petroli SPA
Agusta Aerospace Services—AA
Air BP
Air Treads, Inc.
Airfoil Textron, Inc.
Aksarben Foods, Inc.
Al Rashid Abdullah Abu Nayyan
Al-Abdulkader Trade & Contract
Alberici Corp.
Alisud Handling SPA
All Star Maintenance, Inc.
Alliant Techsystems, Inc.
Alliant Petro, Inc.
Allied Signal Aerospace Co.
Allied Signal, Inc.
Alpha Marine Services, Inc.
Altama Delta Corp.
Amerada Hess Corp.
American Engineer Corp.
American Fuel Cell & Coated Fabrics
American Management Systems, Inc.
American Overseas Maine Corp.
American Systems Corp.
American Systems Engineering Corp.
American Telephone & Telegraph Co.
American Trans Air, Inc.
Amerind, Inc.
Ametek, Inc.
Amherst Systems, Inc.
Amoco Oil Corp.
Amtec Corp.
Analysis & Technology, Inc.
Analytic Services, Inc.
Anderson De Bartolo Pan, Inc.
Andrulis Research Corp.
Angelo H. & Co., Inc.
Applied Data Technology, Inc.
Applied Research Associates, Inc.
Applied Technology Associates, Inc.
Aral AG
Arctic Slope Regional Corp.
Arinc, Inc.
Arinc Research Corp.
Artco Contracting, Inc.
Association Momentanee Entre
Assurance Technology Corp.
Astro Space Div., GE
Astronautics Corp. of America
Atherton Construction, Inc.
Atlantic Coastal, Inc.
Atlantic Marine Holding Co.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Autec Range Services
Automated Sciences Group, Inc.
Avco Corp.
Avco Research Labs
Avondale Industries, Inc.
B&S Transport
BAMSI, Inc.
BDM International, Inc.
BDM Management Services Co.
BEI Electronics, Inc.
BJS International Associates
BP Exploration & Oil Inc.
BP Oil Co.
Babcock & Wilcox Co., The
Baker Michael Corp.
Balfour Beatty Const., Inc.
Balfour Beatty, Inc.
Balimoy Mfg. Co. of Venice
Ball Corp.
Baltimore Gas & Electric Co.
Bangor Support Project
Barrett Refining Corp.
Bath Iron Works Corp.
Battelle Memorial Institute
Bay Ship Management, Inc.
Bay Tankers, Inc.
Bean C.F. Corp.
Bear Stearns Co., Inc.
Bechtel National, Inc.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Bell Atlantic Network Svcs., Inc.
Bell BCI Co.
Bell Boeing JV
Bell Helicopter Services Inc.
Bell Helicopter Textron, Inc.
Bellemead Development Corp.
Belleville Shoe Mfg. Co.
Bender, Allen L., Inc.
Bender Shipbuilding & Repair Co.
Bendix Field Engineering Corp.
Beneco Enterprises, Inc.
Benham Companies, Inc.
Betac Corp.
Bethlehem Steel Corp.
Bionetics Corp.
Black & Decker Corp.
Black & Veatch
Black & Veatch Holding Co.
Black Construction Corp.
Blake Construction Co., Inc.
Blue Cross & Blue Shield of South Carolina
Boeing Aerospace Operations
Boeing Co. & Sikorsky Aircraft JV
Boeing Co., The
Boeing Sikorsky Comanche Team JV
Boland, David, Inc.
Bollinger Machine Shop & Shipyard
Bolt Beranek & Newman, Inc.
Bombardier, Inc.
Booz Allen & Hamilton, Inc.
Bozell Jacobs Kenyon Eckhardt
Brimhall-Palmer Construction
Brown & Root Services Corp.
Brown, Dayton T., Inc.
Brunswick Corp.
Bundesamt Fuer Wehrtechnik
Burch R.A. Construction Co.
Burle Industries, Inc.
Burns & Roe Enterprises, Inc.
Burnside Ott Aviation Training Center
C3, Inc.
C Construction Co., Inc.
C-Cubed Corp.
CACI International, Inc.
CAE Industries, Ltd.
CAE Link Holdings Co.
CAS, Inc.
CBPO of America, Inc.
CFM International, Inc.
CH2M Hill Companies, Ltd.
CIA Espanola De Petroleos SA
CRS Sirrine Metcalf & Eddy JV
CRSS, Inc.
CTA, Inc.
Caddell Construction Co., Inc.
Cadillac Gage Textron, Inc.
California Microwave, Inc.
Calore Enterprises, Inc.
Calspan Corp.
Camel Manufacturing Co.
Campbell Soup Co.
Canadian Commercial Corp.
Canadian National Railways

Cargill, Inc.
Carnegie Mellon University
Carnes Construction, Inc.
Carolina Power & Light Co.,
Cartwright Electronics, Inc.
Caterpillar, Inc.
Celsiustech Electronics AB
Center For Naval Analyses
Central Coast Water Authority
Central Gulf Lines, Inc.
Century Concrete Services, Inc.
Century Technologies, Inc.
Ceridian Corp.
Certified Slings, Inc.
Chamberlain Manufacturing Corp.
Chem-Nuclear Systems, Inc.
Chesapeake & Potomac Telephone Co. of Virginia
Chevron USA, Inc.
Childers Construction Co.
Chromalloy Gas Turbine Corp.
Chrysler Technologies Airborne Systems
Cincinnati Bell, Inc.
Cincinnati Electronics Corp.
Cinpac, Inc.
Coastal Eagle Point Oil Co.
Coastal Healthcare Group, Inc.
Coastal Oil New England, Inc.
Coastal Refining & Marketing
Coastal States Trading, Inc.
Cocke Bartlett Jr. Construction Co.
Codar Technology, Inc.
Codex Corp.
Colejon Mechanical Corp.
Coleman Research Corp.
Colsa, Inc.
Coltec Industries, Inc.
Columbia Research Corp.
Comarco, Inc.
Comcon, Inc.
Commonwealth of Australia
Communications Satellite Corp.
Compania De Petroleos De Chile
Compliance Corp.
Comprehensive Technologies International
Comptek Research, Inc.
Computer Associates International
Computer Dynamics, Inc.
Computer Engineering Association
Computer Sciences Corp.
Computer Sciences Raytheon JV
Computer Systems Development
Conagra, Inc.
Conax Corp.
Concord Hill Group, Inc.
Concurrent Computer Corp.
Conner Brothers Construction Co.
Consolidated Services, Inc.
Contel Corp.
Conti Environmental, Inc.
Continental Maritime of San Diego
Contrack International, Inc.
Contraves, Inc.
Coors Porcelain Co.
Cosmo Oil Co., Ltd.
Cray Research, Inc.
Crowley American Transport, Inc.
Crysen Corp.
Cubic Corp.
Cummins Engine Co., Inc.
DBA Systems, Inc.
DCS Corp.
DKH Healthcare Corp.
DME Corp.
DTH Contract Services, Inc.
Dakota Tribal Industries, Inc.
Dames & Moore
Danis Companies, The
Data General Corp.
Day & Zimmerman, Inc.
Day & Zimmerman/Basil Corp. JV
Decisions Systems Technology
Deere & Company
Del Jen, Inc.
Delta Air Lines, Inc.
Delta Dental Plan of California
Den Norske Stats Oljeselskap AG
Deutsche Bundesbahn
Deutsche Texaco AG
Deval Corp.
Development Sciences Corp.
Devtec Corp.
Diagnostic Retrieval Systems
Diamond Shamrock Refining
Dick, P.J. Contracting, Inc.
Digital Equipment Corp.
Digital Systems Research, Inc.
Diversified Services
Donohue & Associates, Inc.
Drake, Donald M. Co.
Draper, Charles Stark Laboratories, Inc.
Dreadnought Marine, Inc.
Drexel Industries, Inc.
Du Pont, E.I. de Nemours & Co.
Dual, Inc.
Duchossois Enterprises, Inc.
Dynamics Research Corp.
Dyncorp
Dynetics, Inc.
E-Systems, Inc.
EA Engineering & Science Technology
EC III JV
ECC International Corp.
EDO Corp.
EDP Enterprises, Inc.
EER Systems Corp.
EG&G, Inc.
EG&G Management Systems
EG&G Riticon
EG&G Washington Analytical Services Center
ESL, Inc.
ETA Technologies Corp.
Eagan McAllister Associates
Eagle Technology, Inc.
Earl Industries, Inc.
Earth Technology Corp.
East Penn Manufacturing Co.
Eastman Kodak Co.
Eaton Corp.
Ebasco Constructors, Inc.
Ebasco Services, Inc.
Ecology & Environment, Inc.
Edge Systems, Inc.
Eldyne, Inc.
Electro Methods, Inc.
Electronic Component Sales
Electronic Data Systems Corp.
Electronic Warfare Associates
Electronics & Space Corp.
Electrospace Systems, Inc.
Elf France
Elometa Corp.
Emergency Medical Services Associates
Empresa Nacional De Energia El
Endevco, Inc.
Engineered Support Systems
Engineering Research Assoc.
Engineering Science, Inc.
Enginetics Corp.
Ensafe/Allen & Hoshall
Ensco, Inc.
Entek, Inc.
Entwistle Co., The
Environmental Research Institute of Michigan
Environmental Science & Engineering
Environmental Technologies Group
Exide Electronics Corp.
Exodyne, Inc.
Exxon Co., USA
Exxon International Services
FEL Corp.
FKW, Inc.
FMC Corp.
FMS Corp.
FN Manufacturing, Inc.
Fairchild Aircraft, Inc.
Fairchild Industries, Inc.
Fairchild Space & Defense Corp.
Falcon Microsystems, Inc.
Farrell Lines, Inc.
Federal Data Corp.
Federal Express
Federal Express, Northwest Airlines, PanAm World Airways, Tower Air & United Parcel Service JV
Federal Prison Industries
Federal Republic of Germany
Federal Sector Services
Federal Hoffman, Inc.
Ferguson Williams, Inc.
Fidelity Technologies Corp.
Firth Construction Co., Inc.
Flightsafety International, Inc.
Flightsafety Service Corp.
Florida Power & Light Co.
Fluor Corp.
Fluor Daniel, Inc.
Ford, H.J. Associates, Inc.
Foundation Health Corp.
Freedon Forge Corp.
Frito Lay, Inc.
Frontier Engineering, Inc.
G&C Enterprises, Inc.
GDE Holdings Co. (DE)
GDE Systems, Inc.
GEC Avionics, Ltd.
GEC Marconi Co., Ltd.
GM Hughes Electronics Corp.
GTE Corp.
GTE Government Systems Corp.
GTE Hawaiian Telephone Co., Inc.
GTE Products Corp.
GTE Service

GTE Sylvania Products
Gaeco International Corp.
Galaxy Builders, Inc.
Garcia, Luis E., Inc.
Gary-Williams Co.
General Atomics
General Directorate of PTT
General Dynamics Corp.
General Electric Co.
General Mills, Inc.
General Motors Corp.
General Research Corp.
General Ship Corp.
Gentex Corp.
Geo Centers, Inc.
Geo Marine, Inc.
Georgia Power Co.
Georgia Tech Research Corp.
Geronimo Service Co.
Geste Holdings USA, Inc.
Giant Industries, Inc.
Gibraltar, P.R., Inc.
Gold Line Refining, Ltd.
Golden Manufacturing Co., Inc.
Gonzales, Al
Goodrich, B.F. Co., The
Goodyear Tire & Rubber Co., The
Government Micro Resources
Government of Canada
Government Systems, Inc.
Government Technology Services
Great Lakes Dredge & Dock Co.
Greenland Contractors
Grimberg, John C. Co., Inc.
Groundwater Tech Govt Ser., Inc.
Group Financial Partners, Inc.
Grumman Aerospace Corp.
Grumman Corp.
Grumman Data Systems Corp.
Gulf Coast Trailing Co.
Gulfstream Delaware Corp.
Gunver Manufacturing Co., Inc.
Guyco Engineering Co.
HCC Acquisition Co., Inc.
HFSI, Inc.
HRI, Inc.
HSQ Technology, Inc.
Halifax Engineering, Inc.
Halliburton Nus Envmtl Corp.
Halter Marine, Inc.
Harbert Corp.
Habor Construction Co., Inc.
Harcon, Inc.
Hardaway Co., Inc., The
Hardie-Tynes Manufacturing Co.
Harding Associates, Inc.
Harnischfeger Industries, Inc.
Harris Corp.
Harris Magnavox Systems Co. JV
Harsco Corp.
Hartford Steam Boiler Inspection Co.
Hawaiian Electric Industries
Hawaiian Independent Refinery
Haworth International, Ltd.
Hazeltine Corp.
Henderson, H.F. Industries
Hensel Phelps Construction Co.
Hercules, Inc.
Hermes Consolidated, Inc.
Heroux, Inc.
Hess Oil Virgin Islands Corp.
Hewlett Packard Co.
Hilton Systems, Inc.
Hoffmann La Roche, Inc.
Holly Corp.
Holmes & Narver, Inc.
Holston Defense Corp.
Honam Oil Refinery Co., Ltd.
Honeywell, Inc.
Hooks, Mike, Inc.
Horizons Technology, Inc.
Houston Executive Air Service
Howden Group America, Inc.
Howmet Corp.
Hughes Aircraft Co.
Hughes Danbury Optical Systems
Hughes Data Systems & BTG, Inc. JV
Hughes Missile Systems Co.
Hughes Training Systems, Inc.
Hunt Building Corp.
Hyman, George Construction Co.
Hyster-Yale Materials Handling
I-Net, Inc.
ICF Technology, Inc.
ICI Americas, Inc.
IIT Research Institute
ILC Industries, Inc.
IPAC
IRISS Co.
IT Corp.
ITT Corp.
ITT Federal Services Corp.
Iber C. & Sons, Inc.
Iceland Prime Contractors
Illinois Glove Co.
Incore, Inc.
Indstrial Data Link Corp.
Information Handling Services Group
Information Spectrum, Inc.
Information Systems Networks Corp.
Information Tech Solutions
Infotec Development, Inc.
Ingalls Shipbuilding, Inc.
Institute for Defense Analyses
Intel Corp.
Intelcom Support Services, Inc.
Intercontinental Manufacturing Co., Inc.
Intergraph Corp.
Intermarine, USA
Intermetrics, Inc.
International Business Machines Corp.
International Marine
International Technology Corp.
Interstate Electronics Corp.
Israel Aircraft Industries, Ltd.
Israeli Military Industries
Isratex, Inc.
J&J Maintenance, Inc.
JJMA Holdings, Inc.
JWK International Corp.
Jacobs Engineering Group, Inc.
James, T.L. & Co., Inc.
Jaycor
Jered Brown Brothers, Inc.
Jersey Central Power & Light Co.
Johns Hopkins University
Johnson, Al Construction Co.
Johnson Controls World Service
Johnson, Matthey, Inc.
Jonathan Corp., The
Jones Group, Inc., The
Jones, John T. Construction Co.
Jowett, Inc.
K&F Industries Inc.
K&M Maintenance Services
KDI Precision Products, Inc.
KPMG Peat Marwick
Kaiser Aerospace & Electronics Corp.
Kaman Aerospace Corp.
Kaman Instrumentation Corp.
Kaman Sciences Corp.
Kato Corp.
Kay & Associates, Inc.
Kaysam Worldwide, Inc.
Kearfoot Guidance & Navigation Corp.
Keco Industries, Inc.
Keflavik Contractors
Kellogg Co.
Kestrel Shipholding Corp.
Kiewit Construction Group, Inc.
Kiewit & Johnson, Al JV
Kilgallon Construction Co.
Knoll Group, The
Kohlberg, Kravis Roberts & Co.
Kollmorgen Corp.
Korea Electric Power Corp.
Korean Air Lines Co., Ltd.
Kovatch Mobile Equipment Corp.
Kraemer Edward & Sons, Inc.
Kraft General Foods, Inc.
Krug International Corp.
Kuwait National Petroleum Co.
Kyung In Energy Co., Ltd.
LAS Energy Corp.
LATA Curls
LAU Acquisition Corp.
LG&E Energy Corp.
LTV Corp.
Laidlaw Environmental Services
Laketon Refining, Inc.
Lane Industries, Inc.
Lanthier, Robert J. Co., Inc.
Law Companies, Inc., The
Lawrence Associates, Inc.
Lear Astronics Corp.
Lear Siegler Holdings Corp.
Leland Electrosystems, Inc.
Lewis, Lee Construction, Inc.
Life Cycle Engineering, Inc.
Light Helicopter Turbine Engine Co.
Lilly, David B. Co., Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lobar, Inc.
Lockheed Aeromod Center, Inc.
Lockheed Aeronautical Systems Co.
Lockheed Air Terminal, Inc.
Lockheed Corp.
Lockheed Engineering & Science
Lockheed Fort Worth Co.
Lockheed Missiles & Space Co.
Lockheed Sanders, Inc.
Lockheed Western Export Co.
Locus, Inc.
Loggins Meat Co., Inc.
Logicon, Inc.
Logicon R & D Associates

Logistic Services International
Logistics Management Institute
Loral Aerospace Corp.
Loral Corp.
Loral Corp., Rolm Mil-Spec Computers Division
Loral Vought Systems
Louis Dreyfus Energy Corp.
Lucas Aerospace
Luhr Brothers, Inc.
Lykes Brothers Steamship Co., Inc.
MCC Construction Corp.
MCI Telecommunications Corp.
MDP Construction Inc.
MDT Advisers, Inc.
MEI Technology Corp.
MK Ferguson of Idaho
MacGregor-Navire USA, Inc.
Maden Tech Consulting, Inc.
Maersk Line, Ltd.
Magnavox Government & Industrial Electronics Co.
Management Systems Application
Manson Construction & Engineering Co.
Mansour General Dynamics, Ltd.
Mantech International Corp.
Manufacturing Technology, Inc.
Mapco Alaska Petroleum, Inc.
Mar, Inc.
Marconi Radar & Control System
Marconi Underwater Systems, Ltd.
Marine Hydraulics International
Marine Transport Service Sea Barge GP
Mars, Inc.
Martech USA, Inc.
Martin Baker Aircraft Co., Ltd.
Martin Electronics, Inc.
Martin Marietta Corp.
Martin Marietta, Diehl Co's., Thorn & Thompson JV
Martin Marietta Missile System
Martin Marietta Corp. & Westinghouse Electric Co. JV
Mason Hanger Silas Mason Co.
Mason Technologies, Inc.
Massachusetts Institute of Technology
Maxwell Laboratories, Inc.
Mayer, Oscar Foods Corp.
McBride & Associates, Inc.
McRae Industries, Inc.
McDonnell Aircraft Co.
McDonnell Douglas Corp.
McDonnell Douglas Helicopter Co.
McDonnell Douglas Missile & Systems Co.
McDonnell Douglas Space Systems Co.
McDonnell Douglas Training Systems, Inc.
McLaughlin Research Corp.
McMaster Construction, Inc.
Merchants National Corp.
Merck Sharp Dhme Federal Credit Union
Metallgesellschaft Corp.
Metcalf & Eddy, Inc.
Metric Construction Co., Inc.
Metro Machine Corp.
Metters Industries, Inc.
Mevatec Corp.
Michelin Tire Corp.
Mid Continent Systems Corp.
Mid Eastern Builders
Milcom Systems Corp.
Miles, Inc.
Miller Herman, Inc.
Miltope Group, Inc.
Mine Safety Appliances Co.
Ministry of Defense, UK
Mip Instandsetzungsbetriebe
Mission Research Corp.
Mitre Corp.
Mobil Corp.
Modern Technologies Corp.
Monfort Food Distributing Co.
Montana Refining Co.
Montgomery, J.M., Consulting Engineers
Montgomery Watson Americas
Morgan Stanley Group, Inc.
Morgen & Oswood Construction Co.
Morrell, John & Co., Inc.
Mortenson, M.A. Co.
Motor Oils Hellas Corinth Refinery
Motorola Communications & Electronics
Motorola, Inc.
Multi-Electric Manufacturing, Inc.
Murdock, Inc.
NASP National Contractor
NC Dept of Human Resources
NCI Information Systems, Inc.
NCR Corp.
NI Industries, Inc.
Natco LP
Nation, Inc.
National Academy of Sciences
National Apparel, Inc.
National Beef Packing Co.
National Emergency Service
National Forge Co.
National Industries for the Blind
National Maintenance, Inc.
National Patent Development Corp.
National Program Office
National Steel & Shipbuilding Co.
National Systems & Research Co.
National Technologies
Navcom Defense Electronics, Inc.
Navcom Systems, Inc.
Netherlands Ministry of Defense
Network Equipment Technologies, Inc.
New Mexico State University
Newport News Shipbuilding & Dry Dock Co.
Nichols Research Corp.
Nicholson & Associates, Inc.
Nielsons, Inc.
Norden Systems, Inc.
Norfolk Dredging Co., Inc.
Norfolk Shipbuilding & Dry Dock Corp.
Norse, Inc.
Nortel Federal Systems, Inc.
North American Mechanical Services
North Atlantic Industries, Inc.
North Florida Shipyards, Inc.
Northern Telecom, Inc., Del.
Northern Telecom, Ltd.
Northrop Corp.
Northrop Worldwide Aircraft Services
Northwest Environmental Service, Inc.
Norton Co.
Nova Group, Inc.
Novelly/Goldstein Partnership
Nuclear Research Corp.
O'Brian & Gere, Ltd.
OEA, Inc.
OHM Remediation Services Corp.
OMNI Construction, Inc.
Occidental Petroleum Corp.
Ocean Shipholdings, Inc.
Ogden Corp.
Ogden Environmental & Energy Service Co.
Ogden Government Services Corp.
Ogden Services Corp.
Oil Refineries, Ltd.
Okinawa City Water Works
Okinawa Electric Power Co., Inc.
Oldenburg Group, Inc.
Olin Corp.
Olin Ordnance
Olin Winchester
Omega Group, Inc.
Operational Technologies Corp.
Oracle System Corp.
Orange Shipbuilding Co., Inc.
Orbital Sciences Corp.
Orincon Corp.
Orion International Technologies, Inc.
Osborne Construction Co.
Oshkosh Truck Corp.
Outdoor Venture Corp.
Owl International, Inc.
P&Z Construction Co., Inc.
PCL Construction Associates, Inc.
PHH Holdings, Inc.
PHP Healthcare Corp.
PMB Engineering, Inc.
PRC Engineering Systems, Inc.
PRC Environmental Management
PRC, Inc.
PSG International Language
Pacer Systems, Inc.
Pacific Architects & Engineers, Inc.
Pacific Ship Repair & Fabrication
Pacific Telecom, Inc.
Pacifica Services, Inc.
Pacificorp Capital, Inc.
Paramax Systems Corp.
Parker Hannifin Corp.
Parsons Corp.
Patrol Ofisi A S Genel Mud
Pearse, Jack F.
Peerless Petrochemicals, Inc.
Pemco Aeroplex, Inc.
Pence, Howard W., Inc.
Pennsylvania State University
Penske Transportation, Inc.
Pentastar Eletronics, Inc.
Pepper, Harry & Associates
Pepsico, Inc.
Per Udsen Aircraft Co.
Perini Corp.
Peterson Builders, Inc.
Petroleum Traders Corp.
Philip Morris, Inc.
Phillips & Jordan, Inc.
Phoenix Air Group, Inc.
Phototronics Corp.

Physics International Co.
Pine Bluff Sand & Gravel Co.
Pioneer U. A. V., Inc.
Piquniq Management Corp.
Pizzagalli Construction Co.
Placid Oil Co.
Planning Systems, Inc.
Pneumo Abex Corp.
Potomac Electric Power Co.
Potomac Systems Engineering
Praoil Aromatici E. Raffinazion
Pratt & Whitney
Pride Companies LP
Pride Industries, Inc.
Proctor & Gamble Co., The
Pueblo Laguna Tribe
Puerto Rico Sun Oil Co., Inc.
Pulau Electronics Corp.
Purdy Corp.
Quaker Oats Co., The
Questech, Inc.
Quintron Corp.
RJO Enterprises, Inc.
RMS Technologies, Inc.
Racal Communications, Inc.
Radian Corp.
Rafael Armaments Development
Rail Co.
Ran-Paige Co., Inc.
Rand Corp., The
Raven Industries, Inc.
Raytheon Co.
Raytheon Middle East Systems Co.
Raytheon Service Co.
Raytheon Support Services Co.
Red Samm Construction, Inc.
Refinery Associates, Inc.
Reflectone Training Systems
Relm Communications, Inc.
Research & Development Labs
Research Analysis & Maintenance
Resource Consultants, Inc.
Robbins Gioia, Inc.
Rockwell International Corp.
Rockwell Power Systems
Rolls-Royce & Associates, Ltd.
Roofing Constructors, Inc.
Rose Companies, Inc.
Rosenblatt, M. & Son, Inc.
Rust International Corp.
Ryan Co., Inc.
Ryan, Inc., Eastern
SAIC Engineering, Inc.
SCI Systems, Inc.
SD-Scicon PLC
SFA, Inc.
SKF USA, Inc.
SRA Technologies, Inc.
SRI International
SRS Technologies
SSI Services, Inc.
Sabreliner Corp.
Saco Defense, Inc.
Sacramento Municipal Utility
Saft America, Inc.
Samson Tug & Barge Co.
Saudi Oger, Ltd.
Saudi Operations & Maintenance Co.
Saudi Services & Operating Co.
Sauer, Inc.
Schafer, W.J. Associates, Inc.
Schlosser, W.M., Co., Inc.
Science & Technology, Inc.
Science Applications International Corp.
Scientific Ecology Group, Inc.
Scientific Atlanta, Inc.
Scientific Research Corp.
Sea Land Service, Inc.
Seacor Services, Inc.
Sears Roebuck & Co.
Semcor, Inc.
Sentel Corp.
Sequa Corp.
Serv Air, Inc.
Service Engineering Co., Inc.
Sevenson Environmental Services
Sharp, George G., Inc.
Shell Oil Co.
Sherikon, Inc.
Shin Cheon Co., Ltd.
Short Brothers PLC
Showa Shell Sekiyu KK
Siemens Corp.
Sierra Nevada Corp.
Sierra Technologies Corp.
Silicon Graphics, Inc.
Simplex Wire & Cable Co.
Simtec, Inc.
Simula, Inc.
Skipton, James K., III, Inc.
Sletten, Inc.
Slingsby Aviation, Ltd.
Smith, Johnny F., Truck Dragline Svc.
Smithkline Beecham Corp.
Smiths Industries, Inc., USA
Softech, Inc.
Sonalysts, Inc.
Sony Corp. of America
South Carolina Wldlf Mrn Res
Southeastern Public Service Authority
Southern Air Transport, Inc.
Southern Co., Inc.
Southfork Systems, Inc.
Southwest Marine, Inc.
Southwest Mobile Systems Corp.
Southwest Research Institute
Southwestern Bell Corp.
Space & Sensors Associates
Space Applications Corp.
Space Data Corp.
Spacesaver Corp.
Sparta, Inc.
Sparton Corp.
Spaw-Glass, Inc.
Spectrum Astro, Inc.
Speegle Construction, Inc.
Sprint Communications Co. LP
Ssangyong Oil Refining Co., Ltd.
Standard Technology, Inc.
Stanford Telecommunications
Stanford University
Statistica, Inc.
Steelcase, Inc.
Sterling Medical Associates
Sterling Software, Inc.
Stewart & Stevenson Services, Inc.
Storage Technology Corp.
Strand, Inc.
Sumaria Systems, Inc.
Sumitomo Electric Fiber Optics
Sumitomo Heavy Industries, Ltd.
Summa Technology, Inc.
Sun Eagle Corp.
Sun Microsystems, Inc.
Sun Refining & Marketing Co.
Sundstrand Corp.
Sundt Corp.
Sunkyong, Ltd.
Support Systems Associates
Supreme Beef Processors, Inc.
Sverdrup Corp.
Symetrics Industries, Inc.
Synetics Corp.
Synoptic Systems Corp.
Syscon Corp.
System Planning Corp.
System Resources Corp.
Systems & Electronics, Inc.
Systems Engineering & Management Co.
Systems Engineering Solutions
Systems Engineering Energy Management Association
Systems Research Laboratories
TASC
TCOM, LP
TDS, Inc.
TRW, Inc.
Talley Defense Systems, Inc.
Tampa Shipyards, Inc.
Tape Tech, Inc.
Target Sportswear, Inc.
Taylor Ball, Inc.
Tec-Masters, Inc.
Tech-Sym Corp.
Techmatics, Inc.
Technical & Management Services Corp.
Technology Applications Service Co.
Technology Management & Analisys Corp.
Tecolote Research, Inc.
Tecom, Inc.
Tektronix, Inc.
Teledyne, Inc.
Teledyne Industries, Inc.
Teleflex, Inc.
Telephonics Corp.
Telex Communications, Inc.
Tennessee Valley Authority
Tesco
Tesoro Petroleum Corp.
Tetra Tech, Inc.
Texaco Caribbean, Inc.
Texas-Capital Contractor, Inc.
Texas Instruments & Martin Marietta JV
Texas Instruments, Inc.
Texcom, Inc.
Texstar, Inc.
Textron, Inc.
Therm, Inc.
Thermo Electron Corp.
Thermodyn Mechanical Contrs.
Thinking Machines Corp.
Thiokol Corp.
Tiburon Systems, Inc.
Timken Co., The
Titan Corp.

Tohoku Denryoku KK
Tokyo Denryoku KK
Totem Resources Corp.
Tracor Aerospace, Inc.
Tracor Applied Sciences, Inc.
Tracor, Inc.
Trans World Airlines, Inc.
Trans-Tec Services
Transworld Oil USA, Inc.
Tri Ex Tower Corp.
Tri State Design, Inc.
Trident Data Systems, Inc.
Triton Group, Ltd.
Triton Marine Construction
Turtle Mountain Manufacturing Co.
Tutor Saliba Corp.
UNC, Inc.
URS Corp.
Unidyne Corp.
Unified Industries, Inc.
Uniformed Services Benefit Plans
Unisys Corp.
United Engineers & Constructors
United International Engineers
United Parcel Service, Inc., Ohio
United States Department of Commerce
United States Department of Energy
United Technologies Corp.
United Technologies Optical Systems
Universal Propulsion Co., Inc.
University of California
University of Dayton
University of Pittsburgh
University of Southern California
University of Texas
University of Washington
User Technology Associates
Utah State University
VSE Corp.
Van Ommeren Shipping (USA)
Vanee Foods Co.
Varian Associates, Inc.
Varo, Inc.
Vector Research, Inc.
Vectura Group, Inc.
Veda, Inc.
Verac, Inc.
Vickers, Inc.
Vinnell Corp.
Vinnell Corp., Brown & Root JV
Vion Corp.
Virtexco Corp.
Vitro Corp.
Vitronics, Inc.
Vought Aircraft
Vredenburg, R. M. & Co.
Wallace Oconner International, Ltd.
Wang Laboratories, Inc.
Warehouses Services, Inc.
Washington Agricultural Dev.
Waste Management, Inc.
Waterman Steamship Corp.
Watkins Johnson Co.
Watterson Construction Co.
Weeks Marine, Inc.
Wellco Enterprises, Inc.
Western Petroleum Co.
Western Union Corp.
Westinghouse Electric Corp.
Westmont, Inc.
Weston, Roy F., Inc.
Whitesell Green, Inc.
Whittaker Corp.
Wichita Ponca Canvas Products
Willard Marine, Inc.
Willbros USA, Inc.
Williams International Corp.
Wisconsin Physicians Service Insurance
Woodward, Clyde Consultants
World Auxiliary Power Co.
World Rosen Key Amer Etal JV
Worldcorp, Inc.
Wornick Co., Inc.
Wyle Laboratories
Wylie, C.E. Construction Co.
Xerox Corp.
Xontech, Inc.
Yeager, E.L. Construction Co.
You One Construction Co., Ltd
Young & Rubicam, Inc.
Zachry, H.B. Co.
Zenith Electronics Corp.

Dated January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–674 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

34 CFR Parts 319, 429, 674, and 682

Miscellaneous Department of Education Regulations; Corrections

AGENCY: Department of Education.

ACTION: Final rules; correcting amendments.

SUMMARY: This document corrects certain final regulations published in the **Federal Register** on July 21, 1992 (57 FR 32342) (Part 674—Federal Perkins Loan Program); August 14, 1992 (57 FR 36720) (Part 429—Bilingual Vocational Materials, Methods, and Techniques Program); December 18, 1992 (57 FR 60280) (Part 682—Federal Family Education Loan Programs); and December 29, 1992 (57 FR 62094) (Part 319—Training Personnel for the Education of Individuals with Disabilities—Grants to State Educational Agencies and Institutions of Higher Education).

EFFECTIVE DATE: The correction to 34 CFR part 674 is effective September 18, 1992. The correction to 34 CFR part 429 is effective September 28, 1992. The correction to 34 CFR part 682 is effective February 1, 1993. The correction to 34 CFR part 319 is effective February 25, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Division of Regulations Management, U.S. Department of Education, 400 Maryland Avenue, SW., room 5125, FOB–6, Washington, DC 20202–2241. Telephone: (202) 401–2884. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

List of Subjects

34 CFR Part 319

Education of individuals with disabilities, Education—training, Grant programs—education, Student aid, Teachers.

34 CFR Part 429

Grant programs-education, Vocational education.

34 CFR Part 674

Loan programs—education, Student aid.

34 CFR Part 682

Loan programs—education, Student aid, Vocational education.

Dated: January 3, 1994.

Judith A. Winston,

General Counsel.

(Catalog of Federal Domestic Assistance Numbers: 84.029 Training Personnel for the Education of Individuals with Disabilities; 84.038 Perkins Loan Program; 84.077 Bilingual Vocational Training Program; 84.032 Stafford Loan Program and PLUS Program)

Parts 319, 429, 674, and 682 of title 34 of the Code of Federal Regulations are corrected by making the following amendments:

PART 319—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

1. The authority citation for part 319 continues to read as follows:

Authority: 20 U.S.C. 1432, unless otherwise noted.

§ 319.3 [Corrected]

2. In § 319.3 the third word of the undesignated introductory text is revised to read "funds".

PART 429—BILINGUAL VOCATIONAL MATERIALS, METHODS, AND TECHNIQUES PROGRAM

3. The authority citation for part 429 continues to read as follows:

Authority: Sec. 441(c) of the Carl D. Perkins Vocational Education Act, 20 U.S.C. 2441(c), as enacted by Pub. L. 98–524, unless otherwise noted.

§§ 429.11, 429.30 [Corrected]

4. In § 429.11(a) the cross-reference to "§ 409.10" is revised to read "§ 429.10"; and in § 429.30(a), (b), and (d) the cross-references to "§ 409.31" are revised to read "§ 429.31".

PART 674—FEDERAL PERKINS LOAN PROGRAM

5. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa—1087hh and 20 U.S.C. 421–429, unless otherwise noted.

6. Section 674.34 is corrected by adding paragraphs (b)(1)(i) and (ii) and (c)(5)(i) through (v) to read as follows:

§ 674.34 Deferment of repayment—Perkins loans.

* * * * *

(b)(1) * * *

(i) An institution of higher education; or

(ii) A comparable institution outside the U.S. approved by the Secretary for this purpose.

* * * * *

(c) * * *

(5) * * *

(i) The borrower serves in an organization that is exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954.

(ii) The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions.

(iii) The borrower's compensation does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency. Compensation includes an allowance for subsistence, necessary travel expenses, and stipends.

(iv) The borrower, as part of his or her duties, does not give religious instruction, conduct worship service, engage in religious proselytizing, or engage in fundraising to support religious activities.

(v) The borrower has agreed to serve on a full-time basis for a term of at least one year.

* * * * *

7. Section 674.35 is corrected by adding paragraphs (b)(1)(i) and (ii) and (c)(4)(i) through (v) to read as follows:

§ 674.35 Deferment of repayment—Direct loans made on or after October 1, 1980.

* * * * *

(b)(1) * * *

(i) An institution of higher education; or

(ii) A comparable institution outside the U.S. approved by the Secretary for this purpose.

* * * * *

(c) * * *

(4) * * *

(i) The borrower serves in an organization that is exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954.

(ii) The borrower provides service to low-income persons and their communities to assist them in eliminating proverty and poverty-related human, social, and environmental conditions.

(iii) The borrower's compensation does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency. Compensation includes an allowance for subsistence, necessary travel expenses, and stipends.

(iv) The borrower, as part of his or her duties, does not give religious instruction, conduct worship service, engage in religious proselytizing, or engage in fundraising to support religious activities.

(v) The borrower has agreed to serve on a full-time basis for a term of at least one year.

* * * * *

8. Section 674.36 is corrected by adding paragraphs (b)(1)(i) and (ii) to read as follows:

§ 674.36 Deferment of repayment—Direct loans made before October 1, 1980 and Defense loans.

* * * * *

(b)(1) * * *

(i) An institution of higher education; or

(ii) A comparable institution outside the U.S. approved by the Secretary for this purpose.

* * * * *

9. Section 674.49 is corrected by adding paragraphs (e)(4)(i)(A) and (B) and (f)(2)(i) and (ii) to read as follows:

§ 674.49 Bankruptcy of borrower.

* * * * *

(e) * * *

(4)(i) * * *

(A) Whether grounds exist under 11 U.S.C. 1307 to convert or dismiss the case; and

(B) Whether the borrower has demonstrated entitlement to the "hardship discharge" by meeting the requirements of 11 U.S.C. 1328(b).

* * * * *

(f) * * *

(2) * * *

(i) The court has found that repayment of the loan would impose an undue hardship on the borrower and the dependents of the borrower; or

(ii)(A) The loan entered the repayment period more than seven years, excluding periods of deferment, before the filing of the petition; and

(B) The loan is not excepted from discharge under other applicable provisions of the Code; or

* * * * *

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

10. The authority citation for Part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.801 [Corrected]

11. Section 682.801 is amended by removing "; and" at the end of paragraph (e) and adding, in its place, a period.

[FR Doc. 94–440 Filed 1–11–94; 8:45 am]
BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300299A; FRL–4746–5]

RIN No. 2070–AB78

Diallate; Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes the tolerances for residues of the pesticide diallate *S*-(2,3-dichloroallyl) diisopropylthiocarbamate, also known as AVADEX®, in or on all raw agricultural commodities. EPA is taking this action because all registered uses of diallate on these commodities have been cancelled. Therefore, there is no need for maintaining the tolerances once all commodities treated with diallate have cleared the channels of trade.

EFFECTIVE DATE: This regulation becomes effective February 11, 1994.

ADDRESSES: Written objections, identified by document control number [OPP-300299A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy

of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Philip Poli, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Crystal Station #1, 3rd Floor, 2800 Jefferson Davis Hwy., Arlington, VA, (703)-308-8038.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 30, 1993 (58 FR 51031), EPA issued a proposed rule to revoke the diallate tolerances for all agricultural commodities under 40 CFR 180.277 pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) by amending those tolerances to include an expiration date of August 30, 1996. A 30-day period was provided to allow for public comment.

On January 22, 1991, the last EPA registration for a pesticide product containing diallate was cancelled under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), for nonpayment of the annual registration maintenance fee. Because diallate is no longer registered in the United States for use on any food or animal feed crops, and a tolerance is generally not necessary for a pesticide chemical which is not registered for a particular food use, EPA is announcing that it is revoking the tolerances of the pesticide diallate by amending the tolerances to include an expiration date of August 30, 1996. The delayed revocation date will eliminate concern for a residue problem due to environmental contamination. Consequently, no action levels will replace the tolerances upon their revocation.

No comments or requests for referral to an advisory committee were received in response to the proposed rule.

Hearing Procedures

Any person adversely affected by this regulation revoking the tolerances for diallate in or on all raw agricultural commodities may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the Office of Pesticide Programs (OPP) docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds of the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requester's contentions on each such issue and a summary of any evidence relied upon by the objector (40 CFR 178.27).

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requester would, if established, resolve one or more of such issues in favor of the requester, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requester would be adequate to justify the action requested.

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order, i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that the rule is not "significant" and is therefore not subject to OMB review.

Regulatory Flexibility Act

This final rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.), and EPA has determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. Accordingly, I certify that this final rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This final regulatory action does not contain information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 20, 1993.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By revising § 180.277, to read as follows:

§ 180.277 S-2,3-Dichloroallyl diisopropylthiocarbamate; tolerances for residues.

Tolerances, set to expire on August 30, 1996, are established for negligible residues of the herbicide *S*-2,3-dichloroallyl diisopropylthiocarbamate in or on the raw agricultural commodities alfalfa (fresh and hay), barley (grain, forage, and straw), clover (fresh and hay), field corn grain, fodder and forage, flaxseed, lentils, peas, pea forage and hay, potatoes, safflower seed, soybeans, soybean forage and hay, and sugar beet roots and tops at 0.05 part per million.

[FR Doc. 94–763 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 412 and 413

[BPD–731–IFC]

RIN 0938–AG00

Medicare Program; Payment for Preadmission Services

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule specifies that inpatient hospital operating costs include certain preadmission services furnished by the hospital (or by an entity that is wholly owned or operated by the hospital) to the patient up to 3 days before the date of the patient's admission to that hospital. These provisions implement amendments made to section 1886(a)(4) of the Social Security Act by section 4003 of the Omnibus Budget Reconciliation Act of 1990.

DATES: *Effective Date:* This interim final rule with comment period is effective on January 12, 1994. We refer the reader to section V.A. of this preamble for a discussion of specific provisions that apply to specific periods.

Comment Period: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on March 14, 1994.

ADDRESSES: Mail written comments (an original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–731–IFC, P.O. Box 7517, Baltimore, MD 21207.

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

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–731–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–690–7890).

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FOR FURTHER INFORMATION CONTACT: Thomas Hoyer, (410) 966–4607.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1886(a) of the Social Security Act (the Act) establishes a ceiling on the allowable rate of the increase for Medicare hospital inpatient operating costs. Prior to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), section 1886(a)(4) of the Act defined the "operating costs of inpatient hospital services" to include "all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services as such costs are determined on an average per admission or per discharge basis * * *."

Section 3610.3 (formerly section 3608) of the Medicare Intermediary Manual, Part 3 (HCFA Pub. 13–3) and section 415.6 of the Medicare Hospital Manual (HCFA Pub. 10) provides that, if a beneficiary with Part A coverage is furnished outpatient hospital services and is thereafter admitted as an inpatient of the same hospital before midnight of the next day, the outpatient hospital services furnished to the beneficiary are treated as inpatient services and are included in the hospital's Part A payment. This administrative policy has been in effect since June 1966. It was adopted in response to a recommendation by the Health Insurance Benefits Advisory Council (HIBAC), which believed it would shorten inpatient stays by encouraging hospitals to perform some services connected with the stay prior to the actual inpatient admission.

On October 1, 1983, the prospective payment system (PPS) was implemented. PPS is a system of payment for acute inpatient hospital stays under Medicare Part A (Hospital Insurance) based on prospectively-set rates. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). When PPS was introduced, the costs related to the longstanding policy concerning the payment for preadmission outpatient services as inpatient services were included in the base year costs used to calculate the PPS standardized payment amount and the DRG weighting factors (see 49 FR 250, January 3, 1984). Those hospitals excluded from payment under PPS continue to be paid for inpatient hospital services they furnish, as well as for the preadmission services described above, on the basis of reasonable cost up to the ceiling specified in section 1886(a) of the Act. Therefore, for both PPS and non-PPS hospitals, these preadmission services may not be billed separately from the covered inpatient admission that follows, since payment for them is included in the payment made under Part A for the inpatient stay.

II. Statutory Provisions

Section 4003(a) of Public Law 101–508 amended the definition of "operating costs of inpatient hospital services" contained in section 1886(a)(4) of the Act to include the costs of certain services furnished prior to admission. These preadmission services are to be included in the Part A payment for the subsequent inpatient stay. For purposes of this interim final rule with comment period, we will refer to the provision as the "3-Day Payment Window."

As amended, section 1886(a)(4) of the Act defines the operating costs of inpatient hospital services to include certain preadmission services furnished by the hospital (or by an entity that is wholly owned or operated by the hospital) to the patient up to 3 days prior to the date of the patient's admission. The inpatient operating costs definition contained in section 1886(a)(4) of the Act applies to both PPS and non-PPS hospitals. As an amendment to that definition, the 3-Day Payment Window provision applies to both types of hospitals as well. Further, this provision's placement in section 1886(a)(4) of the Act rather than in sections 1862(a)(14) or 1866(a)(1)(H) of the Act (each of which deals with rebundling—the practice of covering as

hospital services those nonphysician services furnished to hospital patients by an outside supplier) indicates that the 3-Day Payment Window provision is separate and distinct from the rebundling requirement and, as such, may not be subject to the civil monetary penalties that apply to violations of the latter requirement.

Section 4003(b) of Public Law 101–508 provides for implementation of the 3-Day Payment Window provision in the following three phases:

- The first phase, effective from November 5, 1990 (the enactment date of Pub. L. 101–508) through September 30, 1991, includes any services furnished during the day before the date of admission regardless of whether the services are related to the admission. The Conference Report accompanying Public Law 101–508 indicates that this phase simply represents a statutory reiteration of the existing administrative policy. For this reason, the conferees did not expect that there was a need for any further administrative action by HCFA to implement this phase (H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess. 701 (1990)).
- The second phase, effective January 1, 1991, involves diagnostic services (including clinical diagnostic laboratory tests) that are furnished during the 3 days immediately preceding the date of admission.
- The third phase, effective October 1, 1991, includes other services related to the admission that are furnished during the 3 days immediately preceding the date of admission.

With respect to adjustments to the DRG relative weights, the Conference Report states that, "[n]othing in this provision requires the Secretary to take special action to adjust the DRG relative weights to reflect the additional services that would be covered by the DRG payment under this provision. The conferees expect that no adjustment will be made before [fiscal year] FY 1993 when Part a [A] billing data that would include the additional services would become available to recalibrate the relative weights." (H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess. 701 (1990).)

Section 4003(c) of Public Law 101–508 specifically authorizes the Secretary to implement the 3-Day Payment Window provision through the issuance of interim final regulations.

III. Provisions of the Rule

In this interim final rule with comment period, we are amending the Medicare regulations by adding new material to incorporate the provisions of section 4003(a) of Public Law 101–508 that amend section 1886(a)(4) of the Act and to apply the effective dates to these provisions as required under section 4003(b) of Public Law 101–508.

As indicated in section II of this preamble, the 3-Day Payment Window provision will be implemented in three phases. Phase one is intended simply to serve as a statutory reiteration of our existing policy as indicated by both section 4003(b)(1) of Public Law 101–508 and the Conference Report (H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess. 701 (1990)). Phase two, effective January 1, 1991, specifies that payment for inpatient hospital operating costs includes diagnostic services that are furnished during the 3 days immediately preceding the date of admission. Phase three specifies that payment for inpatient hospital operating costs includes other (that is, non-diagnostic) services that are related to the admission and are furnished during the 3 days immediately preceding the date of admission. Under phase three of the new law, we needed to choose between two possible approaches to the treatment of non-diagnostic services furnished within 3 days before admission. (Phase two deals only with diagnostic services and, thus, is not relevant to this issue). Phase one of the 3-Day Payment Window provision and our existing policy for services furnished on the day before admission are both somewhat broader than phase three, in that they bundle all preadmission services into the inpatient payment, regardless of whether they are related to the admission. Thus, for the phase one period, we believe it is appropriate to follow the broader administrative policy, which is already in place. However, for the implementation of phase three (section 4003(b)(3) of Pub. L. 101–508) beginning October 1, 1991, we considered whether to apply this broader policy or impose a policy that follows the narrower wording of the new law, that is, include non-diagnostic preadmission services only to the extent that they are related to the admission.

We considered that the Conference Report language (which characterizes the first phase of implementation as embodying the existing policy) could justify continuing the current, all-inclusive policy for the day before admission, or even expanding it to apply to the second and third day before admission as well. This approach would not require identifying any services as being related to the admission and would not require separating out from the inpatient payment any of the services not related to the admission that are furnished on the day before admission (all services—regardless of whether the services are related to the admission—are currently included in the inpatient payment under the existing policy). This approach would also enhance the program savings to be realized from the 3-Day Payment Window provision, since it folds into the inpatient payment a greater range of preadmission services that, as a consequence, would not receive a separate payment under Part B. Finally, by maximizing the services to be included in the Part A payment for the subsequent admission, this approach would clearly be advantageous to beneficiaries who are eligible only for Part A; further, even beneficiaries who are eligible for both Parts A and B would be able to avoid incurring the Part B deductible and coinsurance charges to the maximum extent possible.

However, we note that adopting such an all-inclusive approach for the second and third days before admission is contrary to the clear language of the new law, which is worded specifically in terms of "other services related to the admission." Furthermore, we have determined that continuing this approach indefinitely even for the day before admission only would appear to be inconsistent with the new law's implementation provisions; unlike phases two and three, phase one contains both a starting date and an ending date. We believe this indicates that Congress intended for the existing, all-inclusive policy to remain in effect, but only during the finite period between those two dates.

After considering these various factors, we have determined that services (other than diagnostic services) furnished on the second and third days before admission must be related to the admission in order to come under the 3-Day Payment Window provision. Further, we have determined that effective with services furnished on or after October 1, 1991 (upon the expiration of the first phase of implementation), this qualification will become applicable to non-diagnostic services furnished on the day before admission as well. We believe that this approach most accurately reflects the intent of the statutory language of the new provision. We realize that, under this approach, the payment made under Part A, which currently includes the cost of all non-diagnostic services furnished on the day before admission, will no longer include non-diagnostic services unless they are related to the admission. However, consistent with the Conference Report language set out above, we have to date made no DRG payment adjustments to reflect the

effects of the 3-Day Payment Window provision.

For purposes of this provision, we are defining "other services related to the admission" as those non-diagnostic services furnished in connection with the diagnosis (that is, the principal diagnosis) that requires the beneficiary to be admitted as an inpatient. We considered defining this term more broadly to include services furnished in connection with secondary diagnoses as well; however, secondary diagnoses can sometimes include complicating events that do not occur until after admission. Since the law specifies that this provision is to apply to services related to the inpatient "admission" (as opposed to the ensuing inpatient stay), we believe that it is more accurate to use only the principal diagnosis, as identifying those preadmission services that are related to the actual cause of admission.

Further, the statutory language charges the Secretary with defining those non-diagnostic services that are regarded as "related to the admission" and, thus, are subject to the payment window. In effect, this gives the Secretary the authority to determine the scope of the payment window's applicability to non-diagnostic services. In this context, we have determined that ambulance services are not subject to the payment window, even when furnished during the preadmission period by the admitting hospital or by an entity that it wholly owns or operates. The House Budget Committee Report accompanying the payment window legislation explained that the underlying objective of this provision is "* * * to curb further unbundling which has occurred since the introduction of the DRG payment system * * *" (H.R. Budget Comm. Rep. No. 881, 101st Cong., 2d Sess. 250 (1990).) As a Part B benefit, ambulance services (unlike patient transportation services furnished to inpatients) are not bundled with inpatient services and, thus, have not been subject to the actions taken to maximize payment under PPS, which prompted Congress's concern. Thus, we believe that ambulance services are distinct from the type of hospital services that Congress designed the payment window provision to address. Many hospitals that operate ambulance services do so at a loss. The hospitals continue to furnish the ambulance services primarily as a means of assuring access to hospital care for individuals who otherwise would be unable to reach hospitals. Subjecting hospitals that operate ambulance services to still greater fiscal constraints under the payment window provision could have a major adverse impact on their availability, particularly in remote rural areas. Therefore, in this rule, we are defining the preadmission services that are subject to the payment window provision as not including ambulance services.

Based on our interpretation of the law, we will implement phases two and three of the 3-Day Payment Window provision set forth in section 1886(a)(4) of the Act and section 4003(b) of Public Law 101–508 by revising regulations concerning payment to PPS hospitals (§ 412.2) and non-PPS hospitals (§ 413.40) for inpatient hospital services furnished to Medicare beneficiaries. (We are not amending the regulations with respect to phase one since, as discussed previously, the Conference Report language indicates that this phase simply embodies our existing policy and requires no further administrative action to implement.) Specifically, we are adding paragraph (c)(5) to § 412.2 and revising § 413.40(c). We will specify that payment for inpatient operating costs for both PPS and non-PPS hospitals will include certain preadmission services furnished by the hospital or by an entity wholly owned or operated by the hospital to the patient during the 3 days immediately preceding the date of the patient's admission. We are interpreting the phrase "wholly" owned or operated to include any entity for which the hospital itself is the sole owner; for purposes of consistency, we are also including in this term any entity for which the hospital is the sole operator. We note that a hospital need not exercise administrative control over a facility in order to operate it. An operator implements facility policies, but does not necessarily make the policies; operating a facility simply involves conducting the facility's day-to-day activities, as opposed to "control," which involves the power to direct the facility's operations toward specific objectives.

Thus, §§ 412.2 and 413.40 will specify that payment for inpatient operating costs for both PPS and non-PPS hospitals will include the following services (other than ambulance services):

- Diagnostic services (including clinical diagnostic laboratory tests) furnished on or after January 1, 1991.
- Other services related to the admission furnished on or after October 1, 1991.

We will define other services related to the admission to include those non-diagnostic services furnished in connection with the principal diagnosis that requires the beneficiary to be admitted as an inpatient. We invite comments on our use of this definition to identify admission-related services. We also invite comments on the feasibility of prescribing more detailed operational procedures in the regulations. For example, one possible approach might be simply to presume that certain specific types of preadmission services (such as chronic maintenance dialysis) are never related to the subsequent admission, or to presume that all preadmission services (other than certain specified exceptions) are admission-related. Another alternative might be to develop an inclusive list of procedures which are medically related, against which all claims could be electronically screened. Still another approach could be to define as related to the principal diagnosis any services that fall within the same major diagnostic category (MDC) as used under PPS. In establishing a degree of medical relatedness, the MDC approach would have the advantage of administrative simplicity for hospitals, contractors, and the government, as it would use a patient classification system that is already in place for hospital services under PPS. We invite comments on the feasibility of prescribing these or other implementation procedures in the regulations, as well as the relative administrative burden that each type of approach would impose on the program to develop and implement and on the facilities to comply.

In response to the changes made by section 4003 of Public Law 101–508, instructions were published in the Medicare Intermediary Manual, Part 3 (HCFA Pub. 13–3), "Claims Process" in March 1992 (Transmittal No. 1565) and in the Medicare Hospital Manual (HCFA Pub. 10), in March 1992 (Transmittal No. 633).

We note that we are making some conforming technical changes to §§ 412.2 (c)(3) and (c)(4), 412.73(c)(1), 412.98(b), and 413.40 (a)(3) and (i)(3).

IV. Other Required Information

A. Effective Dates

The effective date of this interim final rule with comment period is January 12, 1994. As discussed previously, the Conference Report language indicates that the changes made by section 4003(b)(1) of Public Law 101–508 (which are effective from November 5, 1990, through September 30, 1991) simply embody our existing policy and require no further administrative action to implement; thus, we are not amending the regulations with respect to this aspect of the provision. Changes

made by section 4003(b)(2) of Public Law 101–508 that include as inpatient hospital services those diagnostic services that are furnished during the 3 days immediately preceding the date of admission are applicable for services furnished on or after January 1, 1991. Changes made by section 4003(b)(3) of Public Law 101–508 that include as inpatient hospital services any other services related to the admission furnished during the 3 days immediately preceding the date of admission are applicable for services furnished on or after October 1, 1991.

B. Waiver of Notice of Proposed Rulemaking and 30–Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking for a regulation to provide a period for public comment. However we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to public interest. In addition, section 1871(b)(2)(A) of the Act provides that the notice of proposed rulemaking is not required if a statute specifically permits a regulation to be issued in interim final form. Section 4003(c) of Public Law 101–508 permits the Secretary to publish the regulations, which will implement the 3-Day Payment Window provision, on an interim final basis. Therefore, we are implementing this interim final rule with comment period without first issuing a notice of proposed rulemaking. Nonetheless, we are providing a 60-day period for public comment, as indicated at the beginning of this interim final rule.

In addition, we normally provide a delay of 30 days in the effective date for documents such as this. However, we may waive the delay in the effective date if we find good cause that adherence to this procedure would be impracticable, unnecessary, or contrary to public interest. We believe that it is unnecessary to provide a 30-day delay in the effective date since the Conference Report language, as discussed previously, indicates that no further administrative action is necessary to effect the first phase of implementation, and section 4003(b) of Public Law 101–508 prescribes specific effective dates for the remaining two phases. The regulations in this interim final rule with comment period merely conform to the effective date requirements set forth in section 4003(b) of Public Law 101–508. Therefore, we find good cause to waive the usual 30-day delay

C. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Response to Comments

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

VI. Regulatory Impact Analysis

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any interim final rule with comment period that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

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

This interim final rule with comment period is considered a major rule under E.O. 12291 criteria based on our cost projections for the next 5 Federal fiscal years (FYs). The following discussion constitutes a regulatory impact analysis.

This interim final rule with comment period implements section 4003 of Public Law 101–508, which contains a provision that expands the timeframe for folding preadmission services into the Part A payment for the subsequent inpatient stay. The first sentence of section 1886(a)(4) of the Act is amended to include certain preadmission services, furnished by the hospital, or by an entity that is wholly owned or operated by the hospital, up to 3 days before the date of the patient's admission. This provision becomes effective in three phases.

The first phase, effective November 5, 1990 through September 30, 1991, included services furnished the day before admission. This phase merely represented a statutory reiteration of the existing policy. The second phase, effective January 1, 1991, included diagnostic services that are furnished during the 3 days immediately preceding the date of admission. The third phase, effective October 1, 1991, includes other services related to the admission that are furnished during the 3 days immediately preceding the date of admission.

This regulation will result in program savings from discontinuing separate payment under Part B for services performed up to 3 days before the date of admission instead of 1 day, without an immediate, corresponding increase in the DRG payments under Part A. The estimated savings will be reduced if physicians elect to have preadmission services performed at a non-hospital site or more than 3 days before admission.

There will be some savings to beneficiaries as a result of shifting payment for services from Part B outpatient to Part A inpatient rates. Beneficiaries are responsible for 20 percent copayment for non-diagnostic outpatient services. Beneficiaries will not be responsible for copayment if the same services are performed up to 3 days before the date of a hospital admission and are folded into the hospital's inpatient payment. However, because we do not have a breakdown of the cost or type of services that will be included in the inpatient payment, we are not able to estimate the annual savings that will be realized by beneficiaries.

The following table reflects estimated program savings solely as a result of discontinuing separate Part B payment for services performed up to 3 days before the date of admission instead of 1 day, without a corresponding DRG relative weight adjustment for the inpatient stay.

ESTIMATED MEDICARE PART B SAVINGS

[In millions] [1]

FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
$40	$70	$80	$90	$100

[1] Rounded to the nearest $10 million.

As indicated above, we do not anticipate that this new provision will cause a significant change in the timing of services that, until now, have been furnished during the preadmission period.

We are limiting the inclusion of non-diagnostic services, even when furnished on the day before admission, to those that are related to the admission. We believe this interpretation more accurately implements the provisions of the statute. This means that services furnished on the day before admission which are neither diagnostic nor admission-related will no longer be rebundled into the inpatient payment. Further, since the law permits the Secretary to define the types of admission-related services to be included in the payment window, we have determined that it should not include ambulance services, to which special conditions apply. As a Part B benefit, ambulance services (unlike patient transportation services furnished to inpatients) are not bundled with inpatient services, and thus, have not been subject to the attempts to maximize PPS payment through unbundling which prompted Congress to enact the payment window legislation. The unbundling provision may generate a small amount of additional Part B costs; however, as indicated above, we anticipate that the overall degree of change that this provision will produce in existing patterns of service delivery will be minimal.

B. Regulatory Flexibility Act

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

This interim final rule with comment period will affect all hospitals that are paid under the prospective payment system, dependent upon the number of additional services that will have to be included in the DRG payment rate. Since the estimated savings represent less than one-half of one percent of total Medicare funding to hospitals, we have determined, and the Secretary certifies, that this interim final rule with comment period will not have a substantial impact on a substantial number of small entities, and we have, therefore, not prepared a regulatory flexibility analysis.

C. Small Rural Hospitals

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if an interim final rule with comment period may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We believe the 3-Day Payment Window provision will affect small rural hospitals to a lesser degree than larger facilities where complex procedures are performed and specialized medical conditions are treated, requiring additional preadmission testing. Therefore, we have determined, and the Secretary certifies, that this interim final rule with comment period will not have a significant economic impact on the operations of a substantial number of small rural hospitals. Consequently, we are not preparing an analysis for section 1102(b) of the Act.

List of Subjects

42 CFR Part 412

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

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR chapter IV is amended as set forth below:

A. Part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

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

Authority: Secs. 1102, 1815(e), 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395g(e), 1395hh, and 1395ww).

Subpart A—General Provisions

2. In § 412.2, the introductory language in paragraph (c) is republished, paragraphs (c)(3) and (4) are revised, and paragraph (c)(5) is added to read as follows:

§ 412.2 Basis of payment.

* * * * *

(c) *Inpatient operating costs.* The prospective payment system provides a payment amount for inpatient operating costs, including—

* * * * *

(3) Special care unit operating costs (intensive care type unit services, as described in § 413.53(b) of this chapter);

(4) Malpractice insurance costs related to services furnished to inpatients; and

(5) Certain preadmission services furnished by the hospital or by an entity wholly owned or operated by the hospital (that is, any entity for which the hospital itself is the sole owner or operator) to the patient during the 3 days immediately preceding the date of the patient's admission to the hospital. A hospital is considered the sole operator of an entity if the hospital has exclusive responsibility for conducting or overseeing the entity's routine operations, regardless of whether the hospital also has policymaking authority over the entity. The specific preadmission services (other than ambulance services) included in the inpatient hospital operating costs are the following:

(i) Diagnostic services (including clinical diagnostic laboratory tests) furnished on or after January 1, 1991.

(ii) Other services related to the admission furnished on or after October 1, 1991. Other services related to the admission means services (other than diagnostic services) that are furnished in connection with the principal diagnosis that requires the beneficiary to be admitted as an inpatient.

* * * * *

Subpart E—Determination of Transition Period Payment Rates for Inpatient Operating Costs

§ 412.73 [Amended]

3. In § 412.73(c)(1), the phrase "the rate-of-increase percentage determined under § 413.40(c)(2) of this chapter," is revised to read "the rate-of-increase percentage determined under § 413.40(c)(3) of this chapter,".

Subpart G—Special Treatment of Certain Facilities Under the Prospective Payment System for Inpatient Operating Costs

§ 412.98 [Amended]

4. In § 412.98(b), in the first sentence, the phrase "under § 413.40(c)(3) of this chapter" is revised to read "under § 413.40(c)(4) of this chapter".

B. Part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833 (a), (i), and (n), 1861(v), 1871, 1881, 1883, and 1886 of the Social Security Act (42

U.S.C. 1302, 1395f(b), 1395g, 1395l(a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww); sec. 104(c) of Pub. L. 100–360 as amended by sec. 608(d)(3) of Pub. L. 100–485 (42 U.S.C. 1395ww (note)); and sec. 101(c) of Pub. L. 101–234 (42 U.S.C. 1395ww (note)).

Subpart C—Limits on Cost Reimbursement

§ 413.40 [Amended]

2. Section 413.40 is amended as follows:

a. In paragraph (a)(3), in the definition for "net inpatient operating costs", the first sentence is revised.

b. Paragraphs (c)(2) through (c)(4) are redesignated as paragraphs (c)(3) through (c)(5), and a new paragraph (c)(2) is added.

c. In redesignated paragraph (c)(4)(ii), the phrase "unless the provisions of paragraph (c)(4)(ii) of this section apply." is revised to read "unless the provisions of paragraph (c)(5)(ii) of this section apply."

d. In paragraph (i)(3), the phrase "the applicable rate-of-increase percentages (update factors) described in paragraph (c)(2) of this section." is revised to read "the applicable rate-of-increase percentages (update factors) described in paragraph (c)(3) of this section."

The revision and addition are to read as follows:

§ 413.40 Ceiling on the rate of increase in hospital inpatient costs.

(a) * * *

(3) * * *

Net inpatient operating costs include the costs of certain preadmission services as specified in § 413.40(c)(2), the costs of routine services, ancillary services, and intensive care services (as defined in § 413.53(b)) incurred by a hospital in furnishing covered inpatient services to Medicare beneficiaries.

* * *

* * * * *

(c) * * *

(2) *Preadmission services.* Net inpatient operating costs include certain preadmission services furnished by the hospital or by an entity wholly owned or operated by the hospital (that is, any entity for which the hospital itself is the sole owner or operator) to the patient during the 3 days immediately preceding the date of the patient's admission to the hospital. A hospital is considered the sole operator of an entity if the hospital has exclusive responsibility for conducting or overseeing the entity's routine operations, regardless of whether the hospital also has policymaking authority over the entity. The specific preadmission services (other than ambulance services) included in the net inpatient hospital operating costs are the following:

(i) Diagnostic services (including clinical diagnostic laboratory tests) furnished on or after January 1, 1991.

(ii) Other services related to the admission furnished on or after October 1, 1991. Other services related to the admission means services (other than diagnostic services) that are furnished in connection with the principal diagnosis that requires the beneficiary to be admitted as an inpatient.

* * * * *

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

Dated: July 20, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 30, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 94–546 Filed 1–11–94; 8:45 am]

BILLING CODE 4120–01–P

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42 CFR Parts 435 and 436

[MB–020–FC]

RIN 0938–AB07

Medicaid Program; Deduction of Incurred Medical Expenses (Spenddown)

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

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period permits States flexibility to revise the process by which incurred medical expenses are considered to reduce an individual's or family's income to become Medicaid eligible. This process is commonly referred to as "spenddown." Only States which cover the medically needy, and States which use more restrictive criteria to determine eligibility of the aged, blind, and disabled, than the criteria used to determine eligibility for Supplemental Security Income (SSI) benefits (section 1902(f) States) have a spenddown.

These revisions permit States to: Consider as incurred medical expenses projected institutional expenses at the Medicaid reimbursement rate, and deduct those projected expenses from income in determining eligibility; combine the retroactive and prospective medically needy budget periods; either include or exclude medical expenses incurred earlier than the third month before the month of application (States must, however, deduct current payments on old bills not previously deducted in any budget period); and deduct incurred medical expenses from income in the order in which the services were provided, in the order each bill is submitted to the agency, or by type of service

All States with medically needy programs using the criteria of the SSI program may implement any of the provisions. States using more restrictive criteria than the SSI program under section 1902(f) of the Social Security Act may implement all of these provisions except for the option to exclude medical expenses incurred earlier than the third month before the month of application.

DATES: These regulations are effective March 14, 1994.

To ensure that comments will be considered, we must receive them at the appropriate address, as provided below, no later than 5 p.m. on March 14, 1994.

ADDRESSES: Mail written comments (original and 3 copies) to the following address: Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: MB–020–FC, P.O. Box 26676, Baltimore, MD 21207.

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

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

In commenting, please refer to file code MB–020–FC. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–690–7890).

FOR FURTHER INFORMATION, CONTACT: Richard Coyne, (410) 966–4458.

SUPPLEMENTARY INFORMATION:

I. Background

States must provide Medicaid to categorical groups of individuals who are eligible to receive cash payments under one of the existing cash assistance programs established under the Social

Security Act (the Act). In addition, States may provide Medicaid to the medically needy; that is, to those individuals who meet the categorical group requirements, have sufficient income to meet basic living expenses and, thus, are ineligible for a cash assistance program but who have insufficient income to pay for medical expenses. Sections 1902(a)(17) and 1903(f)(2) of the Act provide that, for individuals applying as medically needy, certain incurred medical expenses must be deducted from income if income exceeds the eligibility standard established by the State. The process is commonly referred to as "spenddown."

In the medically needy program, the spenddown process currently operates as follows: The State selects one or more medically needy budget periods between 1 and 6 months and a medically needy income level, against which countable income is measured. If countable income, after certain deductions are taken, is equal to or less than the income standard (medically needy income level), the individual (or family) is eligible for Medicaid. If the income is higher than this standard, the individual nevertheless may be eligible for Medicaid if, by deducting incurred medical expenses (i.e., spending down the "excess" income), the income equals or falls below the standard.

Section 1902(f) of the Act contains a similar provision for deduction of incurred medical expenses from income. This spenddown applies to categorically needy and medically needy aged, blind, and disabled individuals in States using more restrictive eligibility criteria than those of the Supplemental Security Income (SSI) program. These States are known as section 1902(f) States. In those States, section 1902(f) of the Act requires that, in determining how much income is to be counted when determining eligibility, the Medicaid agency must deduct from income: (1) any SSI benefit received; and (2) any additional benefit paid by the State. If, after these deductions are taken, income is equal to or less than the State established income standard, the individual is eligible for Medicaid. If income is higher than the standard, the agency must deduct incurred medical expenses from the individual's countable income to determine whether or not he or she is eligible.

States using section 1902(f) criteria may elect to have medically needy programs. Individuals who become eligible for Medicaid by meeting the section 1902(f) spenddown are categorically needy unless the section 1902(f) State has a medically needy program. In section 1902(f) States with medically needy programs, an individual who spends down in order to meet the income test will be either medically needy or categorically needy. If he or she is an SSI or State supplement recipient, or meets the income test for SSI or a State supplement, he or she will be categorically needy. Otherwise, when the individual spends down, he or she will be medically needy. Once a section 1902(f) State elects to use more restrictive standards than those which the State is otherwise obligated to use under title XIX for those who will qualify as medically needy, its spenddown rules are governed by section 1902(f).

The statutory authority behind the general medically needy and section 1902(f) spenddowns is different. Under the general medically needy spenddown in section 1902(a)(17), States must take into account, except to the extent prescribed by the Secretary, the costs incurred for medical care or any other type of remedial care recognized under State law. Under section 1902(f), the spenddown language is broader. That is, the Secretary has not been granted the same authority to impose a limit: States must deduct from an individual's countable income incurred expenses for medical care as recognized under State law. However, section 1902(f) allows States to limit the deductible amount of expenses by recognizing only the limited amount under State law.

All States are currently required by section 1902(a)(34) of the Act to provide Medicaid benefits 3 months prior to the month in which an application is filed, subject to certain conditions. These conditions are that the individual (a) received covered services under the State plan at any time during that 3-month period, and (b) would have been eligible for Medicaid at the time services were received if he or she had applied.

II. Provisions of the Proposed Rule

Summary of Provisions

On September 2, 1983, we published in the **Federal Register** (48 FR 39959) a proposed rule (NPRM) to solicit comments on five sets of proposed changes to spenddown procedures (Provisions A through E, as described below). Our proposals are summarized below.

We proposed that all States with medically needy programs, including those using more restrictive eligibility criteria than SSI under section 1902(f) of the Act, be permitted to choose option A. In the NPRM we specified that a literal interpretation of section 1902(f) of the Act would prevent these States from implementing the remaining options (Provisions B through E).

Provision A—Allow States to Consider Projected Institutional Expenses at the Medicaid Rate as Incurred Medical Expenses

We proposed that all States, including those using more restrictive eligibility criteria than SSI, be permitted to count as incurred medical expenses in calculating whether spenddown requirements are met, projected institutional expenses (not subject to payment by a third party) at the Medicaid reimbursement rate instead of using only the private patient rate, as is currently required.

Provision B—Allow States To Combine Retroactive and Prospective Medically Needy Budget Periods

For those States that choose to have a medically needy program, we proposed the use of more flexible budget periods. These are periods over which an individual's income and medical expenses are compared to the State's medically needy income level to determine whether or not the individual is eligible. Specifically, States would be able to choose a medically needy budget period of up to 6 months that could include all or part of the 3-month period before an application for Medicaid (the retroactive period). Under current regulations, the 3-month retroactive period must be treated separately from whatever prospective budget period is chosen by the State.

Provision C—Permit States To Exclude from Incurred Medical Expenses Those Bills for Services Furnished More Than 3 Months Before a Medicaid Application

Except for current payments on older bills not previously applied in the spenddown process, we proposed that States be permitted to exclude from incurred medical expenses those bills for services furnished more than 3 months before the month of application or redetermination. Current regulations and policy require that States deduct all incurred expenses that an individual incurs before application, regardless of the date of the service, if they have not already been used in another budget period, if the individual is still liable for them, or if the individual has paid for them in the current budget period.

Provision D—Permit States to Apply Incurred Medical Expenses to the Spenddown Process in Chronological Order.

We proposed that States with a medically needy program may deduct incurred medical expenses from income in chronological order, rather than in the order specified in current regulations, which is by type of expenditure. The chronological order the State chooses can be either the order in which the services are furnished, or the order in which the bills are presented to the agency.

Provision E—Allow States To Limit Deductible Medical Expenses to Services Covered Under the State Plan

We proposed to allow States to exclude services that are not covered in their State plan from incurred medical expenses, except for Medicare and health insurance premiums, Medicaid deductibles, copayments or similar cost-sharing charges imposed by health insurance. Current regulations require that States deduct all incurred medical expenses recognized under State law that are not subject to payment by a third party.

Revision of NPRM Scope

We have decided to withdraw Provision E from all States. We explain our reasons under the analysis and response to public comments section of this preamble.

III. Analysis and Response to Public Comments

In response to our request for comments on the September 2, 1983, NPRM, we received 107 letters, 32 from client advocacy groups, 26 from individuals, 18 from providers or provider organizations, 15 from State governmental agencies, 13 from legal advocacy groups, and 3 from religious affiliated groups. The specific comments are grouped according to the five provisions identified in the NPRM.

Comments on Specific Provisions of the NPRM

Provision A—Allow States to Consider Projected Institutional Expenses at the Medicaid Rate as Incurred Medical Expenses

It should also be noted that Provision A does not govern implementation of section 1929(b)(3) of the Act, which permits States to project medical expenses in determining eligibility for medical assistance for home and community care under section 1929. Regulations governing section 1929 will be published separately.

Comment: Several commenters objected to Provision A, believing that allowing States to project institutional expenses at the Medicaid rate contravenes the law. They believe that since the law requires accounting for "incurred" expenses and since expenses are incurred at the private patient payment rate, a projection of expenses, as a part of accounting for incurred expenses, should only be at the private patient payment rate.

Response: We do not agree with the commenters. In the preamble to the NPRM, we noted that "[i]t is currently permissible for States to project anticipated institutional expenses at the private patient rate" but that we were proposing to revise regulations to also "provide that States may count institutional expenses (not subject to payment by a third party) at the Medicaid reimbursement rate instead of the private payment rate in calculating spenddown." (48 FR 39960). As discussed in more detail below, we have analyzed the issue further and have concluded that it is inappropriate to project expenses at the private patient payment rate.

First, the spenddown rules in sections 1902(a)(17) and 1902(f) of the Act provide for reducing income by "incurred" expenses (i.e., expenses for which the individual is liable). Under these provisions, the Secretary does not have to allow States to project any expenses since projection involves treating an expense as incurred before the liability arises. However, States are permitted to project expenses under the Secretary's general rulemaking authority in sections 1102 and 1902(a)(4) of the Act because projection may be necessary for the efficient operation of the Medicaid program.

The assumption underlying the projection of expenses is that liability for the expenses will subsequently arise since only the amounts for which the individual is ultimately liable can be used to reduce income. However, when the private patient payment rate is higher than the Medicaid rate and expenses are projected at the private payment rate, liability for the projected expenses may not actually arise. That is, once expenses are projected and spenddown liability is met, the provider may charge expenses only at the Medicaid rate as specified in § 447.15. Thus, expenses projected at the private payment rate will actually be incurred at the Medicaid rate, and the State will need to reconcile the amounts accordingly. This reconciliation would make the projection at the private payment rate less efficient than if the projection were done initially at the Medicaid rate. Further, when expenses ultimately incurred at the Medicaid rate are insufficient to meet the person's spenddown liability, the determination of eligibility would have been in error. Only using the Medicaid rate to project expenses avoids these problems. Therefore, we are allowing projections only at the Medicaid reimbursement rate.

Comment: A number of commenters argued that the use of the Medicaid reimbursement rate is arbitrary and generally less than the private rate.

Response: States are required by section 1902(a)(13)(A) of the Act to pay for long-term care services using rates that are reasonable and adequate to meet the costs that efficiently and economically operated facilities must incur to provide care that conforms to applicable State and Federal laws, regulations, and quality and safety standards. We are clarifying in these final regulations at §§ 435.831(g)(1), 435.831(i), 436.831(g)(1), and 436.831(i) that States may project institutional expenses only at the Medicaid rate.

Comment: Many commenters were concerned that if a State uses the Medicaid rate rather than the private rate in the spenddown process, it could take longer to reduce excess income using the usually lower Medicaid rate. Thus, it would delay eligibility. A number of commenters were concerned that certain individuals may have insufficient income to pay the private institutional rate, yet have income in excess of the Medicaid reimbursement rate.

Response: As we proposed, an individual is eligible whenever incurred medical expenses, including projected institutional expenses, equal or exceed the individual's excess income over the State's income standard. (The amount of income exceeding the State's income standard is referred to as an individual's spenddown liability.) In some instances the amount of projected institutional expenses at the Medicaid rate may not be enough to meet the individual's spenddown liability. In that case, the individual remains ineligible. However, the individual will become eligible when actually incurred institutional expenses at the private rate reduce income enough to establish eligibility.

As indicated in response to an earlier comment, the State Medicaid rate is the appropriate amount to use in projecting expenses because it reduces the need to reconcile projected and actually incurred expenses and helps to avoid erroneous determinations of eligibility. If an individual is not eligible because his or her spenddown liability exceeds institutional expenses projected over the

budget period at the Medicaid rate, the State must determine eligibility based on deducting actually incurred institutional expenses or based on a combination of expenses actually incurred at the private payment rate and remaining expenses projected at the Medicaid rate. (If eligibility results and eligibility is retroactive to the first day of the month because the State provides coverage in whole months, expenses incurred at the private payment rate prior to the determination of eligibility remain valid. Ordinarily, a participating provider may charge an eligible individual no more than the Medicaid rate. However, these charges need not be adjusted since the charges were incurred at the private payment rate and since the charges were part of expenses needed to qualify the individual for Medicaid under the spenddown. Otherwise, the adjustment could result in the individual no longer being eligible for Medicaid during the month. Furthermore, unless required under State law or the terms of the State's provider agreement, Medicaid providers need not accept all Medicaid eligible individuals as Medicaid patients. Thus, during the period prior to the determination of Medicaid eligibility, the provider could be viewed as only accepting the patient as a private payment patient. Charges incurred after the determination of eligibility may not exceed the Medicaid rate.)

Example: The individual is in the institution as of the first day of the month. The monthly spenddown liability is $1,500. The projected Medicaid rate for the month is $1,200 ($40 per day). The private rate is $1,800 per month ($60 per day). Since projected monthly expenses at the Medicaid rate ($1,200) are not sufficient to meet the spenddown liability ($1,500), the individual is not eligible. However, after remaining in the institution for 15 days the individual has actually incurred expenses of $900 at the private rate ($60 × 15 days). The projected institutional expenses at the Medicaid rate for the remaining days in the month are $600 ($40 × 15 days). Thus, as of the 15th day of the month the combination of actually incurred bills ($900) plus projected expenses at the Medicaid rate ($600) equal the spenddown liability ($1,500) and the individual is eligible.

Comment: Several commenters expressed concern that institutional providers that admit individuals at the private rate will be paid only at the usually lower Medicaid rate. This payment differential may have negative effects, both on providers and beneficiaries. Providers will receive less compensation under the proposal, and it may cause providers to admit fewer potential Medicaid patients.

Response: It is not clear why the commenters believe that institutional providers will be paid less as a direct result of the policy to require States to project expenses at the Medicaid payment rate. Providers can charge patients at the private payment rate for expenses incurred prior to the determination of Medicaid eligibility when spenddown liability was unmet. The individual is responsible for the full amount of those charges. Providers do not have to accept the Medicaid rate until after the individual becomes eligible. Therefore, by using the lower Medicaid rate, there may be a delay in meeting spenddown. This delayed eligibility could actually entitle providers to the higher rate for a longer period.

Comment: Some commenters objected to the exclusion of expenses incurred in an acute care facility when considering projection of institutional expenses in spenddown.

Response: As noted in the NPRM, we excluded projection of expenses in acute care facilities because these expenses are not as recurring and predictable as are expenses in long-term care facilities. We believe that it is not as easy to anticipate the cost of a stay in a hospital or to predict when it may occur as it is to anticipate long-term care costs. While acute care facility expenses may not be projected, they are valid medical expenses and may be deducted from excess income in spenddown when they actually occur.

Comment: A number of commenters suggested that the regulations be revised to include actually incurred institutional expenses in addition to projected institutional expenses.

Response: There was no intention on our part to exclude actually incurred institutional or other medical expenses from spenddown. Actually incurred (past) institutional expenses may be deducted along with projected (future) additional institutional expenses. In view of the comments indicating confusion on this point, we are revising paragraph (i) in both §§ 435.831 and 436.831 of the final regulations to clarify this.

Comment: Several commenters pointed out that eligibility begins not on the first day of institutionalization as indicated in the NPRM, but on the day on which an individual incurs medical expenses (including projected institutional expenses) equal to or exceeding the spenddown liability.

Response: We generally agree with these comments. In States that elect partial month coverage, the first day of eligibility is the day that deduction of incurred medical expenses reduces income to the income standard. In States with full month coverage, eligibility begins on the first day of the month in which spenddown liability is met. However, a State may not begin eligibility later than the beginning of the budget (spenddown) period if the individual is subject to the post-eligibility process and, under the post-eligibility process, would owe the provider more than the individual has in contributable income. This issue can occur when the State uses either a monthly budget period or a multi-month budget period. We are revising paragraph (i) (paragraph (e) in the NPRM) in both §§ 435.831 and 436.831 of the regulations to reflect these points. (It should be noted that regardless of when eligibility begins in a budget period, expenses used to meet spenddown liability are not reimbursable under Medicaid. Since these expenses may be deductible from income in the post-eligibility process under the requirements of section 1902(r)(2) of the Act, States may need to reduce the otherwise reimbursable amount of provider charges by spenddown expenses to prevent the transfer of spenddown liabilities to the Medicaid program. The three examples in the response to the fifth comment below show in detail how the spenddown and post-eligibility policies interact in these cases.)

We considered beginning eligibility in all cases on the first day of the budget period in which spenddown liability is met. However, this option could increase State administrative burdens without advantaging recipients in cases not covered by the exception in §§ 435.831(i)(3) and 436.831(i)(3). Many States use eligibility and claims payment systems that are automated to pay claims beginning with the date of eligibility. These States would have to weed out bills from the first day of the budget period (up to 6 months before) that were used to meet spenddown liability to ensure that their automated systems do not pay those bills. Under these rules, no such weeding is required in States that begin eligibility with the day spenddown is met. (Note that these States would have to begin eligibility on the first day of the budget period in cases where the individual, in the post-eligibility process, would otherwise owe the provider more than he or she has in contributable income.) In States that provide coverage in whole months, weeding is required only from the first day of the month in which spenddown is met to the day spenddown is met. The failure of the individual to identify all of his or her incurred expenses before

the spenddown determination is made can have an adverse effect on the date of the individual's eligibility. In these cases, States may, but are not required to reopen the spenddown determination and take the additional expenses into account. (For individuals in partial-month coverage States who are subject to the post-eligibility process for the partial month, income and income deductions (e.g., the personal needs allowance) should be prorated in the post-eligibility process to reflect the number of days of eligibility.)

Comment: Some commenters advocated permitting States to project copayments, deductibles, and insurance premiums in addition to projecting institutional expenses. Other commenters argued that States should be permitted to deduct any projected medical expense that is predictable.

Response: This provision is intended to cover only projection of long-term care institutional expenses, at the Medicaid reimbursement rate, as they are constant and predictable.

We believe expenses mentioned in the comment such as deductibles or coinsurance, which are generally associated with the utilization and varying costs of other medical services, are difficult to predict. Because of the difficulty in determining what kinds of care, and what amounts, are predictable, we have limited the application of this provision to long-term care institutional expenses. Regardless of whether States implement this provision, they are still required to deduct actually incurred copayments, deductibles and insurance premiums in spenddown. We further discuss State flexibility concerning copayments and deductibles under the comments and responses on Provision E.

Comment: Several commenters asked how a State would apply the projection of institutional expenses option if it also chooses to combine the retroactive and prospective budget periods under Provision B.

Response: If the budget period includes part or all of the 3-month retroactive period, institutional and other medical expenses actually incurred during that portion of the retroactive period would be added to projected institutional expenses in the prospective period. An individual is eligible if the combined total of actually incurred plus projected medical expenses equals or exceeds his or her spenddown liability for the budget period.

Comment: Commenters suggested that we revise the regulations to clarify that States may continue to use a 1-month budget period for institutional cases.

Response: We agree that a clarification to the proposed regulations is needed on this point. In regard to medically needy eligibility, the proposed regulations at §§ 435.831 and 436.831 specify that, "[t]he agency must use a budget period of not more than 6 months to compute income." It is clear that any budget period between 1 and 6 months may be used. However, it was not clear in the proposed rule that a State may use more than one budget period.

For example, under the proposed rule, a State may use a 6-month budget period for all medically needy individuals. Or, the State may use one budget period for institutionalized individuals in long-term care facilities (e.g., 1 month), and another for noninstitutionalized individuals. A third option would be for a State to use different budget periods for different groups of institutionalized individuals or use different budget periods for different groups of noninstitutionalized individuals.

We believe States should have the flexibility to prescribe different spenddown periods to simplify the administration of their Medicaid programs. For example, for effective and efficient administration in cases where the individual is institutionalized, the State may wish to use the same time period for determining spenddown liability that the State uses to determine the Medicaid contribution toward the cost of care. Allowing States to prescribe the spenddown period in these cases permits States to align the budget period used for spenddown purposes with the budget period used in the post-eligibility process. Thus, a State that uses a 6-month period for determining medically needy spenddown liability for noninstitutionalized individuals and a 1-month period for determining contributions toward the costs of care for the institutionalized may wish to begin new 1-month spenddown periods for medically needy recipients who become institutionalized. Alternatively, the State may wish to determine contributions toward the costs of care in 6-month periods to coincide with the 6-month medically needy spenddown period used. In either situation, administrative simplification could be achieved in some cases by using the same income calculation for both the determination of spenddown liability and the determination of the contribution toward the costs of care. However, if a State imposes different spenddown budget periods in different situations, the variations should have general application and not be applied on an individual-by-individual basis, and the variations should be based on reasonable standards. We are clarifying this point in the regulations by revising §§ 435.831(a) and 436.831(a) to specify that States are not limited to the use of a single budget period, but must use budget periods of not more than 6 months to compute income.

Comment: Several commenters asked for clarification on how projection at the Medicaid reimbursement rate will be used by a State when an individual enters an institution during the month rather than on the first day of the month.

Response: As noted in the response to an earlier comment, actually incurred institutional and other medical expenses are added to projected institutional expenses during a budget period. If the combined total of these expenses exceeds an individual's spenddown liability, the individual is eligible on the day that liability is met (or on the first day of the month in full-month coverage States or, if the exception in §§ 435.831(i)(3) and 436.831(i)(3) applies, on the first day of the budget period whether the State uses a monthly budget period or a multi-month budget period). Thus, depending on individual circumstances, an individual could be eligible on the first day of the budget period, on the first day of institutionalization occurring on or after the first day of the budget period, or at some other time during the budget period, as illustrated by the following examples.

Example 1. The individual enters the institution on the 16th of the month. The monthly spenddown liability is $500. The projected institutional expenses at the Medicaid rate to the end of the month are $800 ($1,600 monthly rate). The individual has also incurred $600 in other medical expenses before the month of application, which remain the individual's current liability. Because the individual has $600 of other medical expenses, the spenddown is met on the first day of the monthly budget period (before the first day of institutionalization).

Example 2. The facts are the same as in Example 1 except that the individual has no previously incurred medical expenses, only institutional expenses. In this case based on projection of expenses at the Medicaid rate, the individual may become eligible on the first day of institutionalization (the 16th of the month). (Although the State may be a full-month coverage State, retroactivity to the first day of the month would have no effect because the individual has no previously incurred medical expenses.)

Example 3. The individual enters the institution on the 16th of the month. The monthly spenddown liability is $900. The projected institutional expenses at the Medicaid rate to the end of the month are $800 (one-half of the $1,600 monthly rate).

The individual has no other expenses at this time. Based on projection of institutional expenses at the Medicaid rate, the individual does not meet spenddown. Thus, the individual will not be eligible on the 16th of the month. The individual may become eligible at a later time during the month should the amount of actually incurred and any remaining projected expenses (e.g., the amount after application of any reasonable limits established by the State) equal or exceed the spenddown liability. In such a case, eligibility would still be retroactive to the first day of the month in full-month coverage States. (When a combination of incurred and projected expenses is used, "remaining projected expenses" does not include any expenses that have already been incurred. Further, any expense used to meet spenddown liability is not reimbursable under Medicaid.)

Comment: Commenters asked how income would be applied to the cost of care after an individual is determined eligible when the Medicaid rate is used instead of the private payment rate.

Response: There is no change in the treatment of income once an individual is eligible for Medicaid. Regulations at 42 CFR 435.725, 435.733, 435.832 and 436.832 specify how an eligible individual's income is to be applied to the cost of institutional care. For clarification, we provide some examples.

Example 1: An individual's monthly income for post-eligibility purposes is $925. The monthly Medicaid rate is $1,000. The monthly spenddown liability is $600. The individual is in the institution as of the first day of the month. Since the projected monthly Medicaid rate ($1,000) exceeds the monthly spenddown liability ($600), the individual is considered eligible on the first of the month. Thus, the post-eligibility treatment of income rules apply. First, to account for the individual's responsibility for $600 in spenddown liability, the State should consider as a starting point for the amount it will pay to the institution only $400 of the $1,000 in institutional charges. However, from the individual's $925 in income, the State would deduct $630 ($30 protected for personal needs and $600 in unreimbursable medical expenses reflecting the individual's spenddown liability). (Income also would be protected for the maintenance of the individual's spouse and family under specified circumstances and, at the option of the State, for the maintenance of the individual's community home.) This leaves $295 in income that can be contributed toward the $400 in institutional charges taken into account in the post-eligibility process. Thus, of the original $1,000 bill, the Medicaid program would contribute $105 ($400—$295) and the individual would contribute $895 ($600 in spenddown liability plus $295 determined in the post-eligibility process).

Example 2: The State uses a 3-month budget period. Eligibility is being determined for the last quarter of the year. The individual's monthly income for post-eligibility purposes is $910 ($2,730 for the quarter). The 3-month Medicaid rate is $3,720 ($40 per day × 31 days per month × 3 months). The 3-month spenddown liability is $2,250 ($750 per month). The individual is in the institution as of the first day of the quarter (October 1). Since the projected Medicaid rate for the quarter ($3,720) exceeds the spenddown liability for the quarter ($2,250), the individual is eligible on the first day of the quarter. Thus, the post-eligibility treatment of income rules apply.

First, the State would begin eligibility with, and apply the post-eligibility rules for, the same 3-month period used in the spenddown calculations. (The State may begin eligibility with the month or day spenddown liability is met, if later, and apply the post-eligibility rules for the shorter period only if the later date does not cause the individual's share of the institutional charges for the spenddown period to exceed the individual's contributable income for the period.) To account for the individual's responsibility for $2,250 in spenddown liability, the State would consider as a starting point only $1,470 of the $3,720 in institutional charges. However, from the individual's $2,730 in income, the State would deduct $2,340 ($90 protected for personal needs for the quarter and $2,250 in unreimbursable medical expenses reflecting the individual's spenddown liability). (Income also would be protected for any other allowable deductions.) This leaves $390 in income that can be contributed toward the $1,470 in institutional charges taken into account in the post-eligibility process. Thus, of the original $3,720 in charges, the Medicaid program would contribute $1,080 ($1,470 – $390) and the individual would contribute $2640 ($2,250 in spenddown liability plus $390 determined in the post-eligibility process).

Example 3: An individual's monthly income for post-eligibility purposes is $1,820. The monthly Medicaid rate is $1,200 ($40 per day), and the private rate is $1,800 ($60 per day). The monthly spenddown liability is $1,500. The individual is in the institution as of the first day of the month and the State projects institutional expenses at the Medicaid rate.

Since projected monthly expenses as of the first day of the month at the Medicaid rate ($1,200) are not sufficient to meet the spenddown liability ($1,500), the individual is not eligible. However, after remaining in the institution for 15 days the individual has actually incurred expenses of $900 at the private rate ($60 × 15 days). The projected institutional expenses at the Medicaid rate for the remaining days in the month are $600 ($40 × 15 days). Thus, as of the 15th day of the month, the individual is eligible and the rules on post-eligibility treatment of income apply.

The same post-eligibility procedure described in Examples 1 and 2 apply to Example 3. Since the individual has $900 in actually incurred expenses and another $600 in projected expenses, the individual has met the spenddown liability of $1,500. However, because the individual remains liable for the $1,500 in institutional charges, reimbursable institutional expenses are reduced to zero. Therefore, no additional steps apply in the post-eligibility process. The individual would be expected to use $1,500 of his or her $1,820 in income to cover institutional charges, leaving the individual with $30 earmarked for personal needs and $290 for discretionary use.

It should be noted that if the individual were to incur additional noninstitutional health care expenses during the period of Medicaid eligibility, the State, at its option, can have the individual contribute more of his or her discretionary income toward total health care costs included in the State plan. This can be done by substituting the noninstitutional expenses (for which the State would otherwise pay) for a corresponding amount of projected institutional costs in the spenddown calculation. The individual becomes liable for the noninstitutional expenses as part of his or her spenddown liability and has to contribute remaining discretionary income toward the replaced institutional costs under the post-eligibility calculation.

For example, assume that the individual in this example incurs $200 in noninstitutional physical therapy expenses included in the State plan and the State substitutes those expenses for $200 of the $600 in projected institutional charges. The individual's spenddown liability of $1,500 is now composed of $900 in actual institutional charges, $400 in projected institutional charges, and $200 in physical therapy expenses. The otherwise reimbursable institutional charges of $1,500 are then reduced to $200 to offset the $1,300 in institutional charges that are deductible from income. Under the post-eligibility procedures, the individual would have $290 that can be contributed toward the cost of care ($1,820 total income, less $1,500 in unreimbursable health care expenses, less $30 projected for personal needs) and, thus, would be responsible for the $200 in reimbursable institutional charges. The individual is now responsible for $1,700 (instead of $1,500) in health care costs ($1,300 in institutional charges used to meet spenddown liability, $200 in noninstitutional physical therapy expenses used to meet the spenddown liability, and $200 in institutional charges under the post-eligibility process). This leaves the individual with $90 in discretionary income instead of $290, with Medicaid paying $200 less.

Comment: Commenters requested clarification on how to apply the projection option when an individual leaves the institution before the end of the budget period: if eligibility is based on projected institutional expenses that are, in part, not actually incurred, how would a State handle this?

Response: This would be treated by a State as a change of circumstances. Whenever a change of circumstances occurs during a budget period, a State is required by regulations at § 435.916 to make a redetermination. The State should be alert for other changes in circumstances (e.g., changes in levels of

institutional care) that could affect the projected amount of expenses and make any necessary redeterminations.

Comment: Commenters asked that we clarify how projection of institutional expenses would operate when a third party is responsible for payment of a portion of an individual's institutional care. For example, if the first 60 days of institutionalization are paid by a third party, could those expenses be counted as a deduction from an individual's income under the spenddown process?

Response: Except for the legislative change discussed in the note below, we have made no changes to the policy on treatment of expenses for which there is third party liability. Thus, in these final rules, as proposed (§§ 435.831(d) and 436.831(d)), we continue existing policy that only incurred medical expenses that are not subject to payment by a third party may be deducted from income. In the above comment's example, expenses for the first 60 days of institutionalization, for which a third party is liable, are not allowable deductions under this provision or under existing regulations.

Note: Under 1987 legislation, States are required to deduct health care expenses reimbursed under another State or local public program. This amendment will be dealt with more fully in separate regulations.

Comment: Several commenters thought that the provision for projection of institutional expenses at the Medicaid rate would be difficult to administer. They added that if there are many changes in the Medicaid rate, States would be required to reassess eligibility.

Response: As discussed in response to an earlier comment, we have concluded that the Medicaid rate is the only appropriate rate to use for projecting institutional expenses. If a State finds projecting at the Medicaid rate undesirable, the State may discontinue the practice of projecting expenses and instead, use expenses as they are actually incurred.

Comment: Several commenters expressed the opinion that the potential economic impact was greater than what we estimated in the NPRM and the commenters believe that we should develop regulatory impact and/or regulatory flexibility analyses.

Response: We reviewed our estimates in light of the commenters' criticisms and concluded that the impacts of the provision are not such as to require regulatory impact or regulatory flexibility analyses. We acknowledge that these provisions will result in some economic effects. However, we do not believe that the impacts will approach the amounts (e.g., $195 million for provision "A" alone) that some of the commenters estimated. Further discussion about our estimate is included in section V (Regulatory Impact Statement) of the preamble.

Provision B—Allow States To Combine Retroactive and Prospective Medically Needy Budget Periods

Comment: Some commenters questioned the statutory basis for this revision. They asked whether the statute gives us the authority to make this option available to States.

Response: We base our revisions to the medically needy budget period on section 1102 of the Act, which gives the Secretary general authority to adopt rules necessary for the efficient operation of the Medicaid program, and section 1902(a)(17) of the Act, which authorizes us to prescribe standards for determining eligibility for Medicaid consistent with the objectives of the program and is also the authority for the medically needy spenddown program. We also base our revisions on section 1902(a)(34) of the Act, which mandates and describes the 3-month retroactive period for an individual who was (or upon application would have been) eligible for such medical assistance at the time care and service were furnished in the retroactive period. If a State uses a 6-month budget period, when it looks at the eligibility of an individual had he or she applied at a particular time, it would look at 6 months' worth of income. The regulation permits States to view section 1902(a)(34) of the Act in this manner, rather than considering the retroactive period as a special and discrete period.

Comment: Some commenters opposed this provision because, in their view, combining the retroactive and prospective eligibility periods violates comparability requirements between the medically needy and categorically needy in section 1902(a)(17) of the Act, since the combined eligibility period affects only the medically needy.

Response: We disagree with the commenters' views. We believe that comparability requirements are not violated because the Act contains different requirements for categorically and medically needy groups. This position was upheld by the Supreme Court in the *Atkins* v. *Rivera* decision (477 U.S. 154 (1986)). The Court found that the length of the medically needy budget period (or spenddown period) was not required by comparability to be the same as the budget period used for the categorically needy.

Comment: Some commenters argued that combining the retroactive period with the prospective period results in a potentially longer budget period, which means that individuals must incur medical expenses over a longer period of time. Few providers are willing to extend credit over, for example, a 6-month period.

Response: The proposed combined budget period can be no longer than the prospective period allowed under the existing requirements specified in §§ 435.831 and 436.831. Presently, the prospective period may be no more than 6 months in length. The proposal, depending on State choices, may result in a combined budget period of 2 to 6 months. Thus, the combined budget period can be no longer than the maximum (6 month) period permitted under existing regulations.

Comment: Several commenters asked how States would apply this provision when a prospective budget period would not apply. For instance, if an individual dies after filing an application for Medicaid, and has unpaid medical bills in the 3-month period before the application was filed, there is no prospective period.

Response: When there is no prospective period because the individual dies before the prospective period could begin, eligibility would be determined for the three month retroactive period only. This is consistent with our policy for terminating a wholly prospective budget period when a recipient dies. In cases where an individual dies after the prospective period has begun and the State has elected to combine the retroactive and prospective period, the combined period would terminate with the death of the recipient. In still other cases where the individual, though alive, seeks eligibility only for the retroactive period in a State that has elected to combine the retroactive and prospective period, the combined period would still be used to determine eligibility. States, under policies of general applicability, may treat the entire retroactive period as one budget period or divide the retroactive period into monthly budget periods. Any portion of the retroactive period may be added to the first prospective period for a combined period not to exceed 6 months.

Comment: Some commenters suggested that we revise the regulations by clarifying that the combined budget period would not automatically include the entire 3-month retroactive period if the individual has no medical expenses in that period.

Response: The commenter is correct that an individual may be determined eligible for Medicaid in the 3-month

period before the month of application only if an individual received covered services under the State plan at any time during that period and would have been Medicaid eligible at the time services were received if he or she had applied. This is based on section 1902(a)(34) of the Act and regulations at § 435.914. This principle is very clearly specified in § 435.914. However, we have revised §§ 435.831(a) and 436.831(a) to clarify that the retroactive budget period begins no earlier than the first month in the 3-month retroactive period in which the individual received covered services.

Comment: Many commenters opposed the revision to permit States to combine the retroactive period with the prospective period because States are permitted to consider an individual's income over a longer period, potentially 6 months, rather than just the 3 months of the retroactive period. Under the existing rule, an individual who was, for example, hospitalized and out of work for a 3-month period could apply for Medicaid after he or she had returned to work and have eligibility determined solely on the 3-month period before application when no income was received. If the individual met other eligibility requirements, that individual could have been eligible. Under the proposal, and these final rules, States have the option to consider income over an additional 3-month period extending from the date of application. When a longer budget period is used, greater income is available to the individual and, when measured against the State's income standard, that same individual might not be eligible for Medicaid.

Response: Individuals may apply for Medicaid to cover high medical expenses that are incurred during a very short period of time, as in the above example, in the 3-month period before an application, or they may wish to cover expenses incurred over a longer period. We believe that it is appropriate to consider available income over a longer period than just a period when acute illness may affect a person's employment or other income. Therefore, we believe the option for States to select the use of a combined budget period is appropriate.

Comment: Several commenters asked why we are making these revisions when they know of no evidence that individuals abuse the current system by manipulating the timing of an application for Medicaid to suit their needs.

Response: We agree that it is difficult to document the extent to which individuals may be abusing the existing system. The potential for abuse exists, however, and we believe States should have the flexibility to control it if it occurs.

Comment: A number of commenters advocated giving individuals the option to choose the start of the budget period, rather than giving the State that option. The commenters were concerned that a State might begin the budget period in the retroactive period, counting income received in such period, when the individual may have had no covered expenses in the period. The commenters believe that the individual should have the option of restricting the budget period to the first month in the retroactive period in which covered services were received.

Response: As discussed in response to an earlier comment, we have revised §§ 435.831(a) and 436.831(a) to clarify that the retroactive period begins no earlier than the first month in the period in which covered services were received. Therefore, there is no need for the individual to elect such a restriction.

Comment: Some commenters believed that the current method of separating the retroactive period from the prospective period is easier to administer than the proposed method of combining the two periods.

Response: Since this provision is optional, States may select whichever method is easier for them to administer.

Comment: Some commenters suggested that we require the use of a monthly budget period instead of a flexible period from 1 to 6 months.

Response: Existing regulations, §§ 435.831 and 436.831, permit States to select a prospective budget period extending from 1 to 6 months. Administrative flexibility for States was a major consideration in proposing revisions to the budget period. It is our view that requiring the use of a monthly budget period not only restricts State flexibility from that currently existing, but requires that a State spend more time evaluating eligibility. Of course, States that prefer the use of a 1-month period may continue to use it. Therefore, we have decided to retain the flexible budget period as proposed.

Provision C—Permit States To Exclude From Incurred Medical Expenses Those Bills for Services Furnished More Than Three Months Before a Medicaid Application

Comment: Several commenters noted that the Act does not place a limit on the age of bills for medical expenses to be deducted from income in the spenddown process, nor does it authorize us to place limits on the age of bills.

Response: We agree with the commenters with respect to States that elect to use the eligibility criteria prescribed in section 1902(f) of the Act. Under that provision, States are required to deduct incurred expenses without regard to when the expenses were incurred. However, as noted in the NPRM, section 1902(a)(17) of the Act gives us the authority to prescribe the extent to which costs of medical care may be deducted from income when determining Medicaid eligibility. We believe this authority permits us to place limits on the age of medical bills to be applied to the spenddown process in States that do not elect to use the more restrictive eligibility criteria permitted under section 1902(f) of the Act. We have decided to use the authority to set limits on the bills which must be taken into account by authorizing States to adopt certain limits on which bills will be taken into account.

Comment: A few commenters opposed this provision because it appears to penalize individuals when providers do not promptly furnish bills. These commenters suggested that expenses cannot be deducted from income until the provider's bill is received. One commenter suggested that we revise the regulations to specify that the age of the expense is measured by the billing date rather than the date the service was furnished.

Response: We believe that it would be reasonable for States to use the date the service was furnished if the individual incurred (that is, became liable for) the expense at that time. We do not believe that individuals will be penalized for delays in billing by providers because other documentation could be furnished to verify that expenses were incurred. For example, a State could verify an expense by telephoning the provider. A State may presume that liability arises when services are rendered unless evidence is presented to the contrary. In such a case, the State should determine when the liability arose and use the resulting date.

We are persuaded, however, by numerous comments on this issue that a rigid 3-month limit on deductible medical bills would restrict rather than enhance State flexibility. Note that the existing regulations and interpretations specify that States must deduct all medical expenses incurred before application, no matter how far back in time the expenses are incurred if they have not already been used in another budget period, if the individual is still liable for them, or if the individual has paid for them in the current budget period. We are modifying §§ 435.831(d)(5) and 436.831(d)(5) of the proposed regulations, redesignated in

these final regulations as §§ 435.831(g)(2) and 436.831(g)(2), to specify that in determining deductible incurred medical expenses, States have the option to include (or exclude) expenses incurred earlier than the third month before the month of application. The period chosen by the State must be specified in the State plan. We are also clarifying in new §§ 435.831 (f)(2) and (f)(4) and 436.831 (f)(2) and (f)(4) that expenses must be deducted in any spenddown calculation for the retroactive eligibility period if the expenses were incurred in the retroactive period, were a current liability of the individual in the period for which the spenddown calculation is made, and had not been previously deducted from income in establishing Medicaid eligibility.

Comment: Some commenters objected to this provision on the basis that it is not any easier for States to administer than the existing provisions. Under the proposal, States must continue to assure that bills are applied no more than once in meeting the spenddown liability, and that a bill remains the current liability of an individual.

Response: As we mentioned before, since this revision is optional, States may choose either to use it or retain the existing method. There are certain advantages, however, to applying a limit to the age of medical bills. Limiting bills to expenses incurred no more than 3 months before the month of application (or the age established by the State, as discussed earlier) reduces the burden on the State of proving that a bill is no longer an individual's current liability. Bills older than the State set age limit would not generally be applied in spenddown whether or not an individual remains liable for the bill.

Comment: Commenters pointed out that States often find that it takes more than 3 months to determine the extent of liability when a third party is responsible for a medical bill. The commenters suggested that these bills be dated from the point at which liability is determined.

Response: We acknowledge that there may be a delay in determining the extent of the individual's liability when a third party may be liable for some or all of the expenses. However, we do not agree that the State should change how it determines the age of a bill as a result. As we explained in response to an earlier comment, the age of a bill is measured from the date the expense is incurred—that is, the date the liability arises. (We have clarified in new §§ 435.831(d) and 436.831(d) that an expense is incurred on the date liability for the expense arises.) The date of the determination of the extent of the individual's liability is treated as the date the individual's liability begins. That is the date from which the age of the individual's expenses is measured. We see no reason why the State should use any other date.

When a third party may be liable for part or all of an expense, any portion of the expense that can be attributed to the individual with reasonable certainty should be treated as the individual's liability and included in the spenddown calculation pending the final determination of third party liability. When there is a reasonable question of the extent of the third party's liability, the State may, but is not required to, include the questionable portion in the spenddown calculation on an interim basis pending the final determination of liability. In either case, the date the individual incurs the expense in question is the date of the determination that there is no third party liability for the expense or, if earlier, the date that the State elects to include the questionable amount in the spenddown calculation pending the determination of third party liability. When there is a determination of third party liability for the expense, the amount in question is excluded (retroactively, if necessary) in spenddown calculations.

Comment: Commenters suggested that we use the phrase, "3 months before the month of application", rather than "3 months before the date of application".

Response: We agree with the commenters as this is a more flexible approach. Therefore, we are revising proposed §§ 435.831(d)(5) and 436.831(d)(5), designated as §§ 435.831(g)(2) and 436.831(g)(2) in the final rule, to specify that States may include bills incurred earlier than 3 months before the month of application.

Comment: Some commenters thought that the use of a 3-month period is arbitrary.

Response: Under section 1902(a)(17) of the Act, we have authority to prescribe the extent to which costs of medical care may be deducted from income. We believe that permitting States to limit the applicability of medical expenses to the 3-month period before the month in which a Medicaid application is filed or to include earlier expenses is reasonable in that it affords States some administrative relief, while recognizing that individuals may be liable for old bills. It also corresponds to the 3-month period in section 1902(a)(34) of the Act and, therefore, is not arbitrary. We believe that Congress' decision to restrict the retroactivity of eligibility to 3 months provides a suitable guideline for determining how far back States should be required to look in accounting for incurred health care expenses since both cases reflect efforts to provide a measure of coverage for services received before application is made for medical assistance.

Comment: Commenters were concerned that this provision penalizes individuals who, in trying to pay their own medical bills, may not apply for Medicaid until they are far behind in payments, often more than 3 months after the bills were incurred. Commenters suggested that we revise the regulations so that an individual may deduct an entire bill older than 3 months if the individual verifies that he or she is still liable for the bill.

Response: By permitting an individual who actually makes payment on old bills to deduct the amount paid toward the spenddown, the regulation addresses an objective of section 1902(a)(17) of the Act for the medically needy. That objective is that an individual's income for purposes of Medicaid eligibility should be reduced to cover the costs of his or her uncovered medical care since if the individual spends this income on medical care, he or she will not have that income available for maintenance needs. However, if the individual does not pay the old bills, the individual's income need not be reduced by the amount of a liability which the individual may never satisfy. To give an individual a one shot lifetime opportunity to reduce income for each unpaid bill encourages individuals to forgo making payment on their liability for medical care. The regulation permits States to minimize this disincentive to paying old bills.

Comment: Some commenters (State agencies) proposed that medical expenses which may be used to meet the spenddown be limited to those expenses that are incurred within the current budget period.

Response: It would be unnecessarily harsh to limit income deductions to newly incurred expenses, especially when an expense is incurred shortly before the current budget period. We believe the requirement to deduct income for expenses incurred in the retroactive eligibility period is a reasonable compromise between deducting income for all old expenses and deducting income only for newly incurred expenses. Therefore, we did not adopt the commenter's suggestion.

Comment: Commenters questioned our rationale for the revisions, stating that they knew of no evidence that individuals abuse the present system.

Response: Concern about abuse of the existing spenddown methods was not

the motivation behind these proposals. The primary objectives of these revisions were to give States greater flexibility to reasonably administer their Medicaid programs and to ensure that eligibility was appropriately based on need. In our communications with States, we were convinced that certain spenddown requirements, although originally well intended, had unintended results. Deduction of older medical bills, for example, was difficult for States to administer, as noted in the NPRM, because we required that States verify whether an individual remained liable for an old bill. In addition, because bills incurred before the eligibility period were deductible only if they were unpaid, as specified under prior policy, an incentive was created for individuals not to pay their bills. The revisions, therefore, are intended to alleviate administrative problems for States and, by only requiring the deduction of payments on older bills, create an incentive for individuals to pay older bills.

Comment: Commenters suggested that any incurred medical expenses not deducted from income during a budget period should be carried over to the next budget period. They suggested that the expenses be carried forward whether the spenddown liability was met (that is, an individual became eligible) or not met (that is, expenses were insufficient to meet the spenddown requirement) during the first budget period.

Response: We agree, in part, with the commenters. When an individual's incurred expenses exceed his or her spenddown liability (that is, the person becomes eligible without deducting all of the expenses) and when the excess expenses are unpaid, the excess expenses are deductible from excess income in subsequent budget periods, but only under certain conditions. HCFA requires the carryover of excess (that is, unused) expenses to account more fully for incurred unreimbursable expenses in determining whether the Medicaid income standard is met. If States were not required to carry over excess expenses, the spenddown provision would be practically meaningless when an individual with a small monthly amount of excess income incurs a large medical expense. In such a case, the individual could only apply the small amount of excess income in 1 month based on that expense. We have concluded that such a result would not be in keeping with the objective of the spenddown provision to account for unreimbursable expenses incurred for necessary care recognized under State law. Therefore, this final rule provides that medical expenses not deducted from income during one budget period must be carried over and deducted in the succeeding budget periods under the conditions described below.

Proposed §§ 435.831(d)(6) and 436.831(d)(6) (designated as §§ 435.831(f)(3) and 436.831(f)(3) in the final rule) provide that medical expenses not deducted from income during one budget period must be carried over and deducted in the next budget period. These proposed rules were applicable, however, only when the individual was eligible in the first budget period after meeting the spenddown liability. We are revising what are now §§ 435.831(f)(3) and 436.831(f)(3) to clarify when excess, unpaid expenses are deductible in subsequent budget periods. In order for excess expenses to be carried over under this provision, eligibility must be established for the budget period in which the excess expenses were unused and in each subsequent budget period in which any part of the excess remains unused; in addition, the spenddown provision must apply in each such subsequent period. (To relieve States of the burden of carrying over such excess expenses indefinitely, specific excess amounts need not be carried over beyond the first subsequent period in which there is no eligibility or no excess income.)

It should be noted that the "carryover" concept is used in these regulations to describe the ongoing deduction of unused and unpaid expenses, as contrasted to the deduction of expenses based on their being incurred in the retroactive eligibility period or, at State option, earlier. We make a distinction between the two kinds of expenses because of the option for States to disregard old expenses (i.e., expenses incurred prior to the retroactive eligibility period). One of the reasons for allowing old expenses to be disregarded is the administrative difficulty States may encounter in verifying and documenting whether liability for the expense continues. Once an old, or current, expense is initially verified and documented, it should not be unduly difficult to determine the extent of continuing liability from one budget period to another as long as the agency is maintaining contact with the individual. For this reason, we require that the unused, unpaid portion of such expenses be carried over from one budget period to the next, but only for as long as the individual is eligible in each such period (ensuring continuing contact with the agency). On this basis, we are providing that deductible expenses incurred before the month of application may become carryover expenses if they remain unused and unpaid after eligibility is established. The limit a State may place on the deductibility of expenses incurred before the retroactive eligibility period does not affect how long expenses remain deductible under the carryover provision. The age limit that can be placed on old expenses relates to how long before the retroactive eligibility period expenses can be incurred and be deductible rather than to how long they remain deductible thereafter.

Comment: Commenters suggested that we revise the regulations so that both paid and unpaid bills may be carried over from one budget period to the next.

Response: We do not agree with the views of the commenters on this point. The spenddown process is based on the principle that an individual's actual income is reduced by incurred medical expenses (that is, expenses for which he or she is liable) to the point at which his or her income is equal to or below the State's medically needy income standard. Once the individual is determined eligible for Medicaid, the State Medicaid program pays medical expenses covered under its State plan that were not used to satisfy the spenddown. The individual remains liable for payment of incurred bills that he or she deducted in the spenddown process.

When an individual pays a bill, his or her income (or resources) is reduced, thus reducing the countable amount of remaining income (or resources) in determining whether the individual is eligible (or remains eligible) for medical assistance. Therefore, there is less justification for deducting the payment in a later spenddown calculation. In contrast, an enforceable unpaid bill remains a current claim on the individual's income or resources that should be taken into account when the payment is made.

Comment: Commenters suggested that individuals should be able to carry over not only noncovered medical expenses from one budget period to the next, as we proposed in §§ 435.831(d)(6) and 436.831(d)(6), but also expenses covered under the State plan.

Response: When an individual is determined eligible, with the exception of bills deducted in spenddown, medically necessary expenses covered under the State plan are normally paid by Medicaid. Hence, there would be no covered expenses to carry over. In a State that places payment limits on the amount, duration or scope of services included in the State plan, however, bills for services that exceed the State's limits are not paid by Medicaid, even though the services are included in the

State plan. In this situation, there would be unreimbursed noncovered expenses. Expenses exceeding amount, duration or scope limits (like unpaid, unused old bills the State elects to deduct) must be carried over and deducted from income in the next budget period when an individual is eligible in the immediately preceding budget period (or periods).

Comment: Some commenters suggested that we define current payments on old bills to include only those bills being repaid on a negotiated payment schedule.

Response: We have defined "current payments" in §§ 435.831(f)(5) and 436.831(f)(5) to mean only those payments made in the current budget period. Our intent in proposing that current payments on old bills be counted as deductions from income was to provide an incentive for individuals to pay those old bills, no matter how small the payments might be. We believe that to count only payments made on a negotiated payment schedule would act as a disincentive for individuals to repay the old bills not subject to a payment schedule.

Comment: Some commenters objected to this provision on the basis that placing limits on the age of bills which can be deducted in spenddown acts as a disincentive for individuals to pay old bills.

Response: We do not believe there is a greater disincentive for individuals to pay old bills under the proposal than under the policy in existence at the time of the proposed rule or under the existing method. In fact, the policy in existence at the time of the proposed rule specified that bills incurred before the eligibility period could be deducted from income only if they were unpaid. Current policy allows current payments and unpaid bills to be deducted. This appears to be a direct incentive for individuals not to pay old bills. Therefore, we believe no revisions are necessary with regard to this comment.

Provision D—Permit States To Apply Incurred Medical Expenses to the Spenddown Period in Chronological Order

Comment: Commenters argued that the Act does not authorize us to revise regulations to permit States to deduct medical expenses in chronological order.

Response: As noted earlier, we have authority under section 1902(a)(17) of the Act to prescribe the extent to which medical costs may be deducted from income for the medically needy. This covers the order in which incurred medical expenses will be counted.

Comment: Some commenters proposed that this provision be extended to States using more restrictive eligibility criteria than SSI, under section 1902(f) of the Act.

Response: We believe it is useful to clarify our earlier, and perhaps overly broad, statement in the NPRM that this provision cannot be applied to the eligibility process as specified in section 1902(f) of the Act.

Section 1902(f) provides for the deduction of "incurred expenses for medical care as recognized under State law" in determining eligibility of certain individuals. As a consequence, that deduction process must allow for consideration of expenses recognized under State law. Section 1902(a)(17), on which these medically needy regulations are largely based, provides for taking into account "except to the extent prescribed by the Secretary, the costs * * * incurred for medical care or for any type of remedial care recognized under State law" (emphasis supplied). Thus, while eligibility of the medically needy generally can be determined using the provisions of these regulations, the eligibility of those medically needy in the States that use the more restrictive eligibility criteria permitted by section 1902(f) must be determined using expenses for medical care recognized under State law (including any limitations enacted under State law on the deductible amount of such expenses from income). However, there is nothing in section 1902(f) that precludes consideration of medical costs in chronological order for purposes of the spenddown specified in section 1902(f). Therefore, we are extending this option to States that determine eligibility under the criteria in section 1902(f).

Comment: Some commenters objected to this provision because insurance premiums, copayments, and deductibles and other cost sharing amounts deducted in chronological order may not count toward spenddown if there are a large number of other medical bills incurred early in the budget period. The commenters believe that these items should be deducted no matter when they are incurred.

Response: Many States find it administratively difficult to deduct incurred expenses out of the sequence in which the expenses are submitted to the agency or the sequence in which the services are provided. Because one of the objectives of the Medicaid program is the use of efficient methods of administration and since the sequential deduction of incurred expenses is one such method, we consider it appropriate to permit States to deduct expenses from income in chronological order.

Comment: Some commenters suggested that the proposal is inequitable because individuals with identical medical bills during a budget period, when deducted in chronological order, can have different eligibility determinations.

Response: First, we point out that two individuals in truly identical situations, meaning that the individuals have the same medical bills incurred in the same order, would be treated identically under the rule. In other cases, the individuals are not identical. They may have the same amount of medical expenses but the bills are not identical. In these cases, assuming other eligibility factors are met and the bills are sufficient to meet spenddown liability, both individuals will be eligible for Medicaid under this provision. The difference is in which bills are paid once eligibility begins. For example, if one individual incurs mostly covered services early in the spenddown period, any remaining bills for noncovered services left over after the spenddown liability is met would not be paid by the State because they are not covered in the State plan. Conversely, if a second individual incurring mostly noncovered medical expenses early in the spenddown period is determined eligible, any bills for covered services remaining after meeting the spenddown liability would be paid by the State. We acknowledge that this result may disadvantage the first individual. However, we believe that in the interest of efficient operation of the programs, States should be allowed to deduct expenses in chronological order if they wish to do so.

Comment: Some commenters were concerned that under this proposal an individual's eligibility or ineligibility depends on when a doctor mails the bills or on the arbitrary order in which an eligibility worker itemizes medical bills.

Response: Eligibility does not depend on when a doctor mails bills but on the date the service was furnished; an individual can document this date without a bill. In addition, eligibility workers are not allowed to choose an arbitrary order but must itemize bills in the manner prescribed by regulations.

Comment: Commenters suggested that the result of this proposed provision may be that individuals will defer medical care for services covered under the State plan if they know that the State will pay for those expenses once they are eligible for Medicaid.

Response: We have no evidence that indicates that individuals will

manipulate the proposed system as suggested by the commenters. On the contrary, we believe that medical needs will continue to determine utilization of medical services.

Comment: Commenters requested that we clarify the proposed regulations by specifying that there is no change in the existing policy that medical expenses which will satisfy the spenddown include those expenses incurred by the individual, the family or financially responsible relatives.

Response: This regulation does not change the existing regulations requiring the use of family members' medical expenses in the spenddown (except by recodifying at §§ 435.831(e) and 436.831(e) in the final rule, to take into account other changes made by this regulation). By making these changes, we do not mean to reaffirm the validity of this facet of the existing regulations in cases where the courts have set it aside. Numerous Courts of Appeals decisions have not upheld the underlying assumption of the existing regulations in the context of the standard filing unit cases. These courts' interpretation of section 1902(a)(17)(D) preclude States from counting medical expenses of family members (other than a spouse for a spouse and parents for their minor children). Nevertheless, the United States District Court for the Northern District of California has held that States in the Ninth Circuit must continue to deduct the medical expenses of family members in determining the spenddown, as long as the present regulations remain extant. States outside of the Ninth Circuit should assess the continuing validity of the existing regulations for spenddown purposes in light of any applicable court order invalidating the use of the AFDC standard filing unit rule for purposes of Medicaid eligibility. The existing regulations would continue to apply to the extent that they do not explicitly conflict with the court order.

Comment: We received a suggestion that States establish a limit on deduction of projected medical expenses incurred by ineligible family members that are not covered under the State plan. If actual bills exceed this limit, the State could credit the excess amount in the current or the next spenddown period.

Response: This suggestion goes beyond the scope of the proposal.

Provision E—Allow States to Limit Deductible Medical Expenses to Services Covered Under the State Plan

Comment: Commenters questioned our legal authority for making this proposal. They believe that the Act does not authorize us to permit States to exclude bills for services that are not paid for under the State plan.

A large number of commenters were not in favor of this proposal because, in their view, it might have a negative impact on individuals, since many individuals require noncovered services. A variety of concerns were expressed. Some commenters were concerned that this proposal would delay eligibility for some individuals if noncovered medical expenses could not be deducted. Other commenters predicted that the proposal would cause individuals to pay a greater share of their medical bills.

Response: Except in States that determine eligibility under section 1902(f) of the Act, we believe adequate legal authority exists in section 1902(a)(17) of the Act, which delegates to the Secretary of HHS the authority to prescribe the extent to which incurred expenses will be taken into account in determining eligibility for Medicaid under the medically needy option. However, we have decided to withdraw the option and continue the current policy (with respect to expenses incurred in the current budget period and the 3-month retroactive eligibility period) because the option would have a potentially severe negative impact on applicants and recipients. We now believe that offering States this administrative option would reduce a person's Medicaid eligibility or the amount of medical assistance provided. Further, Congress passed legislation in 1988 amending the Social Security Act (section 1902(r)(1)) to override a similar option we provided States in the post-eligibility process. We believe it would be inconsistent with the direction taken by Congress in the post-eligibility process to allow a similar limitation in the spenddown process.

Comment: Some commenters predicted that this proposed provision would result in increased Medicaid expenditures because individuals will choose to obtain more costly services known to be covered under the Medicaid plan, rather than less costly, possibly noncovered services. Further, they predict that individuals will wait to seek medical treatment if those expenses are not deductible in the spenddown process instead of getting early treatment for a medical condition.

Response: While we have withdrawn this option, studies of the effects of cost-sharing on utilization and health status have been inconclusive. Therefore, it is not clear that patterns of utilization of medical care would have been significantly altered if we had adopted this option and States had implemented it.

Comment: Some commenters questioned why the NPRM did not offer this option to States using more restrictive eligibility criteria than SSI, under section 1902(f) of the Act.

Response: As discussed earlier, this option has been dropped altogether.

Comment: A commenter suggested that, for purposes of the spenddown provision, we define the term "medical expenses included in the plan" as all services provided to categorically needy individuals.

Response: We have withdrawn the option for States to limit deductible medical expenses to those for services included in the State plan. Therefore, we have not considered the commenter's suggestion in the context of that option. (States are required to continue deducting nonreimbursable expenses for premiums, deductibles, and coinsurance and for necessary care that is recognized under State law, whether or not such expenses are included in the State plan.)

However, while States are required to deduct expenses for services not included in the State plan, States may continue to place reasonable limits on the deductible amount. Therefore, we considered the commenter's suggestion in this context, and we disagree with the suggestion. (This issue does not arise in States that determine eligibility under section 1902(f) of the Act because the inclusion or exclusion of services under State plans is not a factor in the spenddown process in these States.) States may provide a different range of services for the categorically needy than they do for the medically needy population. The spenddown procedures in Provisions A through D apply to medically needy individuals and apply both for AFDC-related cases and for the aged, blind, and disabled. Individuals eligible as medically needy are eligible for only those specific services that a State has chosen to provide to its medically needy population. If "included in the State plan" referred to services for the categorically needy, as the commenter suggested, the State would be unable to place reasonable limits on the deductible amount of expenses in the spenddown process, which only applies to the medically needy in States that are not determining eligibility under section 1902(f). We find no compelling program reason for such a restriction. Therefore, we believe that it is appropriate to allow each State to define "included services" for purposes of applying "reasonable limits" to mean services a State provides to medically needy individuals

(rather than only to categorically needy individuals). In this way, the State may place reasonable limits on the deductible amounts of expenses for the medically needy except those included in the State plan. (It should be noted that "reasonable limits" refers to the amount, rather than the type, of expense that is deductible. For example, States may limit the amount, but not the type, of health insurance premiums that are deductible.)

Comment: Commenters predicted that this provision will be error prone in practice, as eligibility workers and providers will need to distinguish correctly between covered and noncovered services to deduct only covered services during spenddown accurately.

Response: We withdrew the option because of its negative impact on applicants and recipients.

Comment: Several States disagreed with our proposal that States may not place amount, duration or scope limits on covered services in the spenddown process, even though the State applies those limits when paying for services furnished to Medicaid-eligible individuals. These commenters contended that their authority to place amount, duration and scope limits on services they pay for under Medicaid is an extension of their authority to decide which services they will cover under the State plan. They believe that this is an unnecessary restriction on the right to control their Medicaid program.

Response: We do not agree with the commenters on this point. Under existing regulations, which have not been revised, States may place reasonable limits on the deductible amount of expenses not included in the State plan but may not limit the deduction of expenses included in the State plan. (Expenses "included" in the State plan are those for services which are listed in the State plan, whether or not Medicaid will pay for them. By contrast, "covered" expenses are a subset of "included" expenses. Covered expenses are expenses for services for which Medicaid will pay if furnished to the individual by a Medicaid provider. Expenses incurred for services which are for care which exceed State plan limits on amount, duration, and scope are not considered to be covered expenses.) The basic requirement in section 1902(a)(17) is that incurred expenses recognized under State law be taken into account in the spenddown process. We believe that this is in keeping with the thrust of this requirement to require the deduction from income of expenses recognized under State law when the State has also included the expenses in the State plan, even though the State limits the amount of such expenses it pays for. We, therefore, allow States to limit the deductions only for incurred expenses recognized under State law that are not included in the State plan.

As we explained in response to a comment under Provision A concerning projecting institutional expenses, we find adequate authority for this policy in existing sections of the Act. The Secretary has authority under section 1902(a)(17) of the Act to prescribe the extent to which costs of medical care may be deducted from income in medically needy programs.

Comment: One State pointed out that it is reasonable to require that States deduct insurance premiums, as this encourages individuals to continue insurance coverage. The commenter argued that it is not logical, however, for us to require that States deduct coinsurance and deductibles on services that are not covered under the plan. An individual still benefits from the insurance coverage because he or she must pay only the deductible or coinsurance rather than 100 percent of the charge.

Response: As we explained in the response to the first comment in this section, Congress passed legislation on the post-eligibility process requiring the deduction of expenses for deductibles and coinsurance in the post-eligibility process. It would be inconsistent with the direction taken by Congress to allow States to exclude these expenses in the spenddown process altogether. Therefore, States are required to deduct a reasonable amount of these expenses from income. We rely on the authority in section 1902(a)(17) of the Act to allow States to place reasonable limits on the deductible amounts of these cost-sharing expenses even though no such limits are allowable in the post eligibility process.

IV. Summary of Changes to the Regulations

In this final rule, we are making the revisions proposed in the NPRM with the following modifications based on our review and analysis of public comments.

1. We are revising proposed §§ 435.831(e)(1) (designated as § 435.831(g)(1) in this final rule) and § 436.831(e)(1) (designated as § 436.831(g)(1) in this final rule) to clarify that incurred medical expenses may include projected institutional expenses at the Medicaid reimbursement rate. We are not revising § 435.732(c)(3) (redesignated as § 435.121(f)(1)(iii)) to make the same clarification since that section applies to States with more restrictive criteria than SSI.

2. We are also clarifying in §§ 435.831(i) and 436.831(i) (proposed §§ 435.831(e)(1) and 436.831(e)(1)) that an institutionalized individual is eligible when incurred medical expenses, including projected institutional expenses, reduce an individual's income to the income standard, rather than on the first day of institutionalization as indicated in the NPRM.

3. We are revising §§ 435.831(a) and 436.831(a) to clarify that an agency is not limited to the use of a single budget period to compute income. However, an agency must use budget periods of not more than 6 months to compute income.

4. In addition to other changes noted, we are revising paragraph (d) as proposed in §§ 435.831 and 436.831 by transferring most of its contents to new paragraphs (e), (f) and (g) and cross-referring to those sections.

a. New paragraph (e) in both sections includes the contents of paragraph (d)(1)(ii)(A), (B), and (C) as paragraphs (e)(1), (2), and (3) respectively.

b. New paragraph (f)(3) in both sections consists of the contents of proposed paragraph (d)(6).

c. New paragraph (h) in both sections consists of the contents of paragraph (d)(1)(i), (ii), and (iii) as paragraphs (h)(2), (1), and (3), respectively.

d. New paragraphs (g)(1), (2) and (3) in both sections contain the contents of paragraphs (d)(4), (5), and (3), respectively.

5. We are revising §§ 435.831(d)(5) and 436.831(d)(5) (redesignated as §§ 435.831(g)(2) and 436.831(g)(2)) to specify that an agency is not required to deduct expenses incurred earlier than 3 months before the month of application for Medicaid, clarifying that the 3-month period is measured from the month of application, rather than from the date of application as specified in the NPRM.

6. We are clarifying in §§ 435.831(e)(3) and 436.831(e)(3) (§§ 435.831(d)(1)(ii)(C) and 436.831(d)(1)(ii)(C) in the proposed rule) that a State must deduct expenses for necessary medical and remedial services included in the State plan even when those services exceed agency limitations on amount, duration or scope.

7. We are adding a new paragraph (f)(1) to §§ 435.831 and 436.831 to show that the State must deduct expenses incurred during the month of application and any of the preceding 3 months to the extent the individual's liability arose in that period and the

expenses have not been deducted previously. We are also adding a new paragraph (f)(2) to show the State must deduct current payments on old bills not previously deducted.

V. Request for Additional Public Comments

We invite comments on the bases for and the consequences of extending additional flexibility to States using the more restrictive eligibility criteria of section 1902(f) of the Act to implement any of the provisions in this rule. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. If appropriate, we will respond to public comments received on this issue in a future **Federal Register** publication.

VI. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in the Executive Order. Consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612, we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit providers.) Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize an unnecessary burden or otherwise ensure that the regulations are cost-effective.

In the NPRM published on September 2, 1983 (48 FR 39959), we examined the five separate provisions contained in these regulations for the significance of their annual economic impact. In four of the five proposed provisions (B, C, D and E), we could not quantify estimates, but we were confident that any impacts would not meet the threshold criteria of the Executive Order or the Regulatory Flexibility Act. However, for provision A (Consideration of Projected Institutional Expenses at the Medicaid Rate as Incurred Medical Expenses), we estimated total Federal and State savings of $18 million.

In light of the public comments received regarding Provision A and because of the need to analyze the effects of these final regulations, we reviewed the analysis noted in the NPRM. After reviewing our data and assumptions, we have concluded that the current impact of Provision A will increase from the original estimate of $18 million to $65 million. This increase is a reflection of Medicaid program growth through 1993.

Savings will occur in the few cases in which an institutionalized individual will not become eligible or will be found eligible later in time because his or her income significantly exceeded the medically needy income level and the State Medicaid payment rate was used in the eligibility calculation rather than whatever rate the institution chose to charge. Delay or denial of an individual's eligibility will reduce State expenditures and Federal contributions, resulting in negligible savings. Some individuals whose eligibility is delayed and who are spending down at the private payment rate, rather than the lower Medicaid rate during that period, will spend down to the income standard quicker and become eligible for Medicaid sooner. Further, this provision is optional and it is an option only for States with medically needy programs that are not section 1902(f) States. At this time, we do not expect that it will be adopted by all or most States. In addition, some States have already adopted interpretations of the existing regulations on the spenddown process that are very close to our final rule. For all these reasons, we now believe that this provision will have a negligible net impact.

For these reasons, we have found that the effect of the provisions of this final rule will not meet the threshold criteria of Executive Order 12291. Further, we have determined, and the Secretary certifies, that this final rule will not result in an annual economic impact that will affect significantly a substantial number of small entities. Therefore, we conclude that neither a regulatory impact nor a regulatory flexibility analysis is required.

VII. Paperwork Reduction Act

These changes do not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects

42 CFR Part 435

Aid to families with dependent children, Aliens, Categorically needy, Contracts (agreements—state plan), Eligibility, Grant-in-aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

A. 42 CFR part 435 is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

2. Section 435.831 is revised to read as follows:

§ 435.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in accordance with this section.

(a) *Budget periods.* (1) The agency must use budget periods of not more than 6 months to compute income. The agency may use more than one budget period.

(2) The agency may include in the budget period in which income is computed all or part of the 3-month retroactive period specified in § 435.914. The budget period can begin no earlier than the first month in the retroactive period in which the individual received covered services. This provision applies to all medically needy individuals except in groups for whom criteria more restrictive than that used in the SSI program apply.

(3) If the agency elects to begin the first budget period for the medically needy in any month of the 3-month period prior to the date of the application in which the applicant received covered services, this election applies to all medically needy groups.

(b) *Determining countable income.* The agency must deduct the following amounts from income to determine the individual's countable income.

(1) For individuals under age 21 and caretaker relatives, the agency must deduct amounts that would be deducted in determining eligibility under the State's AFDC plan.

(2) For aged, blind, or disabled individuals in States covering all SSI

recipients, the agency must deduct amounts that would be deducted in determining eligibility under SSI. However, the agency must also deduct the highest amounts from income that would be deducted in determining eligibility for optional State supplements if these supplements are paid to all individuals who are receiving SSI or would be eligible for SSI except for their income.

(3) For aged, blind, or disabled individuals in States using income requirements more restrictive than SSI, the agency must deduct amounts that are no more restrictive than those used under the Medicaid plan on January 1, 1972 and no more liberal than those used in determining eligibility under SSI or an optional State supplement. However, the amounts must be at least the same as those that would be deducted in determining eligibility, under § 435.121, of the categorically needy.

(c) *Eligibility based on countable income.* If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under § 435.814, the individual or family is eligible for Medicaid.

(d) *Deduction of incurred medical expenses.* If countable income exceeds the income standard, the agency must deduct from income medical expenses incurred by the individual or family or financially responsible relatives that are not subject to payment by a third party. An expense is incurred on the date liability for the expense arises. The agency must determine deductible incurred expenses in accordance with paragraphs (e), (f), and (g) of this section and deduct those expenses in accordance with paragraph (h) of this section.

(e) *Determination of deductible incurred expenses: Required deductions based on kinds of services.* Subject to the provisions of paragraph (g), in determining incurred medical expenses to be deducted from income, the agency must include the following:

(1) Expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, including enrollment fees, copayments, or deductibles imposed under § 447.51 or § 447.53 of this subchapter;

(2) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan;

(3) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan, including those that exceed agency limitations on amount, duration, or scope of services.

(f) *Determination of deductible incurred expenses: Required deductions based on the age of bills.* Subject to the provisions of paragraph (g), in determining incurred medical expenses to be deducted from income, the agency must include the following:

(1) For the first budget period or periods that include only months before the month of application for medical assistance, expenses incurred during such period or periods, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(2) For the first prospective budget period that also includes any of the 3 months before the month of application for medical assistance, expenses incurred during such budget period, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(3) For the first prospective budget period that includes none of the months preceding the month of application, expenses incurred during such budget period and any of the 3 preceding months, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(4) For any of the 3 months preceding the month of application that are not includable under paragraph (f)(2) of this section, expenses incurred in the 3-month period that were a current liability of the individual in any such month for which a spenddown calculation is made and that had not been previously deducted from income in establishing eligibility for medical assistance;

(5) Current payments (that is, payments made in the current budget period) on other expenses incurred before the current budget period and not previously deducted from income in any budget period in establishing eligibility for such period; and

(6) If the individual's eligibility for medical assistance was established in each such preceding period, expenses incurred before the current budget period but not previously deducted from income in establishing eligibility, to the extent that such expenses are unpaid and are:

(i) Described in paragraphs (e)(1) through (e)(3) of this section; and

(ii) Carried over from the preceding budget period or periods because the individual had a spenddown liability in each such preceding period that was met without deducting all such incurred, unpaid expenses.

(g) *Determination of deductible incurred medical expenses: Optional deductions.* In determining incurred medical expenses to be deducted from income, the agency—

(1) May include medical institutional expenses (other than expenses in acute care facilities) projected to the end of the budget period at the Medicaid reimbursement rate;

(2) May, to the extent determined by the State and specified in its approved plan, include expenses incurred earlier than the third month before the month of application (except States using more restrictive eligibility criteria under the option in section 1902(f) of the Act must deduct incurred expenses regardless of when the expenses were incurred); and

(3) May set reasonable limits on the amount to be deducted for expenses specified in paragraphs (e)(1), (e)(2), and (g)(2) of this section.

(h) *Order of deduction.* The agency must deduct incurred medical expenses that are deductible under paragraphs (e), (f), and (g) of this section in the order prescribed under one of the following three options:

(1) *Type of service.* Under this option, the agency deducts expenses in the following order based on type of expense or service:

(i) Cost-sharing expenses as specified in paragraph (e)(1) of this section.

(ii) Services not included in the State plan as specified in paragraph (e)(2) of this section.

(iii) Services included in the State plan as specified in paragraph (e)(3) of this section but that exceed limitations on amounts, duration, or scope of services.

(iv) Services included in the State plan as specified in paragraph (e)(3) of this section but that are within agency limitations on amount, duration, or scope of services.

(2) *Chronological order by service date.* Under this option, the agency deducts expenses in chronological order by the date each service is furnished, or in the case of insurance premiums, coinsurance or deductible charges, the date such amounts are due. Expenses for services furnished on the same day may be deducted in any reasonable order established by the State.

(3) *Chronological order by bill submission date.* Under this option, the agency deducts expenses in chronological order by the date each bill is submitted to the agency by the individual. If more than one bill is submitted at one time, the agency must deduct the bills from income in the

order prescribed in either paragraph (h)(1) or (h)(2) of this section.

(i) *Eligibility based on incurred medical expenses.*

(1) Whether a State elects partial or full month coverage, an individual who is expected to contribute a portion of his or her income toward the costs of institutional care or home and community-based services under §§ 435.725, 435.726, 435.733, 435.735 or 435.832 is eligible on the first day of the applicable budget (spenddown) period—

(i) If his or her spenddown liability is met after the first day of the budget period; and

(ii) If beginning eligibility after the first day of the budget period makes the individual's share of health care expenses under §§ 435.725, 435.726, 435.733, 435.735 or 435.832 greater than the individual's contributable income determined under these sections.

(2) At the end of the prospective period specified in paragraphs (f)(2) and (f)(3) of this section, and any subsequent prospective period or, if earlier, when any significant change occurs, the agency must reconcile the projected amounts with the actual amounts incurred, or with changes in circumstances, to determine if the adjusted deduction of incurred expenses reduces income to the income standard.

(3) Except as provided in paragraph (i)(1) of this section, in States that elect partial month coverage, an individual is eligible for Medicaid on the day that the deduction of incurred health care expenses (and of projected institutional expenses if the agency elects the option under paragraph (g)(1) of this section) reduces income to the income standard.

(4) Except as provided in paragraph (i)(1) of this section, in States that elect full month coverage, an individual is eligible on the first day of the month in which spenddown liability is met.

(5) Expenses used to meet spenddown liability are not reimbursable under Medicaid. To the extent necessary to prevent the transfer of an individual's spenddown liability to the Medicaid program, States must reduce the amount of provider charges that would otherwise be reimbursable under Medicaid.

B. 42 CFR part 436 is amended as set forth below:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 436.831 is revised to read as follows:

§ 436.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in accordance with this section.

(a) *Budget periods.* (1) The agency must use budget periods of not more than 6 months to compute income. The agency may use more than one budget period.

(2) The agency must include in the budget period in which income is computed all or part of the 3-month retroactive period specified in § 435.914. The budget period can begin no earlier then the first month in the retroactive period in which the individual received covered services.

(3) If the agency elects to begin the first budget period for the medically needy in any month of the 3-month period prior to the date of application in which the applicant received covered services, this election applies to all medically needy groups.

(b) *Determining countable income.* The agency must, to determine countable income, deduct amounts that would be deducted in determining eligibility under the State's approved plan for OAA, AFDC, AB, APTD, or AABD.

(c) *Eligibility based on countable income.* If countable income determined under paragraph (b) of this section is equal to or less than the applicable income standard under § 436.814, the individual is eligible for Medicaid.

(d) *Deduction of incurred medical expenses.* If countable income exceeds the income standard, the agency must deduct from income medical expenses incurred by the individual or family or financially responsible relatives that are not subject to payment by a third party. An expense is incurred on the date liability for the expense arises. The agency must determine deductible incurred expenses in accordance with paragraphs (e), (f) and (g) of this section and deduct those expenses in accordance with paragraph (h) of this section.

(e) *Determination of deductible incurred expenses: Required deductions based on kinds of services.* Subject to the provisions of paragraph (g) of this section, in determining incurred medical expenses to be deducted from income, the agency must include the following: (1) Expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, including enrollment fees, copayments, or deductibles imposed under § 447.51 or § 447.53 of this chapter;

(2) Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not included in the plan;

(3) Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services that are included in the plan, including those that exceed agency limitations on amount, duration or scope of services;

(f) *Determination of deductible incurred expenses: Required deductions based on the age of bills.* Subject to the provisions of paragraph (g) of this section, in determining incurred medical expenses to be deducted from income, the agency must include the following:

(1) For the first budget period or periods that include only months before the month of application for medical assistance, expenses incurred during such period or periods, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(2) For the first prospective budget period that also includes any of the 3 months before the month of application for medical assistance, expenses incurred during such budget period, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(3) For the first prospective budget period that includes none of the months preceding the month of application, expenses incurred during such budget period and any of the 3 preceding months, whether paid or unpaid, to the extent that the expenses have not been deducted previously in establishing eligibility;

(4) For any of the 3 months preceding the month of application that are not includable under paragraph (f)(2) of this section, expenses incurred in the 3-month period that were a current liability of the individual in any such month for which a spenddown calculation is made and that had not been previously deducted from income in establishing eligibility for medical assistance;

(5) Current payments (that is, payments made in the current budget period) on other expenses incurred before the current budget period and not previously deducted from income in any budget period in establishing eligibility for such period; and

(6) If the individual's eligibility for medical assistance was established in each such preceding period, expenses incurred before the current budget

period but not previously deducted from income, to the extent that such expenses are unpaid and are:

(i) Described in paragraphs (e)(1) through (e)(3) of this section; and

(ii) Are carried over from the preceding budget period or periods because the individual had a spenddown liability in each such preceding period that was met without deducting all such incurred, unpaid expenses.

(g) *Determination of deductible incurred medical expenses: Optional deductions.* In determining incurred medical expenses to be deducted from income, the agency—

(1) May include medical institutional expenses (other than expenses in acute care facilities) projected to the end of the budget period at the Medicaid reimbursement rate;

(2) May, to the extent determined by the agency and specified in its approved plan, include expenses incurred earlier than the third month before the month of application; and

(3) May set reasonable limits on the amount to be deducted for expenses specified in paragraphs (e)(1), (e)(2), and (g)(2) of this section.

(h) *Order of deduction.* The agency must deduct incurred medical expenses that are deductible under paragraphs (e), (f), and (g) of this section, in the order prescribed under one of the following three options:

(1) *Type of service.* Under this option, the agency deducts expenses in the following order based on type of service:

(i) Cost-sharing expenses as specified in paragraph (e)(1) of this section.

(ii) Services not included in the State plan as specified in paragraph (e)(2) of this section.

(iii) Services included in the State plan as specified in paragraph (e)(3) of this section but that exceed agency limitations on amount, duration, or scope of services.

(iv) Services included in the State plan as specified in paragraph (e)(3) of this section but that are within agency limitations on amount, duration, or scope of services.

(2) *Chronological order by service date.* Under this option, the agency deducts expenses in chronological order by the date each service is furnished, or in the case of insurance premiums, coinsurance, or deductibles charges the date such amounts are due. Expenses for services furnished on the same day may be deducted in any reasonable order established by the State.

(3) *Chronological order by bill submission date.* Under this option, the agency deducts expenses in chronological order by the date each bill is submitted to the agency by the individual. If more than one bill is submitted at one time, the agency must deduct the bills from income in the order prescribed in either paragraph (h)(1) or (h)(2) of this section.

(i) *Eligibility based on incurred medical expenses.*

(1) Whether a State elects partial or full month coverage, an individual who is expected to contribute a portion of his or her income toward the costs of institutional care or home and community-based services under § 436.832 is eligible on the first day of the applicable budget (spenddown) period—

(i) If his or her spenddown liability is met after the first day of the budget period; and

(ii) If beginning eligibility after the first day of the budget period makes the individual's share of health care expenses under § 436.832 greater than the individual's contributable income determined under this section.

(2) At the end of the prospective period specified in paragraph (f)(2) or (f)(3) of this section and any subsequent prospective period or, if earlier, when any significant change occurs, the agency must reconcile the projected amounts with the actual amounts incurred, or with changes in circumstances, to determine if the adjusted deduction of incurred expenses reduces income to the income standard.

(3) Except as provided in paragraph (i)(1) of this section, if agencies elect partial month coverage, an individual is eligible for Medicaid on the day that the deduction of incurred health care expenses (and of projected institutional expenses if the agency elects the option under paragraph (g)(1) of this section) reduces income to the income standard.

(4) Except as provided in paragraph (i)(1) of this section, if agencies elect full month coverage, an individual is eligible on the first day of the month in which spenddown liability is met.

(5) Expenses used to meet spenddown liability are not reimbursable under Medicaid. Therefore, to the extent necessary to prevent the transfer of an individual's spenddown liability to the Medicaid program, States must reduce the amount of provider charges that would otherwise be reimbursable under Medicaid.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: July 12, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: October 4, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 94–547 Filed 1–11–94; 8:45 am]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 59, No. 8
Wednesday, January 12, 1994

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–58–AD]

Airworthiness Directives: Piper Aircraft Corporation Models PA34–200, PA34–200T, PA34–220T, PA44–180, and PA44–180T Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Piper Aircraft Corporation (Piper) Models PA34–200, PA34–200T, PA34–220T, PA44–180, and PA44–180T airplanes. The proposed action would require repetitively inspecting the main landing gear trunnions for cracks, replacing any trunnions found cracked, and eventually replacing the landing gear trunnions with parts of improved design as terminating action for the repetitive inspection requirement. Several reports of the main landing gear trunnions cracking on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent collapse of the main landing gear caused by cracked trunnions, which could result in airplane damage.

DATES: Comments must be received on or before March 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–58–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991–2910; facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–58–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–58–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Service history of certain Piper Models PA34–200, PA34–200T, PA34–220T, PA44–180, and PA44–180T airplanes reveals several occurrences of cracked main landing gear (MLG) trunnions. Five of these occurrences resulted when the left MLG trunnion, part number (P/N) 67926–12, separated from Piper Model PA34–200T airplanes during the landing roll. Further investigation revealed that the left MLG collapsed because of a transverse fracture in the trunnion at the rear web lower end fillet. Metallurgical examination of four of these MLG trunnions further disclosed that the fractures originated from very shallow fatigue cracks originating from several areas along the rear surface at the lower end of the fillet web. The length of these fatigue cracks ranged from .20 to .40 inches.

Piper has issued Service Bulletin (SB) 787B, dated August 25, 1993, which specifies procedures for inspecting the MLG trunnions on certain Piper Models PA34–200, PA34–200T, PA34–220T, PA44–180, and PA44–180T airplanes, and references replacing MLG trunnions with parts of improved design.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent collapse of the main landing gear caused by cracked trunnions, which could result in airplane damage.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Models PA34–200, PA34–200T, PA34–220T, PA44–180, and PA44–180T airplanes of the same type design, the proposed AD would require repetitively inspecting the main landing gear trunnions for cracks, replacing any trunnions found cracked, and eventually replacing the landing gear trunnions with parts of improved design as terminating action for the repetitive inspection requirement. The proposed inspections would be accomplished in accordance with Piper SB No. 787B, dated August 25, 1993. The proposed replacement would be accomplished in accordance with the applicable maintenance manual.

The FAA estimates that 2,265 airplanes in the U.S. registry would be

affected by the proposed AD, that it would take approximately 16 workhours per airplane to accomplish the proposed initial inspection and replacement, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1,100 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,484,700. This cost figure is based on the assumption that none of the affected airplane owners/operators have accomplished the proposed actions. The FAA believes that some airplane owners/operators have already incorporated the inspection terminating MLG trunnion replacements. With this in mind, the FAA anticipates that the cost of the proposed AD would be much lower than the figure referenced above.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket 93–CE–58–AD.

Applicability: The following model and serial number airplanes that are not equipped with main landing gear (MLG) trunnions (both left and right side) that have either part number (P/N) 67926–30, 67926–31, 67926–32, 67926–33, 39486–14, or 39486–15, as applicable, certificated in any category:

Models	Serial Numbers
PA34–200	34–7250001 through 34–7450220
PA34–200T	34–7570001 through 34–8170092
PA34–220T	34–8133001 through 34–8233088
PA44–180	44–7995001 through 44–8195026, and 4495001 through 4495013
PA44–180T	44–8107001 through 44–8207020

Compliance: Required as indicated, unless already accomplished.

To prevent collapse of the main landing gear caused by cracked trunnions, which could result in airplane damage, accomplish the following:

Note 1: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Upon the accumulation of 500 hours time-in-service (TIS) on a MLG trunnion, dye-penetrant inspect the MLG trunnion for cracks in accordance with the INSTRUCTIONS section of Piper Service Bulletin (SB) 787B, dated August 25, 1993.

Note 2: If hours TIS on the MLG trunnion are unknown, hours TIS accumulated on the airplane may be substituted.

(1) For MLG trunnions found cracked, prior to further flight, replace the cracked MLG trunnion with a part of improved design, P/N 67926–30, 67926–31, 67926–32, 67926–33, 39486–14, or 39486–15, as applicable, in accordance with the applicable maintenance manual.

(2) For MLG trunnions not found cracked, reinspect at intervals not to exceed 100 hours TIS until the replacement specified in paragraph (b) of this AD is accomplished.

(3) If one trunnion is found cracked and is replaced as specified in paragraph (a)(1) of this AD, the other trunnion must still be reinspected as specified in paragraph (a)(2) of this AD until it also is replaced.

(b) Upon the accumulation of 2,000 hours TIS on a MLG trunnion, unless already accomplished as specified in paragraph (a)(1) of this AD, replace this MLG trunnion with a part of improved design, P/N 67926–30, 67926–31, 67926–32, 67926–33, 39486–14, or 39486–15, as applicable, in accordance with the applicable maintenance manual.

(1) If parts for any MLG replacement have been ordered from the manufacturer but are not available, prior to further flight and thereafter at intervals not to exceed 100 hour TIS, dye-penetrant inspect the MLG trunnion for cracks in accordance with the INSTRUCTIONS section of Piper Service Bulletin (SB) 787B, dated August 25, 1993. If any one of the following occurs, prior to further flight, terminate the above repetitive inspections and replace the trunnion as specified in paragraph (b) of this AD:

(i) Parts become available;

(ii) A trunnion is found cracked; or

(iii) 2,500 hours TIS are accumulated on the trunnion.

(2) Replacing both the left and right MLG trunnion with P/N 67926–30, 67926–31, 67926–32, 67926–33, 39486–14, or 39486–15, as applicable, eliminates the inspection requirement of this AD.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO),1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 5, 1994.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–700 Filed 01–11–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 93–ASO–14]

Proposed Establishment of Class D Airspace: Eglin AFB, FL; Eglin AF Aux No. 3 Duke Field, FL; Proposed Amendment of Class D Airspace: Eglin Hurlburt Field, FL; Proposed Amendment of Class E Airspace: Crestview, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace located at Eglin Air Force Base, FL, and Eglin AF Aux No 3 Duke Field, FL. The notice also proposes to amend Class D airspace located at Eglin Hurlburt Field, FL, and Class E airspace at Crestview, FL. As part of the Terminal Airspace Reclassification, the Valparaiso, Florida Terminal Area was to be changed from Part 93 Airspace to Class D Airspace. The change included the revocation of the Eglin AFB, Florida Class D airspace and Eglin AF Aux No. 3 Duke Field, Florida Class D airspace; the modification of the Hurlburt Field, Florida Class D airspace and Crestview, Florida Class E airspace. The Valparaiso, Florida Terminal Area will remain as Part 93 Airspace and this notice proposes to return the affected Class D and Class E airspace areas as they were prior to Docket No. 26968, Amendment No. 71–19 published in the **Federal Register** on March 2, 1993.

DATES: Comments must be received on or before: March 1, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–14, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5200.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Patterson, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Eglin AFB, Florida; establish Class D airspace at Eglin AF Aux No 3 Duke Field; amend Class D airspace at Eglin Hurlburt Field, Florida, and amend Class E airspace at Crestview, Florida. The intended effect of this proposal is to reverse the action of Docket No. 26968, Amendment No. 71–19 (58 FR 12128, March 2, 1993) to provide adequate airspace to contain Instrument Flight Rule operations at these four locations. The coordinates for this airspace docket are based on North American Datum 83. Class D and Class E airspace areas are respectively published in Para 5000 and Para 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para. 5000 Class D Airspace

* * * * *

ASO FL D Eglin AFB, FL [New]

Eglin AFB, FL
(lat. 30°29′13″ N, long. 86°31′34″ W)
Destin-Fort Walton Beach Airport
(lat. 30°24′01″ N, long. 86°28′18″ W)
Duke Field
(lat. 30°39′07″ N, long. 86°31′23″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.5-mile radius of Eglin AFB and within a 4-mile radius of Destin-Fort Walton Beach Airport; excluding the portion north of a line connecting the 2 points of intersection within a 5.2-mile radius circle centered on Duke Field, and excluding that airspace east of a line beginning at lat. 30°30′43″ N, long. 86°26′21″ W extending north to the 5.2-mile radius and north of a line beginning at lat.

30°30′43″ N, long. 86°26′21″ W extending east to the 5.2-mile radius.

* * * * *

ASO FL D Eglin AF Aux No 3 Duke Field, FL [New]

Eglin AF, Aux No. 3 Duke Field, FL
(lat. 30°39′07″ N, long. 86°31′23″ W)
Bob Sikes Airport
(lat. 30°46′44″ N, long. 86°31′20″ W)
Eglin AFB
(lat. 30°29′13″ N, long. 86°31′34″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Eglin AF Aux No. 3 Duke Field; excluding the portion north of a line connecting the 2 points of intersection with a 4.2-mile radius circle centered on Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection within a 5.5-mile radius circle centered on Eglin AFB. This Class D airspace is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO FL D Eglin Hurlburt Field, FL [Amended]

Eglin, Hurlburt Field, FL
(lat. 30°25′44″N, long. 86°41′20″W)
Eglin AFB (lat. 30°29′13″N, long. 86°31′34″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.3-mile radius of Hurlburt Field; excluding the portion within the Eglin AFB, FL, Class D airspace area. This Class D airspace is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Para. 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

ASO FL E2 Crestview, FL [Amended]

Crestview, Bob Sikes Airport, FL
(lat. 30°46′44″ N, long. 86°31′20″ W)
Duke Field
(lat. 30°39′07″ N, long. 86°31′23″ W)

Within a 4.2-mile radius of Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection with a 5.2-mile radius circle centered on Duke Field. This Class D airspace is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 19, 1993.

Michael J. Powderly,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 94–628 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASW–55]

Proposed Modification of Class D Airspace: Hood Army Airfield and Robert Gray Army Airfield, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the current Class D airspace at Hood Army Airfield (AAF) and Robert Gray AAF, and to establish Class E airspace at Killeen Municipal Airport, Killeen, TX. The current Class D airspace encompasses Killeen Municipal Airport and with airspace reclassification, aircraft operators at Killeen Municipal Airport are now required to establish two-way radio communication with Hood AAF Air Traffic Airport Traffic Control Tower (ATCT) or when Hood AAF ATCT is closed, Robert Gray AAF ATCT. This notice proposes to remove the airspace surrounding Killeen Municipal Airport from Hood AAF's Class D airspace and to establish Class E airspace around Killeen Municipal Airport. The intended effect of this proposal is to maintain adequate Class D airspace and two-way radio communications at Hood AAF and Robert Gray AAF, to remove Killeen Municipal Airport, TX, from the current Class D airspace, and to establish Class E airspace around Killeen Municipal Airport, Killeen, TX.

DATES: Comments must be received on or before February 11, 1994.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 93–ASW–55, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: 817–222–5595.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed under the caption **ADDRESSES.** Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 93–ASW–55." The postcard will be date and time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, at 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class D airspace at Hood AAF and Robert Gray AAF, TX, and to establish Class E airspace at Killeen Municipal Airport, Killeen, TX. This modification has been requested by both

the operators of Hood AAF and the operators of Killeen Municipal Airport. The proposal would remove that portion of current Class D airspace which surrounds Killeen Municipal Airport and would establish Class E airspace around Killeen Municipal Airport. The intended effect of this proposal is to maintain adequate Class D airspace and two-way radio communications to contain instrument flight rule (IFR) operations at Hood AAF and Robert Gray AAF, TX, to remove Killeen Municipal Airport from the Class D airspace, and to establish Class E airspace at Killeen Municipal Airport, Killeen, Texas.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 and Class E airspace areas designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

ASW TX D Hood Army Airfield (AAF), TX (Modify)

Hood Army Airfield (AAF), TX
(lat. 31°08′16″ N., long. 97°42′51″ W.)
Killeen Municipal Airport, TX
(lat. 31°05′08″ N., long. 97°41′12″ W.)
Robert Gray Airfield (AAF), TX
(lat. 31°03′54″ N., long. 97°49′40″ W.)

That airspace extending upward from the surface to and including 3,500 feet within a 3.8-mile radius of the Hood AAF excluding that airspace within the Robert Gray AAF, TX, Class D surface area and excluding that airspace southeast of a direct line between latitude 31°04′39″ N., longitude 97°44′16″ W., and the northeast intersection of the 4.0-mile radius of Killeen Municipal Airport and the 3.8-mile radius of Hood AAF. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX D Robert Gray Army Airfield (AAF), TX [Modify]

Robert Gray Army Airfield (AAF), TX
(lat. 31°03′54″ N., long. 97°49′40″ W.)
Hood Army Airfield (AAF), TX
(lat. 31°08′16″ N., long. 97°42′51″ W.)
Killeen Municipal Airport, TX
(lat. 31°05′08″ N., long. 97°41′12″ W.)

That airspace extending upward from the surface to and including 3,500 feet within a 4.7-mile radius of Robert Gray AAF and within a 3.8-mile radius of Hood AAF, excluding that airspace southeast of a direct line between latitude 31°04′39″ N., longitude 97°44′16″ W., and the northeast intersection of the 4.0-mile radius of Killeen Municipal Airport and the 3.8-mile radius of Hood AAF, and excluding that airspace within the Hood AAF, TX, Class D surface area when it is effective.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

ASW TX E2 Killeen, TX (New)

Killeen Municipal Airport, TX
(lat. 31°05′08″ N., long. 97°41′12″ W.)
Hood Army Airfield (AAF), TX
(lat. 31°08′16″ N., long. 97°42′51″ W.)
Robert Gray Army Airfield (AAF), TX
(lat. 31°03′54″ N., long. 97°49′40″ W.)

That airspace extending upward from the surface within a 4-mile radius of Killeen Municipal Airport excluding that airspace within the Robert Gray AAF, TX, Class D surface area and excluding that airspace northwest of a direct line between latitude 31°04′39″ N., longitude 97°44′16″ W., and the northeast intersection of the 4.0-mile radius of Killeen Municipal Airport and the 3.8-mile radius of Hood AAF.

* * * * *

Larry L. Craig,
Manager, Air Traffic Division, Southwest Region.

[FR Doc. 94–629 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–35]

Proposed Establishment of Class D Airspace; Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at Friedman Memorial Airport, Hailey, Idaho. Midwest ATC Service, Inc., operates a control tower at Friedman Memorial Airport with an associated airport traffic area. Airspace Reclassification, which became effective September 16, 1993, discontinued the use of the term "airport traffic area" and eliminated those ATA's not already designated to become Class D airspace. As a result, the requirement for two-way radio communication with the control tower at Friedman Memorial Airport lapsed. The intended effect of this proposal is to provide adequate Class D airspace to contain instrument flight rules (IFR) operations and continue the two-way radio communication requirement at Friedman Memorial Airport.

DATES: Comments must be received on or before February 18, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–35, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Telephone: (206) 227–2530.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, Airspace and Procedures Specialist, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–35, 1601 Lind Avenue SW., Renton,

Washington 98055–4056. Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–35." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Cummunications must identify the notice number of this NPRM. Persons interested in being placed on mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Friedman Memorial Airport, Hailey, Idaho. Midwest ATC Service, Inc., operates a control tower at Friedman Memorial Airport with an associated airport traffic area (ATA). Airspace reclassification, which became effective September 16, 1993, discontinued the use of the term "airport traffic area" and, for control zones with operating control towers, replaced it with the designation "Class D airspace." Only ATA's already designated to become Class D airspace continued to exist; Friedman Memorial Airport was not so designated. As a result, the requirement for two-way radio communication with the control tower at Friedman Memorial Airport lapsed. The intended effect of this proposal is to provide adequate Class D airspace to contain IFR operations and continue the two-way communication requirement at Friedman Memorial Airport. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace is published in paragraph 5000 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36398; July 6, 1993). The Class D airspace listed in the document would be published subsequently in the Order.

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

List of Subjects In 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A.

Paragraph 5000—General

* * * * *

ANM ID D Hailey, Idaho [New]

Friedman Memorial Airport, Hailey, ID (lat. 43°30′17″ N, long. 114°17′48″ W)

That airspace extending upward from the surface to and including 7800 feet MSL within a 4.1-mile radius of the Friedman Memorial Airport. This Class D airspace area is effective during the specified dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on December 27, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–776 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–39]

Proposed Amendment of Class E Airspace; Lakeview, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Lakeview, Oregon Class E airspace. This action is necessary to accommodate a new instrument approach procedure at the Lake County Airport. The airspace would be depicted on aeronautical charts for pilot reference

DATES: Comments must be received on or before February 14, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–39, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2530.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, ANM–535, Federal Aviation Administration, Docket No. 92–ANM–39, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–39." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the class E airspace at Lakeview, Oregon, to accommodate a new instrument approach procedure at the Lake County, Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005—Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM OR E5 Lakeview, OR [Amended]

Lake County Airport, OR

(lat. 42°09′49″ N., long. 120°23′57″ W.)

Goose NDB, OR

(lat. 42°09′11″ N., long. 120°24′18″ W.)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Lake County Airport, and within 1.8 miles each side of the 180° bearing from the Goose NDB extending from the NDB to 7 miles south of the NDB; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 42°22′00″ N., long. 120°41′04″ W.; to lat. 42°22′00″ N., long. 120°12′04″ W.; to lat. 41°41′00″ N., long, 120°12′04″ W.; to lat. 41°41′00″ N., long. 120°41′04″ W., to the point of beginning.

* * * * *

Issued in Seattle, Washington, on December 27, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 94–786 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–14]

Proposed Amendment to Class E Airspace; Medford, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Medford, Oregon, Class E Airspace. This action is necessary to accomodate an amended instrument approach procedure and missed approach holding pattern at Medford-Jackson County Airport, Medford, Oregon. The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before February 15, 1994.

ADDRESSES Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–14, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Bob Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–14, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–14." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Medford, Oregon to accommodate an amended instrument approach procedure and missed approach holding pattern at Medford-Jackson County Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas are published in paragraphs 6004 and 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The Class E designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6004—Class E Airspace Areas Designated as an Extension to a Class D Surface Area

* * * * *

ANM OR E5 Medford, OR [Revised]

Medford-Jackson County Airport, OR
(lat. 42°22′20″ N, long. 122°52′21″ W)
Rogue Valley VORTAC
(lat. 42°28′46″ N, long. 122°54′47″ W)
Pumie LOM
(lat. 42°27′03″ N, long. 122°54′48″ W)

That airspace extending upward from the surface within 1.8 miles west and 2.7 miles east of the Medford ILS localizer north course extending from the 4.1-mile radius to 2.7 north of Pumie LOM and within 2.7 miles each side of the Rogue Valley VORTAC 352° radial extending from the Rogue Valley VORTAC to 11 miles north of the VORTAC, and within 4 miles each side of the Rogue Valley VORTAC 164° radial extending from the 4.1-mile radius to 19.3 miles south of the Medford-Jackson County Airport.

Paragraph 6005—Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of The Earth

* * * * *

ANM OR E4 Medford, OR

Medford-Jackson County Airport, OR
(lat. 42°22′20″ N, long. 122°52′21″ W)
Rogue Valley VORTAC
(lat. 42°28′46″ N, long. 122°54′47″ W)
Pumie LOM
(lat. 42°27′03″ N, long. 122°54′48″ W)
Klamath Falls VORTAC
(lat. 42°09′12″ N, long. 121°43′39″ W)
Fort Jones VORTAC
(lat. 41°26′59″ N, long. 122°48′23″ W)

That airspace extending upward from 700 feet above the surface within a line from lat. 42°45′00″ N, long. 123°10′54″ W, to lat. 42°48′54″ N, long. 122°57′06″ W; to lat. 42°44′00″ N, long. 122°44′36″ W; lat. 42°18′00″ N, long. 122°58′30″ W; to lat. 42°28′ N, long. 123°01′30″ W; to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the east by V–452, on the southeast by the 34.8-mile radius of the Klamath Falls VORTAC, on the south by V–122, on the west by V–23, and that airspace southeast of Medford bounded on the north by the south edge of V–122, on the east by the 34.8-mile radius of the Klamath Falls VORTAC, on the southeast by a line 4.3 miles southeast and parallel to the Fort Jones VORTAC 041° radial, on the west by the east edge of V–23, and that airspace west of the Rogue Valley VORTAC bounded on the north by the south edge of V–287, on the west by the east edge of V–27, and on the south by the north edge of V–122.

* * * * *

Issued in Seattle, Washington, on December 27, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–787 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–17]

Proposed Amendment to Class E–2 Airspace; Oak Harbor, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Oak Harbor, Washington, Class E–2 airspace. This action is necessary to correct an error in the airspace description inadvertently committed during the airspace reclassification process. This action would reduce the size of the Oak Harbor, Washington, Class E–2 airspace. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before February 18, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–17, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Bob Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–17, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–17." The postcard will be date/time stamped and returned to the Commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E–2 airspace at Oak Harbor, WA, to correct an error in the Class E–2 airspace description. During the airspace reclassification process the Class E–2 airspace for Oak Harbor Airpark was miscalculated resulting in the designation of more controlled airspace than necessary. This action would correct that error. The coordinates for this airspace docket are based on North American Datum 83. Class E–2 airspace areas are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E–2 airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6002 Airspace areas designated as a surface area for an airport.

* * * * *

ANM WA E–2 Oak Harbor, WA [Revised]

Oak Harbor Airpark, WA

(Lat. 48°15′05″ N, long. 122°40′25″ W)

Within a 2.6 mile radius of Oak Harbor Airpark, WA, excluding the portion within the Whidbey Island NAS, WA, Class C airspace area; within 2.2 mile each side of the 091° bearing from the airport extending from the 2.6 mile radius to 4.4 miles east of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on December 22, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–788 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–9]

Proposed Amendment to Class E Airspace; Coeur d'Alene, Idaho and Spokane, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Coeur d'Alene, Idaho and Spokane, Washington, Class E airspace areas. This action is necessary to accommodate a new instrument approach procedure and missed approach holding pattern at Coeur d'Alene Air Terminal, Coeur d'Alene, Idaho. The areas would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before February 18, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–9, 1601 Lind Avenue SW. Renton, Washington, 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Bob Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–9, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–9." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Coeur d'Alene, Idaho, and Spokane, Washington, to accommodate a new instrument approach procedure and missed approach holding pattern at Coeur d'Alene Air Terminal. The areas would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas are published in Paragraphs 6004 and 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993, (58 FR 36298; July 6, 1993). The Class E designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

ANM ID E–4 Coeur d'Alene, ID [Revised]

Coeur d'Alene Air Terminal, ID
(Lat. 47°46′28″ N, long. 116°49′11″ W)
Coeur d'Alene VOR/DME
(Lat. 47°46′25″ N, long. 116°49′14″ W)

That airspace extending upward from the surface within 3.5 miles each side of the Coeur d'Alene VOR/DME 251° radial extending from the 4.4-mile radius zone to 6 miles southwest of the airport; and that airspace extending upward from the surface within 1.8 miles each side of the Coeur d'Alene VOR/DME 183° radial extending from the 4.4-mile radius zone to 8 miles south of the airport.

* * * * *

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

* * * * *

ANM WA E5 Spokane, WA [Revised]

Spokane International Airport, WA
(Lat. 47°37′12″ N, long. 117°32′02″ W)
Fairchild AFB, WA
(Lat. 47°36′54″ N, long. 117°39′29″ W)
Spokane VORTAC
(Lat. 47°33′54″ N, long. 117°37′37″ W)
Mullan Pass VOR/DME
(Lat. 47°27′25″ N, long. 115°38′46″ W)

That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at lat. 47°50′00″ N, long. 118°00′04″ W, extending to lat. 47°50′00″ N, long. 117°30′04″ W, to lat. 47°58′00″ N, long. 117°16′04″ W, to lat. 47°51′00″ N, long. 117°08′04″ W, to lat. 47°56′00″ N, long. 116°47′04″ W, to lat. 47°44′00″ N, long. 116°41′04″ W, to lat. 47°31′10″ N, long.

116°44′50″ W, to lat. 47°31′50″ N, long. 116°56′50″ W, to lat. 47°40′40″ N, long. 116°56′50″ W, to lat. 47°37′00″ N, long. 117°12′50″ W, to lat. 47°28′00″ N, long. 117°16′04″ W, to lat. 47°17′00″ N, long. 117°47′04″ W, to lat. 47°26′00″ N, long. 118°00′04″ W, thence to the point of beginning; that airspace extending upward from 1,200 feet above the surface within 45.3 mile radius of Fairchild AFB, excluding that portion southeast of Spokane bounded on the north by the 33.1-mile radius of the Fairchild AFB, on the northeast by a line 4 miles south of and parallel to the Spokane VORTAC 107° radial on the southeast by the 45.3-mile radius of the Fairchild AFB, on the southwest by a line parallel to and 8.7 miles northeast of V–253, that airspace south of Spokane extending from the 45.3-mile radius bounded on the east by a line parallel to and 8.7 miles east of V–253 on the south by V–536, on the west by the east edge of V–444; that airspace southeast of Spokane extending upward from 6,000 feet MSL, bounded on the north by the 33.1-mile radius of Fairchild AFB, on the northeast by a line 4 miles south of and parallel to the Spokane VORTAC 107° radial, on the southeast by the 45.3-mile radius of the Fairchild AFB, on the southwest by a line parallel to and 8.7 miles northeast of V–253; The airspace southeast of Spokane extending upward from 7,000 feet MSL bounded on the northwest by the 45.3-mile radius, on the north by a line 4 miles south of and parallel to the Mullan Pass VOR/DME 260° radial, on the southeast by the north edge of V–536 and on the southwest by a line parallel to and 8.7 miles northeast of V–253; excluding the Pullman WA, Class E airspace area.

* * * * *

Issued in Seattle, Washington, on December 22, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc 94–789 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANE–34]

Proposed Alteration of VOR Federal Airways; Maine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would notify Federal Airways V–93 and V–451 located in Maine. Modifying V–93 and V–451 is necessary because a section of both airways is defined by radials from the Navy Brunswick, ME, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility. Navy Brunswick VORTAC is scheduled to be decommissioned on April 28, 1994, and the effective date of the final rule, if issued would coincide with that date.

DATES: Comments must be received on or before March 3, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANE–500, Docket No. 93–ANE–34, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANE–34." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify V–93 and V–451. A section of both airways is defined by radials from the Navy Brunswick, ME (NHZ) VORTAC which is scheduled to be decommissioned on April 28, 1994. This action would ensure that the airways are usable after the navigational aid has been decommissioned. This proposed action would be come effective concurrent with the decommissioning of the Navy Brunswick VORTAC. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The airways listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways.

* * * * *

V–93 [Revised]

From Patuxent River, MD, INT Patuxent 013° and Baltimore, MD, 122° radials; Baltimore; INT Baltimore 004° and Lancaster, PA, 214° radials; Lancaster; Wilkes-Barre, PA; Lake Henry, PA; INT Lake Henry 078° and Kingston, NY, 270° radials; Kingston; Pawling, NY; Chester, MA, 12 miles 7 miles wide (4 miles E and 3 miles W of centerline); Keene, NH; Concord, NH; Kennebunk, ME; INT Kennebunk 045°T(062°M) and Bangor, ME, 220°T(239°M) radials; Bangor; Princeton, ME; INT Princeton 057° radial and the United States/Canadian border.

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V–451 [Revised]

From LaGuardia, NY; INT LaGuardia 063° and Hampton, NY, 289° radials; INT Hampton 289° and Calverton, RI, 044° radials; INT Calverton 044° and Groton, CT, 243° radials; Groton; INT Groton 064° and Sandy Point, RI; 031° radials; INT Sandy Point 031° and Kennebunk, ME, 180° radials; INT Kennebunk 180°T(197°M) and Pease, NH, 093°T(109°M) radials.

* * * * *

Issued in Washington, DC, on January 3, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–784 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–AGL–2]

Proposed Alteration VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on October 15, 1993. The NPRM proposed to alter the descriptions of VOR Federal Airways V–7, V–51, V–97, and V–399, respectively, by reducing the standard width of these airways. The FAA has determined that withdrawal of the proposal at this time is warranted because a change in air traffic control (ATC) procedures would alleviate the need to alter these airways.

DATES: This withdrawal is effective January 12, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION: On October 15, 1993, a Notice of Proposed Rulemaking was published in the **Federal Register** to amend 14 CFR part 71 of the Federal Aviation Regulations to alter the descriptions of V–7, V–51, V–97, and V–399, respectively, by reducing the standard width of these airways located in the states of Indiana and Illinois (58 FR 53459). This action was proposed to redefine the lateral boundaries of the airways to provide for more efficient utilization of the airspace. No comments were received on the proposal.

The FAA has decided to withdraw the proposal at this time to provide an opportunity to reexamine the operations effecting these airways in the Lafayette Air Traffic Control Tower (ATCT) and Chicago Air Route Traffic Control Center (ARTCC) areas. This proposal was initiated to simplify air traffic operations and to provide for more efficient utilization of that airspace. The FAA has determined that changing the ATC procedures and delegating to Chicago ARTCC the control responsibility previously handled by Lafayette ATCT would alleviate the need to alter these airways.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

In consideration of the foregoing, the Notice of Proposed Rulemaking, Airspace Docket No. 93–AGL–2, as published in the **Federal Register** on October 15, 1993 (58 FR 53459), is hereby withdrawn.

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

Issued in Washington, DC, on January 5, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–782 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141, 375 and 385

[Docket No. RM93–20–000]

Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant; Intent To Act and Response to Comments

Issued December 30, 1993.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; notice of intent to act and response to comments.

SUMMARY: The Federal Energy Regulatory Commission has received comments on its proposal to amend its regulations to provide for the electronic filing of FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others". The Commission intends to issue a final rule pending the development and testing of the necessary software, and anticipates that this will be completed for reporting year 1994. The Commission, in this document, is also providing comments on certain suggestions and recommendations made by interested parties concerning features they believe should be incorporated in the software.

DATES: Form 1 is due on or before April 30, 1994, but no electronic filings. The Commission anticipates it will complete its final rule in 1994 in order to provide for the electronic filing of Form 1 for the reporting year 1994, due on or before April 30, 1995.

FOR FURTHER INFORMATION CONTACT:

Richard Mattingly (Legal Information), Electric Rates and Corporate Regulation, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2070

James G. Baird (Technical Information), Office of Chief Accountant, Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, (202) 219–2613

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, at 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the text of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of the Final Rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

I. Introduction

On July 23, 1993, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (NOPR)[1] in which the Commission proposed to amend 18 CFR Parts 141 and 385 to provide for the electronic filing of FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (Form 1). Under the proposed rule, in addition to paper copies, future Form 1 filings would also be made by means of a computer diskette incorporating software programming developed by the Commission. Electronic reporting of Form 1 was proposed to commence with reporting year 1993, due on or before April 30, 1994. No change was proposed in Form 1 itself.

The Commission also proposed to amend 18 CFR part 375 to delegate to the Chief Accountant or his designee the authority to act on requests for waiver of the Form 1 and Form 1–F[2] filing requirements.[3]

Interested parties were requested to submit written comments. Comments were received from 22 electric utilities,[4] three industry associations[5] and the Energy Information Administration of the U.S. Department of Energy.

Having considered these comments, the Commission is deferring issuance of a final rule at this time pending development and testing of the necessary software. Once that process is complete the Commission intends to issue a final rule providing for the electronic filing of Form 1. The Commission presently anticipates that that process will be complete in time for the electronic filing of Form 1 for reporting year 1994, due on or before April 30, 1995. However, there will be no electronic reporting of Form 1 for reporting year 1993.

In the meantime, the Commission believes it useful to comment on certain suggestions and recommendations made by interested parties concerning features they believe should be incorporated in the software.

II. Summary of Proposal

The Commission is presently developing a personal computer (PC) based software package for Form 1 reporting.[6] The software will be available on standard computer diskettes with instructions and documentation, and will be sent to each Form 1 respondent without charge. This package will display the Form 1, schedule by schedule, on a respondent's PC. The required data may then be manually key-entered on the respondent's PC. The program will also permit the respondent to "import" the required data from its PC or mainframe computer directly into the software package, thus avoiding the manual data-entry process. When the data entry process is completed, the respondent, using the software, will produce a data diskette that will be submitted to the Commission, along with the required paper copies.[7] The data contained on the data diskette will be in a data base format for use by the Commission.

The Commission has already initiated the process of procuring the necessary software package for automating Form 1 reporting. The Commission intends to test all aspects of the system, including data input, data output, and print capability. The Commission also intends to conduct a field test of the software package with volunteer Form 1 respondents.

In the NOPR, the Commission stated that it expected the program to be complete and to have diskettes ready for distribution to each Form 1 respondent in time to allow reporting for reporting year 1993 by the April 30, 1994 filing deadline; that time frame is being delayed pending development and testing of the necessary software. Thus, there will be no electronic reporting of Form 1 for reporting year 1993.

III. Discussion of Comments

The commenters generally expressed support for the objectives set forth in the NOPR, although virtually all suggested a delay in implementation until at least reporting year 1994.

The commenters also made numerous suggestions and recommendations concerning development and implementation of the proposal. It was the Commission's intention in initiating this proposal that the software would be developed by the Commission's staff and that modifications or revisions would be made as necessary based on the results of staff and field tests.

Nevertheless, a number of commenters have offered specific suggestions as to features which they believe should be incorporated in the software, and the Commission has reviewed these various suggestions and is prepared to state its views on most of these suggestions. Additionally, the Commission's staff will continue to evaluate suggestions as the software is developed and the field test is undertaken.

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[1] 58 FR 40606 (July 29, 1993); IV FERC Stats. & Regs. ¶ 32,498 (1993).

[2] FERC Form No. 1–F, "Annual Report of Nonmajor public utilities and licensees."

[3] No party objected to the proposal to delegate authority to rule on requests for waiver of the Form 1 and Form 1–F filing requirements. The proposal is being implemented by a separate order issued concurrently with this notice.

[4] American Electric Power System, Arizona Public Service Company, Carolina Power & Light Company, Cincinnati Gas & Electric Company, Commonwealth Edison Company, Commonwealth Energy System, Delmarva Power & Light Company, Duke Power Company, Florida Power & Light Company, Florida Power Corporation, Idaho Power Company, Iowa Illinois Gas & Electric Company, Kansas City Power & Light Company, Kentucky Utilities Company, Nantahala Power and Light Company, New England Power Service Company, Ohio Edison Company, PSI Energy, Inc., Pennsylvania Power & Light Company, Southern Company Services, Inc., UtiliCorp United, Inc., Wisconsin Public Service Corporation.

[5] American Public Power Association, Edison Electric Institute, Wisconsin Utilities Association, Inc.

[6] An IBM compatible, DOS-based system.

[7] The software package will also enable respondents to print paper copies of the form.

A. Effective Date of Electronic Reporting Requirement and Response to Comments on Software

A majority of the commenters suggested that implementation be delayed from reporting year 1993; they variously suggest delays until, for example, reporting year 1994, or voluntary filing in 1994 and mandatory filing in 1995, or until one year after the software package has been fully tested.

Based on the comments received, the Commission agrees that the electronic reporting requirement should not be implemented for the 1993 reporting year. Rather, we believe that the electronic reporting requirement should be delayed pending development and testing of the required software.

As stated both in the NOPR and above, the Commission intends to conduct a field test of the Form 1 software with volunteer respondents and, to the extent needed, modifications will be made. This field testing will be in addition to testing by the Commission's staff. In order to allow sufficient time for development and testing, the Commission concludes that the most prudent course at the present time is to defer implementation.

As noted above, the NOPR only addressed the adoption of an electronic filing requirement and the effective date for that requirement (and a delegation of authority). It did not address the specifics of the electronic filing, its development and implementation. The Commission believes that the details of such development and implementation are best done at the staff level in the first instance.

Although not specifically solicited in the NOPR, many of the commenters nevertheless made recommendations on features they would like to see included in the software, or that they felt needed to be included in the software. We anticipate that many of the recommendations will, in fact, be included in the initial version of the software. There are others which appear to be worthwhile features which are not contemplated for the initial version software, although they may be considered and included in future updates. We believe that other recommendations are without merit in that they are at odds with the intent of the Form 1 as a whole (i.e., uniform reporting), or the purpose of electronic filing.

It is presently anticipated that the following features suggested by commenters will be incorporated in the initial software program:

1. Edit checking within pages and across pages.
2. Supplemental or continuation page feature.
3. Use of data base structure in ASCII format.
4. Compatibility with different types of printers, including laser printers.
5. Footnote references on schedules by line items and written columns, including headings.
6. View screen option.
7. Menu driven screens, including a help function.
8. Support function to provide assistance to users when implementing the new software.
9. LAN compatibility.

Certain additional features suggested by commenters are not considered feasible for incorporation in the initial software, but may merit consideration in future software updates. These features include the following:

1. Submission by modem rather than diskette.
2. Electronic dissemination capability to others.
3. Incorporation of filings on a "bulletin board" accessible to the public.
4. Providing a diskette to update Form 1 schedules without reissue of the entire software package each year.
5. Providing a capability to carry over data from year to year in instances where there is no change in the data to be reported.
6. Providing a capability to extract portions of the program onto diskettes for distribution to various individual departments.

Certain additional proposed features have been determined to be inconsistent with the basic Form 1 objective of uniform reporting by the electric utility industry, and are therefore rejected. These features include the following:

1. Providing a capability to insert user defined rows.
2. Allowing for center, left and right justification of data within columns.
3. Elimination of General Instruction II (use of whole numbers, dollars or MWH).
4. Providing compatibility of the software with Lotus 1–2–3 spreadsheet or Windows.[8]

American Electric Power System (AEP) and Utilicorp United, Inc. suggest that the Form 1 software should be made compatible with the Securities and Exchange Commission's Electric Data Gathering Analysis and Retrieval (EDGAR) system, or that a system should be adopted based on EDGAR. The Commission declines to adopt this suggestion. In developing requirements for the electronic filing of Form 1, a number of approaches were considered initially, including the EDGAR system. The approach chosen was based on the Commission's information needs, as well as the estimated costs of development and implementation. It was concluded that the software program should be consistent with the current information and data formats of Form 1. Consequently the EDGAR approach was not, and is not, adopted.

Delmarva Power & Light Company and Edison Electric Institute (EEI) suggest that the software program be based on (or similar to) EEI's electronic Uniform Statistical Report (USR). The Commission declines to adopt this recommendation. Form 1 reporting is more extensive than that for the USR. Because of the unique information requirements of Form 1, compatibility with the USR program would be difficult to develop and maintain and would not be cost effective.

GG&E suggests that, for combination gas and electric utilities, Form 1 reporting under the Federal Power Act should be compatible with Form 2 reporting under the Natural Gas Act. At this time, there are no plans to attempt to make Form 1 and Form 2 reporting electronically compatible.

Florida Power & Light Company (FP&L), Florida Power Corporation, and EEI argue that, because of the emergence of competition in the industry, sensitive competitive data should no longer be required or publicly disclosed, citing as an example electric generating plant operating statistics. This issue is beyond the scope of this proceeding and the Commission will therefore not address it.

FP&L argues that, before continuing with the electronic filing project, the Commission should review the actual data required to be reported on Form 1, and should eliminate obsolete or unnecessary information. The subject matter of this proceeding is the electronic filing of Form 1. It was not intended as, and is not, a forum for evaluation of the need for the data presently required to be reported. Accordingly, as the issue is beyond the scope of this proceeding, the Commission will not address it.

Utilicorp United, Inc. argues that the existing systems used by the many Form 1 respondents are incompatible and that no product or program exists to convert them to a usable computer format. The Commission agrees that no comprehensive program exists to convert the various systems in use to the Commission's electronic software. The

[8] However, the Commission's software will allow a user to export data files to ASCII, which can then be read by spreadsheets or other software; also, the Commission's software can be run in a DOS session within windows.

Commission anticipates, however, that the Form 1 software program will allow the respondents to develop and use such a conversion program.

IV. Conclusion

Accordingly, in light of the foregoing, the Commission hereby gives notice of its intent to defer issuance of a final rule prescribing the electronic filing of Form 1 at this time.

The Commission expects that it will issue a final rule in 1994 to provide for the electronic filing of Form 1 for reporting year 1994, due on or before April 30, 1995.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–682 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

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18 CFR Parts 141 and 388

[Docket No. RM94–5–000]

Treatment of Responses to FERC Form No. 580 Interrogatories; Notice of Extension of Time for Comments

December 30, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; extension of time for comments.

SUMMARY: On November 24, 1993, the Commission issued a notice of proposed rulemaking that proposes to amend its regulations to codify an existing requirement for each public utility with a steam-electric generating station of 50 megawatts or more to file responses to FERC Form 580 interrogatories (58 FR 63312, December 1, 1993). The date for filing comments is being extended at the request of various interested commenters.

DATES: The date for filing comments is extended to and including March 4, 1994.

ADDRESSES: Office of the Secretary, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Lois D. Cashell, Secretary, (202) 208–0400.

Lois D. Cashell,

Secretary.

[FR Doc. 94–684 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–0068–92]

RIN 1545–AR18

Computation of Combined Taxable Income Under the Profit Split Method When the Possession Product Is a Component Product or an End-Product Form

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to the determination of combined taxable income under the profit split method. These regulations would amend the current regulations and provide revised rules in order for taxpayers to compute the combined taxable income under profit split when the possession product chosen for purposes of section 936(h)(5) of the Internal Revenue Code is a component product or an end-product form. These regulations are necessary to provide guidance to taxpayers electing the profit split method of computing taxable income under section 936(h)(5).

DATES: Written comments and requests for a public hearing must be received by March 14, 1994.

ADDRESSES: Send submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (INTL–0068–92), room 5228, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:DOM:CORP:T:R (INTL–0068–92), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman or Mary Gillmarten of the Office of Associate Chief Counsel (International), Internal Revenue Service, at 202–622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 936 of the Internal Revenue Code of 1986. These amendments to the regulations are proposed to provide simplified rules for computing combined taxable income under the profit split method for a taxpayer that has chosen a component product or an end-product form as its possession product.

Explanation of Provisions

The proposed regulations would amend § 1.936–6(b)(1), *Q & A. 12*, with conforming changes made to *Q & A. 10, A. 11, and A. 13*. Under the proposed revision, where the possession product is a component product or an end-product form, the combined taxable income attributable to the possession product will be determined by multiplying the combined taxable income of the possession corporation and affiliated groups derived from covered sales of integrated products (which includes the possession product) by a production cost ratio. In the case of a component product, the combined taxable income of the integrated product would be multiplied by a ratio, the numerator of which equals the production costs of the component product and the denominator of which equals the production costs of the integrated product. The combined taxable income of an end-product form is determined in a similar manner using the production costs of the end-product form.

The proposed change is intended to simplify the computation of combined taxable income under *Q & A. 12* and to eliminate the need to apply section 482 in cases in which a possession product is a component product or an end-product form. No inference is intended as to the interpretation or scope of current regulations by the revisions proposed herein.

The example under § 1.936–6(b)(1), *Q & A. 12* is modified to reflect the revised rule.

Proposed Effective Date

The changes made in this document are proposed to be effective for taxable years beginning after December 31, 1993.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Mary Gillmarten of the Office of Associate Chief Counsel (International), Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. The heading of § 1.936–6 is amended by removing the colon after the word "make" and by adding in its place a semicolon.

Par. 3. Section 1.936–6, paragraph (b)(1) is amended by:

1. Revising *Q & A. 10.*
2. Designating the first sentence of *A. 11* as paragraph (i) and revising it.
3. Designating the flush text and example following newly designated *A. 11* (i) as paragraph (ii).
4. Revising *Q & A. 12.*
5. Revising *A. 13.*
6. The revisions read as follows:

§ 1.936–6 Intangible property income when an election out is made; cost sharing and profit split options; covered intangibles.

* * * * *

(b) * * * (1) * * *

Q. 10: If the possessions corporation is entitled to use the profit split method in the situation described in *Q. 9* (leasing units of the possession product or use of such units in the taxpayer's own trade or business), how should it compute combined taxable income with respect to such units?

A. 10: In the case of an integrated product, combined taxable income shall be computed as if the U.S. affiliate had sold the units to an unrelated person (or to a foreign affiliate) at the time the units were first leased or otherwise placed in service by the U.S. affiliate. The sales price shall be equal to the sales price from comparable uncontrolled transactions determined in accordance with § 1.482–2(e)(2). If a sales price from comparable uncontrolled transactions cannot be determined in accordance with § 1.482–2(e)(2), then the taxpayer shall not be treated as having possession sales with respect to such leasing transaction. If the possession product is a component product or an end-product form, and there is a comparable uncontrolled price for the integrated product which includes the possession product, the combined taxable income with respect to the possession product shall be determined under *Q & A. 12* of this paragraph (b)(1). For purposes of determining the basis of a component product or an end-product form, the deemed sales price of such product must be determined. The deemed sales price of the component product shall be determined by multiplying the deemed sales price of the integrated product by a ratio, the numerator of which is the production costs of the component product and the denominator of which is the production costs of the integrated product. The deemed sales price of an end-product form shall be determined by multiplying the deemed sales price of the integrated product by a ratio, the numerator of which is the production costs of the end-product form and the denominator of which is the production costs of the integrated product. The definition of production costs with respect to the component product or end-product form shall be determined under the rules of *Q & A. 12* of this paragraph (b)(1). The full amount of income received under the lease shall be treated as income of (and taxed to) the U.S. affiliate and not the possessions corporation.

* * * * *

A. 11: (i) The U.S. affiliate shall be treated, for purposes of computing its basis in such units, as if it had repurchased such units immediately following the deemed sale and at the deemed sales price as provided in *Q & A. 10* of this paragraph (b)(1).

(ii) * * *

Q. 12: If the possession product is a component product or an end-product form, how is the combined taxable income for such product to be determined?

A. 12: (i) Combined taxable income for a component product or an end-product form is computed under the production cost ratio (PCR) method.

(ii) Under the PCR method, the combined taxable income for a component product will be the same proportion of the combined taxable income for the integrated product which the production costs attributable to the component product bear to the total production costs for the integrated product. Production costs will be the sum of the direct and indirect production costs as defined for inventory accounting purposes under § 1.471–11 (b), (c) or (d), except that the costs will not include the costs of materials.

(iii) Under the PCR method the combined taxable income for an end-product form will be the same proportion of the combined taxable income for the integrated product which the production costs attributable to the end-product form bear to the total production costs for the integrated product. Production costs will be the sum of the direct and indirect production costs as defined for inventory accounting purposes under § 1.471–11 (b), (c) or (d), except that the costs will not include the costs of materials.

(iv) *Example.* The following example illustrates a possessions corporation, S, engaged in the manufacture of microprocessors. S obtains a component from a U.S. affiliate, O. S sells its production to another U.S. affiliate, P, which incorporates the microprocessors into central processing units (CPUs). P transfers the CPUs to a U.S. affiliate, Q, which incorporates the CPUs into computers for sale to unrelated persons. S chooses to define the possession product as the CPUs. The combined taxable income for the sale of the possession product on the basis of the given production, sales, and cost data is computed below:

Production costs (excluding costs of materials):

1. O's costs for the component	100
2. S's costs for the microprocessors	500
3. P's costs for the CPU's (the possession product)	200
4. Q's costs for the computers	400

5. Total production costs for the computer (Add lines 1 through 4)	1,200
6. Combined production costs for the CPU (the possession product) (Add lines 1 through 3)	800
7. Ratio of production costs for the CPUs (the possession product) to the production costs for the computer (the integrated product)	0.667
Determination of combined taxable income for computers—Sales:	
8. Total possession sales of computers to unrelated customers and foreign affiliates	7,500
Total costs of O, S, P, and Q incurred in production of a computer:	
9. Production costs (enter from line 5)	1,200
10. Material costs	100
11. Total costs (line 9 plus line 10)	1,300
12. Combined gross income from sale of computers (line 8 minus line 11)	6,200
Expenses of the affiliated group (other than foreign affiliates) allocable and apportionable to the computers or any component thereof under the rules of §§ 1.861–8 through 1.861–14T and 1.936–6(b)(1), Question and Answer 1:	
13. Expenses (other than research expenses)	980
Research expenses of the affiliated group allocable and apportionable to the computers:	
14. Total sales in the 3-digit SIC Code	12,500
15. Possession sales (enter from line 8)	7,500
16. Cost sharing fraction (divide line 15 by line 14)	0.6
17. Research expenses incurred by the affiliated group in 3-digit SIC Code multiplied by 120 percent	700
18. Cost sharing amount (multiply line 16 by line 17)	420
19. Research of the affiliated group (other than foreign affiliates) allocable and apportionable under §§ 1.861–8(e)(3) and 1.861–14T(e)(2) to the computers (the integrated product).	300
20. Enter the greater of line 18 or line 19	420
Computation of combined taxable income of the computer and the CPU:	
21. Combined taxable income attributable to the computer (line 12 minus line 13 and line 20)	4,800
22. Combined taxable income attributable to CPUs (multiply line 21 by line 7) (production cost ratio)	3,200
23. Share of combined taxable income apportioned to S (50 percent of line 22)	1,600
Share of combined taxable income apportioned to U.S. affiliate(s) of S:	
24. Adjustments for research expenses (line 18 minus line 19 multiplied by line 7)	80
25. Adjusted combined taxable income (line 22 plus line 24)	3,280
26. Share of combined taxable income apportioned to affiliates of S (line 25 minus line 23)	1,680

* * * * *

A. 13: (i) The income shall be allocated to U.S. affiliates as follows—

(A) First, to U.S. affiliates (other than tax-exempt affiliates) within the group (as determined under section 482) which derive income with respect to the product produced in whole or in part in the possession;

(B) Second, to U.S. affiliates (other than tax-exempt affiliates) which derive income from the active conduct of a trade or business in the same product area as the possession product;

(C) Third, to other U.S. affiliates (other than tax-exempt affiliates);

(D) Fourth, to foreign affiliates which derive income from the active conduct of a U.S. trade or business in the same product area as the possession product (or, if the foreign members are resident in a country with which the U.S. has an income tax convention, then to those foreign members that have a permanent establishment in the United States which derives income in the same product area as the possession product); and

(E) Fifth, to all other affiliates.

(ii) The allocations made under paragraph (i)(A) of this *A. 13* shall be made on the basis of the relative gross income derived by each such affiliate with respect to the product produced in whole or in part in the possession. Where the product is a component product, the relative gross income with respect to the component product shall be determined by multiplying the relative gross income of the integrated product by a ratio, the numerator of which is the production costs of the component product and the denominator of which is the production costs of the integrated product. Where the product is an end-product form, the relative gross income of an end-product form shall be determined by multiplying the gross income of the integrated product by a ratio, the numerator of which is the production costs of the end-product form and the denominator of which is the production costs of the integrated product.

(iii) The allocations made under paragraphs (i)(B) and (i)(D) of this *A. 13* shall be made on the basis of the relative gross income derived by each such affiliate from the active conduct of the trade or business in the same product area.

(iv) The allocations made under paragraphs (i)(C) and (i)(E) of this *A. 13* shall be made on the basis of the relative total gross income of each such affiliate before allocating income under this section.

(v) Income allocated to affiliates shall be treated as U.S. source and section 863(b) does not apply for this purpose. For purposes of determining an affiliate's estimated tax liability with respect to income thus allocated, the income shall be deemed to be received on the last day of the taxable year of each such affiliate in which or with which the taxable year of the possessions corporation ends.

* * * * *

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 94–668 Filed 1–11–94; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2530

Qualified Domestic Relations Orders

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Reopening and extension of comment period.

SUMMARY: This document reopens and extends the comment period regarding a request for information by the Department of Labor (the Department) to assist it in assessing the need for a regulation clarifying certain statutory requirements set forth in title I of the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (the Code) with regard to qualified domestic relations orders (QDROs). The request for information was published in the **Federal Register** on October 21, 1993 (58 FR 54444).

The Department has received a number of requests from members of the

public for additional time to prepare comments.

DATES: The comment period is reopened and extended through February 18, 1994.

ADDRESSES: Comments (preferably at least six copies) should be addressed to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, room N–5669, U.S. Department of Labor, Washington, DC 20210. Attention: QDRO RFI. All comments received will be available for public inspection at the Public Disclosure Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Deborah Hobbs, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–7901; or Susan Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–9141. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On October 21, 1993, the Department published a request for information in the **Federal Register** (58 FR 54444) to assist it in assessing the need for a regulation clarifying certain statutory requirements set forth in title I of ERISA and in the Code with regard to qualified domestic relations orders. In that notice, the Department invited all interested persons to submit written comments concerning the request for information on or before December 20, 1993.

The Department has received a number of requests from members of the public for additional time to prepare comments. In order to provide the public with an additional opportunity to submit comments, the Department believes that it is appropriate to reopen and extend the comment period. Accordingly, this notice reopens and extends the period during which comments on the request for information will be received through Friday, February 18, 1994.

Notice of Reopening and Extension of Comment Period

Notice is hereby given that the period of time for submission of public comments in response to the request for information concerning qualified domestic relations orders, published in the **Federal Register** on October 21, 1993, is reopened and extended through February 18, 1994.

Signed at Washington, DC, this 30th day of December, 1993.

Olena Berg,

Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.

[FR Doc. 94–639 Filed 1–11–94; 8:45 am]

BILLING CODE 4510–29–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE15–1–6000; A–1-FRL–4825–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware–Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (SBTCP). This SIP revision was submitted by Delaware to satisfy the Federal mandate of the Clean Air Act (CAA) to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rational for approving is set forth in this notice; additional information is available at the address indicated below. This action is being taken in accordance with the provisions of the Clean Air Act.

DATES: Comments must be received on or before February 11, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Jerry Kurtzweg (ANR–443), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Delaware Department of Natural Resources and Environmental Control, P.O. Box 1401, Dover Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597–9781.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions the CAA will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program, and submit this Program as a revision to the federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a Program are set out in section 507 of title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and state roles in meeting the new statutory provisions and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

On January 11, 1993, the State of Delaware submitted a formal revision to its SIP. The SIP revision consists of a plan for establishing an SBTCP. In order to gain full approval, the state submittal must provide for each of the following program elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the program. The plan includes the duties, funding, and schedule of implementation for the three program components.

Delaware Department of Natural Resources and Environmental Control (DE DNREC) is authorized to create and administer the SBTCP. Delaware DNREC can create and administer the SBAP, and create the Office of the Ombudsman. Through an executive order, the Governor of the State of Delaware will establish the Compliance Advisory Panel.

II. Summary and Analysis of SIP Revision

Section 507(a) of the CAA sets forth seven requirements that Delaware must meet to have an approvable SBAP. Three requirements will be discussed in the first section, and the remaining four requirements, including the establishment of an Ombudsman, in the second section.

1. Small Business Assistance Program

The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the CAA. Delaware has met this requirement by establishing a SBAP, with the responsibility of serving as a clearinghouse for information related to compliance methods and control technologies.

Small businesses will be referred to state technical experts specifically trained to handle questions relevant to achieving compliance with the CAA. The SBAP will be coordinated through the Air Quality Management Section and will respond to inquiries from small businesses received through the ombudsman's toll-free hotline. Information workshops, industry-specific compliance publications, and roundtable groups are examples of planned outreach activities. A list of potentially affected parties will be developed in conjunction with the State of Delaware Department of Labor.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. Delaware DNREC established a Pollution Prevention Program in 1990 which provides education, technical assistance, and financial incentives to improve environmental quality. Small businesses have access to Delaware's Waste Minimization/Pollution Prevention Information Clearinghouse. In addition to distributing pollution prevention guides, DE DNREC has established a Pollution Prevention Industry Roundtable to facilitate technology transfer between large and small businesses.

To address accidental release detection and prevention, the Air Quality Management Section has been administering Delaware's "*Regulation for the Management of Extremely Hazardous Substances*" through the Industrial Disaster Prevention Group (IDPG). Facility visits and compliance discussions are a part of this program, as is the distribution of generic procedures to assist with compliance with the regulation.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the CAA in a timely and efficient manner. Delaware has met this requirement through the Engineering and Compliance Branch (ECB) of the Air Quality Management Section. The ECB will identify applicable rules, determine whether a permit is needed, identify compliance alternatives, and explain the fees, application process, violations, and appeals, as needed.

2. Ombudsman Office

The fourth requirement of section 507(a)(3) is the designation of a state office to serve as the Ombudsman for small business stationary sources. Delaware's Secretary of DE DNREC is authorized to create the ombudsman's office within DNREC. The ombudsman will be appointed by the Secretary of DE DNREC and will report directly to him or her. The Delaware Office of the Ombudsman (Delaware Ombudsman) will be independent of the Division of Air and Waste Management and the Air Quality Management Section.

The fifth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA. The Delaware Ombudsman will ensure that small businesses receive notice of their rights in sufficient time to evaluate compliance. Information delineating legal rights will be disseminated with the technical and compliance information by the SBAP. In addition, field inspectors will be trained to properly inform small businesses of their rights during site visits.

The sixth requirement of CAA section 507(a) is to develop adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors or, at the option of the state, for providing audits of the operations of such sources to determine compliance with the CAA. The Delaware Ombudsman will develop procedures for referring sources to qualified auditors. A list of qualified environmental consulting firms who could conduct audits will be provided by the Delaware Ombudsman to small businesses. The Delaware Ombudsman, ECB, IDPG and Pollution Prevention Program may elect to provide qualified auditors, if available.

The seventh requirement of CAA section 507(a) is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practices or compliance methods. Delaware's Office of the Ombudsman will receive written requests from a small businesses for modification of work practices.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires Delaware to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the state legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. Members of the Delaware CAP will be selected in the following manner for the first term, after which all will serve four year terms: (1) The majority leader of the Senate shall appoint one member for 4 years; (2) the minority leader of the Senate shall appoint one member for 2 years; (3) the majority leader of the House of Representatives will appoint one member for three years; (4) the minority leader of the House of Representatives shall appoint one member for one year; (5) the Governor will select two members for four years; and (6) the Air Quality Management Program Administrator will select one member for four years. The makeup of Delaware's CAP is prescribed as is required by section 507(e).

The Delaware CAP will meet at least once per quarter. Any member absent from three consecutive meetings will be replaced. Administrative and logistical support for the Delaware CAP will be funded through the Delaware Ombudsman's office. The Delaware Ombudsman will also serve a

Secretariat for the development and dissemination of CAP reports.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (A) to render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (B) to review and assure that information for small business stationary sources is easily understandable; (C) to develop and disseminate the reports and advisory opinions made through the SBAP; and (D) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act. (Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three statutes. However, since state agencies are not required to comply with them, EPA believes that the state Program must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.) The duties and responsibilities described in Delaware's submittal indicate that the Delaware CAP will be responsible for all four of the activities listed above, except that the Delaware Ombudsman will disseminate reports.

4. Source Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

Delaware's submittal duplicates the language of CAA section 507(c)(1) in defining eligible stationary sources. It also provides for the state, after consultation with the Administrator and the Administrator of the Small Business Administration and notice and opportunity for public comment, to include or exclude a category or subcategory of sources.

III. Summary of SIP Revision

Delaware has submitted a SIP revision requiring implementation of each of the program elements required by CAA section 507. As previously stated, the authority to implement the SBAP has been delegated to the Department of Natural Resources and Environmental Control, Air Quality Management Section. Program implementation will begin no later than January 1, 1994. The Secretary of DE DNREC will appoint the Ombudsman by July 1, 1993 and hire the staff dedicated to implementing the program. An Executive Order establishing the Compliance Advisory Panel will be executed by the Governor of the State of Delaware by March 1, 1993. In this action, EPA is approving the SIP revision submittal by the State of Delaware. Accordingly, § 52.460 is added to 40 CFR part 52, subpart I–Delaware to reflect EPA's approval action and the fact that it is considered part of the Delaware's SIP.

EPA is proposing to approve the Delaware SIP revision for establishing a Small Business Stationary Source Technical and Environemental Compliance Assistance Program, which was submitted on January 11, 1993. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the Addresses section of this document.

Proposed Action

EPA is proposing to approve Delaware's plan for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

In this action, EPA is approving a state program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have asignificant economic impact on any small entities affected.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistance Administrator for Air and Radiation. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request is still applicable under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Small business assistance program.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 22, 1993.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 94–759 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MA–20–01–5783; A–1-FRL–4825–5]

Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to conditionally approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts for the purpose of establishing a small business stationary source technical and environmental compliance assistance program. The SIP revision was submitted by the State to satisfy the Federal mandate to ensure that small businesses have access to the

technical assistance and regulatory information necessary to comply with the Clean Air Act (CAA). The rationale for the conditional approval is set forth in this proposal; additional information is available at the address indicated below.

DATES: Comments must be received on or before February 11, 1994.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Emanuel Souza, Jr., (617) 565–3248.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the Clean Air Act Amendments of 1990, will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a small business stationary source technical and environmental compliance assistance program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The Commonwealth of Massachusetts has submitted a SIP revision to EPA in order to satisfy the requirements of section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements:

(1) The establishment of a small business assistance program (SBAP) to provide technical and compliance assistance to small businesses;

(2) The establishment of a State small business ombudsman to represent the interests of small businesses in the regulatory process; and

(3) The creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Massachusetts' SIP revision delegates the responsibility for implementation of the SBAP to various functional units within the Executive Office of Environmental Affairs (EOEA) and the Department of Environmental Protection (DEP). SBAP staff will be located in the Office of Technical Assistance. Primary responsibility for program oversight, development, and coordination will lie with the small business ombudsman and the SBAP staff.

Section 507(a) sets forth six requirements [1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The State has met this requirement by offering a proactive and reactive approach to gathering and disseminating information on compliance issues and control technologies. This approach includes: an information clearinghouse, workshops, and an audit program.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met this requirement by stating that the Massachusetts Office of Technical Assistance (OTA) will provide help in identifying pollution prevention opportunities. These services are provided at no charge. Additionally, the SBAP staff will provide small business stationary sources with information and referral to appropriate sources regarding requirements related to accidental release detection and prevention.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement. As stated earlier, responsibility for the implementation of the small business assistance program will involve various units within the EOEA and the DEP, with primary responsibility for program oversight, development, and coordination lying with the small business ombudsman and SBAP staff in EOEA, Office of Technical Assistance. The air quality staff at each DEP Regional Office will provide assistance to small business stationary sources in the following: identifying applicable rules, determining their need for permits, explanation of the permitting procedures, providing the necessary forms and applications, and assisting them in preparing the required documents.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulations or standards issued under the Act. The State has met this requirement by providing that the DEP's Division of Air Quality Control (DAQC) will be responsible for the development of policies and regulations for implementing the provisions of the CAA. The staff in that office will provide assistance in identifying applicable rules. Additionally, that office will provide the necessary information regarding rules and procedures for complying with Federal and state laws and regulations. Furthermore, it will be the DAQC's responsibility to inform businesses of their rights through brochures and workshops.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the

[1] A seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.

option of the State, for providing audits of the operations of such sources to determine compliance with the Act. The SIP revision provides that the DAQC is responsible for the development of policies and regulations for implementing the provisions of the CAA. The SBAP staff will also be responsible for providing audits. These include on-site assessments by the OTA and through audit referrals. On-site assessments will be arranged in conjunction with technical staff from the OTA. Audit referrals will be arranged by having the staff provide a list of qualified private sector auditors or consultants to small business stationary sources.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The SIP revision provides that specific regulations for modifications of work practices or technological methods of compliance will be submitted in November 1993. These regulations will include: (1) Procedures for receiving requests from small businesses to modify the provisions of State-adopted regulations; (2) format for such requests; (3) procedures for how requests will be reviewed and acted upon; and (4) requirements to ensure that no such modification may be granted unless it is in compliance with the applicable requirements of the CAA, the SIP and the applicable Federal regulations.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the ombudsman for small business stationary sources. The State has met this requirement by designating the small business ombudsman within the EOEA. The EOEA is a secretariat answering directly to the Governor. The designation of a small business ombudsman within the Commonwealth's environmental secretariat but outside of the secretariat's regulatory agency will:

(1) Enhance impartiality in resolving disputes involving compliance and enforcement;

(2) Reduce potential for conflicts of interest;

(3) Improve utilization by the business community;

(4) Allow for a high level of independence, authority, and communication;

(5) Allow the small business ombudsman to build upon established contacts with the business community and other government offices and agencies; and

(6) Strengthen the ombudsman's ability to provide program oversight and evaluation.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has not fully met this requirement due to the lack of adequate statutory authority to establish the CAP. However, EPA expects Massachusetts to submit a legislative resolve to EPA when it is finally approved. The SIP revision provides that legislative approval and selection of CAP members will be completed by January 30, 1994.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities for it: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act[2]; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has met these requirements in the SIP revision by authorizing the panel to: render advisory opinions on the effectiveness of the small business assistance program; prepare periodic reports to EPA on the status of the SBAP with regard to the Paper Work Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; and review information for small business stationary sources to assure such information is understandable by the layperson. Additionally, the SIP revisions provide the small business ombudsman with the authority to oversee all aspects of the SBAP and allows for the ombudsman to act as secretariat to the panel.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals,

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The SIP revision states that it is the general policy of the EOEA and the DEP to assist all businesses in identifying applicable regulations and in meeting their obligations under the requirements of the CAA. However, recognizing the special needs of the small business stationary sources, EOEA and DEP shall, wherever resources become a limiting factor in providing such assistance, give priority to businesses which meet the definition of small business stationary source under title V, section 507(c)(1) of the Clean Air Act. Additionally, the Commonwealth of Massachusetts allows businesses that do not meet the provisions of sections 507(c)(1)(C)-(E) to petition the SBAP for assistance in accordance with the procedures established in section 507(c)(2) of the CAA.

The SBAP staff, with the advice of the ombudsman and the CAP, may consider the development of provisions for excluding any category or subcategory of sources with sufficient financial and technical resources, from receiving assistance under the SBAP in accordance with the provisions of the Act.

III. Proposed Action

The Commonwealth of Massachusetts has submitted a SIP revision implementing each of the required PROGRAM elements required by section 507 of the CAA. The State expects all the elements of the PROGRAM to be fully operational by November 14, 1994.

The State needs full adequate legal authority to implement the PROGRAM before EPA can fully approve this SIP revision. Therefore, EPA is proposing to conditionally approve the Massachusetts SIP revision for the small business stationary source technical and

[2] Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

environmental compliance assistance program, which was submitted on November 13, 1993 upon the condition that Massachusetts submits the additional legal authority necessary to fully implement the PROGRAM.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **Addresses** section of this action.

Proposed Action

EPA is proposing to conditionally approve the small business stationary source technical and environmental compliance assistance program submitted on November 13, 1992 and July 22, 1993. The one outstanding issue with this SIP revision concerns Massachusetts' lack of adequate legal authority to establish and implement a compliance advisory panel. The State plans to address this issue in a legislative resolve which it will forward to EPA by November 14, 1994. For this reason EPA is proposing to conditionally approve this SIP revision on the condition that the State meet its commitment to submit a legislative resolve allowing a compliance panel to be established and implemented, incorporating all the elements listed in section 507(e) of the Clean Air Act and have the program fully operational by November 14, 1994. Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from the State to adopt specific enforceable measures by a date certain, but not later than 1 year from the date of approval. If EPA takes final conditional approval on the commitment, the State must meet its commitment to have the program fully operational by November 14, 1994. If the State fails to do so, this approval will become a disapproval on that date. EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved Massachusetts SIP. EPA subsequently will publish a notice in the notice section of the **Federal Register** notifying the public that the conditional approval automatically converted to a disapproval. If the State meets its commitment, within the applicable time frame, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new legislative authority. If EPA disapproves the new submittal, the conditionally approved small business program will also be disapproved at that time. If EPA approves the submittal, the small business program will be fully approved in its entirety and replace the conditionally approved program in the SIP.

If EPA determines that it cannot issue a final conditional approval or if the conditional approval is converted to a disapproval, such action will trigger EPA's authority to impose sanctions under section 110(m) of the CAA at the time EPA issues the final disapproval or on the date the State fails to meet its commitment. In the latter case, EPA will notify the State by letter that the conditional approval has been converted to a disapproval and that EPA's sanctions authority has been triggered. In addition, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). Pursuant to section 507(b)(3), EPA will provide for implementation of the program provisions required under section 507(a)(4) in any State that fails to submit such a program under that subsection. Therefore, EPA would have to provide for a compliance assistance program which assists small business stationary sources in determining applicable requirements and in receiving permits under the CAA.

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225) as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administer for Air and Radiation. On January 6, 1989 the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By today's action, EPA is conditionally approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being proposed for conditional approval today does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's conditional approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Small business assistance program.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 21, 1993.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 94–760 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[CA–46–3–6054; FRL–4825–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District; Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD) on February 23, 1993, and by the Santa Barbara County Air Pollution Control District (SBCAPCD) on December 10, 1991. The California Air Resources Board (CARB) submitted these revisions to EPA on April 6, 1993, and June 19, 1992, respectively. The revisions concern SMAQMD's Rule 454,

Degreasing Operations, and SBCAPCD's Rule 331, Fugitive Emissions Inspection and Maintenance. SMAQMD's Rule 454 controls volatile organic compound (VOC) emissions from metal parts cleaning procedures, while SBCAPCD's Rule 331 controls VOC emissions from equipment leaks at sources such as petroleum refineries. The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with therequirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPR) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before February 11, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Chief, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, 2020 L. Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: William Davis, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Sacramento Metro Area and Santa Barbara County. 43 FR 8964, 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre amended section 172(b) as interpreted in pre-amendmentguidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Sacramento Metro Area is classified as serious and Santa Barbara County is classified as moderate[2]; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

On June 22, 1991, EPA, Region 9, notified the State of California that EPA had not received by the May 15, 1991 deadline all required VOC rule corrections under section 182(a)(2)(A) of the CAA. The finding letter identified six districts in California, including SMAQMD and SBCAPCD, that had failed to submit required rule corrections. The official finding notice was published in the **Federal Register** on October 22, 1991 (56 FR 54554). SMAQMD's Rule 454 and SBCAPCD's Rule 331 were listed in that finding notice. As a result, both SMAQMD and SBCAPCD had 18 months to submit the rules to EPA before a sanction under section 179(a) of the Act would be imposed.

The State of California submitted many revised RACT rules for incorporation into its SIP on April 6, 1993 and June 19, 1992, including the rules being acted on in this document. This document addresses EPA's proposed action for SMAQMD's Rule 454, Degreasing Operations, and SBCAPCD's Rule 331, Fugitive Emissions Inspection and Maintenance. SMAQMD's submitted Rule 454 and SBCAPCD's Rule 331 were found to be complete on April 28, 1993 and August 27, 1992, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[3], and both rules are being proposed for approval into the SIP. The State's complete submittal of SMAQMD's Rule 454 and SBCAPCD's Rule 331 satisfies the deficiency for which the finding of nonsubmittal, dated October 22, 1991, was made and stopped the sanction clock.

SMAQMD's Rule 454 controls VOC emissions from equipment used to clean (degrease) metal parts, while SBCAPCD's Rule 331 controls leaks of VOCs from equipment used in petroleum refining and associated operations. VOCs contribute to the production of ground level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA's interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Sacramento Metro Area and Santa Barbara County retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to SMAQMD's Rule 454 is entitled, "Control of Volatile Organic Emissions from Solvent Metal Cleaning," EPA–450/2–77–022. The CTG applicable to SBCAPCD's Rule 331 is entitled, "Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment," EPA–450/2–78–036. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SMAQMD's submitted Rule 454, Degreasing Operations, includes the following significant changes from the current SIP:

1. The definition section has been expanded by 13 terms, which helps to clarify the rule and makes it easier to enforce.

2. The applicability of the rule to solvents is now based on the initial boiling point rather than on solvent vapor pressure.

3. Control Officer discretion for the use of unspecified control equipment has been deleted.

4. The overall (capture and control) efficiency of control equipment has been set at not less than 85%.

5. Records for solvent usage amounts and for maintenance are now required, making the rule more enforceable.

6. Test methods for determining compliance, not identified in the existing SIP rule, are now specified.

SBCAPCD's submitted Rule 331, Fugitive Emissions Inspection and Maintenance, includes the following significant changes from the current SIP:

1. The definition section has been expanded by 28 terms, which helps to clarify the rule and makes it easier to enforce.

2. The rule now requires replacement of components that require five or more repairs in one year.

3. The rule now specifies that major leaks (as defined in the rule) be fixed within 5 calendar days, minor leaks within 15 days, and liquid leaks within 24 hours. Also, the leaking component must be tightened (minimized) within one hour of discovery of the leak.

4. Recordkeeping requirements have been expanded to include not only tags on equipment, but diagrams of component location, inspection logs, and maintenance records.

5. The rule has been significantly strengthened by the identification of test methods to use to determine compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SMAQMD's Rule 454, Degreasing Operations, and SBCAPCD's Rule 331, Fugitive Emissions Inspection and Maintenance, are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 30, 1993.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–761 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[OPP–300319; FRL–4751–8]

RIN No. 2070–AC18

Alkyl (C_{12}–C_{20}) Methacrylate-Methacrylic Acid Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of alkyl (C_{12}-C_{20}) methacrylate-methacrylic acid copolymer when used as an inert ingredient (stabilizer; component of spray drift retardant) in pesticide formulations applied to growing crops only. This proposed regulation was requested by Allied Colloids, Inc.

DATES: Written comments, identified by the document control number [OPP-300319], must be received on or before February 11, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring

comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: Allied Colloids, Inc., P.O. Box 820, Suffolk, VA 23434, has submitted pesticide petition (PP) 4E4277 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of alkyl (C_{12} -C_{20}) methacrylate-methacrylic acid copolymer when used as a stabilizer or component of spray drift retardant in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Where it can be determined that the inert ingredient will present minimal or no risk, the Agency does not need some or all of the listed studies to rule on the proposed tolerance or exemption for an inert ingredient. The Agency has decided that any data, in addition to that described below, normally required to support the proposed tolerance exemption for alkyl (C_{12}-C_{20}) methacrylate-methacrylic acid copolymer will not need to be submitted. The rationale for this decision is described below:

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Alkyl (C_{12}-C_{20}) methacrylate-methacrylic acid copolymer conforms to the definition of polymers given in 40 CFR 723.250(b)(11) and meets the following criteria that are used to identify low-risk polymers:

1. The minimum number average molecular weight of alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer is 11,900. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

2. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains any of the ingredients listed herein may request within 30 days after publication of this document in the **Federal Register**, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300319]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat 1164, 5 U.S.C. 601-612), the Administrator has determined that

regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 23, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001, by amending paragraph (d) in the table therein by adding and alphabetically inserting the following inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
*	*	*
Alkyl (C_{12} - C_{20}) methacrylate-methacrylic acid copolymer; minimum molecular weight 11,900.	.....	Stabilizer; component of spray drift retardant.
*	*	*

* * * * *

[FR Doc. 94–765 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300318; FRL–4751–7]

RIN No. 2070–AC18

Maleic Acid Monoethyl Ester-Vinyl Methyl Ether Copolymer, Maleic Acid Monoisopropyl Ester-Vinyl Methyl Ether Copolymer, Maleic Acid Monobutyl Ester-Vinyl Methyl Ether Copolymer; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes exemptions from the requirement of a tolerance be established for residues of maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monoisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer when used as inert ingredients (seed-coating adhesives, gels, and antitranspirants) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed regulation was requested by International Specialty Products.

DATES: Written comments, identified by the document control number [OPP-300318], must be received on or before February 11, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: International Specialty Products, 1361 Alps Rd., Wayne, NJ 07470, has submitted to EPA the following pesticide petitions (PPs): (1) 3E4243, maleic acid monoethyl ester-vinyl methyl ether copolymer; (2) 3E4248, maleic acid monisopropyl ester-vinyl methyl ether copolymer; and (3) 3E4247, maleic acid monobutyl ester-vinyl methyl ether copolymer requesting that the Administrator pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) and (e) by establishing an exemption from the requirement of a tolerance for residues of these copolymers when used as inert ingredients (seed-coating adhesives, gels, and antitranspirants) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, and to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy

statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Where it can be determined that the inert ingredient will present minimal or no risk, the Agency does not need some or all of the listed studies to rule on the proposed tolerance or exemption for an inert ingredient. The Agency has decided that any data, in addition to that described below, normally required to support the proposed tolerance exemption for maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer will not need to be submitted. The rationale for this decision is described below:

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monoisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer conform to the definition of polymers given in 40 CFR 723.250(b)(11) and meet the following criteria that are used to identify low-risk polymers:

1. The minimum number average molecular weight of the copolymers mentioned above is 46,000. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

2. Maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monoisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer are not cationic polymers, nor are they reasonably anticipated to become cationic polymers in a natural aquatic environment.

3. The above-mentioned copolymers do not contain less than 32.0 percent by weight of the atomic element carbon.

4. Maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer contain as integral parts of their composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned copolymers do not contain as integral parts of their composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monisopropyl ester-vinyl methyl ether copolymer; and maleic acid monobutyl ester-vinyl methyl ether copolymer are not biopolymers, synthetic equivalents of biopolymers, or derivatives or modifications of biopolymers that are substantially intact.

7. The above-mentioned copolymers are not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. Maleic acid monoethyl ester-vinyl methyl ether copolymer, maleic acid monisopropyl ester-vinyl methyl ether copolymer, and maleic acid monobutyl ester-vinyl methyl ether copolymer do not contain reactive functional groups that are intended or reasonably anticipated to undergo futher reaction.

9. The above-mentioned copolymers are not designed, nor are they reasonable expected, to substantially degrade, decompose, or depolymerize.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains any of these three chemicals may request, within 30 days after publication of this document in the **Federal Register**, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300318]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 23, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001, by amending paragraphs (c) and (e) in the tables therein by adding and alphabetically inserting the following inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Maleic acid monoethyl ester-vinyl methyl ether copolymer, CAS No. 25087-06-3, minimum average molecular weight 46,000	.....	Seed-coating adhesive, gel, and antitranspirant.
Maleic acid monisopropyl ester-vinyl methyl ether copolmer, CAS No. 31307-95-6, minimum average molecular weight 49,000.	.....	Seed-coating adhesive, gel, and antitranspirant.
Maleic acid monobutyl ester-vinyl methyl ether copolymer, CAS No. 25119-68-0, minimum average molecular weight 52,000.	.....	Seed-coating adhesive, gel, and antitranspirant.
* * * * * * *		

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Maleic acid monoethyl ester-vinyl methyl ether copolymer, CAS No. 25087-06-3, minimum average molecular weight 46,000.	.....	Seed-coating adhesive, gel, and antitranspirant.
Maleic acid monisopropyl ester-vinyl methyl ether copolmer, CAS No. 31307-95-6, minimum average molecular weight 49,000.	.....	Seed coating adhesive, gel, and antitranspirant.
Maleic acid monobutyl ester-vinyl methyl ether copolymer, CAS No. 25119-68-0, minimum average molecular weight 52,000.	.....	Seed-coating adhesive, gel, and antitranspirant.
* * * * * * *		

[FR Doc. 94-762 Filed 1-11-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300317; FRL-4749-1]

RIN No. 2070-AC18

Cross-linked Polyurea-Type Encapsulating Polymer Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of cross-linked polyurea-type encapsulating polymer when used as an inert ingredient (encapsulating agent) in pesticide formulations for application to animals. This proposed regulation was requested by Zeneca Ag Products.

DATES: Comments, identified by the document control number [OPP-300317], must be received on or before February 11, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: Zeneca Ag Products, P.O. Box 751, Wilmington, DE 19897, has submitted pesticide petition (PP) 3E4269 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for residues of cross-linked polyurea-type encapsulating polymer when used as an inert ingredient (encapsulating agent) in pesticide formulations for application to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the

ingredient may or may not be chemically active.

The data submitted in support of the current exemption and also the data submitted in this petition have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Where it can be determined that the inert ingredient will present minimal or no risk, the Agency generally does not need some or all of the listed studies to rule on the proposed tolerance or exemption for an inert ingredient. The Agency has decided that any data, in addition to that described below, normally required to support cross-linked polyurea-type encapsulating polymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Cross-linked polyurea-type encapsulating polymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low risk polymers:

1. The minimum average molecular weight of the above-mentioned polymer is 5 X 10^{13}. Substances with molecular weights greater than 400 generally are not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

2. The above-mentioned polymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. The above-mentioned polymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned polymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned polymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned polymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. The above-mentioned polymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned polymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned polymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300137]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: December 23, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Cross-linked polyurea-type encapsulating polymer	.....	Encapsulating agent
* * * * * * *		

[FR Doc. 94–764 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 93–290; DA 94–2]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The Commission extends the time for filing reply comments in its proceeding 58 FR 62085, 11/24/93, proposing to amend the Commission's rules regarding major cable television markets from January 4, 1994 to January 18, 1994. This action is being taken to allow parties additional time to analyze and address numerous issues concerning adjustments to particularly large and complex television markets.

DATES: Reply comments are now due on or before January 18, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of section 76.51 of the Commission's rules to include Newton, New Jersey, and Riverhead, New York, in the New York, New York-Linden-Paterson-Newark, New Jersey, Television Market.

ORDER

Adopted: January 3, 1994.
Released: January 4, 1994.
Reply Comment Date: January 18, 1994.

By the Chief, Mass Media Bureau:

1. We now consider a Motion for Extension of Time for the filing of reply comments in the above-captioned proceeding filed on December 22, 1993, by WLIG–TV, Inc. ("WLIG"), licensee of Television Station WLIG–TV, Riverhead, New York, and proponent of the amendment of section 76.51 of the rules to include Riverhead in the subject market. The deadline for filing comments in this proceeding was December 20, 1993, and reply comments are due January 4, 1994.

2. WLIG states that although comments were all filed on December 20, 1993, copies were not received by counsel until December 21 and 22. Seven sets of comments were filed. WLIG contends that the comments respond to a number of issues raised in the *Notice of Proposed Rule Making*[1] which must be studied and addressed. Although WLIG has begun the process, it requests, noting the intervention of two Federal holidays, the press of other year-end responsibilities, and pre-exiting vacation schedules, an additional nine business days, until January 18, 1994, to file its reply comments. Inasmuch as this proceeding was initiated, in part, by WLIG, it urges that the additional time will foster the paramount public interest in the development of a full public record for the Commission's decision.[2]

3. As set forth in section 1.46 of the Commission's rules, 47 CFR 1.46, it is our policy that extensions of time for filing comments in rule making proceedings shall not be routinely granted. However, we note that the Notice of Proposed Rule Making raises numerous issues concerning adjustments to particularly large and complex television markets, and therein we specifically state our desire for additional information to develop a comprehensive record before deciding these matters. Thus, it appears reasonable to provide the commenting parties additional time to analyze and address these issues. Therefore, we will extend the deadline for filing reply comments in this proceeding to January 18, 1994.

4. Accordingly, *It is Ordered*, that the Motion for Extension of Time filed by WLIG–TV, Inc. IS GRANTED, and the time for filing reply comments in this proceeding Is Extended to January 18, 1994.

5. This action is taken pursuant to authority found in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.204(b), 0.283, and 1.45 of the Commission's rules.

Federal Communications Commission

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 94–659 Filed 1–11–94; 8:45 am]

BILLING CODE 6712–01–M

[1] 8 FCC Rcd 8136 (1993).

[2] WLIG states that counsel for Mountain Broadcasting Corporation, the other original petitioner in this proceeding, has indicated no objection to the requested extension. Further, counsel for those filing comments in this proceeding have indicated no objection to WLIG's request.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC–93–34]

RIN 2125–AD25

Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motorcoaches

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA requests public comment on the use and design of driver sleeper berths in the motorcoach industry. Existing sleeper berth regulations were written with commercial trucks and truck-tractors in mind. The agency seeks comments on the suitability of these regulations for motorcoaches and the possibility of amending them to account for design differences between trucks and motorcoaches. This action is being taken in response to comments received at the motorcoach industry Zero-Base Review hearing held in Miami, Florida, on January 20, 1993, and written requests from the motorcoach industry.

DATES: Comments must be received on or before March 14, 1994.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to HCC–10, room 4232, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped postcard or envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan L. Price, Office of Motor Carrier Standards, (202) 366–5720, or Mr. Charles Medalen, Office of the Chief counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: On January 20, 1993, the FHWA held a public hearing in Miami, FL, as part of our Zero-Base Review of the Federal Motor Carrier Safety Regulations (FMCSRs) to obtain information, views, and opinions from representatives of the motorcoach industry (see 57 FR 60784). Four out of ten industry representatives who testified at the hearing voiced concerns about the suitability of existing sleeper berth regulations for motorcoaches. A common theme among those who testified on this subject was that the current sleeper berth regulations were written specifically for trucks and truck-tractors without considering the unique design characteristics of motorcoaches. A complete transcript of this hearing is on file and available for review in the

FHWA docket room under FHWA Docket No. MC–92–33–182.

Both the American Bus Association and the United Bus Owners of America have also indicated to the FHWA that the suitability of existing sleeper berth regulations for motorcoaches is a concern of their members.

The FHWA has also received written requests from the motorcoach industry to revise the current sleeper berth regulations to account for design differences between motorcoaches and trucks. (Copies of these letters are included in FHWA Docket No. MC–93–34.)

In response to these concerns and as part of the FHWA's efforts to eliminate unnecessarily design-restrictive regulations, a review of the rulemaking history of the current sleeper berth requirements was completed. The review indicated that sleeper berths on motorcoaches may not have been considered when the existing sleeper berth regulations were promulgated.

In a final rule published on May 15, 1952 (17 FR 4422), the Interstate Commerce Commission (ICC) revised most of the existing Federal Motor Carrier Safety Regulations (FMCSRs) and created a number of new regulations. One new regulation set forth detailed specifications for sleeper berths. The rule required that every sleeper berth installed in or on a truck or truck-tractor after December 31, 1952, be located within or immediately adjacent to the cab, or within the cargo space of a truck, and be provided with a direct and ready means of exit into the driver's compartment (17 FR 4443). These requirements are now codified at 49 CFR 393.76(b)(2) and 393.76(c)(1), respectively.

In addition, the regulations also required that any sleeper berth which could not meet this standard, in essence those installed on trucks or truck-tractors before December 31, 1952, be provided with means of communication between the occupant of the berth and the driver. The berth also had to be designed, constructed, and maintained to provide the occupant, without the assistance of other persons, at least two means of ready exit from the motor vehicle. These requirements are now codified at 49 CFR 393.76(d) and 393.76(c)(2)(ii), respectively.

Because motorcoach operators rarely used sleeper berths forty years ago, the ICC drafted a rule for trucks and truck-tractors. Practices in the motorcoach industry have changed, however, and some operators would like to use sleeper berths to reduce driver fatigue and to help comply with driver's hours of service regulations. The 1952 regulations did not address sleeper berths on motorcoaches, nor have any subsequent rulemakings done so.

On July 3, 1970, the FHWA published a final rule relating to seat belts and restraint of sleeper berth occupants (35 FR 10859). That rule differentiated between trucks and buses with regard to seats, seat belt assemblies, and seat belt assembly anchorage requirements, but not with regard to sleeper berth restraint requirements.

Another rule on sleeper berth specifications was published on April 26, 1974 (39 FR 14710). It amended § 393.76 by increasing the minimum interior dimensions required for sleeper berths. The rule omitted specific references to trucks and truck-tractors but made no substantive changes to adapt the regulation to the different design configurations of motorcoaches.

Available information indicates that many sleeper berths installed on motorcoaches today are located in the baggage area. This area is modified to allow the doors to be opened from inside the compartment, and by adding a mattress, air conditioning, heat, and a means of communication with the driver. In order to meet the current requirement of § 393.76(c)(1) for direct and ready means of exit from the sleeper berth into the driver's seat or compartment, an aperture that meets the exit dimensional requirements must be cut into the floor of the motorcoach. This reduces the seating capacity of the motorcoach. The FHWA would like to know about other motorcoach sleeper berth designs which may or may not meet the current requirements of § 393.76.

The FHWA is requesting public comment on the question of whether, and if so how, existing sleeper berth regulations should be amended to address design differences between motorcoaches and commercial trucks.

Questions

The FHWA would appreciate comments on the following questions. Commenters are also encouraged to discuss any other matters related to sleeper berths on motorcoaches which they believe the FHWA should address.

1. Should existing sleeper berth regulations be amended to account for design differences between motorcoaches and trucks? If so, what changes should be made and why?

2. What is the current extent of sleeper berth usage within the motorcoach industry?

3. How many motorcoaches have been manufactured with sleeper berths as part of their original equipment? How and where are these sleeper berths installed? How many comply with § 393.76? How many do not?

4. How many motorcoaches have been retrofitted with sleeper berths? How and where are these sleeper berths installed? How many comply with § 393.76? How many do not?

5. Do after-market changes, such as cutting holes in the floor or modifying the cargo compartment, affect the structural integrity of the motorcoach?

6. The FHWA notes that if a driver sleeper berth is located within the baggage area and occupied while the motorcoach is in operation, the occupant could be vulnerable to a side impact collision. Are special requirements needed to ensure the occupants' safety?

7. If a driver sleeper berth is located in the baggage area of a motorcoach, should its location be restricted (e.g., only the forward-most portion of the baggage area)? If the sleeper berth is used while the vehicle is in operation, would having the sleeper berth near the rear of the motorcoach subject persons occupying the berth to excessive heat, noise, or exhaust?

8. The current requirements of § 393.76 for a direct and ready means of exit from the sleeper berth into the driver's seat or compartment may be design-restrictive for motorcoaches. Should the exit requirements allow a ready means of exit into the passenger compartment of the motorcoach instead of the driver's seat or compartment?

9. Would separate motorcoach sleeper berth regulations enhance motorcoach safety or benefit the motorcoach industry? If yes, how?

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practical. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a "significant regulatory action" under Executive Order 12866 or a "significant" regulation under the regulatory policies and procedures of

the DOT. Due to the preliminary nature of this document and lack of necessary information on costs, however, the FHWA is unable to evaluate the economic impact of potential changes to regulatory requirements concerning the use and design of driver sleeper berths in the motorcoach industry. Based on the information received in response to this notice, the FHWA intends to carefully consider the costs and benefits associated with possible amendments to the regulations. Comments, information, and data are solicited on the economic impact of the potential changes.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate the effects of the potential regulatory changes on small entities. Based on the information received in response to this notice, the FHWA intends, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), to carefully consider the economic impacts of these potential changes on small entities. The FHWA solicits comments, information, and data on these impacts.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

National Environmental Policy Act

This agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Freight transportation, Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. app. 2505; 49 U.S.C. 3102; 49 CFR 1.48.

Issued on January 5, 1994.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 94–738 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–22–P

Notices

Federal Register
Vol. 59, No. 8
Wednesday, January 12, 1994

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

Animal and Plant Health Inspection Service

[Docket No. 93–162–1]

Availability of Environmental Assessments and Findings of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
93–252–01	Monsanto Agricultural Company.	11–17–93	Potato plants genetically engineered to express resistance to potato leaf roll virus.	Florida.
93–281–01, renewal of permit 92–174–02, issued on 11–03–92.	Pioneer Hi-Bred International, Incorporated.	11–17–93	Corn plants genetically engineered to express resistance to maize dwarf mosaic virus strain A, maize chlorotic mottle virus, or maize chlorotic dwarf virus.	Hawaii, Puerto Rico.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 6th day of January 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–672 Filed 1–11–94; 8:45 am]

BILLING CODE 3410–34–P

[Docket No. 93–161–1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that four applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room. You may obtain copies of the documents by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
93–320–01	U.S. Department of Agriculture, Agricultural Research Service.	11–16–93	Barley plants genetically engineered to express resistance to barley yellow dwarf virus.	California, Idaho, Illinois.
93–340–01, renewal of permit 93–214–01, issued on 09–10–93.	PanAmerican Seed	12–06–93	Carrot plants genetically engineered to express modified nutritional value.	Illinois.
93–340–02	PetoSeed Company Incorporated.	12–06–93	Carrot plants genetically engineered to express modified nutritional value.	Idaho.
93–341–01	University of California, Berkeley.	12–07–93	A strain of the bacterium *Erwinia herbicola* genetically engineered to inhibit production of 3-indole acetic acid.	California.

Done in Washington, DC, this 6th day of January 1994.

Lonnie J. King,

Actng Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–673 Filed 1–11–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of permit modifications.

SUMMARY: Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), nine public display permits are modified to extend the authority to take Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display purposes until December 31, 1994.

EFFECTIVE DATE: These modifications are effective January 1, 1994.

ADDRESSES: The permits, as modified, are available for review by appointment in the Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, room 13130, Silver Spring, Maryland 20910, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The following public display permits have been extended: Public Display Permit No. 558, issued to Loro Parque, S.A., 38400 Puerto de la Cruz, Tenerife, Spain; Public Display Permit No. 588, issued to Mystic Marinelife Aquarium, 55 Coogan Boulevard, Mystic, Connecticut 06355–1997; Public Display Permit No. 608, issued to Aquarium of Niagara Falls, 701 Whirlpool Street, Niagara Falls, New York 14301–1094; Public Display Permit No. 627, issued to Horizons West, Ltd., dba Marine Life Aquarium, 6001 South Highway 16, Rapid, City, South Dakota 57701; Public Display Permit No. 628, issued to the Indianapolis Zoological Society, Inc., 1200 West Washington Street, Indianapolis, Indiana 46222; Public Display Permit No. 632, issued to Marine World Foundation, Marine World Parkway, Vallejo, California 94589; Public Display Permit No. 647, issued to Gulf World, Inc., 15412 Front Beach Road, Panama City Beach, Florida 32407; Public Display Permit No. 649 issued to Marine Animal Productions, Inc., Gulfport, Mississippi 39502–4078; Public Display Permit No. 656 issued to the National Aquarium in Baltimore, Pier 3, 501 East Pratt Street, Baltimore, Maryland 21202. All conditions of the original permits and subsequent modifications shall remain in effect.

A voluntary moratorium has been in effect on the removal of dolphins from the Gulf of Mexico since February 1990. During that time, NMFS has extended the public display permits of permit holders, who had previously been authorized to capture Atlantic bottlenose dolphins, but deferred collecting the animals as a result of the

moratorium. The permit holders listed above have requested that their permits authorizing the collection of dolphins be extended through 1994. NMFS has granted their requests. However, in light of questions about the status and health of wild populations of Atlantic bottlenose dolphins and the availability of dolphins from sources other than the wild, NMFS is continuing to ask collectors to participate in a voluntary moratorium on dolphin collection. NMFS will consider requests to collect only if there is reasonable indication that dolphins from the wild are necessary to maintain a public display collection.

Dated: January 5, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–697 Filed 1–11–94; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title: DoD FAR Supplement (DFARS), Part 225, International Acquisition, and Subpart 252.2, Texts of Provisions and Clauses.

Type of request: Emergency Processing—Approval date requested: December 31, 1993.

Number of respondents: 3,465.

Responses per respondent: 4.7.

Annual responses: 16,333.

Average burden per response: .25 Hours.

Annual burden hours: 4,083.

Needs and uses: The provisions at DFARS 252.225–7006, Buy American Act—Trade Agreements Act—Balance of Payment Program Certificate, and 252.227–7035, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate, require offerors to identify end products that are not domestic. This information is necessary to evaluate offerors under policy providing a preference for certain products. Under trade agreements, including the North American Free Trade Agreement Implementation Act, unless specifically exempted by statute or regulation, agencies are required to evaluate offers (over certain dollar limitations), without regard to restrictions of the Buy American Act or the Balance of Payments program. Offerors identify excluded end products in these two provisions.

Affected public: Businesses of other for-profit; non-profit institutions; and small businesses or organizations.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain a benefit.

OMB desk officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–675 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

AGENCY: National Communications System, DoD.

ACTION: Notice of meeting.

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held on Monday, January 31, 1994 from 9 a.m. to 3 p.m. at the Mitre-Hayes Building, 7525 Colshire Drive, McLean, VA 27006. The agenda is as follows:

—Call to Order
—NSTAC XVI Planning and Status of NSTAC XV Recommendations
—IES–OMNCS–COP Issues Ad Hoc Group
—Common Channel Signaling Task Force
—Wireless Services Task Force
—National Information Infrastructure Task Force
—Network Security Steering Committee
—Global Games
—New Business
—Adjournment.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (703) 692–9274 or write the Manager, National Communications System, 701 S. Court House Road, Arlington, VA 22204–2198.

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–676 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Defense Acquisition Reform (Phase II); Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Defense Acquisition Reform (Phase II) will meet in closed session on February 9, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will further define the elements of pilot industry initiatives for jet engines and a segment of electronics, further define the elements of pilot initiatives for two unified commands, and assess the DoD review comments on our Phase I report and recommend changes in approach if appropriate.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–678 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Chemical Weapons; Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Chemical Weapons will meet in closed session on March 24–25,

1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review all available intelligence and reports of detection of chemical agents and toxins during Desert Shield, Desert Storm, and the post war period. Also, review scientific and medical evidence relating exposure to nerve agents at low levels and long term health effects.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–679 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Strategic Environmental Research and Development Program, Scientific Advisory Board; Meeting

ACTION: Notice.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: Wednesday, January 26, 1994 thru Friday, January 28, 1994. 0800 to approximately 1700.

Place: Los Alamos National Laboratory, J. Robert Oppenheimer Study Center, Los Alamos, New Mexico.

Matters To Be Considered: Research and Development proposals requesting SERDP funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

For Further Information Contact: Ms. Ann Maxwell or Mr. John Rupnik, 2200 Clarendon, suite 900, Arlington, VA 22201, 703–525–9400.

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–677 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 174. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possession of the United States. Bulletin Number 174 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: January 1, 1994.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 3710–08–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:				
ADAK 5/	$ 10	$ 34	$ 44	10-01-91
ANAKTUVUK PASS	83	57	140	12-01-90
ANCHORAGE				
06-01--09-15	174	67	241	06-01-94
09-16--05-31	82	58	140	01-01-94
ANIAK	73	36	109	07-01-91
ATQASUK	129	86	215	12-01-90
BARROW	105	83	188	11-01-93
BETHEL	82	69	151	10-01-93
BETTLES	65	45	110	12-01-90
COLD BAY	110	54	164	07-01-93
COLDFOOT	95	59	154	10-01-92
CORDOVA	60	81	141	01-01-94
CRAIG	67	35	102	07-01-91
DILLINGHAM	85	64	149	11-01-93
DUTCH HARBOR-UNALASKA	113	67	180	05-01-92
EIELSON AFB				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
ELMENDORF AFB				
06-01--09-15	174	67	241	06-01-94
09-16--05-31	82	58	140	01-01-94
EMMONAK	62	61	123	10-01-93
FAIRBANKS				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
FALSE PASS	80	37	117	06-01-91
FT. RICHARDSON				
06-01--09-15	174	67	241	06-01-94
09-16--05-31	82	58	140	01-01-94
FT. WAINWRIGHT				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
HOMER				
05-01--09-30	71	60	131	05-01-93
10-01--04-30	53	62	115	12-01-92
JUNEAU				
04-30--09-14	92	74	166	04-30-94
09-15--04-29	78	73	151	01-01-94
KATMAI NATIONAL PARK	89	59	148	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	MAXIMUM PER DIEM RATE = (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
KENAI-SOLDOTNA				
04-02--09-30	$104	$ 74	$178	04-02-94
10-01--04-01	67	71	138	01-01-94
KETCHIKAN				
04-01--09-30	82	68	150	04-01-94
10-01--03-31	69	70	139	01-01-94
KING SALMON 3/	75	59	134	12-01-90
KLAWOCK	75	36	111	07-01-91
KODIAK	74	65	139	01-01-94
KOTZEBUE	133	87	220	05-01-93
KUPARUK OILFIELD	75	52	127	12-01-90
METLAKATLA	79	44	123	07-01-91
MURPHY DOME				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
NELSON LAGOON	102	39	141	06-01-91
NOATAK	133	87	220	05-01-93
NOME	71	67	138	10-01-93
NOORVIK	133	87	220	05-01-93
PETERSBURG	72	64	136	05-01-92
POINT HOPE	99	61	160	12-01-90
POINT LAY 6/	106	73	179	12-01-90
PRUDHOE BAY-DEADHORSE	73	60	133	11-01-93
SAND POINT	75	36	111	07-01-91
SEWARD				
05-01--09-30	90	65	155	05-01-94
10-01--04-30	52	62	114	01-01-94
SHUNGNAK	133	87	220	05-01-93
SITKA-MT. EDGECOMBE	79	71	150	01-01-94
SKAGWAY				
04-01--09-30	82	68	150	04-01-94
10-01--03-31	69	70	139	01-01-94
SPRUCE CAPE	74	65	139	01-01-94
ST. GEORGE	100	39	139	06-01-91
ST. MARY'S	77	59	136	06-01-93
ST. PAUL ISLAND	62	63	125	10-01-93
TANANA	71	67	138	10-01-93
TOK				
05-02--09-30	60	58	118	05-02-94
10-01--05-01	51	57	108	01-01-94

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	MAXIMUM PER DIEM RATE = (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
UMIAT	$ 97	$ 63	$160	12-01-90
VALDEZ				
05-01--09-14	95	61	156	05-01-94
09-15--04-30	79	59	138	01-01-94
WAINWRIGHT	90	75	165	12-01-90
WALKER LAKE	82	54	136	12-01-90
WRANGELL				
04-01--09-30	82	68	150	04-01-94
10-01--03-31	69	70	139	01-01-94
YAKUTAT	77	58	135	11-01-93
OTHER 3, 4, 6/	63	48	111	01-01-93
AMERICAN SAMOA	85	47	132	12-01-91
GUAM	155	75	230	05-01-93
HAWAII:				
ISLAND OF HAWAII: HILO	73	61	134	06-01-93
ISLAND OF HAWAII: OTHER	80	71	151	06-01-93
ISLAND OF KAUAI				
04-01--11-30	110	75	185	06-01-93
12-01--03-31	122	76	198	12-01-93
ISLAND OF KURE 1/		13	13	12-01-90
ISLAND OF MAUI				
04-01--11-30	79	71	150	06-01-93
12-01--03-31	96	73	169	12-01-93
ISLAND OF OAHU	105	62	167	06-01-93
OTHER	79	62	141	06-01-93
JOHNSTON ATOLL 2/	21	20	41	10-01-93
MIDWAY ISLANDS 1/		13	13	12-01-90
NORTHERN MARIANA ISLANDS:				
ROTA	68	55	123	01-01-93
SAIPAN	100	69	169	01-01-93
TINIAN	50	55	105	01-01-93
OTHER	20	13	33	12-01-90
PUERTO RICO:				
BAYAMON				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
CAROLINA				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO: (CONT'D)				
FAJARDO (INCL CEIBA, LUQUILLO AND HUMACAO)				
04-16--12-10	$ 65	$ 52	$117	10-01-93
12-11--04-15	110	52	162	12-11-93
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
MAYAGUEZ	85	65	150	08-01-92
PONCE	96	75	171	09-01-93
ROOSEVELT ROADS				
04-16--12-10	65	52	117	10-01-93
12-11--04-15	110	52	162	12-11-93
SABANA SECA				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
OTHER	63	52	115	08-01-92
VIRGIN ISLANDS OF THE U.S.				
06-02--12-19	180	112	292	09-01-93
12-20--06-01	255	120	375	12-20-93
WAKE ISLAND 2/	4	17	21	12-01-90
ALL OTHER LOCALITIES	20	13	33	12-01-90

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

3/ On any day when US Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.

6/ The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily Rate
DOD Personnel	$13
Non-DOD Personnel	$30

BILLING CODE 3710-08-C

Dated: January 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–680 Filed 1–11–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 3 & 4 February 1994.

Time of Meeting: 0830–1700.

Place: Washington, DC, Pentagon.

Agenda: The Army Science Board's C3I Issue Group study team will meet on 3 February 1994 in conference room 3E384 and 4 February 1994 in conference room 2E465 to finalize their study on "Moving Army Tactical Command and Control System (ATCCS) from a Character-Oriented Message System to a Data-Oriented Message System." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–791 Filed 1–11–94; 8:45 am]

BILLING CODE 3710–08–M

Military Personal Property and Claims Symposium—Open Meeting

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of open meeting.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting.

Name of Committee: Military Personal Property and Claims Symposium.

Date of the Meeting: Thursday, 27 January 1994.

Place: Best Western Old Colony Inn, Alexandria, VA.

Time: 0830–1600.

Agenda: The purpose of the symposium is to provide an open discussion and the free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation, DOD 4 500.34R. and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MTOP–QSS, (703) 756–0754, Between 0800–1630 hours. Topics to be discussed should be received on or before 7 January 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–792 Filed 1–11–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER93–712–000, et al.]

PSI Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

January 5, 1994.

Take notice that the following filings have been made with the Commission:

1. PSI Energy, Inc.

[Docket No. ER93–712–000]

Take notice that PSI Energy, Inc. (PSI) and the City of Logansport, Indiana on December 17, 1993, tendered for filing additional supporting information to the FERC Filing in Docket No. ER93–712–000 to comply with a FERC staff request.

Copies of the filing were served on the City of Logansport Indiana and the Indiana Utility Regulatory Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Madison Gas Electric Co.

[Docket No. ER94–66–000]

Take notice that on December 17, 1994, Madison Gas and Electric Company (MGE) tendered for filing with the Federal Energy Regulatory Commission revised pages from the Interchange Agreements it and Heartland Energy Services, Inc. (HES). The revision caps the price of the daily rate for Negotiated Capacity and General Purpose Energy at the rate for weekly service. MGE and HES respectfully request an effective date of December 31, 1993.

MGE states that a copy of the filing has been provided to HES and the Public Service Commission of Wisconsin.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corp.

[Docket No. ER94–275–000]

Take notice that on December 16, 1993, Florida Power Corporation (Florida Power) requested the Commission to disclaim jurisdiction over agreements under which Florida Power rents distribution facilities to the City of Mount Dora, Florida, and Reedy Creek Utilities Company, respectively, or, if the Commission asserts jurisdiction, to accept the agreements for filing to become effective September 1, 1988 and June 5, 1978, respectively.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Co.

[Docket No. ER94–276–000]

Take notice that on December 16, 1993, Arizona Public Service Company (APS) tendered for filing the Interconnection Agreement (Agreement) between The United States of America on Behalf of The Colorado River Indian Irrigation Project (CRIP) and APS and Service Schedules A and B to the Agreement.

The Agreement provides a means by which the Parties will develop and operate their respective electric systems in a coordinated manner. The Service Schedules allow for various reciprocal transmission related services.

Copies of this filing have been served upon CRIP and the Arizona Corporation Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER94–283–000]

Take notice that PacifiCorp, on December 17, 1993, tendered for filing in accordance with the Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93–2–002, (Final Order) the Western Systems Coordinating Council (WSCC) Agreement, as amended, dated August 4, 1967 and the Western Systems Coordinating Council Agreement, dated November 18, 1993.

Copies of this filing were supplied to all parties to the WSCC Agreement, the Public Utility Commission of Oregon and the Utah Public Service Commission.

PacifiCorp requests that the Commission disclaim jurisdiction of the WSCC Agreements or if the Commission does assert jurisdiction PacifiCorp requests in accordance with the Final Order and 18 CFR 35.11 of the

Commission's Rules and Regulations and that a waiver of prior notice requirements be granted.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corp.

[Docket No. ER94–284–000]

Take notice that on December 17, 1993, Wisconsin Public Service Corporation (WPSC) tendered for filing an executed Transmission Service Agreement between WPS and Heartland Energy Services Inc. The Agreement provides for transmission service under the T–1 Transmission Tariff, FERC Original Volume No. 4.

WPS asks that the agreement become effective January 1, 1994.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Co.

[Docket No. ER94–286–000]

Take notice that on December 20, 1993, New England Power Company (NEP) submitted for filing executed Amendments to its Service Agreements with Granite State Electric Company, New Hampshire Electric Cooperative, and the Town of Littleton, New Hampshire (hereinafter Customers) under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that the proposed Amendments provide a monthly credit to its New Hampshire Customers based on a portion of the savings received by NEP through the issuance of tax-exempt financing authorized by the State of New Hampshire.

NEP requests waiver of the Commission's notice requirements so that the Amendments may become effective on January 1, 1994.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Green Mountain Power Corp.

[Docket No. ER94–287–000]

Take notice that on December 20, 1993, Green Mountain Power Corporation (GMP) tendered for filing a Service Agreement and Certificate of Concurrence for Montaup Electric Company under FERC Electric Tariff No. 2, known as GMP's Opportunity Transaction Tariff (Tariff). The Service Agreement is intended to supersede the unexecuted Service Agreement for Eastern Utilities Associates. The Service Agreement and Certificate of Concurrence will allow Montaup to enter into transactions, including exchange unit transactions, in accordance with the Tariff. No terms or conditions of the Tariff are affected by the form of Service Agreement.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Midwest Power Systems Inc.

[Docket No. ER94–288–000]

Take notice that on December 20, 1993, Midwest Power Systems Inc. (MPSI) tendered for filing a "Construction and Financing Agreement" (Financing Agreement) dated March 5, 1990, and a "First Amendment to Financing Agreement" (Amendment) dated December 10, 1992, between Associated Electric Cooperative, Inc. (AEC) and Iowa Power Inc., n/k/a MPSI. The Financing Agreement and the Amendment provide for the financing of MPSI's portion of certain MINT Line project facilities by AEC. MPSI received no financial gain from the Financing Agreement and the Amendment.

On July 30, 1993, the Commission issued its "Final Order" in Docket No. PL93–2–002, "Prior Notice and Filing Requirement", clarifying that agreements for joint ownership of transmission facilities must be filed. The Final Order also established an amnesty period during which such filings can be brought up to date. This filing falls within the provisions of the amnesty period.

MPSI requests a waiver of the Commission's rules so that the Financing Agreement may be approved retroactive to March 5, 1990, and the Amendment may be approved retroactive to October 1, 1992.

MPSI states that copies of this filing were served on Associated Electric and the Iowa Utilities Board.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Midwest Power Systems Inc.

[Docket No. ER94–289–000]

Take notice that on December 20, 1993, Midwest Power Systems, Inc. (MPSI) tendered for filing a Peaking Capacity Sales Agreement (Agreement) dated June 6, 1991, between Corn Belt Power Cooperative (Corn Belt) and Iowa Public Service Company, n/k/a MPSI. This Agreement's principle purpose is to establish terms for MPSI to purchase capacity and energy from Corn Belt from June 1, 1994, through September 30, 2000. Paragraph 12 of the Agreement allows for MPSI to sell capacity and energy to Corn Belt, at Corn Belt's sole option, in the months of October and November of each respective year.

On July 30, 1993, the Commission issued its "Final Order" in Docket No. PL93–2–002, "Prior Notice and Filing Requirements", clarifying that agreements for "the sale of electric power and energy to any person" must be filed. The Final Order also established an amnesty period during which such filings can be brought up to date. This filing falls within the provisions of the amnesty period.

MPSI requests that the Peaking Capacity Sales Agreement be approved effective June 1, 1994.

MPSI states that copies of this filing were served on Corn Belt and the Iowa Utilities Board.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Midwest Power Systems Inc.

[Docket No. ER94–290–000]

Take notice that on December 20, 1993, Midwest Power Systems Inc. (MPSI) tendered for filing a Transmission Line Terminal Facilities Agreement (Facilities Agreement) dated March 5, 1990, between Nebraska Public Power District (NPPD); Omaha Public Power District (OPPD), City of Lincoln, Nebraska (Lincoln); and Iowa Power Inc., n/k/a MPSI. The primary purpose of the Facilities Agreement is to provide for the construction, finance, maintenance, and ownership responsibilities of the Cooper Terminal Facilities. MPSI, OPPD, and Lincoln shall make payments to NPPD for the right to use the Cooper Substation, including the Cooper Terminal Facilities, for the purpose of scheduling power and energy transactions pursuant to the MINT Line Coordinating Agreement.

On July 30, 1993, the Commission issued its "Final Order" in Docket No. PL93–2–002, "Prior Notice and Filing Requirements", clarifying that agreements for the joint ownership of transmission facilities must be filed. The Final Order also established an amnesty period during which such filings can be brought up to date. This filing falls within the provisions of the amnesty period.

MPSI respectfully requests a waiver of the Commission's rules so that the Transmission Line Facilities Agreement may be approved retroactive to March 5, 1990.

MPSI states that copies of this filing were served on NPPD, OPPD, and Lincoln and the Iowa Utilities Board.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Northeast Utilities Service Co.

[Docket No. ER94–291–000]

Take notice that on December 20, 1993, Northeast Utilities Service Company (NUSCO) tendered for filing a Service Agreement to provide non-firm transmission service to Massachusetts Municipal Wholesale Electric Company (MMWEC) under the NU System Companies' Transmission Service Tariff No. 2. NUSCO states that a copy of this information has been mailed to MMWEC.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER94–292–000]

Take notice that PacifiCorp, on December 20, 1993, tendered for filing in accordance with Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93–2–002, agreements which contain provisions involving a return of energy losses associated with the purchase of Formula Power Transmission service from the Bonneville Power Administration (Bonneville).

Copies of this filing were supplied to Bonneville, the Public Utility Commission of Oregon and the Utah Public Service Commission. PacifiCorp requests in accordance with 18 CFR 35.11 of the Commission's Rules and Regulations and that a waiver of prior notice requirements be granted and that the filed agreements be accepted for filing effective as indicated for each of the agreements.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER94–293–000]

Take notice that PacifiCorp, on December 20, 1993, tendered for filing a Draft Harrison Interconnection and Transmission Facilities Conveyance Agreements between PacifiCorp and Portland General Electric Company (Portland General), dated September 9, 1993 which provide for an interconnection between PacifiCorp's and Portland's systems at PacifiCorp's Harrison Substation.

PacifiCorp requests that a waiver of prior notice be granted pursuant to the Commission's Final Order in Docket No. PL93–2–002 and that an effective date of October 31, 1990 be assigned to the filed agreement.

Copies of this filing were supplied to Portland and the Public Utility Commission of Oregon.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER94–294–000]

Take notice that on December 20, 1993, PacifiCorp tendered for filing, Amendment No. 2 to Contract No. 14–06–100–1152, Contract Between The United States of America and PacifiCorp For Use of Facilities For The Transmission of Electrical Power and Energy whereby PacifiCorp provides transfers to the Bureau of Reclamation (BuRec) Burbank Pumping Plants No. 2 and No. 3.

PacifiCorp requests a waiver of the Commission's prior notice requirements.

Copies of this filing have been supplied to BuRec, the South Columbia Basin Irrigation District, the Washington Utilities and Transportation Commission, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER94–295–000]

Take notice that PacifiCorp on December 20, 1993, tendered for filing a Letter Agreement between PacifiCorp and the City of Idaho Falls, Idaho (Idaho Falls), dated January 16, 1989 for reciprocal emergency backup electrical service.

PacifiCorp requests a waiver of prior notice be granted and that an effective date of February 28, 1989 be assigned to the Letter Agreement. This date is the date Idaho Falls executed the Letter Agreement.

Copies of this filing were supplied to Idaho Falls and the Bonneville Power Administration.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Power and Light Co.

[Docket No. ER94–296–000]

Take notice that on December 17, 1993, Wisconsin Power and Light Company tendered for filing with the Federal Energy Regulatory Commission four Letter Agreements between Wisconsin Power and Light Company (WP&L) and Manitowoc Public Utilities (MPU). Under the Negotiated Capacity Agreement, WP&L will make capacity and associated energy available to MPU and negotiated degrees of firmness, variable capacity charges, and variable time duration. Under the General Purpose Energy Agreement, WP&L will make non-firm energy available to MPU, with terms and quantities to be arranged by mutual agreement. Under the Emergency Energy Agreement, WP&L will make non-firm emergency energy available to MPU in quantities that, in WP&L's sole judgement, it can supply. Under the Negotiated Capacity Sub-Agreement, WP&L will supply MPU with 10 MW of firm power and energy from June 1, 1994 through May 31, 1995.

Wisconsin Power and Light respectfully requests an effective date sixty (60) days from the date of filing.

A copy of the filing has been served on the Public Service Commission of Wisconsin.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Co.

[Docket No. ER94–297–000]

Take notice that on December 20, 1993, Commonwealth Edison Company (Edison) submitted a Service Agreement, dated November 16, 1993, establishing PSI Energy, Inc. (PSI) as a customer under the terms of Edison's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

Edison requests an effective date of December 1, 1993, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served upon PSI and the Illinois Commerce Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Co., et al.

[Docket No. ER94–298–000]

Take notice that on December 20, 1993, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and GPU Nuclear Corporation, (the GPU Companies) tendered for filing rate schedules relating to the provision of operating and maintenance services for five generating stations located in New Jersey and Pennsylvania, namely, the Yards Creek and Kinzua (Seneca) pumped storage hydroelectric stations, the Homer City coal-fired generating station, and the Three Mile Island Oyster Creek nuclear generating stations. The subject rate schedules

were filed in response to the Orders of the Federal Energy Regulatory Commission issued July 30, 1993 and October 19, 1993.

Copies of the filing have been furnished to the Pennsylvania Public Utility Commission of New Jersey Board of Regulatory Commissioners.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

20. Jersey Central Power & Light Co.

[Docket No. ER94–299–000]

Take notice that on December 20, 1993, in response to the Orders of the Commission, dated July 30, 1993 and October 19, 1993, relating to the Prior Notice and Filing Requirements of the Federal Power Act in FERC Docket No. PL93–2, Jersey Central Power & Light Company (JCP&L) tendered for filing a proposed rate schedule supplement showing JCP&L's charges to Atlantic City Electric Company (ACE) to defray JCP&L's cost of operation and maintenance of certain interconnection facilities during the years 1982–1993 and proposed for 1994 relating to JCP&L's Interconnection Agreement with Atlantic City Electric Company (ACE) dated as of March 1, 1978.

Copies of the filing have been furnished to the New Jersey Board of Regulatory Commissioners.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

21. Central Vermont Public Service Corp.

[Docket No. ER94–300–000]

Take notice that Central Vermont Public Service Corporation (CVPS) on December 20, 1993, tendered for filing Borderline Agreement between New York State Electric & Gas Corporation and CVPS.

CVPS requests the Commission to waive its notice of filing requirements to permit the original contracts to become effective according to their respective terms.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

22. Central Hudson Gas & Electric Corp.

[Docket No. ER94–302–000]

Take notice that on December 20, 1993, Central Hudson Gas and Electric Corporation (CHG&E) tendered for filing an amendment to FERC Docket No. ER85–648–000 dated May 4, 1990 between CHG&E and New York Power Authority (NYPA). The amended agreement expands the firm transmission service provided by CHG&E for NYPA to include service on behalf of Economic Development Customers located in Orange & Rockland Utilities, Inc. service territory. In addition, the point of delivery of NYPA power and energy to CHG&E will be changed to CHG&E's Rock Tavern substation.

All other provisions of Docket ER85–648–000 shall remain in effect. CHG&E states that copies of the subject filing were served upon NYPA.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

23. Central Hudson Gas & Electric Corp.

[Docket No. ER94–303–000]

Take notice that on December 20, 1993, Central Hudson Gas & Electric Corporation (CHG&E) tendered for filing an amendment to FERC Contract No. 73 dated March 11, 1991 between CHG&E and Orange & Rockland Utilities, Inc. (O&R). The amended contract expands the transmission wheeling service provided by CHG&E to O&R to include the purchase of capacity and energy from the various sources of the New York Power Authority.

All other provisions including the rate that will be charged, of the existing contract remain in effect. CHG&E states that copies of the subject filing were served upon O&R.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

24. Central Hudson Gas & Electric Corp.

[Docket No. ER94–304–000]

Take notice that on December 20, 1993, Central Hudson Gas & Electric Corporation (CHG&E) tendered for filing an amendment to FERC Contract No. 26 dated August 26, 1993 between CHG&E and New York State Electric and Gas Corporation (NYSEG). The amended contract provides for an increase in the facilities charge associated with investment at the Smithfield Substation due to the replacement of a motor-operated manually controlled air break switch with a supervisory controlled circuit breaker.

The facilities charge increases from $57.00 per month to $2,415.00 per month and is retroactive to August 16, 1991 the date on which the circuit breaker was placed in service.

All other provisions of FERC Contract No. 26 shall remain in effect. CHG&E states that copies of the subject filing were served upon NYSEG.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

25. Nevada Power Co.

[Docket No. ER94–305–000]

Take notice that on December 20, 1993, Nevada Power Company (NPC), tendered for filing the Participation Agreement Reid Gardner Unit 4 (Agreement) between NPC and the California Department of Water Resources (CDWR) and subsequent changes to the transmission rate included in this Agreement. This Agreement provides for the Terms and Conditions for participation in the operation of the Reid Gardner Unit 4, a coal-fired steam generation unit of approximately 250 MW located at NPC's Reid Gardner generating station site in Clark County, Nevada.

Pursuant to 18 CFR 35.11, NPC requests waiver of the Commission's notice requirements, 18 CFR 35.3, to allow for an effective date of May 10, 1983. Additionally, pursuant to the Commission's findings in FERC docket No. PL93–2–002, NPC requests that all amnesty provisions be allowed.

Copies of this filing were served on CDWR and the Nevada Public Service Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

26. Keystone Energy Service Co.

[Docket No. ER94–306–000]

Take notice that on December 20, 1993, Keystone Energy Service Company, L.P. (Keystone) tendered for filing, pursuant to Section 205 of the Federal Power Act and Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the "Commission") a "Petition for Acceptance of Initial Rate Schedule and Waiver of Certain Commission Regulations" and an Initial Rate Schedule requesting the Commission approve, on a market basis, an Agreement for the Purchase of Electric Power between Keystone and Atlantic City Electric Company (ACE), as amended for the sale of capacity and associated from Keystone's cogeneration facility located in Logan Township, New Jersey. Keystone has requested a waiver of the notice requirements to permit filing of the Initial Rate Schedule more than 120 days prior to the proposed effective date.

Keystone has served a copy of the Petition on ACE.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

27. Central Vermont Public Service Corp.

[Docket No. ER94–307–000]

Take notice that on December 20, 1993, Central Vermont Public Service Corporation Inc. (CVPS), tendered for filing six Interconnections Agreements with the following Vermont facilities: Comtu Falls Corporation, Hydro Energies Corporation, Emerson Falls Hydro, Inc., Killington Hydroelectric Inc., Martinsville Hydro Corporation, and Springfield Hydroelectric Company as provided for pursuant to PL93–2–002.

CVPS requests the Commission to waive its notice of filing requirements to permit the original contracts to become effective according to their respective terms.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

28. Illinois Power Co.

[Docket No. ER94–311–000]

Take notice that on December 20, 1993, Illinois Power Company (IP) tendered for filing changes to Appendix A to the Interconnection Agreement between Central Illinois Power Service Company (CIPS), Illinois Power Company (IP), and Union Electric Company (UE). The changes provide for an additional point of interconnection between CIPS and IP, CIPS-IP Connection 39 - Sidney - West Kansas. IP proposes an effective date of October 1, 1983, and therefore, requests waiver of the Commission's notice requirements. The other changes to Appendix A include minor revisions to existing connection point working and the deletion of four connection points.

IP also tenders for filing a Reserve and Emergency Interchange Agreement and appendices "G", "H", "I", and "J" dated December 15, 1993.

Finally, IP tenders for filing a revised Appendix "Q" to the Facility Use Agreement between IP and CIPS dated January 17, 1956.

Copies of the filing have been served on CIPS, UE, and the Illinois Commerce Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

29. PacifiCorp

[Docket No. ER94–312–000]

Take notice that on December 20, 1993, PacifiCorp, tendered for filing in accordance with the Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93–2–003 (Final Order). Agreement Limiting Liability Among Western Interconnection Systems and related materials entitled Western Interconnected Electric Systems Blackout/Brownout Insurance Program (Related Materials).

Copies of this filing were supplied to all parties to WIES, the Public Utility Commission of Oregon and the Utah Public Service Commission.

PacifiCorp requests that the Commission disclaim jurisdiction of the Agreement Limiting Liability Among Western Interconnected Systems and/or Related Materials or, in the alternative, grant a waiver of prior notice pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations to allow the Agreement to become effective as of the date that each jurisdictional party executed the Agreement.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

30. San Diego Gas & Electric Co.

[Docket No. ER94–317–000]

Take notice that on December 21, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and the City of Riverside (Riverside).

SDG&E requests that the Commission allow the Agreement to become effective on the 1st of March, 1994 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Riverside.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

31. Tucson Electric Power Co.

[Docket No. ER94–322–000]

Take notice that on December 21, 1993, Tucson Electric Power Company (Tucson) tendered for filing an Amendment No. 1 to an Economy Energy Agreement between Tucson and Arizona Power Authority (APA). The Amendment was executed in response to a Staff request for more specific definition of certain terms contained in the Agreement.

The parties request an effective date of November 22, 1993, and therefore request waiver of the Commission's regulations with respect to notice of filing.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

32. Montaup Electric Co.

[Docket No. ER94–324–000]

Take notice that on December 21, 1993, Montaup Electric Company filed an Exhibit A designated Series No. 11, Newport No. 5, specifying electric power to be transmitted under the Service Agreement No. 6 with Newport Electric Corporation dated September 30, 1989 on file with the Commission under Docket No. ER85–391–000. Under the Amnesty Order issued July 30, 1993 in Docket No. PL93–2–002, Montaup requests waiver of the 60-day notice requirement to permit the service to become effective on March 1, 1985.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

33. New England Power Co. and Granite State Electric Co.

[Docket No. ER94–326–000]

Take notice that on December 21, 1993, New England Power Company (NEP) and Granite State Electric Company, tendered for filing a Property Sharing Agreement.

Pursuant to the Commission's Final Order in Docket No. PL93–2–000, dated July 31, 1993, the two companies request waiver of the Commission's notice requirements so that the Agreement may be made effective November 2, 1993.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

34. Niagara Mohawk Power Corp.

[Docket No. ER94–328–000]

Take notice that on December 21, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and the New York Power Authority (NYPA) dated December 13, 1993 providing for the terms and conditions of loss compensation for control area transactions.

The effective date of January 1, 1988 is requested by Niagara Mohawk.

Copies of this filing were served upon NYPA and the New York State Public Service Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

35. Niagara Mohawk Power Corp.

[Docket No. ER94–329–000]

Take notice that on December 21, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Lockport Energy Associates, L.P. (Lockport) dated

April 24, 1992 providing for the terms and conditions of an interconnect between Lockport's cogeneration facility and Niagara Mohawk's transmission system.

The effective date of April 24, 1992 is requested by Niagara Mohawk.

Copies of this filing were served upon Lockport and the New York State Public Service Commission.

Comment date: January 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell.

Secretary.

[FR Doc. 94–685 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2354–018]

Georgia Power Co.; Notice of Intent To Prepare an Environmental Assessment

January 6, 1994.

The Federal Energy Regulatory Commission (FERC) has received an application for relicensing of the existing North Georgia Hydroelectric Project (project). The project is located on the Tallulah, Tugalo, and Chattooga Rivers in Northeast Georgia and Northwest South Carolina. The project consists of six hydroelectric developments and is within the Savannah River Basin.

The FERC staff intends to prepare an Environmental Assessment (EA) on the hydroelectric project in accordance with the National Environmental Policy Act.

The EA will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include economic and engineering analyses.

A draft EA will be issued and circulated for review by all interested parties. All comments filed on the draft EA will be analyzed by the staff and considered in the final EA. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

The purpose of this notice and the scoping document, which is being sent to interested individuals, organizations, and agencies with environmental expertise and concerns, is to solicit from those entities comments that will assist the staff in identifying the scope of environmental issues that should be analyzed in the EA.

The scoping document will: (1) Identify preliminary environmental issues related to the proposed project, (2) identify preliminary resource issues that are not important and do not require detailed analysis, (3) identify reasonable alternatives to be addressed in the EA, and (4) solicit all available information, especially quantified data, on the resource issues, including points of view in opposition to, or in support of, the staff's preliminary views.

Written comments must be filed no later than March 3, 1994 with: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All written correspondence should clearly show the following caption on the first page:

North Georgia Hydroelectric Project, (FERC Project No. 2354–018)

Intervenors, those on the Commission's service list for this proceeding (parties), are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list. Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

A two-day site visit to the project is planned for January 31 and February 1, 1994. Those who wish to attend should contact Ms. JoLee Gardner, Georgia Power Company, at (404) 526–3576, by January 20, 1994, for details.

Any questions regarding this notice may be directed to Joe Davis, Environmental Coordinator, at (202) 219–2865.

Lois D. Cashell,

Secretary.

[FR Doc. 94–717 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. JD94–01916T Oklahoma–63]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

January 6, 1994.

Take notice that on December 29, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Red Oak common source of supply underlying portions of Pittsburgh and Latimer Counties, Oklahoma, qualifies as a tight formation under section 107(c)(5) of the Natural Gas Policy Act of 1978. The recommended area is described as:

Pittsburgh County
  Sections 35 and 36, T7N, R18E
Latimer County
  Sections 31 through 33, T7N, R19E
  Sections 1, 2, 10, 11, and 12, T6N, R18E
  Sections 4 through 9, T6N, R19E

The notice of determination also contains Oklahoma's findings that the referenced formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–718 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. JD94–01918T Oklahoma–65]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

January 6, 1994.

Take notice that on December 29, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's

regulations, that the Douglas (Tonkawa) Formation, underlying portions of Roger Mills and Ellis Counties, Oklahoma, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area is described as all of Sections 9, 10, 15–22, and 28–30, in Township 17 North, Range 24 West, and Sections 24 and 25, in Township 17 North, Range 25 West.

The notice of determination also contains Oklahoma's findings that the referenced formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–719 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–166–000, et al.]

Viosca Knoll Gathering System, et al.; Natural Gas Certificate Filings

January 4, 1994.

Take notice that the following filings have been made with the Commission:

1. Viosca Knoll Gathering System

[Docket No. CP94–166–000]

Take notice that on December 29, 1993, Viosca Knoll Gathering System (Viosca Knoll), 600 Travis, 7200 Texas Commerce Tower, Houston, Texas 77002, filed a petition for declaratory order in Docket No. CP94–116–000, requesting that the Commission declare that certain facilities Viosca Knoll proposes to construct along the edge of the Outer Continental Shelf (OCS) would have the primary function of gathering natural gas and would thereby be exempt from the Commission's jurisdiction pursuant to Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Viosca Knoll states that it proposes to construct approximately 95 miles of 20-inch O.D. pipeline extending from a platform owned and operated by Shell Offshore, Inc. in Main Pass Block 252 in a generally southwesterly direction to a terminating interconnection with the facilities of Tennessee Gas Pipeline Company (Tennessee) in South Pass Block 55 Offshore Louisiana. It is stated that Viosca Knoll's facilities would also include, in their initial configuration, a junction platform and six miles of 16-inch O.D. lateral interconnect with facilities owned by Southern Natural Gas Company (Southern) in Main Pass Block 289. It is also stated that Viosca Knoll's facilities would interconnect with production platforms and flow lines from production platforms at numerous locations along its entire length. Viosca Knoll indicates that its facilities would not include compression, would be operated at pressures ranging from 900 to 1,350 psig, and would be configured to gather natural gas from both the shallow and deepwater OCS and redeliver it to the nearest pipeline interconnections having adequate take-away capacity consistent with Viosca Knoll's objective of providing gas gathering infrastructure along the edge of the OCS. Viosca Knoll states that it is a partnership composed of Leviathan Gas Pipeline Partners, L.P. (Leviathan), and Tenneco Gas Gathering Co. (Tenneco Gathering) with each partner holding equal ownership shares. Viosca Knoll further states that Leviathan would be the administrative operator and that the system would not interconnect with any interstate pipeline affiliated with Leviathan. It is stated that Tenneco Gathering would physically operate and maintain the facilities.

Viosca Knoll seeks a declaratory order holding that its proposed facilities would have the primary function of gathering natural gas and would thereby be exempt from the Commission's jurisdiction pursuant to Section 1(b) of the Natural Gas Act. Viosca Knoll requests that an expedited decision be issued permitting the facilities to be placed into service by November 1994.

Comment date: January 25, 1994, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Florida Gas Transmission Co.

[Docket No. CP94–155–000]

Take notice that on December 22, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–155–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and transfer by sale to Onyx Pipeline Company, L.C. (Onyx), three compressor units, 15.7 miles of the Encinal Channel Lateral, the Phillips East White Point Lateral, the Shell East White Point Lateral, the Nueces Bay Lateral and related metering and appurtenant facilities, including permission to transfer by sale to Onxy the Phillips Spradley Lateral, all as more fully set forth in the application on file with the Commission and open to public inspection.

FGT states that the facilities it has agreed to sell to Onyx are located primarily in San Patricio County, Texas. FGT further states that the abandonment and sale proposed herein would not impair any current services nor would it disadvantage any FGT customer. FGT says that the proposed abandonment and sale of the subject facilities would save FGT approximately $10,500 per year in operating and maintenance costs.

Comment date: January 25, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 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/or 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–686 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11356–001 Utah]

Long Park Hydro Associates, dba Current Power Technologies; Surrender of Preliminary Permit

January 6, 1994.

Take notice that Long Park Hydro Associates, Permittee for the Long Park Project No. 11356, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11356 was issued April 20, 1993, and would have expired March 31, 1996. The project would have been located on Sheep Creek in Daggett County, Utah.

The Permittee filed the request on December 17, 1993, and the preliminary permit for Project No. 11356 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 94–720 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11357–001 Utah]

Moon Lake Hydro Associates, dba Current Power Technologies; Surrender of Preliminary Permit

January 6, 1994.

Take notice that Moon Lake Hydro Associates, Permittee for the Moon Lake Project No. 11357, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11357 was issued April 23, 1993, and would have expired March 31, 1996. The project would have been located on the West Fork of the Lake Fork River in Duchesne County, Utah.

The Permittee filed the request on December 17, 1993, and the preliminary permit for Project No. 11357 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 94–721 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. RP94–37–001 and RP94–90–000]

Alabama-Tennessee Natural Gas Co.; Proposed Change in FERC Gas Tariff

January 6, 1994.

Take notice that Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), on December 23, 1993, tendered for filing the following revisions to its FERC Gas Tariff, Second revised Volume No. 1, to be made effective November 1, 1993:

Second Revised Sheet No. 4B
Second Revised Sheet No. 140

According to Alabama-Tennessee, this filing is being made to comply with the order issued by the Commission on November 26, 1993 in Alabama-Tennessee Natural Gas Co., 65 FERC ¶ 61, 262 (1993). Alabama-Tennessee states that the first of these revised tariff sheets reflects certain minor changes to its proposed treatment of the Account No. 191 credit balance amounts contained in its original filing in this docket which it submitted on October 29, 1993. Second Revised Sheet No. 140 provides additional clarifying language that Alabama-Tennessee will flowthrough any purchased gas adjustment refunds regardless of when it receives such refunds. In addition, in connection with its filing, Alabama-Tennessee has submitted various working papers in connection with its proposed treatment of the Account No. 191 credit balance.

Alabama-Tennessee has requested such waiver of the Commission's regulations as may be necessary to accept and approve its filing as proposed.

Alabama-Tennessee states that copies of its filing were served upon the Company's customers and affected state commissions as well as all the parties shown on the Commission's official service list established in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1994. 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–722 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93–161–004, RP94–1–004 and RP94–108–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on January 3, 1994, Columbia Gas Transmission Corporation (Columbia), entered for filing as part of its FERC Gas Tariff, Second Revised Sheet No. 31 and Original Sheet No. 31A, to be made effective January 1, 1994.

Columbia states that this filing is being made in order to allow those customers that do not contest the settlement submitted on January 3, 1994, by Columbia and Supporting Intervenors in these proceedings to receive the immediate benefits of a reduction in Columbia's Weighted Cost of Gas (WACOG) surcharge filing in Docket No. RP94–1 from 7.22¢ per Dth to 3.8¢ per Dth, effective January 1, 1994, as provided for under the settlement. This surcharge applies to all City Gate deliveries under firm Rate Schedules FTS, SST and FTS for Columbia's current and former wholesale customers, including replacement shippers for capacity released by such customers. Parties will be eligible for such reduced WACOG surcharge if they do not advise Columbia or the Commission prior to January 24, 1994 that they contest the settlement or seek modifications or conditions to the settlement which are unacceptable to Columbia and the Supporting Intervenors. Contesting parties will continue to pay the currently effective 7.22¢ per Dth WACOG surcharge, subject to refund.

Columbia states that the parties are on notice that Columbia has the right to reimplement the 7.22¢ per Dth surcharge, effective January 1, 1994, in the event that the Commission rejects the settlement or provides modifications or conditions to the settlement which

are unacceptable to Columbia or the Supporting Intervenors.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–723 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–92–000, TQ94–3–23–000 and TM94–5–23–000]

Eastern Shore Natural Gas Co., Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing on December 30, 1993 certain revised tariff sheets included in Appendix A to the filing (to be in effect for November and December, 1993 and January, 1994) and also submitted for filing are tariff sheets in Appendix B (regular scheduled quarterly PGA filing) proposed to be effective February 1, 1994.

Eastern Shore states that the purpose of the instant filing is threefold: (1) To further modify the tracking provisions contained in Section 24 of the General Terms and Conditions of Eastern Shore's FERC Gas Tariff with respect to its CWS and CFSS rate schedules; (2) to track changes in Eastern Shore's pipeline suppliers' storage service rates; and (3) to reflect changes in Eastern Shore's commodity and demand sales rates.

Eastern Shore states that it seeks to reduce its CD commodity and increase its demand sales rates by $0.1559 and $0.1129 per dt, respectively, as compared to those sales rates filed in Eastern Shore's Out-Of-Cycle filing in Docket Nos. TQ94–2–23–000 and TM94–4–23–000. Such reduction in the CD commodity sales rate and increase in the demand sales rate are due to (1) lower prices being paid to Eastern Shore's suppliers under its market responsive gas supply contracts and (2) an increase in demand-related costs from upstream suppliers due to a revision in their Gas Research Institute (GRI) Charge effective January 1, 1994.

Eastern Shore states that copies of the filing have been served upon its 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, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–724 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–91–000]

Granite State Gas Transmission, Inc.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on December 28, 1993, Granite State Gas Transmission, Inc. (Granite State) tendered for filing the tariff sheets listed below in its FERC Gas Tariff, Third Revised Volume No. 1, containing changes in rates for effectiveness on December 28, 1993:

Original Sheet No. 32
Original Sheet No. 33
Original Sheet No. 34

According to Granite State, three additional tariff sheets, having no rate effect, are also submitted for editorial purposes in the tariff:

First Revised Sheet No. 20—Revised Index
Original Sheet Nos. 27–30 and 35–99—Reservations for Future Use

Granite State further states that the rate changes on Original Sheet Nos. 32 through 34 are submitted as a limited Section 4 filing to pass through to its customers, Bay State Gas Company and Northern Utilities, Inc., transitional costs pursuant to Order Nos. 636, et al., that have been directly billed to Granite State by upstream pipeline suppliers following the effectiveness of their restructuring proceedings. According to Granite State, it has been directly billed transitional costs by Algonquin Gas Transmission Company, Tennessee Gas Pipeline Company and National Fuel Gas Supply Corporation and its filing allocates such directly billed costs to its customers.

Granite State further states that it commenced its restructured operations on November 1, 1993, pursuant to a compliance plan approved by the Commission in Docket No. RS93–1–000. It is further said that Granite State previously filed tariff sheets with the Commission to recover certain of the upstream supplier transitional costs and the filing was rejected in a Letter Order issued July 28, 1993 advising that Granite State could file to recover such costs in a limited Section 4 filing when it had completed its restructuring process. (Docket Nos. TM93–14–4–000, et al.)

Granite State states that copies of its filing have been served on its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–725 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–117–000]

K N Wattenberg Transmission Limited Liability Co.; Tariff Filing

January 6, 1994.

On December 22, 1993, K N Wattenberg Transmission Limited Liability Company ("K N Wattenberg") tendered for filing the following revised tariff sheet:

Original Volume No. 1

First Revised Sheet No. 6

K N Wattenberg states that this tariff sheet reflects the Commission's revised Annual Charge Adjustment (ACA) unit charge and requests that the tariff sheet be made effective on October 1, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–726 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–2–117–000]

K N Wattenberg Transmission Limited Liability Co.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that K N Wattenberg Transmission Limited Liability Company, (K N Wattenberg) on December 22, 1993, tendered for filing proposed changes in its FERC Gas Tariff. Such adjustment is to track the revised GRI funding mechanism, effective January 1, 1994 per Commission Opinion No. 384 dated October 5, 1993, in Docket No. RP93–140–000. Copies of this filing were served upon the company's jurisdictional customers, and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–727 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–107–000]

Northwest Pipeline Corp.; Compliance Filing

January 6, 1994.

Take notice that on December 30, 1993, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance reconciling PGA workpapers.

Northwest states that the purpose of this filing is to comply with part 154 of the regulations of the Federal Energy Regulatory Commission (Commission) and with Order No. 636 and other orders issued by the Commission that required Northwest to file an estimate of its Account No. 191 balance as of October 31, 1993, and to file an estimated reconciliation of its Account No. 191 activity from its last filed annual PGA until October 31, 1993.

Northwest states that a copy of this filing has been served upon each of Northwest's affected sales customers, all intervenors in Docket No. RS92–69, consolidated with the official service list in all dockets to which the order pertained, and upon affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–728 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–104–000]

Overthrust Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on January 3, 1994, Overthrust Pipeline Company (Overthrust), tendered for filing and acceptance tariff sheets to Original Volume No. 1 and First Revised Volume No. 1–A of its FERC Gas Tariff to implement revised base rates, to become effective February 1, 1994. This filing is a general rate case submitted principally to comply with the terms of Overthrust's last settlement at Docket No. RP85–60. Overthrust tendered for filing and acceptance the following tariff sheets to is FERC Gas Tariff:

Original Volume No. 1

Sixteenth Revised Sheet No. 6
Second Revised Sheet No. 8
Second Revised Sheet No. 40
Second Revised Sheet No. 41

First Revised Volume No. 1–A

First Revised Sheet No. 4
First Revised Sheet No. 5
First Revised Sheet No. 12
First Revised Sheet No. 21
First Revised Sheet No. 70
First Revised Sheet No. 76
First Revised Sheet No. 77

Overthrust requests an effective date of February 1, 1994, for the tendered tariff sheets.

Overthrust states that the rates that it has proposed are based on the overall cost of service for the test period consisting of the twelve months ended October 31, 1993, adjusted to include the annual effect of: (a) Those costs which began to be incurred during the twelve month period but were not in effect for the full period; (b) those costs which have been incurred, increased or decreased since October 31, 1993; and (c) those added costs which are known and measurable with reasonable accuracy and which will become effective within nine months after October 31, 1993. Further, Overthrust states that the proposed rates would increase annual transportation revenues by approximately $3.1 million based on the 12-month period ended October 31, 1993.

Overthrust further states that it has included the Commission's Annual Adjustment Charge (ACA) as a direct cost in the rate case and proposes to eliminate the ACA provision from its FERC Gas Tariffs.

Overthrust states that copies of this filing were served upon Overthrust's jurisdictional customers, the Public Service Commission of The State of New York and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–729 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–105–000]

Ozark Gas Transmission System; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on January 3, 1994 Ozark Gas Transmission System (Ozark) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheet, with a proposed effective date of February 2, 1994:

Seventh Revised Tariff Sheet No. 4.

Ozark states that the filing is a general rate case submitted principally to comply with the terms of Ozark's settlement in Docket No. RP84–53. The filing reflects a base period encompassing the twelve months ending October 31, 1993, adjusted for known and measurable changes through the nine month period ending July 31, 1994. Ozark states that the filing utilizes straight fixed-variable rate design, the Ozark method of calculating an equity only rate base, and projected ITS throughput of 10,000 Dth. The proposed changes would decrease Ozark's cost of service by approximately $65,856 compared to the cost of service approved by the Commission in Docket No. RS92–72.

Ozark states that copies of the filing were served upon Ozark's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions and protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–730 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–106–000]

Pacific Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on January 3, 1994 Pacific Gas Transmission Company (PGT) tendered for filing Original Sheet No. 6B to its FERC Gas Tariff, First Revised Volume No. 1–A, to set forth the amount to be refunded as a result of the closeout of its Account No. 191.

PGT states that in conjunction with the implementation of restructured services on its system on November 1, 1993, sales to its sales customer, Pacific Gas and Electric Company (PG&E), as well as its Purchased Gas Adjustment mechanism terminated. Paragraph 31 of PGT's Transportation General Terms and Conditions governs the disposition of the balance of PGT's Account No. 191 as is existed on the day before the implementation of restructured service. As of October 1, 1993, the balance of its Account No. 191 was a credit balance of $2,158,042.

PGT states that Paragraph 31.5(f) requires it to refund to PG&E the credit balance of its Account No. 191 and to submit an accounting of the costs involved in support of this refund within 60 days of the implementation of restructured service. PGT states that it will refund the credit balance on December 30, 1993 and is submitting the required accounting as part of the instant filing in support of this refund.

PGT further states that a copy of its filing is being serviced on the affected customer and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–731 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93–173–001, TM94–2–86–001, TM94–2–86–002 & RP94–88–001]

Pacific Gas Transmission Co.; Change in FERC Gas Tariff

January 6, 1994.

Take notice that on December 28, 1993, Pacific Gas Transmission Company (PGT) tendered for filing and acceptance proposed tariff sheets to be a part of its FERC Gas Tariffs, First Revised Volume No. 1–A and Second Revised Volume No. 1. The purpose of this filing is to correct minor technical and pagination errors made in previous filings.

Take notice that on December 29, 1993, Pacific Gas Transmission Company (PGT) tendered for filing a correction to the Substitute Seventh Revised Sheet No. 5 to its FERC Gas Tariff, Second Revised Volume No. 1.

A copy of these filings have been served on interested state commissions and the parties of record.

Any person desiring to be heard or protest said filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–732 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–204–002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on December 30, 1993, Texas Eastern Transmission Corporation (Texas Eastern), submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

Sub First Revised Sheet No. 165
Sub First Revised Sheet No. 166
Sub First Revised Sheet No. 167

The proposed effective date of the filing is October 31, 1993.

Texas Eastern states that this filing is in compliance with ordering paragraph (C) of the Commission's October 29, 1993 Order in Docket No. RP93–204–000 (October 29 Order) and with the Commission's December 17, 1993 Order in Docket Nos. RS92–11–000, et al. (December 17 Order).

Texas Eastern states that the October 29 Order accepted tariff sheets filed on September 30, 1993 by Texas Eastern to recover Stranded Costs which allocated such costs on the basis of MDQs for customers under Rate Schedules CDS, FT–1, and SCT with an adjustment to reflect Peak Day or MDQ billing determinants for Rate Schedule SCT. Ordering paragraph (C) of the October 29 Order directed Texas Eastern, "to conform the subject filing to the Commission's action on Municipal Defense Group's small customer mitigation alternative methodology in Docket No. RS92–11–017 within 15 days of the date of the date of a Commission order therein." The Commission issued such an order on December 17, 1993. The tariff sheets submitted herewith are being filed in compliance with the October 29 Order to recover Stranded Costs using the allocation methodology accepted by the Commission in the December 17 Order.

Texas Eastern states that the October 29 Order authorized Texas Eastern to recover Stranded Costs totalling $3,696,950.41, including carrying charges, incurred from June 1, 1993 through August 31, 1993.

Texas Eastern states that the customer detail on the tariff sheets and on Attachment B of the filing includes the correction of a customer name from Equitrans, Inc. to Equitable Gas Company.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 13, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–733 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–204–003]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1994.

Take notice that on December 30, 1993, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 165
Second Revised Sheet No. 166
Second Revised Sheet No. 167

The proposed effective date of the tariff sheets is October 31, 1993.

Texas Eastern states that this filing is submitted pursuant to Section 15.2(D) of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Texas Eastern states that it filed tariff sheets on September 30, 1993 to recover Stranded Costs totalling $3,696,950.41. In an order issued October 29, 1993, the Commission accepted the tariff sheets filed on September 30. Concurrent with the filing being made herewith, and in compliance with the October 29 Order, Texas Eastern is filing substitute tariff sheets to the September 30 filing which revise the allocation methodology for customers under Rate Schedule SCT. On October 25, 1993, Texas Eastern received a rate refund from Columbia Gulf Docket Nos. RP91–160 and RP91–161, et al., related to June, July, and August 1993 activity, for $72,662.08, including carrying charges. Section 15.2(D) of the General Terms and Conditions states, "Any refunds received by Pipeline of amounts direct billed hereunder shall be flowed through to Customers in the proportion of each Customer's payment of such amounts, including carrying charges calculated in accordance with § 154.305 of the Commission's Regulations from the date of payment by the Customer to the refund date." The tariff sheets being filed herewith reflect a credit to the customers for the Columbia Gulf refund and uses the allocation methodology in the compliance filing being made concurrently.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 13, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–734 Filed 1–11–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00146; FRL–4754–7]

Guidance on Determining Environmentally Preferable Products and Services; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: EPA is announcing a public meeting to solicit input from all interested parties on developing guidance that Executive agencies can use in determining the preference and purchase of environmentally preferable products and services. This meeting is part of a process that EPA has established to obtain public input. The draft guidance is being developed to implement section 503 of Executive Order on Federal Acquisition, Recycling and Waste Prevention (Executive Order 12873).

DATES: The meeting will take place on February 7 and 8, 1994, starting at 9:30

a.m. on February 7, and 12:30 p.m. on February 8, and ending each day at 5 p.m. unless concluded earlier. Registration will occur one half hour before the meeting is scheduled to begin on both days. The second day will only proceed if there are more confirmed presenters than can be accommodated on the first day.

Requests to present oral testimony must be received on or before February 1, 1994, and will be scheduled on a first-come, first-served basis. Written comments must be received on or before March 10, 1994.

ADDRESSES: The meeting will be held at: EPA Headquarters, Auditorium, 401 M St., SW., Washington, DC.

Written comments on the concept paper, discussed in Unit II. of this document, and other aspects of implementation of section 503 should be sent to Eun-Sook Goidel (7409), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Claudia O'Brien (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Telephone (202) 260–0688; Fax (202) 260–0981.

SUPPLEMENTARY INFORMATION:

I. Background

On October 20, 1993, President Clinton signed Executive Order 12873, entitled "Federal Acquisition, Recycling and Waste Prevention," (58 FR 5411, October 22, 1993). Section 503 of Executive Order 12873 requires EPA to "issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products." Draft guidance for implementing this provision is to be published in the **Federal Register** by EPA within 180 days from the effective date of the Executive Order (April 18, 1994). The Executive Order also allows the Agency to issue additional guidance for public comment on how the principles can be applied to specific product categories.

II. Process

To implement section 503 of Executive Order 12873, the Agency is establishing a process whereby public input is solicited from all interested persons and organizations. This process will include public meetings and discussions with stakeholders where interested parties will be given an opportunity to comment on a concept paper. This concept paper will be available in late January and will describe the Agency's preliminary proposal on guiding principles that Federal agencies should use when making determinations for the preference and purchase of environmentally preferable products.

To schedule oral testimony at the public meeting and to obtain a copy of the concept paper, contact EPA's Public Hearing Hotline, 110 Hartwell Avenue, Lexington, MA 02173–3198; telephone (617) 674–7374. Callers will receive mail confirmation of their scheduled testimony and logistical information. Persons who wish to make oral presentations must restrict testimony to 7 minutes and are also expected to provide three written copies of their completed comments for inclusion in the official record. If interested parties are unable to attend the public meetings, they are invited to submit written comments to the Agency.

Finally, the Agency plans to hold a series of stakeholder meetings beginning in February, as time allows, at EPA Headquarters. The Agency will accept requests for participation in stakeholder meetings on a first-come, first-served basis. Persons or organizations wishing to sign up for stakeholder meetings with Agency representatives should contact Claudia O'Brien at the telephone number listed under FOR FURTHER INFORMATION CONTACT. Due to the limited amount of time available to develop the draft guidance, the Agency requests that organizations and companies with similar interests arrange to meet with Agency representatives during the same time period. The Agency may also hold a limited number of audio or video conferences for persons or organizations lacking travel funding. Interested persons should contact Claudia O'Brien at the telephone number listed under FOR FURTHER INFORMATION CONTACT.

III. Approach

The Agency has been directed by Executive Order 12873 to develop an approach for Federal acquisition of environmentally preferable products that not only minimizes environmental burden, but also provides incentives to industry to continuously improve the environmental performance of products and services to the Federal government. Ideally, the approach would guide Federal agencies in comparing environmental performance among competing products and services, so that the environmental impact becomes a criterion like cost or performance against which Federal agencies may select products or services.

As currently envisioned, the Agency's guidance on acquisition of environmentally preferable products would include three components: (1) General principles and procedures that apply across product categories and that Federal agencies can use when implementing acquisition programs for the purchase of environmentally preferable products; (2) guidance for applying these principles to specific products or product categories (to be developed as appropriate at a later date); and (3) a code of practice that Federal agencies could use when judging the credibility of non-governmental environmental certification or eco-labeling programs.

Dated: January 7, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 94–858 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4825–1]

Prevention of Significant Deterioration; Delegation of Authority; Maricopa County, AZ

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

ACTION: Delegation of authority.

SUMMARY: The Regional Administrator for EPA Region 9, San Francisco, has delegated full authority to Maricopa County to implement and enforce the federal Prevention of Significant Deterioration (PSD) program.

DATES: The effective date of the delegation agreement is November 22, 1993.

ADDRESSES: Environmental Management and Transportation Agency, Maricopa County Division of Air Pollution Control, 2406 South 24th Street, suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: Jessica Gaylord, Air and Toxics Division, U.S. Environmental Protection Agency, 75 Hawthorne Street (A–5–1), San Francisco, CA 94105, (415) 744–1256.

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency has delegated, under the provisions which are found in 40 CFR 52.21(u), to Maricopa County: (a) The authority for all sources in that County subject to review for the prevention of significant deterioration (PSD) of air quality, pursuant to Part C of Title I of the Clean Air Act, as amended August 7, 1977, and the requirements promulgated in

the July 1, 1992, edition of 40 CFR 52.21, as amended August 7, 1980, under authority of sections 101, 110, and 160–169 of the Clean Air Act: and (b) the authority to review, administer, and enforce throughout the County the PSD requirements imposed by the Clean Air Act sections 101, 110, and 160–169, and 40 CFR 52.21, as amended August 7, 1980.

The following letter and attached agreement represent the terms and conditions of the amended delegation.

The PSD Delegation of Authority is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 14, 1994.

Dated: December 13, 1993.

David P. Howekamp,

Director, Air and Toxics Division, Region IX.

United States Environmental Protection Agency

Region IX—75 Hawthorne Street, San Francisco, CA 94105–3901

December 16, 1993.

Karen J. Heidel, Ph.D., Environmental Management & Transportation Agency, 2406 South 24th Street, Suite E–214, Phoenix, AZ 85034.

Re: PSD Delegation Agreement for Maricopa County

Dear Dr. Heidel: I am pleased to transmit to you two signed originals of the delegation agreement for the Prevention of Significant Deterioration program. Please note that the delegation is effective on the date of the Regional Administrator's signature. EPA will shortly publish a notice in the **Federal Register** announcing the delegation.

EPA will continue to provide any guidance or technical assistance that may be needed for Maricopa County's implementation of this agreement. EPA is committed to including the Division of Air Pollution Control in decisions relating to determinations of noncompliance with permits issued under this agreement, intended PSD enforcement actions, and in any intended revocation proceedings related to this agreement. We are also committed to maintaining, as I know you are, unobstructed channels of communication between our agencies. We look forward to a continuing partnership in the permitting program.

Sincerely,

David P. Howekamp,

Director, Air and Toxics Division.

Agreement for Delegation of Authority of the Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21) Between U.S. EPA and MC

The undersigned, on behalf of the Maricopa County (MC) and the United States Environmental Protection Agency (U.S. EPA), hereby agree to the delegation of authority for the administrative, technical and enforcement elements of the source review provisions of 40 CFR 52.21, Prevention of Significant Deterioration (PSD), as they may be amended and in accordance with the permit review requirements in 40 CFR part 124 subparts A and C, from U.S. EPA to MC, subject to the terms and conditions below. This delegation is executed pursuant to 40 CFR 52.21(u), Delegation of Authority.

I. General Delegation Conditions

A. Authority is delegated for all sources under the jurisdiction of MC that are subject to review for PSD. This includes all source categories listed in 40 CFR 52.21 for each pollutant regulated by the Clean Air Act.

B. This delegation may be amended at any time by the formal written agreement of both MC and U.S. EPA, including amendments to add, change, or remove conditions or terms of this Agreement.

C. If the Regional Administrator determines that the County is not implementing or enforcing the PSD program in accordance with the terms and conditions of this delegation, the requirements of 40 CFR 52.21, 40 CFR 124, or the Clean Air Act, this delegation, after consultation with MC, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the County. Nothing in this paragraph shall preclude U.S. EPA from exercising its enforcement authority, as provided in paragraph V.B. below.

D. The permit appeal provisions of 40 CFR 124.19 shall apply to all appeals to the Administrator on permits issued by MC under this delegation. For purposes of implementing the federal permit appeal provisions under this delegation, if there is a public comment requesting a change in a draft preliminary determination or draft permit conditions, the final permit issued by MC is required to contain statements which indicate that for Federal PSD purposes and in accordance with 40 CFR 124.15 and 124.19, (1) the effective date of the permit is 30 days after the final decision to issue, modify, revoke and reissue the permit; and (2) if an appeal is made to the Administrator, the effective date of the permit is suspended until such time as the appeal is resolved. MC shall inform U.S. EPA (Region IX) in accordance with conditions of this delegation when there is public comment requesting a change in the preliminary determination or in a draft permit condition. Failure by MC to comply with the terms of this paragraph shall render the subject permit invalid for Federal PSD purposes.

E. By this agreement, MC assumes authority for enforcement and permit modification/amendment for EPA issued NSR/PSD permits.

F. This delegation of authority becomes effective upon the date that both parties have signed the Agreement.

II. Communications Between U.S. EPA and MC

MC and U.S. EPA will use the following communication procedures:

A. MC shall report to U.S. EPA on a quarterly basis the compliance status of the sources that have received a PSD permit from either MC or U.S. EPA. The Aerometric Information Retrieval System (AIRS) will be used for this purpose. Compliance determinations will be made with respect to the conditions established in the PSD permits.

B. MC shall forward to U.S. EPA, at the beginning of the public comment period for each PSD permit, a summary of (1) the findings related to each PSD application, (2) the justification for MC's preliminary determination, and (3) a copy of the draft permit. Should there be any comments or concerns about the pending PSD permit, U.S. EPA shall communicate these comments and concerns to MC as soon as possible prior to the close of the public comment period.

C. MC shall forward to EPA Region IX (attn: A–5–1) copies of the final action on the PSD permit applications at the time of issuance, as well as copies of substantive public comments. MC must address any public comments not incorporated into the permit, and shall provide a summary of the responses.

D. MC shall send U.S. EPA copies of preliminary determinations on PSD permit modifications and amendments at or prior to the beginning of the public comment period. U.S. EPA will provide comments to MC prior to the close of the public comment period.

E. MC shall send to EPA a copy of all applicability determinations and justifications made that would involve PSD exemptions due to offsetting or netting (40 CFR 52.21(b)(3) and 52.21(b)(21).

III. Revisions to Title 40 CFR 52.21

A. This delegation covers any revisions that are promulgated for 40 CFR 52.21 and 40 CFR 124. The terms "40 CFR 52.21" and "40 CFR 124" as used in the delegation request and throughout this Agreement, include such regulations as are in effect on the date this Agreement is executed and any

revisions that are promulgated after that date.

B. In addition, the following U.S. EPA policies shall apply to PSD review:

1. U.S. EPA is responsible for the issuance of PSD permits on Indian Lands, under sections 110(c) and 301 of the Clean Air Act. States (or their delegates) have no authority to establish air pollution control requirements on Indian Reservations, unless requested to by the Tribal Governing Body.

2. According to U.S. EPA guidance published on September 22, 1987 and supplemental guidance published on July 28, 1988, all delegated agencies must now consider pollutants not subject to the Clean Air Act in their Best Available Control Technology (BACT) determinations. The BACT determinations must include a review of the toxic effects of unregulated pollutants and the impact of the proposed BACT on the emissions of these pollutants.

3. MC shall consult with the appropriate Federal, State, and local land use agencies prior to issuance of preliminary determinations on PSD permits. In particular, U.S. EPA requires that MC shall:

(a) Notify the Fish and Wildlife Service (FWS) and U.S. EPA when a PSD permit application has been received, in order to assist U.S. EPA in carrying out its non-delegable responsibilities under section 7 of the Endangered Species Act (PL 97–304).

(b) Notify potential applicants of the potential need for consultation between U.S. EPA and the FWS if an endangered species may be affected by the project. U.S. EPA's data sheet may be used for this process (copy enclosed).

(c) Refrain from issuing a final PSD permit unless the FWS has determined that the proposed project will not adversely affect any endangered species.

4. MC shall consider a dry scrubber for sulfur dioxide control, a baghouse or electrostatic precipitator for particulate control, and efficient combustion techniques for carbon monoxide control in their BACT determinations for municipal waste combustors pursuant to U.S. EPA guidance published on June 26, 1987.

5. MC shall begin any BACT determination with the most stringent control options available for that category, pursuant to additional BACT guidance issued on December 1, 1987. U.S. EPA will consider as deficient any BACT determination not complying with this "top-down" requirement.

6. Upon notification from EPA, MC shall implement such new regulations or directives pending revision of this Agreement.

IV. Permits

A. In any matter involving interpretation of sections 160–169 of the Clean Air Act, or 40 CFR 52.21, and of 40 CFR 124 where guidance on the implementation, review, administration, or enforcement of these sections has not been sent to MC, U.S. EPA will be contacted and requested to provide the appropriate guidance.

B. MC shall at no time grant any waiver to the PSD permit requirements.

C. Permits issued under this delegation shall contain language certifying that the Federal PSD requirements have been satisfied.

D. Authorities to Construct must include appropriate provisions, as specified in Attachment A, to ensure permit enforceability. Permit conditions shall, at a minimum, contain reporting requirements on initiation of construction, startup, and where applicable, source testing and continuous emissions monitoring systems (CEMS). In all cases where tests are required, the tests methods shall be specified. All cases where CEMS are required, appropriate testing and reporting requirements shall be included. Upset/breakdown and malfunction conditions shall be included in all permits.

E. U.S. EPA will assist MC in the BACT determination for all PSD permit applications filed with MC, such that U.S. EPA and MC jointly concur on each BACT determination. The signatures of U.S. EPA and MC on the final permit shall constitute concurrence on the BACT determinations

F. All modeling analyses for determination of increment consumption and compliance with the NAAQS will require the joint concurrence of U.S. EPA and MC. The signatures of U.S. EPA and MC on the final permit shall constitute concurrence on the modeling analyses.

G. Separate from conditions E and F and for a given time as specified in this subpart, U.S. EPA and MC shall jointly concur on the entire analysis and permit conditions for each PSD permit issued. This requirement for dual concurrence shall be waived beginning with the first application submitted and deemed complete two (2) years after the date of this agreement, or after U.S. EPA concurs with MC on ten (10) final permits issued pursuant to this delegation agreement, whichever occurs later. In any event, U.S. EPA shall provide written notice to MC when the requirement for dual concurrence no longer applies.

H. MC shall conduct an annual review of the NO_2 increment status for each Section 107 area designated as attainment over which it has jurisdiction and shall prepare a summary report of the review. Such review shall be made in accordance with current U.S. EPA guidance as provided to MC. Emissions from the following sources consume NO_2 increment: (1) any new major stationary source or modification of a major stationary source on which construction begins after February 8, 1988; and (2) minor, area, and mobile sources, after the minor source baseline date, as it is defined by 40 CFR 52.21. The initial review of the NO_2 increment status shall address the consumption of NO_2 increment between February 8, 1988, and the effective date of this agreement.

I. MC shall conduct an annual review, similar to the one in preceeding subpart H, on the status of the PM_{10} increment. For that part of Maricopa County designated nonattainment for TSP, the requirement for tracking PM_{10} increment consumption becomes effective on the date of receipt of the first major source application deemed complete after the June 3, 1994, implementation date for PM_{10} increments. For all other areas within Maricopa County, the minor source baseline date established for TSP remains in effect, but PM_{10} increments replace TSP increments as the particulate matter indicator.

J. U.S. EPA shall retain the responsibility of issuing the PSD permit for Palo Verde Steel, but enforcement of the final permit terms and conditions on the source shall be under local authority.

V. Permit Enforcement

A. The primary responsibility for enforcement of the PSD regulations as found in 40 CFR part 52 in Maricopa County will rest with MC, except where responsibility is vested in the State of Arizona. Pursuant to A.R.S. 49–402, the State of Arizona has original jurisdiction over the following sources in Maricopa County:

1. Smelting of metal ore.
2. Petroleum refineries.
3. Coal fired electrical generating stations.
4. Portland cement plants.
5. Air pollution generated by portable sources unless delegated to MC.
6. Air pollution by mobile sources for the purpose of regulating those sources as prescribed by A.R.S. Title 49, Chapter 3, Articles 4 & 5.

MC will enforce the provisions that pertain to the PSD program, except in those cases where the rules or policy of MC are more stringent. In such cases,

MC may elect to implement the more stringent requirements.

B. Nothing in this delegation agreement shall prohibit EPA from enforcing the PSD provisions of the Clean Air Act, the PSD regulations or any PSD permit issued by MC pursuant to this Agreement.

C. In the event that MC is unwilling or unable to enforce a provision of this delegation with respect to a source subject to the PSD regulations, MC will immediately notify the Regional Administrator. Failure to notify the Regional Administrator does not preclude U.S. EPA from exercising its enforcement authority.

Dated: November 9, 1993.

James D. Bruner,

Chairman, Maricopa County Board of Supervisors.

Dated: November 22, 1993.

John Wise,

Acting for

Felicia A. Marcus,

Regional Administrator, U.S. EPA Region IX.

Attachment A

All Authorities to Construct, where applicable, shall contain:

1. Identification of all points of emission, both stack and fugitive.

2. Specification of a numerical emission limitation for each point of emission in terms of mass rate and/or concentration limitations. If emission testing based on a numerical emission limitation is infeasible, the permit may instead prescribe a design, operational, or equipment standard. Any permits issued without numerical emission limitations must contain conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed so as to continuously achieve the assumed degree of control.

3. Limitations or factors which were the basis for the air quality impact analysis must be specified (e.g. hours of operation, stack height, materials processed which affect emissions).

4. Methods and frequency of determining continued compliance for each point of emission (such as from the SIP or if the source is subject to New Source Performance Standards [NSPS] or National Emission Standards for Hazardous Air Pollutants [NESHAP] or explicitly identified if a reference method is not used.

5. Recordkeeping requirements which enable the agency to ascertain continued compliance, especially where factors such as hours of operation, throughput of materials, sulfur content of fuels, fuel usage, and type or quantity of materials processed are conditions of the permit.

6. A condition that the permit such that it will expire if construction is not commenced within eighteen (18) months or a shorter period.

7. A condition that the source is responsible for providing sampling and testing facilities at its own expense.

8. A condition that continuous emission monitoring systems (CEMS) will be used for enforcement purposes.

9. Reporting requirements which enable the agency to monitor the following:

(a) Progress of source construction including the date by which construction is completed; and

(b) Compliance with (1) emission limitations, (2) operational limitations, (3) and work practice standards; the reporting requirements should include excess emissions reports and source test results.

10. Permits issued under this delegation should contain language certifying that the federal PSD requirements have been satisfied.

11. As a courtesy to sources exempted from PSD review due to federally enforceable operational or process restrictions, or the use of controls more stringent than required by applicable SIP limits, the source shall be advised that any relaxation of those limits may subject the entire source to full PSD review as if construction had not yet begun. Suggested language is as follows:

This source is exempt from PSD review because of * * * (state reason, for example, "the requirement that limits operation to eight hours per day"). Any relaxation in this limit which increases your potential to emit above the applicable PSD threshold will require a full PSD review of the affected source as if construction had not yet commenced.

[FR Doc. 94–802 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4825–2]

Prevention of Significant Deterioration; Rescission of Authority; Fresno County, CA

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

ACTION: Rescission of local PSD permitting authority.

SUMMARY: The Director, Air & Toxics Division, for EPA Region IX, San Francisco has rescinded local Prevention of Significant Deterioration (PSD) permitting authority in Fresno County, California.

DATES: Rescission of local PSD permitting authority is effective April 9, 1993.

ADDRESSES: David L. Crow, Executive Director/APCO, San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, suite 200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Jessica Gaylord, Air and Toxics Division, U.S. Environmental Protection Agency, 75 Hawthorne Street (A–5–1), San Francisco, CA 94105, (415) 744–1256.

SUPPLEMENTARY INFORMATION: In September 1991, the State of California passed legislation that effectively required the eight separate counties of the San Joaquin Valley Air Basin to form a single air pollution control district (APCD). EPA had delegated PSD authority to Fresno County APCD by an agreement dated December 23, 1985. Because the San Joaquin Valley Unified APCD has chosen to defer to EPA the regulation of sources subject to PSD rules at 40 CFR 52.21, EPA is responding to their request to rescind PSD authority previously delegated to Fresno County APCD. The following letter represents the terms and conditions of the rescission.

The PSD Delegation of Authority is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by March 14, 1994.

Dated: December 10, 1993.

David P. Howekamp,

Director, Air and Toxics Division, Region IX.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

April 9, 1993.

David L. Crow,

Executive Director/APCO, San Joaquin Valley, Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

Dear Mr. Crow: This letter responds to your request to EPA to rescind Prevention of Significant Deterioration (PSD) permitting authority in Fresno and Kern counties. We recognize that the request, dated March 16, 1993, and received by this office on March 19, 1993, is consistent with ongoing efforts to attain a more coordinated approach to air quality management in the San Joaquin Valley.

In September 1991, the State of California passed legislation that effectively required the formation of a single air pollution control district in the Valley Air Basin. To that end, eight counties joined efforts in March 1992 to form the San Joaquin Valley Unified Air Pollution Control District. The District comprises the counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, as well as that part of Kern County located in the Valley Air Basin.

By August 1992, the California Air Resources Board certified that the District met the requirements stated in SB 124.

EPA had specifically transferred PSD authority to Fresno County APCD by a delegation agreement, dated December 23, 1985. As mentioned in your letter, the District has chosen to defer to EPA the regulation of sources subject to PSD rules at 40 CFR 52.21. Therefore, EPA hereby rescinds authority delegated to Fresno County APCD to regulate sources subject to the federal PSD rules. Please note that no such agreement was made between EPA and Kern County, so that your request to rescind PSD authority in that county requires no further action.

Pursuant to grant conditions under § 105 (Program Objective 5), the District shall continue to provide to EPA notification, as soon as possible and prior to deeming the application complete, of all new major stationary sources and major modifications that may be subject to the federal PSD regulation. Specifically, this affects major stationary sources and major modifications to existing sources, as defined under part 52.21(b), that are located in areas designated as attainment within the San Joaquin Valley Unified APCD. The District should also provide notification to sources potentially affected by the federal PSD requirements. These sources must submit PSD permit applications to EPA and may be subject to enforcement action if construction commences before EPA issues a final PSD permit.

We look forward to continued cooperation with you and your staff, so that permits may be issued in a timely and effective manner. If you have further questions regarding this matter, please contact Jessica Gaylord of my staff at (415) 744–1256.

Sincerely,

Carl C. Kohnert, Jr.,

Acting for David P. Howekamp, Director, Air & Toxic Division.

[FR Doc. 94–803 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–P

[OPP–42024H; FRL–4743–5]

Notice of Approval of Amendment to Texas Plan for Certification of Applicators of Compound 1080 Livestock Protection Collars

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval of amended certification plan.

SUMMARY: On August 13, 1993, EPA announced its intention to approve an amendment to the Texas Plan for Certification of Applicators of Compound 1080 Livestock Protection Collars (LPC's). Public comments were solicited on this amended plan. The amended plan permits pooling of LPC's among certified LPC applicators. No comments were received and EPA therefore approves the amended plan.

FOR FURTHER INFORMATION CONTACT: Jerry Oglesby, Pesticides and Toxic Substances Branch, Region VI, Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202–2733, Telephone: 214–655–7563.

SUPPLEMENTARY INFORMATION: In accordance with the provision of section 11(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 171, the Texas Department of Agriculture submitted to EPA for approval, revisions to its current plan for certification of LPC applicators. The amendment to the Texas LPC certification plan permits the designation of collar pool agents. Certified LPC applicators are permitted to participate in a collar pool administered by a collar pool agent. The purpose of the collar pool is to reduce the number of LPC's in circulation by a pooling of LPC's. Certified LPC applicators will check out the LPC's from the collar pool agent immediately prior to use. When no longer needed, a LPC will be returned to the collar pool agent for distribution to another certified LPC applicator. All collar pool agents are considered agents of the registrant and are required to keep the same records. Further, the collar pool system will not affect the recordkeeping or reporting requirements of LPC users. EPA announced its intention to approve the amended plan in the **Federal Register** of August 13, 1993 (58 FR 43115), and solicited comments. No comments were received and EPA therefore approves the amended plan.

Copies of the amended plan are available for review at the following locations during normal business hours:

1. Texas Department of Agriculture, Stephen F. Austin Building, Rm. 1034F, 17th St. and Congress Ave., Austin, TX 78711, Telephone 512–463–0013.

2. Environmental Protection Agency, Region VI, 1445 Ross Ave., 12th Floor, Suite 1200, Dallas, TX 75202, Telephone: 214–655–7239.

Dated: December 6, 1993.

Allyn M. Davis,

Acting Regional Administrator, Region VI.

[FR Doc. 94–497 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34050; FRL 4748–9]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on April 12, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 13 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before April 12, 1994 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Registration No.	Product Name	Delete From Label
000769–00221	Suregard Grain Protectant Dust	Rice, grain sorghum and field or garden seed
000769–00921	Science Benomyl 50W	Roses (field & greenhouse), flowers, ornamentals (field & greenhouse)
000802–00460	Miller's Malathion 5E	Apples, pears, plums, prunes, interior buildings, meat processing establishments, stored grain, stored field and garden seeds
005481–00218	1-Naphthaleneacetic Acid Sodium Salt	Ornamentals, cherries (sweet), citrus (oranges, tangelos, tangerines/mandarins, tangors), olives, quince
005481–00219	1-Naphthaleneacetic Acid	Apples, cherries (sweet), pears, olives, quinces, citrus (oranges, tangelos, tangerines/mandarins, tangors)
005481–00430	Technical Naphthaleneacetic Acid	Apples, pears
005481–00431	Technical 1-Naphthaleneacetamide	Olives
005481–00432	Technical 1-Naphthaleneacetic Acid Sodium salt	Olives
005481–00433	Technical 1-Naphthaleneacetic Acid Ethyl Ester	Olives
005905–00112	Cythion ULV Concentrate Insecticide	Safflower, soybeans, tomatoes, sugar beets
005905–00293	Cythion 25 WP	Cranberries, livestock, plums, apples, pears, alfalfa, clover, vetch, apricots, beans, broccoli, brussel sprouts, cauliflower, cabbage, kale, mustard greens, turnips, celery, lettuce, spinach, cherries, citrus, cucumbers, melons, eggplant, grapes, peaches, peas, peppers, potatoes, tomatoes, walnuts, prunes
008590–00228	Agway Malathion Insect Spray	Asparagus, dog & cat, quarters, melons, pumpkins, watermelons
051036–00033	Malathion 25W	Eggplant, broccoli, turnips, endive, carrots, radishes, cabbage, collards, cauliflower, mustard, tomatoes, strawberries, peppers, okra, beans, lettuce, cucumbers, citrus (oranges, limes, tangelos, lemons kumquats & tangerines), peaches, peanuts, warehouse peanut spray

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000769	Sureco, Inc., P.O. Box 938, Fort Valley, GA 31030.
000802	The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland, OR 97218.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023.
005905	Helena Chemical Co., 6075 Poplar Ave., Suite 500, Memphis, TN 38119.
008590	Agway, Inc., c/o Universal Cooperatives, Inc., P.O. Box 460, Minneapolis, MN 55440.
051036	Micro Flo Co., P.O. Box 5498, Lakeland, FL 33807.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: December 21, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 94–378 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G3998/T653; FRL 4748–7]

Iprodione; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the fungicide Iprodione, its isomer and its metabolite in or on the raw agricultural commodity cotton seed.

DATES: This temporary tolerance expires January 1, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney C. Jackson, Acting, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6900.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc AG Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, has requested in pesticide petition (PP) 1G3998, the establishment of a temporary tolerance for the combined residues of the fungicide Iprodione [3-(3,5-dichlorophenyl)-*N*-(methylethyl)-2,4-dioxo-1-imidazolidinecarboximide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide], and its

metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide] in or on the raw agricultural commodity cotton seed at 0.10 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 264-EUP-91, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc AG Co., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 1, 1996. Residues not in excess of this amounts remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 21, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–376 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G3997/T654; FRL 4748–8]

Rhone-Poulenc AG Company; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for residues of the fungicide fosetyl-Al, aluminum tris (*O*-ethylphosphonate) in or on the raw agricultural commodity cotton at 0.20 parts per million (ppm).

DATES: This temporary tolerance expires January 1, 1996.

FOR FURTHER INFORMATION CONTACT By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5540.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of May 6, 1992 (57 FR 19428), announcing the establishment of temporary tolerance for residues of the fungicide fosetyl-Al, aluminum tris (*O*-ethylphosphonate) in or on the raw agricultural commodity cotton at 0.20 parts per million (ppm). This tolerance was issued in response to pesticide petition (PP) 1G3997, submitted by Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 264-EUP-91, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active fungicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc AG Company must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 1, 1996. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 21, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–377 Filed 1–11–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

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.: 224–200818.

Title: Port of Houston Authority/ Schroder Marine Services, Inc. Guarantee Assignment for Manchester No. 2 Terminal Agreement.

Parties: Port of Houston Authority ("Port"), Schroder Marine Services, Inc. ("Schroder").

Filing Agent: Martha T. Williams, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement would permit Schroder to perform freight handling services at the Port during the one year term of the Agreement.

By Order of the Federal Maritime Commission.

Dated: January 6, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–663 Filed 1–11–94; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 93–19]

Cancellation of Tariffs for Failure To Comply With Automated Tariff Filing and Information System ("ATFI") Filing Requirements

By Order published in the **Federal Register** (58 FR 50550) on September 28, 1993 ("September Order"), the Commission directed 103 carriers with tariffs on file in the Worldwide, Asian and South Pacific trade areas to show cause by November 12, 1993, why their paper tariffs should not be cancelled for failure to register and file a tariff in ATFI by the required date (i.e., June 4, 1993). This action was taken pursuant to section 8 of the Shipping Act of 1984 (U.S.C. app. 1707), the Commission's regulations implementing ATFI at 46 CFR part 514 and Supplemental Report Nos. 2, 3 and 4 [1] issued in Docket No. 90–23, Notice of Inquiry on Ocean Freight Tariffs in Foreign and Domestic Offshore Commerce (Automated Tariff Filing and Information System).

World Tariff Services, Inc. ("WTS"), filed the only formal response to the September Order. It did so on behalf of 26 carriers named in the Order.[2] Other carriers contacted the Commission informally by letter or telephone or filed their tariff in ATFI. The Commission did not receive any response whatsoever from 42 of the respondents.

WTS states that 14 of the carriers named in its response have satisfied the Commission's requirements and filed an ATFI tariff, that three carriers have ceased doing business and have voluntarily cancelled their tariffs, and that nine other carriers either have completed the ATFI registration process, are in the process of doing so, or recently submitted the necessary information to WTS so that it may initiate ATFI registration. Two of those carriers have in fact completed the registration process and filed an ATFI tariff.

The 42 carriers that did not respond to the September Order and have not registered in ATFI or filed an ATFI tariff will have their tariffs or portions of tariffs currently on file with the Commission with Worldwide, Asian or South Pacific scopes cancelled. Twenty-five carriers responded and/or registered for ATFI, but did not file the required tariff. These carriers, which include seven of WTS's clients, have not provided sufficient grounds to justify their failure to file. Accordingly, these carriers also will have their tariffs or applicable portions of their tariffs cancelled. Carriers who have filed their tariffs in ATFI will be dismissed from the proceeding.

Therefore, it is ordered, That the tariffs or portions of tariffs currently on file with the Commission with Worldwide, Asian or South Pacific scope of the carriers identified in Appendix A to this Order are cancelled effective upon publication of the Order in the **Federal Register**.

It is further ordered, That the parties listed in Appendix B to this Order are dismissed from this proceeding.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix A

Air Sea Shipping, Inc.
Air-Mar Shipping, Inc.
Amadeus Transport, Inc.
America Niugini Shipping Co., Inc.
American Consolidated Container Line, Inc.
American Freight Lines, Ltd.
Americargo Lines, Inc.
Astro Air Express, Inc.
Aust-Asia Worldwide Shipping Pty. Ltd.
Australian Freight Services Ltd.[1]
Blue Horizon
Cargamericas Forwarding Services, Inc.
Cheung, Daniel H.
Clipper Shipping Lines Ltd.
CMB Transport NV
Compass International Forwarding, Inc.
Costa Rica Shipping Co. Inc.
Crusader Swire Container Service Limited
Crystal Freight Services (HK) Ltd.
Daher M.T.S. Multimodal Transport System
El Caribe Moving Van, Inc.
Fargo Shipping Co. Ltd.
Four Points Shipping & Trading, Inc.
Freight Management Pte Ltd.
Hudson Container Line Ltd.
Interport Freight Systems, Inc.
Jetstream Freight Services International, Inc.
Jumbo Protectors Ltd.
Laser Freight Systems, Inc.
LCI Shipholdings, Inc.

[1] Supplemental Report No. 2, served August 4, 1992, Supplemental Report No. 3 (57 FR 59999) and Supplemental Report No. 4 (58 FR 31522) advised the public that failure to convert tariffs to ATFI format by scheduled filing dates would subject entities to show cause proceedings for cancellation of tariffs.

Sec. 502(b)(1) of Public Law 102–582 ("Pub. L. 102–582") requires all tariffs and essential terms of service contracts filed with the Commission to be in electronic format.

[2] ACB Ocean Line, Inc.; Alcar International Inc.; Aston International, Inc.; Breakbulk & Consolidation Services Pte Ltd.; Combitainer Ltd.; Enko International Ltd.; Fashion Distribution Services, Inc.; Firstair, Inc.; Freight International Services, Ltd.; International Cargo Express, Ltd.; Master Air Cargo, Inc.; United Cargo Link Italia Srl; Vantage International Forwarding Ltd.; W S A Lines Ltd.; American Freight Lines Ltd.; Amership, Inc.; LEP Freightways International Limited; Polar Steamship and Commerce Company Inc.; Pro-Service Forwarding, Co., Inc.; Sea Lanes Line Inc.; Americargo Lines, Inc.; Crystal Freight Services (HK) Ltd.; POL-Express, Inc.; DJ International Freight Services, Inc.; Tigris International Corp.; and United Transport Associates Inc.

[1] This firm changed its name from McIlwaraith McEacharn Operations Limited.

LEP Freightways International Limited
Marimed Shipping Company Limited
Martin Bencher (U.K.) Ltd.
Myanmar Container Line
N.V. Sealift S.A.
Nichiro Corp.
Oceanbridge Shipping Ltd.
Overseas International Corporation
PBX Overseas Transport
Pearcy Marine, Inc.
Pearl Delta Shipping Co., Ltd.
Pentrans, Inc.
Polar Steamship and Commerce Company Inc.
Polish Travel Center [2]
Pro-Service Forwarding Co., Inc.
R.C.T. Cargo Transport, Inc.
Rainbow Navigation, Inc.
Red Oak Industries, Inc.
Ren International Services, Inc.
Right-O-Way Ocean Transport International, Inc.
Rokuchu Marine Corporation
S.A. LD Seals N.V.
S.A. Louis Dreyfus Et Cie
Sanwa Sempaku Kabushiki Kaisha
Seaboard Trading and Shipping
Seacor Ocean Lines Inc.
Seafreight Container Line, Inc.
Sealift Services International Inc.
Shenk, David W.
Teeters Brothers Contracting Co.
Totalocean Line, Inc.
U.S. Trans-Link Inc.
UCB Freight Services (USA) Inc.
Van-Pax Global Consolidators, Inc.
Westwind Africa Line Limited
World Bridge Project Carriers, Ltd.
World Commerce Forwarding, Inc.

Appendix B

ACB Ocean Line, Inc.
Airport Brokers Corporation
Alcar International Inc.
Alliance Maritime Line, Inc.
Amership, Inc.
Aston International, Inc.
Breakbulk & Consolidation Services PTE Ltd.
China Navigation Co., Ltd., The
Combitainer Ltd.
Diamond Shipping Company
DJ International Freight Services Inc.
Eastar U.S.A. Inc.
ENKO International Ltd.
Fashion Distribution Services, Inc.
Firstair, Inc.
Freight International Services, Ltd.
International Cargo Express, Ltd.
Irish Warehousing & Transport Company, Ltd.
Master Air Cargo, Inc.
Multiforwarding Belgium N.V.
Rex Air & Ocean Freight, Inc.
Scan-Shipping, Inc.
Sea Lanes Line Inc.
Sealift Inc.
Simtex Ocean Services, Inc.
Skyway Systems
Societe Nationale Malgache De Transports Maritimes
Stalwart Shipping, Inc.
Tigris International Corp.
Trans America International Services, Inc.
Transport Systems Worldwide, Inc.
U.S. Express Inc.
United Cargo Link Italia SRL
United Transport Associates, Inc.
Vantage International Forwarding Ltd.
W S A Lines Ltd.

[2] This firm changed its name from Pol-Express, Inc.

[FR Doc. 94–664 Filed 1–11–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bren-Mar Properties, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 4, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Bren-Mar Properties, Inc., Columbia, Missouri; to acquire Jack's Fork Bancorporation, Inc., Columbia, Missouri, and thereby indirectly acquire Texas County Bank, Houston, Missouri; Bank of Mountain View, Mountain View, Missouri; and Summersville State Bank, Summersville, Missouri; and to acquire First Missouri Bancorporation, Inc., Columbia, Missouri, and thereby indirectly acquire First National Bank and Trust Company, Columbia, Missouri; and First Heritage National Bank, Davis, Oklahoma.

2. Community First Financial Group, Inc., English, Indiana; to acquire at least 30.95 percent of the voting shares of Peoples Trust Bank Company, Corydon, Indiana, a *de novo* bank.

3. First United Bancshares, Inc., El Dorado, Arkansas; to merge with InvestArk Bankshares, Inc., Stuttgart, Arkansas, and thereby indirectly acquire The Bank of North Arkansas, Melbourne, Arkansas, and First Stuttgart Bank & Trust Company, Stuttgart, Arkansas.

4. Murphy-Wall Bancorp, Pinckneyville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Murphy-Wall State Bank and Trust Company, Pinckneyville, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Aumanchester, Inc., Rochester, Minnesota; to acquire 100 percent of the voting shares of Security State Bank of Hammond, Hammond, Minnesota. In connection with this application, Rochester Bank and Trust Company, Rochester, Minnesota; has applied to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank of Hammond, Hammond, Minnesota, which will be merged into Rochester Bank and Trust Company.

2. Brill Bancshares, Inc., Owen, Wisconsin; to become a bank holding company by acquiring 89.9 percent of the voting shares of Brill State Bank, Brill, Wisconsin.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Limestone Bancshares, Inc., Mexia, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Mexia, Mexia, Texas.

2. Western Commerce Bancshares of Carlsbad, Inc., Carlsbad, New Mexico; to merge with Western Bancshares of Clovis, Inc., Carlsbad, New Mexico, and thereby indirectly acquire Western Bank of Clovis, Clovis, New Mexico.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–649 Filed 1–11–94; 8:45 am]

BILLING CODE 6210-01-F

Crestar Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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 (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged 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 February 4, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Crestar Financial Corporation, Richmond, Virginia; to acquire Annapolis Bancorp, Inc., Annapolis, Maryland, and its wholly-owned subsidiary, Annapolis Federal Savings Bank, Annapolis, Maryland, and thereby engage in owning and operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–650 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

First National Sylacauga Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 31, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First National Sylacauga Corporation, Sylacauga, Alabama; to engage *de novo* through its subsidiary, Frontier Financial Services, Inc., Sylacauga, Alabama, in making, acquiring, or servicing loans or other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; to engage *de novo* in data processing and data transmission services through the ownership, installation, operation, and maintenance of automatic teller machines at various retail store locations pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–651 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

Firstbank of Illinois Co., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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 (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these 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 February 4, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstbank of Illinois Co., Springfield, Illinois; to acquire 100 percent of the voting shares of Colonial Bancshares, Inc., Des Peres, Missouri, and thereby indirectly acquire The Colonial Bank, Des Peres, Missouri, and The Village Bank of St. Louis County, Ballwin, Missouri.

In connection with this application, Applicant also proposes to acquire Guido Insurance Agency, Des Peres, Missouri, and thereby engage in the sale of credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–652 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

Charles William Gerlach, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 31, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Charles William Gerlach, Palm Beach, Florida; to acquire 69.2 percent of the voting shares of White Eagle Financial Group, Inc., Boca Raton, Florida, and thereby indirectly acquire Admiralty Bank, Palm Beach Gardens, Florida.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Reuben A. Ellingson and Eunice R. Ellingson Family Revocable Trust, Bottineau, North Dakota; to acquire 16.53 percent of the voting shares of State Bank of Bottineau Holding Company, Bottineau, North Dakota, and thereby indirectly acquire State Bank of Bottineau, Bottineau, North Dakota.

2. Kathleen A. Nesvig, to acquire 17.22 percent of the voting shares of Omega City Holding Company, La Moure, North Dakota, and thereby indirectly acquire The First State Bank of La Moure, La Moure, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Don Bodard, Shawnee, Oklahoma; to acquire 100 percent of the voting shares of First Medicine Lodge Bancshares, Inc., Medicine Lodge, Kansas, and thereby indirectly acquire The First National Bank of Medicine Lodge, Medicine Lodge, Kansas.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–653 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

Home Credit Corporation; Notice of 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 (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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 February 1, 1994.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Home Credit Corporation, Salt Lake City, Utah; to engage *de novo* in lending activities, which include, but are not limited to loan participations with Home Credit Bank, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–708 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

Wachovia Corporation, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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 (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged 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 January 25, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Wachovia Corporation, Winston-Salem, North Carolina; to acquire shares of Southeast Switch, Inc., Maitland, Florida, and thereby engage in providing data processing and transmission services to federally insured depository institutions who participate in Company's neutral shared electronic funds transfer (EFT) network and providing related services, including the administration and promotion of the network; providing data processing transmission and related services to other EFT networks; and providing bank management consulting advice to depository institutions pursuant to §§ 225.25(b)(7) and (b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–654 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

Ronald L. Wohlwend, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 1, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Ronald L. Wohlwend, to acquire 25.03 percent of the voting shares of Illinois Valley Bancorp, Inc., Morris, Illinois, and thereby indirectly acquire Grundy County National Bank, Morris, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Wishek Grandchildren Voting Trust Agreement, Ashley, North Dakota; to acquire an additional 0.31 percent of the voting shares of McIntosh County Bank Holding Company, Inc., Ashley, North Dakota, for a total of 44.97 percent, and thereby indirectly acquire McIntosh County Bank, Ashley, North Dakota.

Board of Governors of the Federal Reserve System, January 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–709 Filed 1–11–94; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

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 for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the application waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12/13/93 AND 12/23/93

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
American Oil and Gas Corporation, American Central Gas Companies, Inc., American Central Gas Companies, Inc	94–0302	12/13/93
Westfield Holdings Limited, The Prudential Insurance Company of America, CenterMark Properties, Inc	94–0354	12/13/93
Grupo Iusacell S.A. de S.V., BellSouth Corporation, Mexican Cellular Investments, Inc	94–0374	12/13/93
Ramsay-HMO, Inc., Dr. Luis Cruz, Miami Dade Health Plan, Inc., Miami Dade Medical Center	94–0382	12/13/93
MLP Holdings L.P., Ralph J. Roberts, Comcast Sound Communications, Inc., et al.—see attached	94–0386	12/13/93
Whitehall Street Real Estate Limited Partnership III, The Prudential Insurance Company of America, CenterMark Properties, Inc	94–0390	12/13/93
AGCO Corporation, AGCO Corporation, AGCO Acceptance Company	94–0393	12/13/93
Norwest Corporation, APV plc, APV Douglas Machine Corporation	94–0396	12/13/93
AGCO Corporation, Varity Corporation, Agricredit Acceptance Company	94–0398	12/13/93
Kawasaki Heavy Industries, Ltd., International Business Machines Corporation, Altium	94–0401	12/13/93
Continental Bank Corporation, Custom Industries, Inc., Custom Industries, Inc	94–0402	12/13/93
Heidelberger Zement AG, J. Thomas Holton, Sherman International Corp	94–0403	12/13/93

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12/13/93 AND 12/23/93—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
DM Holdings, Inc., Fingerhut Companies, Inc., FDC, Inc	94–0410	12/13/93
Whitehall Street Real Estate, Pacific Mutual Life Insurance Company, Pacific Mutual Life Insurance Company	94–0411	12/13/93
Nova University, Inc., Southeastern University of the Health Sciences, Inc., Southeastern University of the Health Sciences, Inc	94–0414	12/13/93
Weiner Staedtische Wechseiseitige VV, Folksam General Mutual Insurance, Folksamerica Holding Company, Inc	94–0417	12/13/93
Societe Centrale Union des Assurances de Paris, Compagnie de Suez, Vinci BV	94–0418	12/13/93
Kvaerner a.s., Armco Inc., National-Oilwell	94–0422	12/13/93
Neil M. Chur, Beverly Enterprises, Inc., Beverly Enterprises—Texas, Inc	94–0423	12/13/93
Kvaerner a.s., USX Corporation, National-Oilwell	94–0424	12/13/93
Transit Communications Atlanta L.P., Hancock Venture Partners III L.P., Transit Communications Investors, Inc	94–0431	12/13/93
U S West, Inc., Russian Telecommunications Development Corporation, Russian Telecommunications Development Corporation	94–0445	12/13/93
Raymond J. Noorda and Lewena Noorda, Systems Industries, Inc., Systems Industries, Inc	94–0451	12/13/93
First Financial Management Corporation, Wilson T. Gildee, VIPS, Inc	94–0368	12/14/93
SCEcorp, Muskegon Development Company, M3 Limited Partnership	94–0370	12/14/93
Fuji Photo Film Co., Ltd., BASF AG, B&F Microdisks Partnership	94–0394	12/14/93
Fuji Photo Film Co., Ltd., Fuji Photo Film Co., Ltd., B&F Microdisks Partnership	94–0413	12/14/93
Gebr. Otto KG, Browning-Ferris Industries, Inc., Browning-Ferris Industries, Inc	94–0432	12/14/93
H Group Holding, Inc., PS Group, Inc., USTravel Systems, Inc., USTS Northeast, Inc	94–0435	12/14/93
Madison Dearborn Capital Partners, L.P., Eli Jacobs, Milnot Company	94–0443	12/14/93
First Tennessee National Corporation, SNMC Management Corporation, SNMC Management Corporation	94–0373	12/15/93
Whitman Corporation, PepsiCo, Inc., MBA Waterloo	94–0433	12/15/93
Motorola, Inc., Western Digital Corporation, Western Digital Corporation	94–0307	12/17/93
National Medical Enterprises, Inc., Doctors Hospital of Jefferson, Inc., Doctors Hospital of Jefferson, Inc	94–0337	12/17/93
Williams Holdings plc, The Black & Decker Corporation, Corbin & Russwin Division of Emhart Industries, Inc	94–0356	12/17/93
Cardinal Distribution, Inc., Frederick L. Erlich, PRN Services, Inc	94–0365	12/17/93
Cardinal Distribution, Inc., Fredrick Kamienny, PRN Services, Inc	94–0366	12/17/93
New Heritage USA Corporation, Forte plc, Forte Hotels, Inc. and Travel Beverages, Inc	94–0421	12/17/93
Adler Properties Limited Partnership, The Metropolitan Life Insurance Company, MICC Venture	94–0425	12/17/93
Adler Properties Limited Partnership, Adler Properties Limited Partnership, MICC Venture	94–0426	12/17/93
Forest Oil Corporation, Jack E. Brown, Wagner & Brown, Ltd	94–0429	12/17/93
Forest Oil Corporation, Cyril Wagner, Jr., Wagner & Brown, Ltd	94–0430	12/17/93
Kidd Kamm Equity Partners, L.P., New Action Corp. (joint venture), New Action Corp	94–0437	12/17/93
GFC Financial Corporation, Fleet Financial Group, Inc., Fleet Factors Corp	94–0440	12/17/93
The Western Company of North America, Simon Engineering plc, Unichem International Incorporated	94–0442	12/17/93
Caisse Centrale des Mutuelles Agricoles, La Mutuelle du Mans Assurances, i.a.r.d., LeMans Reinsurance Company, U.S.A	94–0456	12/17/93
Code, Hennessy & Simmons Limited Partnership, Mr. Frank J. St. Romain, South Central Pool Supply, Inc	94–0460	12/17/93
The St. Paul Companies, Inc., SCEcorp, Mission—CCH I, L.P	94–0461	12/17/93
Norcen Energy Resources Limited, Torchmark Corporation, 1993 Offshore Limited Partnership	94–0478	12/17/93
Horace Mann Educators Corporation, CIGNA Corporation, Allegiance Insurance Company	94–0395	12/20/93
Jefferson-Pilot Corporation, Randall T. Odeneal, IntraCoastal Broadcasting, Inc	94–0405	12/20/93
Jefferson-Pilot Corporation, Scott R. McQueen, IntraCoastal Broadcasting, Inc	94–0406	12/20/93
Associated Insurance Companies, Inc., Kemper Corporation, Federal Kemper Insurance Company	94–0408	12/20/93
Compagnie Generale des Communications (France Telecom), Infonet Services Corporation, Infonet Services Corporation	94–0438	12/20/93
MCI Communications Corporation, British Telecommunications plc, Transco	94–0452	12/20/93
V. Prem Watsa, D.T. Chase Enterprises, Inc., Ranger Insurance Company	94–0458	12/20/93
J.R. Simplot Company, Metropolitan Life Insurance Company, Metropolitan Life Insurance Company	94–0468	12/20/93
BTR plc, Rexnord Corporation, Rexnord Corporation	94–0441	12/21/93
Gary Joseph Chouest, Royal Dutch Petroleum Company, Shell Offshore Inc	94–0450	12/21/93
Stephens Group, Inc., SD Investments, Inc., SD Investments, Inc	94–0475	12/21/93
Blue Cross of California, UniCARE Financial Corp., UniCARE Financial Corp	94–0481	12/21/93
John W. Kluge, c/o Metromedia Company, Steven E. Pearson, Beef Specialists of Iowa, Inc	94–0381	12/22/93
Don Tyson, Matt F. Gorges, Gorges Foodservice, Inc	94–0434	12/22/93
Dr. Rajendra Singh, Telcom Ventures, L.L.C., Telcom Ventures, L.L.C	94–0470	12/23/93

FOR FORTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–749 Filed 1–11–94; 8:45 am]

BILLING CODE 6750–01–M

[Docket C–2858]

California and Hawaiian Sugar Co.

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to modify or vacate consent order.

SUMMARY: California and Hawaiian Sugar Company ("C&H"), a respondent in Docket No. C–2858, is subject to an order prohibiting it from representing that its granulated sugar is different or superior unless (a) such difference or superiority relates to a consumer use of

such sugar which is specified in the advertisement; (b) such difference or superiority is substantiated; and (c) such substantiation includes competent and reliable evidence that the difference or superiority is discernible to or of benefit to the class of consumers to whom the representation is directed. C&H filed a petition on December 16, 1993, requesting that the Commission reopen and modify the order to allow C&H to advertise all truthful, nondeceptive differences between its sugar and competing sugar that are substantiated by competent and reliable evidence. In the alternative, C&H requests that the Commission vacate the order.

This document announces the public comment period on this petition.

DATES: The deadline for filing comments in this matter is January 24, 1994.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Requests for copies of the petition should be sent to Public Reference Branch, room 130.

FOR FURTHER INFORMATION CONTACT: Robert M. Frisby, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326–2098.

SUPPLEMENTARY INFORMATION: The order in Docket No. C–2858 was published at 42 FR 6800 on February 4, 1977, reported at 89 F.T.C. 15. C&H argues that significant changes in constitutional law and Commission policy since 1976 justify reopening the docket and modifying the order. C&H maintains that the U.S. Supreme Court has extended First Amendment protection to purely commercial speech and views as particularly suspect prohibitions on expression such as those in the order. C&H also contends that the burden of proof in restricting commercial speech lies with the party seeking to restrict it and that the Commission has provided no evidence that the order directly advances its interests in a reasonable manner. In addition, C&H argues that since 1976 the Commission altered its position concerning truthful comparative advertising and now actively encourages such advertising. C&H notes that since 1976 the Commission has adopted a "reasonable consumer" standard. C&H also contends that the public interest justifies reopening and setting aside the order because consumers have a constitutional right to receive uncensored distribution of truthful information. Furthermore, C&H maintains that market efficiency requires that consumers be given access to truthful information and that the order improperly discriminates among competitors. The petition was placed on the public record on December 23, 1993.

Donald S. Clark,

Secretary.

[FR Doc. 94–751 Filed 1–11–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3473]

Imperial Chemical Industries PLC, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order allows, among other things, the respondents to proceed with the proposed acquisition of certain DuPont assets, but it requires the respondents to divest, within 15 months, a predetermined acrylic-plastic manufacturing capacity by selling one of their U.S. plants to a Commission-approved purchaser, and to provide the buyer with technical assistance for 18 months, if necessary. In addition, if the divestiture is not accomplished in the specified time-frame, the respondents agree to a Commission-appointed trustee to complete the transaction.

DATES: Complaint and Order issued November 29, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Rhett Krulla, FTC/S–3302, Washington, DC 20580, (202) 326–2608.

SUPPLEMENTARY INFORMATION: On Wednesday, July 14, 1993, there was published in the **Federal Register**, 58 FR 37944, a proposed consent agreement with analysis In the Matter of Imperial Chemical Industrial PLC, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint, made its jurisdictional findings and entered an order to divest, in disposition of this proceeding.

[1] Copies of the Complaint, the Decision and Order, and Commissioner Owen's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 94–750 Filed 1–11–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Committee on Vital and Health Statistics (NCVHS): Meetings

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meetings.

Name: NCVHS Subcommittee on Medical Classification Systems.

Time and Date: 9 a.m.–12 noon, February 2, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will discuss follow on activities from its subcommittee report recommending a single procedure classification system and will review its workplan for 1994.

Name: Joint meeting of NCVHS Subcommittees on Ambulatory and Hospital Care Statistics and Medical Classification Systems.

Time and Date: 1 p.m.–5 p.m., February 2, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittees will receive briefings on the International Classification of Primary Care (ICPC) and Systematized Nomenclature of Medicine (SNOMED).

Name: NCVHS Subcommittee on Ambulatory and Hospital Care Statistics.

Time and Date: 9 a.m.–5 p.m., February 3, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will receive testimony and review comments regarding a uniform core data set that will meet current and future needs for information on ambulatory care encounters.

Contact Person for More Information: Substantive program information as well as summaries of the meetings and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 6, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–698 Filed 1–11–94; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS); Meetings

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meetings.

Name: NCVHS Subcommittee on Long-Term Care Statistics.

Time and Date: 9 a.m.–2 p.m., February 8, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington DC 20201.

Status: Open.

Purpose: The subcommittee will work on its report and revise its charge. Afterward, members will receive a briefing on disability-related risk adjusters and long-term care data needs for health care reform.

Name: Joint meeting of NCVHS Subcommittees on State and Community Health Statistics and Long-Term Care Statistics.

Time and Date: 2 p.m.–5 p.m., February 8, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittees will meet jointly to discuss issues related to State and local long-term care data.

Name: NCVHS Subcommittee on State and Community Health Statistics.

Time and Date: 9 a.m.–5 p.m., February 9, 1994.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will meet to discuss issues related to State and community health statistics and to develop a work plan for the coming year.

Contact Person for More Information: Substantive program information as well as summaries of the meetings and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 5, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–699 Filed 1–11–94; 8:45 am]

BILLING CODE 4160–18–M

Administration for Children and Families

Agency Information Collection Under OMB Review

Under the provisions of the Federal Paperwork Reduction Act (44 U.S.C. chapter 35), the Administration for Children and Families (ACF) has submitted to the Office of Management and Budget (OMB) a request for the reinstatement of a previously approved information collection titled: "State Plan for Child Support Collection and Establishment of Paternity under Title IV–D of the Social Security Act, Form OCSE–100." The previously approved information collection was approved for use through November 1993 under OMB Control Number 0970–0017.

ADDRESSES: Copies of this information collection request may be obtained from Stephen R. Smith of the Office of Information Systems Management, ACF, by calling 401–6964.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Laura Oliven, OMB Desk Office for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725–17th Street NW., Washington, DC 20503, (202) 395–7316.

Information of Document

Title: State Plan for Child Support Collection and Establishment of Paternity under Title IV–D of the Social Security Act, Form OCSE–100.

OMB No.: 0970–0017.

Description: This information collection is required by Title IV–D of the Social Security Act, Federal regulations and issuances made by the Secretary of the Department of Health and Human Service for the purpose of enforcing the support obligations owed by absent parents to their children and the spouse (or former spouse) with whom such children are living, locating absent parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available to all children.

The Secretary of the Department of Health and Human Services has designated the Director of the Office of Child Support Enforcement at the Administration for Children and Families, among other things, to establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse), and to review and approve State plans for such programs. A State must submit a State plan for a program of support collection and establishment of paternity under Title IV–D of the Social Security Act. The information obtained on the State plan preprint will serve as a contract between the Office of Child Support Enforcement (OCSE) and any State specifying activities the State must perform as required by law and other Federal requirements as a condition for Federal financial participation.

Annual Number of Respondents	54
Frequency	9
Average Burden Hours Per Response	43
Total Burden Hours	348.3

Dated: January 6, 1994.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 94–793 Filed 1–11–94; 8:45 am]

BILLING CODE 4184–01–M

Health Resources and Services Administration

Program Announcement for the Disadvantaged Health Professions Faculty Loan Repayment Program

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1994, for the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) are now being accepted under section 738 (a) of the Public Health Service Act (The Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

In FY 1994, approximately $800,000 is available for competing applications for the Disadvantaged Health Professions Faculty Loan Repayment Program. It is expected that 26 awards averaging $30,000 ($15,000 per year for two years) will be supported with these funds.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In fiscal years 1991, 1992 and 1993, a total of 91 awards, averaging $24,000 ($12,000 per year for 2 years) were made.

Purpose

The purpose of the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) is to attract disadvantaged health professions faculty members for accredited health professions schools. The program

provides a financial incentive for degree-trained health professions personnel from disadvantaged backgrounds who will serve as members of the faculties of those schools. The FLRP is directed at those individuals available to serve immediately or within a short time as "new" full-time faculty members. Loan repayment may be provided only for an individual who has *not* been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a repayment contract (i.e., "new" faculty).

Section 738(b) makes available grants and contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology and other public or private nonprofit health or educational entities to assist in increasing the number of underrepresented minority faculty. Section 738(b) will be implemented as a separate program.

Eligible Individuals

Individuals from disadvantaged backgrounds are eligible to compete for participation in the FLRP if they:

1. Have a degree in medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health or clinical psychology; or
2. Are enrolled in an approved graduate training program in one of the health professions listed above; or
3. Are enrolled as a full-time student in the final year of health professions training, leading to a degree from an eligible school.

Established faculty members are not eligible to apply for funds under the FLRP. Only individuals that have not taught in the last 18 (eighteen) months prior to application to the program will be considered.

Statutory Requirements

Prior to submitting an application, eligible individuals must sign a contract, as prescribed by the Secretary, setting forth the terms and conditions of the FLRP. This contract requires the individual to have entered into a contract with an eligible school to serve as a full-time member of the faculty, as determined by the school, for not less than 2 years, whereby the school agrees to pay, for each year, a sum (in addition to faculty salary) equal to that paid by the Secretary towards the repayment of principal due on the applicant's health professions educational loans. Additionally, the individual involved may not have been a member of the faculty of any school at any time during the last 18 months prior to application to the program.

Eligible Schools

Eligible health professions schools are public or nonprofit private accredited schools of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine or public health, or schools that offer graduate programs in clinical psychology and which are located in States as provided in section 799 of the Act. Schools of nursing are also eligible, as defined in section 853 of the Act.

Provisions of the Loan Repayment Program

Section 738 (a) authorizes repayment, for any year for which repayments are made, not to exceed 20 percent of the outstanding principal and interest on the individual's educational loans. Of the repayment, the Secretary pays half, up to $20,000. The school pays an equal amount, unless the Secretary determines that the repayment will impose an undue financial hardship on the school in which case, the Secretary may pay up to the entire 20 percent.

The school is required, for each such year, to make payments of principal and interest in an amount equal to the amount of payment made by the Secretary for that year. These payments must be in addition to the faculty salary the participant otherwise would receive.

Allowable educational loan repayment expenses include the following:

1. Tuition expenses;
2. All other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant;
3. Reasonable living expenses, as determined by the Secretary; and
4. Partial payments of the increased Federal income tax liability caused by the FLRP's payments and considered to be "other income," if the recipient requests such assistance.

Prior to entering into an agreement for repayment of loans, the Secretary requires satisfactory evidence of the existence and reasonableness of the individual's educational loans, including a copy of the original written loan agreement establishing the outstanding educational loan.

Waiver Provision

In the event of undue financial hardship to a school, the school may obtain from the Secretary a waiver of its share of payments while the participant is serving under the terms of the contract. For purposes of this program, "undue financial hardship", as seen by the Secretary, is based on a school's particular financial status as influenced by such circumstances as budget cutbacks. Decisions will be made on a case-by-case basis, and may be supported by the school's documentation of comparative yearly financial allocation of funds; or the most current certified public accounting audit, including the Balance Sheet and Statement of Income and Expenses for the past several years.

If the Secretary waives the school's payment requirement, the amount of the Federal loan repayment may be up to the full 20 percent described above (regardless of the "equal amount" provision described above), but cannot exceed the $20,000 repayment limit. The participant must pay that portion of loan payment due which is not covered.

The following Definitions, Program Requirements, Review Criteria and Funding Preference were established in FY 1991 after public comment dated October 2, 1991, at 56 FR 49896, and the Secretary is extending them in FY 1994.

Definitions

For purposes of the FLRP in FY 1994, an "Individual from a Disadvantaged Background" is defined as in 42 CFR 57.1804, as one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or
2. Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in health professions and nursing programs. The Secretary will periodically publish these income levels in the **Federal Register**. The following income figures determine what constitutes a low income family for purposes of the Faculty Loan Repayment Program for FY 1994.

Size of parents' family [1]	Income level [2]
1	$9,419
2	12,202
3	14,523
4	18,596
5	21,930

Size of parents' family [1]	Income level [2]
6 or more	24,648

[1] Includes only dependents listed on Federal income tax forms.
[2] Adjusted gross income for calendar year 1993 rounded to $100.

The term "Living expenses" means the costs of room and board, transportation and commuting costs, and other costs incurred during an individual's attendance at a health professions school, as estimated each year by the school as part of the school's standard student budget. (National Health Service Corps Loan Repayment Program, 42 CFR 62.22)

The term "Reasonable educational expenses and living expenses" means the costs of those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. (National Health Service Corps Loan Repayment Program, 42 CFR 62.22)

The term "Unserved Obligation Penalty" means the amount equal to the number of months of obligated service that were not completed by an individual, multiplied by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000. (Section 338E of the Act) See "Breach of Contract" section below.

Program Requirements

The following requirements will be applied to the applicant and to the school.

The Applicant

The applicant will be required to do the following:

1. Submit a completed application, including the applicant's contract with an eligible school to serve as a full-time faculty member for not less than 2 years;
2. Provide evidence that the applicant has completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;
3. Certify that the applicant is not delinquent on any amounts which are owed to the Federal Government; and
4. Provide documentation to evidence the educational loans and to verify their status.

The School

The participating school will be required to do the following:

1. Enter into a contractual agreement with the applicant whereby the school is required, for each year for which the participant serves as a faculty member, to make payments of principal and interest in an amount equal to the amount of such quarterly payments made by the Secretary. These payments must be in addition to the faculty salary the participant otherwise would receive.
2. Verify the participant's continuous employment at intervals as prescribed by the Secretary.

If the school is unable to meet the requirement of the FLRP for payment of principal and interest due because the requirement would impose undue financial hardship on the school, the school may request a waiver of this obligation from the Secretary. If the school's proportionate share of loan repayment amounts is waived, the Federal Government agrees to make payments of not more than $20,000 of principal and interest for a year, which includes the amount granted as a waiver to the school.

The Secretary will pay participants in equal quarterly payments during the period of service.

Effective Date of Contract

After an applicant has been approved for participation in the FLRP, the Director, Division of Disadvantaged Assistance (DDA), will send the applicant a contract with the Secretary. The effective date is either the date work begins at the school as a faculty member or the date the Director, DDA, signs the FLRP contract, whichever is later. Service should begin no later than September 30, 1994.

Breach of Contract

The following areas under Breach of Contract are addressed in the appended contract:

1. If the participant fails to serve his or her period of obligated faculty service (minimum of 2 years) as contracted with the school, he/she is then in breach of contract, and neither the Secretary nor the school is obligated to continue loan repayments as stated in the contract. The participant must then reimburse the Secretary and the participating school for all sums of principal and interest paid on his/her behalf as stated in the contract in addition to any income tax assistance he/she may have received.
2. Regardless of the length of the agreed period of obligated service (2, 3, or more years), a participant who serves less than the time period specified in his/her contract is liable for monetary damages to the United States amounting to the sum of the total of the amounts the Program paid him/her, plus an "unserved obligation penalty" of $1,000 for each month unserved.
3. Any amount which the United States is entitled to recover because of a breach of the FLRP contract must be paid within 1 year from the day the Secretary determines that the participant is in breach of contract. If payment is not received by the payment date, additional interest, penalties and administrative charges will be assessed in accordance with Federal Law (45 CFR 30.13).

Review Criteria

The HRSA will review fiscal year 1994 applications taking into consideration the following criteria:

1. The extent to which the applicant meets the requirements of section 738 of the Act;
2. The completeness, accuracy, and validity of the applicant's responses to application requirements;
3. The submission of the signed contract with the school;
4. An applicant's earliest available date to begin service as a faculty member provided funding is available for that year; and
5. An applicant's availability to enter into a service contract for a longer period than the mandatory 2-year minimum.

Factors to assure equitable distribution (e.g. geographic, discipline) will be considered in determining the funding of completed applications.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Disadvantaged Health Professions Faculty Loan Repayment Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone (202) 783–3238).

Application Requests

Requests for application materials and questions regarding program information and business should be

directed to: Norman Roskos, Chief, Analysis and Evaluation Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8A–09, Rockville, Maryland 20857, Telephone: (301) 443–3680, FAX: (301) 443–5242.

Completed applications should be returned to the address listed above. The application deadline date is June 30, 1994. Applications shall be considered to be "on time" if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

The application form and instructions for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0150.

The Disadvantaged Health Professions Faculty Loan Repayment Program is listed at 93.923 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: December 9, 1993.

John H. Kelso,

Acting Administrator.

Contract for the Disadvantaged Health Professions Faculty Loan Repayment Program With U.S. Department of Health and Human Services, Public Health Service, Health Resources and Services Administration, and Bureau of Health Professions

Section 738 of the Public Health Service Act ("Act") [42 United States Code 293 et seq.], as added by Pub. L. 102–408, authorizes the Secretary of Health and Human Services ("Secretary") to repay the educational loans of applicants from disadvantaged backgrounds selected to be participants in the Loan Repayment Program Regarding Service on Faculties of Certain Health Professions Schools ("Faculty Loan Repayment Program"). In return for these loan repayments, applicants must agree to provide teaching faculty services at an approved accredited health professions school determined by the Secretary for a designated period of obligated service pursuant to section 738 of the Act.

Sections 738(a) (5) and (7) of the Act require applicants to submit with their applications a signed contract with an accredited health professions school and a signed contract which states the terms and conditions of participation in the Faculty Loan Repayment Program. The Secretary shall sign only those contracts submitted by applicants who are selected for participation.

The terms and conditions of participating in the Faculty Loan Repayment Program are set forth below:

Section A—Obligations of the Secretary

Subject to the availability of funds appropriated by the Congress of the United States for the Faculty Loan Repayment Program, the Secretary agrees to:

1. Pay, in the amount provided in paragraph 2 of this section, the undersigned applicant's qualifying educational loans. Qualifying educational loans consist of the principal and interest on educational loans received by the applicant for the following expenses of enrollment:

a. tuition expenses:

b. all other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant; or

c. reasonable living expenses as determined by the Secretary.

2. If the applicant agrees to serve 2 or more years:

a. Except as provided in subparagraph b. of this paragraph, pay up to $20,000 of the outstanding principal and interest of a participant's nondelinquent educational loans, but not more than half of the 20 percent of the qualified outstanding educational loans for such year for each year of eligible faculty service; or

b. The Secretary's liability will not exceed a cap of $20,000 of principal and interest annually. This would include the 10 percent waived under Sec. 738(a) of the Act for the school's proportionate share of the loan repayment amounts. The applicant must pay that portion not covered.

3. Make loan repayments for a year of obligated service no later than the end of the fiscal year in which the applicant completes such year of service.

4. The effective date of the Contract will be the date it is signed by the Director, Division of Disadvantaged Assistance or the date employment begins as a faculty member at the contracting school whichever is later.

Section B—Obligations of the Participant

1. The applicant agrees to:

a. Continue loan repayments to lenders for the first quarter after which the Secretary will make delayed quarterly payments to applicant for the years stated in paragraph c. of this section. Applicant must pay lender(s) these payments.

b. Serve his or her period of obligated faculty service as contracted with the school and as determined by the Secretary to be acceptable.

c. Serve in accordance with paragraph b. of this section for _____ years at _____. The applicant must serve a minimum of two years.

2. If the applicant's eligibility to participate in the Faculty Loan Repayment Program is based on section 738(a)(2) of the Act (i.e. based on his or her enrollment in an accredited health professions school), he or she also agrees to:

a. Maintain full-time enrollment, (as determined by the School), in good academic standing as determined by the School, in the final year of the course of study leading to a degree in medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, nursing, or public health, or schools offering graduate programs in clinical psychology in which the applicant is currently enrolled, until completion of such course of study;

b. Enter into a contract with an accredited school described in subsection (a) of Section 738 to serve as a "new" member of the faculty of the school for not less than 2 years according to the requirements described in subsection (a)(5) of section 738.

c. Begin service obligations as contracted.

Section C—Breach of Written Loan Repayment Contract

1. If the participant fails to comply with section B.1.c. of this contract or is dismissed for disciplinary reasons or voluntarily terminates the contracts, neither the Secretary nor the School is obligated to continue loan repayments as stated in Sec. A of this Contract. The participant shall be liable to the United States and the School for the amounts specified in paragraph 2 of this section.

2. If the applicant agrees to serve as a full-time faculty member for two years or more and fails to serve the 2-year minimum requirement, he or she is liable to pay monetary damages to the

United States amounting to the sum of (a) the total amounts specified in Section A.2 of this contract plus (b) an "unserved obligation penalty" of $1,000 for each month unserved as set forth in paragraph 3 of this section plus (c) any tax assistance paid plus (d) interest, penalties and administrative charges for past due payments.

3. The "Unserved Obligation Penalty" means the amount equal to the number of months of obligated services that were not completed by an individual, multiplied by $1,000 except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000.

4. If the applicant agrees to serve more than the 2-year minimum service obligations and has completed the 2-year minimum he or she will be liable for such sums paid for any months that are not a full year beyond the 2-year minimum requirement as agreed to in Section B.1.c of this contract, plus an "unserved obligation penalty" of $1,000 for each month unserved.

5. Any amount the United States is entitled to recover shall be paid within one year of the date the Secretary determines that the applicant is in breach of this written contract. Failure to pay by the due date will incur delinquent charges provided by Federal Law. (45 CFR 30.13).

Section D—Cancellation, Suspension, & Waiver of Obligation

Any service or payment obligation may be canceled, suspended, or waived under certain circumstances described below: (1) In the event of death or permanent and total disability, the Secretary will cancel obligations under this contract. To receive cancellation in the event of death, the executor of the estate must submit an official death certificate to the Secretary. To receive cancellation for permanent and total disability, applicant or his/her representative must apply to the Secretary, submitting medical evidence of my condition, and the Secretary may cancel this obligation in accordance with applicable Federal statutes and regulations; (2) Upon receipt of supporting documentation the Secretary may waive or suspend service or payment obligation under this contract if the Secretary determines that: (a) meeting the terms and conditions of the contract is impossible or would involve extreme hardship; and (b) enforcement of the obligations would be unconscionable. (3) Deferment will be granted in the event of long term illness. Supporting documentation should be sent to: Division of Disadvantaged Assistance, Room 8A–09 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The Secretary or his/her authorized representative must sign this contract before it becomes effective.

Applicant Name (Please Print)_____

Applicant Signature*_____

Date_____

Secretary of Health and Human Services or Designee_____

Date_____

[FR Doc. 94–669 Filed 1–11–94; 8:45 am]

BILLING CODE 4160–15–P

* Before signing, be sure you have completed section B.1.c. on page 1 of this contract indicating the number of years of service you agree to perform.

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of February 1994:

Name: Council on Graduate Medical Education.

Time: February 2–3, 1994, 8:30 a.m.

Place: Conference Rooms G & H on 2/2 and Rooms D & E on 2/3, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Open for entire meeting.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: There will be presentations and discussions regarding Recommendations from COGME Work Groups, Assessing the Impact of Physician Assistants on Physician Workforce Requirements; Implications of Managed Care for Workforce Requirements and the Training Environment; and Women in Medicine. A presentation on Communication from the National Advisory Council on Nurse Education and Practice: Update on Nurse Practitioner/Certified Nurse Midwife Work Group.

Anyone requiring information regarding the subject Council should contact Marc L. Rivo, M.D., M.P.H.. Executive Secretary, telephone (301) 443–6190; or F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, room 4C–25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Name: National Advisory Committee on Rural Health.

Date and Time: February 7–9, 1994; 8:30 a.m.

Place: Washington Marriott, 22nd and M Streets, NW., Washington, DC 20037, (202) 872–1500. The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: Plenary session on Monday, February 7, will be devoted to the theme: "The Health Security Act and Health Care Reform in Rural Areas." The theme will include discussions and presentations on the changes which have occurred since the last meeting regarding general infrastructure development, network development, and implications for states. In addition, a presentation regarding the difficulties of obtaining public health services in minority rural communities will be provided.

Monday afternoon and all day Tuesday, the Health Care Financing Work Group and the Education and Health Services Work Group will continue to study specific areas of the Health Security Act and its effect on services and financing in rural health delivery systems.

The meeting will end on Wednesday, February 9, with reports from the two Work Groups. The entire meeting is open to the public.

Anyone requiring information regarding the subject Council should contact Jeffery Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835, FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Director of Operations, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443–0835.

Agenda Items are subject to change as priorities dictate.

Dated: January 6, 1994.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 94–707 Filed 1–11–94; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HC (Centers for Disease Control and Prevention), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 58 FR 59052–59054, November 5, 1993) is amended to reflect the following organizational changes within the National Center for Health Statistics: (1) Modify the functional statement for the Office of Planning and Extramural Programs, and (2) retitle the Office of Analysis and Epidemiology and modify the functional statement.

Following the title Office of Planning and Extramural Programs (HCS14), delete the functional statement in its entirety and insert the following: (1) Participates in the development of policy, long-range plans, and programs of the Center; (2) develops proposed policies for the coordination of NCHS programs with external agencies, both public and private; (3) serves as the focal point for coordination of health statistical activities within NCHS and for developing and coordinating the collaborative statistical activities of NCHS with other organizations and agencies; (4) provides a focus within NCHS for statistical program planning, evaluation, and legislative affairs; (5) evaluates or arranges for the evaluation of the adequacy, completeness, and responsiveness of Center programs both nationally and internationally to the NCHS mission and user needs for data; (6) directs the definition, development, and coordination of cooperative programs in health statistics, working with Regional Offices, State and local governments, and other organizations including the private and academic sectors in the development and strengthening of subnational statistical systems; (7) conducts research, analyses, and demonstrations related to the subnational systems; (8) develops, pilots, and implements new programs through direct activities and through grants and contracts; (9) provides Executive Secretariat and related services to the National Committee on Vital and Health Statistics; (10) provides program leadership and coordination for the NCHS Reimbursable Work Program; (11) provides guidance and staff support for major Center conferences and committee meetings; (12) provides advice and assistance to outside agencies and organizations in the conduct of statistical training activities; (13) participates with appropriate agencies and organizations to improve the quality, comparability, and timeliness of standard health data sets and to promote and disseminate their use; maintains current information concerning Federal and non-Federal health statistics systems; (14) serves as principal advisor in areas of financial management activities and manages a system of budgetary and expenditure controls; (15) coordinates required clearances of Reimbursable Work Program and Human Subjects Review projects.

Delete in its entirety the title and functional statement for the Office of Analysis and Epidemiology (HCS4) and insert the following:

Office of Analysis, Epidemiology, and Health Promotion (HCS4). (1) Participates in the development of policy, long-range plans, and programs of the Center; (2) plans, directs, and coordinates the Analysis, Epidemiology, and Health Promotion Program of the Center; (3) develops policy for the Analysis, Epidemiology, and Health Promotion Program of the Center; (4) provides operating liaison with other programs of the Center and other public and private health agencies on activities related to analysis, epidemiology and health promotion; (5) provides consultation and technical assistance to Federal agencies, States, and other public and private sector institutions in epidemiologic investigations, in the analysis and interpretation of national health statistics, and in health promotion activities; (6) conducts developmental and evaluation research and analysis in the fields of epidemiology, health status, health services utilization, health promotion, and health economics; (7) augments the policy analysis activities of CDC; (8) coordinates NCHS health statistics activities with CDC, PHS, and other Federal agencies in the areas of environmental health, injury, minority health, and HIV; (9) conducts environmental health research using national statistical data and evaluates the utility of environmental health statistics for health program planning, policy analysis, and program direction; (10) coordinates CDC activities to sustain and enhance State and local statistical capacity; (11) collects and disseminates sources of current information on the conceptualization and measurement of health status, including maintenance of a Clearinghouse on Health Indexes.

Dated: December 17, 1993.

Walter R. Dowdle,

Acting Director, Centers for Disease Control and Prevention.

[FR Doc. 94–746 Filed 1–11–94; 8:45 am]

BILLING CODE 4160–18–M

Social Security Administration

Social Security Ruling SSR 94–1c; Supplemental Security Income—Disability—Illegal Activity as Substantial Gainful Activity

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 94–1c. This Ruling is based on the decision of the U.S. Court of Appeals for the Seventh Circuit in *Dotson* v. *Shalala*, which affirmed the U.S. district court decision upholding the decision of the Secretary of Health and Human Services denying the claimant's application for disability benefits under the supplemental security income program. Among other things, the court of appeals determined that the decision of the Secretary that the illegal activity in which the claimant engaged to support a drug addiction constituted substantial gainful activity (SGA) was consistent with the Social Security Act and the Secretary's regulations and supported by substantial evidence, and that in determining whether such activity was SGA, the cost of the claimant's narcotics could not be deducted from the claimant's income as an impairment-related work expense.

EFFECTIVE DATE: January 12, 1994.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the

General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Program No. 93.807 Supplemental Security Income)

Dated: December 21, 1993.

Shirley S. Chater,

Commissioner of Social Security.

Sections 1611 and 1614(a) of the Social Security Act (42 U.S.C. 1382 and 1382c(a)) Supplemental Security Income—Disability—Illegal Activity as Substantial Gainful Activity

20 CFR 416.910, 416.920(a)–(b), 416.971, 416.972(a)–(c), 416.973(a)–(b), 416.974 (a)(1), (b)(2)(vii) and (b)(3)(vii), and 416.976

Dotson v. *Shalala*, 1 F.3d 571 (7th Cir. 1993)

The claimant applied for disability benefits under the supplemental security income program, alleging that he was disabled due to asthma, multiple allergies, and past drug abuse. His application was denied initially and upon reconsideration and he requested a hearing before an administrative law judge (ALJ). At the hearing, the claimant testified that he currently used $200–$300 worth of narcotics each day and that he supported his drug habit through stealing and panhandling. Based on the claimant's testimony, the ALJ concluded that the claimant's stealing and panhandling constituted substantial gainful activity (SGA) worth an average of approximately $5,600 per month. Specifically, the ALJ found that due to the poor area in which the claimant panhandled, the bulk of his income must be derived from stealing, which the ALJ determined involved significant physical and mental activities. The ALJ concluded that because the claimant was engaging in SGA, he was not disabled and, therefore, not eligible for disability benefits. The Appeals Council declined to review the ALJ's decision which became the final decision of the Secretary. The claimant sought judicial review in Federal district court. The district court upheld the Secretary's decision and the claimant appealed to the Court of Appeals for the Seventh Circuit.

On appeal, the claimant argued that illegal activity undertaken to support a drug addiction cannot constitute SGA; that assuming such activity can constitute SGA, the Secretary's finding of SGA in his case was unsupported by substantial evidence; and that if illegal activity to support a drug habit can be considered SGA, then the Secretary, in determining SGA, was required to deduct the cost of the narcotics from the claimant's income as an impairment-related work expense. Additionally, the claimant contended that using illegal activity as a basis for finding SGA denied him due process and equal protection of the law.

The court of appeals found nothing in the Social Security Act (the Act) or the Secretary's implementing regulations which requires SGA to be lawful. The court noted that under the regulations, work activity is substantial if it "involves doing significant physical or mental activity" and is gainful if it is "the kind of work usually done for pay or profit, whether or not a profit is realized." The court stated that these considerations "apply with almost equal ease irrespective of the legality of the activities involved," and that, therefore, "[w]hether legally or illegally employed, the regulations direct an ALJ to focus on whether the claimant is performing significant physical or mental activities, and doing so with the intent of earning money or making a profit." Finding that neither the Act nor the regulations recognizes a distinction between lawful and unlawful activity for purposes of determining SGA, the court of appeals concluded that illegal activity can constitute SGA.

The court also determined that the claimant's uncontradicted testimony regarding the thievery in which he engaged to support his $200–$300 per day drug habit provided substantial evidence to support the ALJ's finding that the claimant was engaged in SGA. The court rejected the claimant's contention that the cost of narcotics must be deducted from his income as an impairment-related work expense. The court noted that to be considered an impairment-related work expense under the Secretary's regulations, a drug must "reduce or eliminate" the symptoms of a claimant's impairment, or "slow down its progression." Contrary to these criteria, the court found that in this case the claimant's use of drugs was the basis of his alleged disability, and that his continued usage of drugs only exacerbated his medical condition. The court also found the claimant's due process and equal protection arguments to be without merit. Accordingly, the court of appeals affirmed the decision of the district court upholding the Secretary's decision denying the claimant's application for disability benefits.

Engel, Senior Circuit Judge*

Harold Wayne Dotson, a Supplemental Security Income claimant, appeals the district court's grant of summary judgment in favor of Donna E. Shalala, Secretary of the Department of Health and Human Services. In granting summary judgment, the district court upheld an administrative law judge's finding that Dotson was engaging in substantial gainful activity by supporting a $200- to $300-per-day heroin and cocaine habit through illegal means. See *Dotson* v. *Sullivan*, 813 F. Supp. 651 (C.D. Ill. 1992). Because we agree that illegal activity can constitute substantial gainful activity, we affirm.

I. Background

Dotson applied for Supplemental Security Income benefits on September 25, 1989, alleging disability since 1968 due to asthma, multiple allergies, and past drug abuse. The Social Security Administration denied his application on January 10, 1990, and again upon reconsideration on May 21, 1990. Dotson then requested and received a hearing before an administrative law judge ("ALJ"). At the administrative hearing, Dotson testified that he uses $200 to $300 worth of heroin and cocaine each day. Additionally, he testified that he supports his drug habit by hustling. When asked to define hustling, Dotson replied: "steal, beg, whatever, you know."

With regard to his begging, Dotson stated that he usually panhandles at the Warner Homes, which are located in a poor neighborhood in Peoria, Illinois. As to Dotson's thievery, the following colloquy occurred during the administrative hearing:

Q. [By ALJ] Where do you steal at?

A. [By Dotson] You can do that anywhere. Wherever we can find a place to.

Q. Give me an idea. Give me some examples.

A. The mall, downtown, wherever. You just ride and look and, you know.

Q. How long do you spend riding and looking until you find a place to steal?

A. As long as you have to.

Q. Like how long?

A. Sometime—

Q. All day long?

A. Sometimes it takes all day.

* Sitting by designation.

Q. What kinds of things have you stolen this month?

A. This month?

Q. Uh huh.

A. I, well, I like to, I try to concentrate on saws.

Q. On what?

A. Saws.

Q. Saws?

A. You know, the chainsaws, the little bitty chainsaws?

Q. Where do you find those at?

A. Everywhere, everywhere.

Q. And once you get them, what do you do with them?

A. You sell them.

Q. To who?

A. A lot of people buy.

Q. Well, where do you find—I wouldn't imagine there would be a lot of demand for them in Warner homes.

A. No.

Q. Where do you go to sell the chainsaws?

A. Different businesses.

Q. Like what?

A. Small businesses.

Q. Give me some examples.

A. Like small stores or cleaners, different places like that.

Q. Do you have to travel around to these places? How long does it take you to find somebody to buy a saw?

A. Usually, they already, you have been—you kind of already know they probably want one.

Q. So you have already canvassed these places earlier? You have gone out and—

A. No, you have probably sold them stuff and they can give you kind of an idea about what else they might like, you know.

Based on Dotson's testimony, the ALJ found that Dotson's stealing and panhandling constituted substantial gainful activity ("SGA") worth an average of approximately $5,600 per month and, accordingly, denied his claim for SSI benefits. Specifically, the ALJ found that, due to the poor area in which Dotson panhandles, the bulk of his income must come from illegal means. As to the nature of Dotson's criminal endeavors, the ALJ concluded:

> In order to steal he must "case" the area in which he has determined to steal the property. He must then plan on how he is going to steal the property and then actually steal it. During the month in which the hearing was held the claimant was stealing chainsaws. Lifting and carrying the chainsaws would also be significant *physical* activity. The planning and execution of the larceny entails significant *mental* activity. From these activities the claimant earns enough money to support his cocaine habit and provide him with other money in substantial amounts exceeding $200 to $300 a day. [Emphasis in original.]

On July 9, 1991, the Appeals Council declined to review the ALJ's decision. Dotson then filed the instant action against the Secretary of the Department of Health and Human Services ("Secretary") in federal court. On July 1, 1992, with cross-motions for summary judgment before it, the district court granted the Secretary's motion for summary affirmance and entered a separate judgment against Dotson and in favor of the Secretary. See *Dotson* v. *Sullivan*, 813 F. Supp. 651 (C.D. Ill. 1992). This appeal followed.

II. Discussion

Dotson essentially raises four arguments. First, he believes that illegal activities undertaken solely to satisfy a drug addiction cannot constitute SGA. Second, assuming that illegal activity can constitute SGA, Dotson claims that the ALJ's finding of SGA in his case is unsupported by substantial evidence. Third, Dotson contends that if illegal activity undertaken to support a drug habit can constitute SGA, then the Secretary is required to deduct the cost of the narcotics from the claimant's income as an impairment-related work expense. Fourth and finally, Dotson believes that using illegal activities to furnish the basis for finding SGA denies him due process and equal protection of the laws under the United States Constitution.

A. Overview

The Social Security Act ("Act"), as amended, 42 U.S.C. 301 *et seq.*, provides for the payment of benefits to disabled persons. Title II of the Act governs the payment of Old-Age, Survivors, and Disability Insurance ("OASDI") benefits to disabled persons who have contributed to the Social Security program. 42 U.S.C. 401 *et seq.* Title XVI of the Act, the title under which Dotson filed his application for benefits, provides for the payment of Supplemental Security Income ("SSI") benefits to disabled persons who are indigent. 42 U.S.C. 1382 *et seq.*; see generally *Bowen* v. *Yuckert*, 482 U.S. 137, 140 (1987). Both Titles II and XVI define disability as an "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months * * *." 42 U.S.C. 423(d)(1)(A), 1382c(a)(3)(A).

Pursuant to statutory authority, the Secretary has promulgated regulations establishing a five-step sequential analysis for determining whether an SSI claimant is disabled. See 20 CFR 416.920; *Sullivan* v. *Zebley*, 493 U.S. 521, 525 (1990).[1] The first step of the process, and the only one relevant for purposes of this appeal, requires the Secretary to determine whether the claimant is engaging in SGA. See 20 CFR 416.920(a). A finding of SGA means that the claimant is ineligible for SSI benefits. *Id.* at § 416.920(b); *Yuckert*, 482 U.S. at 140. In this case, because the ALJ found that Dotson's stealing and panhandling constituted SGA, he denied Dotson's claim for benefits without moving to the next step in the sequential analysis.[2]

B. Illegal Activity as SGA

Our research reveals that we are the first appellate court to address the issue of whether illegal activity can support a finding of SGA. The handful of federal trial courts faced with this question, including the district court below, have answered unanimously in the affirmative.[3] Because the ALJ and district court's determination that illegal activity can constitute SGA is a construction of the Secretary's regulations, we review this decision of law *de novo*. See *Johnson* v. *Sullivan*, 922 F.2d 346, 356 (7th Cir. 1990).

As the definition of disability quoted above indicates, the inability to engage in SGA is a statutory prerequisite to obtaining either SSI or OASDI benefits. Nonetheless, Congress delegated to the Secretary the responsibility for defining SGA. 42 U.S.C. 1382c(a)(3)(D) (Title XVI). In response to the Act's mandate, and as the components of the term suggest, the Secretary has defined SGA as "work activity that is both substantial

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[1] For other, more generalized, SSI eligibility requirements, see 20 CFR 416.202.

[2] The parties have devoted some attention to the issue of whether panhandling, or the income therefrom, can cause a person to become ineligible for SSI benefits. We decline to reach this issue. As noted above, the ALJ determined that, due to the poor area in which Dotson panhandles, the bulk of his income comes from illegal activities. We believe the ALJ's finding to be supported by substantial evidence and, therefore, leave the panhandling issue to a court with the question properly before it.

[3] See *Bell* v. *Sullivan*, 817 F. Supp. 719 (N.D. Ill. 1993) (Marovich, J.); *Jones* v. *Sullivan*, 804 F. Supp. 1045 (N.D. Ill. 1992) (Holderman, J.); *Curtis* v. *Sullivan*, 764 F. Supp. 119 (N.D. Ill. 1991) (Bua, J.); *Moore* v. *Sullivan*, No. 91 C 20369, 1992 WL 199257 (N.D. Ill. Aug. 4, 1992) (Reinhard, J.; unpublished); *Love* v. *Sullivan*, No. 91 C 7863, 1992 WL 86193 (N.D. Ill. Apr. 22, 1992) (Conlon, J.; unpublished); *Dugan* v. *Bowen*, No. 87–3713, 1989 WL 281911 (S.D. Ill. Nov. 8, 1989) (unpublished), *rev'd on other grounds sub nom. Dugan* v. *Sullivan*, 957 F.2d 1384 (7th Cir. 1992); *Hart* v. *Sullivan*, _____ F. Supp. _____, No. C–92–1172 SBA, 1992 WL 496646 (N.D Cal. Dec. 30, 1992). *Cf. Hammonds* v. *Celebrezze*, 260 F. Supp. 992 (N.D. Ala. 1965) (claimant's illegal manufacture of whiskey not conclusive evidence of SGA absent evidence of earnings).

and gainful." See 20 CFR 416.972. Work activity is substantial if it "involves doing significant physical or mental activities." *Id.* at § 416.972(a). Work activity is gainful if it is "the kind of work usually done for pay or profit, whether or not a profit is realized." *Id.* at § 416.972(b); see generally *Callaghan* v. *Shalala*, 992 F.2d 692 (7th Cir. 1993) (discussing elements of SGA).[4] Activities such as taking care of one's self, performing household tasks, engaging in hobbies or therapy, and attending school, clubs, or social programs generally do not constitute SGA. 20 CFR 416.972(c).

The foregoing framework underscores the dual nature of an ALJ's inquiry into whether a claimant is engaging in SGA. Under the substantiality prong of the analysis, an ALJ considers the nature of the undertakings comprising the claimant's work activity. Thus, the degree to which a claimant's work requires the use of "expertise, skills, supervision and responsibilities" becomes relevant in determining whether that work constitutes SGA. See 20 CFR 416.973(a). Additionally, an ALJ will consider how well a claimant performs his or her work activities:

> If you do your work satisfactorily, this may show that you are working at the substantial gainful activity level. If you are unable, because of your impairments, to do ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work, this may show that you are not working at the substantial gainful activity level. If you are doing work that involves minimal duties that make little or no demands on you and that are of little or no use to your employer, or to the operation of a business if you are self-employed, this does not show that you are working at the substantial gainful activity level.

Id. at § 416.973(b).

In evaluating the gainfulness of a claimant's work, an ALJ's inquiry is more circumscribed. Here, as noted above, the claimant's undertakings need be only of the type that normally result in pay or profit. In other words, a claimant can be found to be engaging in SGA without earning any income. See *Callaghan*, 992 F.2d at 695–96 (unprofitable business owner was engaging in SGA).[5] This is not to say that a claimant's earnings are irrelevant for purposes of determining whether he or she is engaging in SGA. See, e.g., 20 CFR 416.974(a)(1). To the contrary, a claimant who earns on average less than $300 per month is presumed not to be engaging in SGA, while a claimant who makes more than an average of $500 per month is presumptively ineligible for SSI benefits. *Id.* at §§ 416.974(b)(3)(vii), (b)(2)(vii).[6] As with most legal presumptions, however, these income guidelines are rebuttable and "do not relieve an ALJ of the duty to develop the record fully and fairly." *Dugan* v. *Sullivan*, 957 F.2d 1384, 1390 (7th Cir. 1992) (citations and internal quotations omitted).

Against this background, Dotson concedes—as he must—that in at least some instances illegal activity can be substantial gainful activity. Dotson continues, however, that the context in which his thievery occurs precludes its use in determining whether he has been engaging in SGA. In his own words:

> A drastic distinction exists between a person who is engaged in illegal activity for effectively the equivalent of a legal career such as being a drug dealer, illegal drug importer or other illegal activity which has counterparts in lawful activities such as business managers, business owners and the like, and a thief who steals merely to feed the cravings of unquenchable drug addiction.

Aplnt's. Br. at 18. Considering Dotson's claim under the scheme set forth above, we conclude that he forwards a distinction without a difference.

Admittedly, even a cursory examination of the regulations reveals that the Secretary envisioned their application within a traditional employment context. Importantly, however, nothing in the Act or its regulations specifically requires SGA to be lawful. This silence, we believe, suggests that illegal activities can constitute SGA. The inference is strengthened, moreover, when considering that the relevant considerations noted above apply with almost equal ease irrespective of the legality of the activities involved. Thus, one can envision a number of illegal activities that might not rise to the level of SGA.[7] Whether legally or illegally employed, the regulations direct an ALJ to focus on whether the claimant is performing significant physical or mental activities, and doing so with the intent of earning money or making a profit.

Moreover, it must be remembered that an ALJ performs the SGA analysis as one of five steps used to determine whether a person is disabled and, consequently, unable to function within our economy. A claimant who can manage through illegal means is just as undeserving of benefits as a claimant who can survive without violating the law. For this reason, there is no difference between the addict who spends all of his lawfully derived earnings on narcotics and the one who illegally obtains, and then exhausts, her income. Both are fueled, to quote Dotson, by the "cravings of unquenchable drug addiction." The only real distinction between the two—the lawfulness of their income—finds no cognizance under the Act and its interpretive regulations.[8]

Finally, our conclusion that illegal activity can constitute SGA derives substantial support from the well-established tax principle that unlawful earnings come within the meaning of the term "gross income" and are thus taxable. See, *e.g.*, *James* v. *United States*, 366 U.S. 213, 218 (1961) (plurality opinion of Warren, C.J.), *overruling Commissioner* v. *Wilcox*, 327 U.S. 404 (1946); *United States* v. *Sullivan*, 274 U.S. 259, 263 (1927). Notably, the Act has adopted the tax code's definition of gross income for purposes of determining whether a SSI claimant's income is sufficiently high so as to render him or her ineligible for benefits. 42 U.S.C. 1382(d); see also 20 CFR 416.1110(b).[9] Indeed, one of the concerns motivating the plurality in *James*, "to remove the incongruity of having the gains of the honest laborer

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[4] For a reconstituted formulation of the above definition, see 20 CFR 416.910, which provides: "Substantial gainful activity means work that—(a) Involves doing significant and productive physical or mental duties; and (b) Is done (or intended) for pay or profit."

[5] Accordingly, substantial but non-remunerative volunteer work would fall short of SGA because people normally do not volunteer their services for pay or profit. See Social Security Law and Practice § 37:4 at 8 (Timothy E. Travers et al. eds., 1987). Evidence of such volunteer work, however, could be used to deny a claimant benefits at a later stage in the sequential evaluation process. See 20 CFR 416.971.

[6] In contrast to the OASDI provisions of the Act, the SSI program is particularly concerned with a claimant's financial situation: The basic purpose underlying the supplemental security income program is to assure a minimum level of income for people who are age 65 or over, or who are blind or disabled and who do not have sufficient income and resources to maintain a standard of living at the established Federal minimum income level.

20 CFR 416.110 (emphasis added); see also *id.* at § 416.1100 ("the amount of income you have is a major factor in deciding whether you are eligible for SSI benefits"). Thus, a claimant not engaging in SGA and otherwise eligible for the SSI program will be denied benefits if he or she has too much income or too many resources. See 42 U.S.C. 1382(a); generally 20 CFR subpts. K, § 416.1100 *se seq.* (income) and L, § 416.1201 *et seq.* (resources).

[7] For example, acting as a lookout at a drug house might constitute a gainful yet insubstantial activity, whereas someone who chronically engages in acts of vandalism may be substantially, but not gainfully, occupied.

[8] Indeed, were we to hold otherwise, the court would be creating the perverse incentive—although admittedly only at the margins—for both SSI claimants and recipients to engage in illegal activity because the income therefrom would be ignored.

[9] Again, however, the resources and income analysis implicated here and discussed at note 6, *supra*, is different from the ALJ's responsibility to determine whether a claimant is engaging in SGA.

taxed and the gains of the dishonest immune," 366 U.S. at 218, provides the crux of our reasoning in this case.

C. Sufficiency of the Evidence

Having concluded that illegal activity can constitute SGA, we must next determine whether the ALJ properly applied the legal standard in Dotson's case. Our inquiry is a limited one. We will not decide facts anew, reweigh evidence, or substitute our judgment for the Secretary's. *Schroeter* v. *Sullivan*, 977 F.2d 391, 394 (7th Cir. 1992). Rather, we look to see whether "substantial evidence" supports the ALJ's findings. See 42 U.S.C. 1383(c)(3) (citing 42 U.S.C. 405(g)). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson* v. *Perales*, 402 U.S. 389, 402 (1977).

Dotson first contends that the ALJ had before him no evidence of specific illegal acts which could support a finding of SGA. Secondly, he believes the ALJ erroneously assumed that he paid full street-value for the narcotics he used and, thus, overestimated the amount of income needed to support his drug habit. We address each claim in order.[10]

Dotson's first claim, that the record lacks any evidence of illegal activities, is belied by his own testimony and by the reasonable inferences drawn therefrom by the ALJ. For example, when the ALJ asked Dotson to describe what types of items he had stolen in the month during which the administrative hearing was held, Dotson replied: "I try to concentrate on saws. * * * You know, the chainsaws, the little bitty chainsaws." Dotson then went on to explain, in some detail, how he would sell the stolen items. Additionally, the ALJ made at least one specific inquiry into the substantiality of Dotson's activities, asking him how long it takes him to find a place to steal.

We grant to Dotson his point that the record contains no evidence concerning any specific act of thievery. Also, we agree with him that the ALJ could have more fully developed the record as to the nature of his criminal undertakings. Nevertheless, we cannot say that the record before us contains less than substantial evidence that Dotson's thievery required the significant use of his physical and mental skills, and that those skills were applied within a context designed to produce pay or profit. See 20 CFR 416.972 (a), (b). In short, Dotson's testimony allowed the ALJ to reasonably conclude that the effort required to steal the chainsaws with regularity constituted SGA, and we therefore uphold this aspect of the ALJ's decision. A more exacting inquiry, while desirable, was not required.

Dotson's second argument, that the ALJ overestimated the cost of the narcotics, is also unpersuasive. As an initial matter, this claim suffers from the same weakness that proved fatal to his first argument, that is, Dotson testified without contradiction to using $200 to $300 worth of heroin and cocaine daily.[11] If Dotson actually paid less for his narcotics, one would have expected him to testify accordingly. Furthermore, this case is unlike *Curtis* v. *Sullivan*, 764 F. Supp. 119 (N.D. Ill. 1991), where the ALJ simply imputed to the claimant an income sufficient to satisfy his addiction. In that case, the ALJ concluded, in the absence of evidence as to legal or illegal employment, that the claimant had to be engaging in SGA in order to support his expensive drug habit. Here, on the other hand, Dotson's testimony as to his thievery filled the gap. From this, the ALJ was justified in finding that Dotson's earnings surpassed $500 per month, thereby rendering him presumptively ineligible for SSI benefits. See 20 CFR 416.974(b)(2)(vii).

We agree with the court in *Curtis* that simply because a claimant has a severe and expensive drug habit does not mean that the person is engaging in SGA to support it. 764 F. Supp. at 120–21. The record must contain substantial evidence, of the type outlined in Section II(B), *supra*, that the claimant is engaging in legal or illegal activities that are substantial and gainful. Because we have held that the ALJ's decision in this case comports with those requirements, we reject Dotson's challenge to the evidence supporting the Secretary's decision.

D. Narcotics as an Impairment-Related Work Expense

Dotson next raises the interesting yet ultimately unavailing argument that, if illegal activities undertaken to maintain a drug habit can constitute SGA, then the cost of the narcotics must be deducted from income as an impairment-related work expense ("IRWE") under 42 U.S.C. 1382a(b)(4)(B)(ii) and its interpretive regulations, 20 CFR 416.976. As we discuss below, Dotson misapprehends the nature of IRWEs.

42 U.S.C. 1382a(b)(4)(B)(ii), enacted as part of the Social Security Disability Amendments of 1980, Public Law No. 96–265, 94 Stat. 441 (1980), provides:

> In determining the income of an individual (and his eligible spouse) there shall be excluded * * * if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65) * * * such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.

See also 42 U.S.C. 1382c(a)(3)(D) (restating same). In 1983, the Department of Health and Human Services promulgated 20 CFR 416.976. See 48 FR 21940 (1983). These regulations established a five-part test for determining the deductibility of an IRWE:

> We will deduct impairment-related work expenses if—
>
> (1) You are otherwise disabled * * *;
>
> (2) The severity of your impairment(s) requires you to purchase (or rent) certain items and services in order to work;
>
> (3) You pay the cost of the item or service * * *;
>
> (4) You pay for the item or service in accordance with paragraph (d) of this section; and
>
> (5) Your payment is in cash (including checks and other forms of money). Payment in kind is not deductible.

20 CFR 416.976(b). With respect to the deductibility of drugs as an IRWE, the regulations provide:

> If you must use drugs * * * to control your impairment(s), the payments you make for them may be deducted. The drugs or services must be prescribed (or utilized) to reduce or eliminate the symptoms of your

[10] Dotson also argues that the ALJ erred by underestimating the amount of money he earned through panhandling. As we discussed at note 2, *supra*, the ALJ's decision to discount Dotson's panhandling income—because of the poor area in which he begs—is supported by substantial evidence.

[11] Moreover, this is not an instance where the claimant's testimony was of such dubious veracity that the ALJ should have discredited it. Dotson's claim to spending $200 to $300 per day on heroin and cocaine, while on the high side, is certainly within the realm of possibility. See, *e.g.*, *Hart* v. *Sullivan*, _____ F. Supp. _____, No. C–92–1172 SBA, 1992 WL 496646 (N.D. Cal. Dec. 30, 1992) (claimant "presently consumes seven or eight twenty-dollar bags of heroin daily * * *, uses crack every night * * *, and drinks approximately eight half-pints of hard liquor daily").

impairment(s) or to slow down its progression.

* * * * *

Examples of deductible drugs * * * are anticonvulsant drugs to control epilepsy * * *; antidepressant medication for mental disorders; medication used to allay the side effects of certain treatments;* * * and immunosuppressive medications that kidney transplant patients regularly take to protect against graft rejection.

20 CFR 416.976(c)(5)(i), (ii). Consistent with the Act's objective, use of the drugs must be necessary to allow the person to perform work. See Soc. Sec. R. 84–26 at 18 (1984) ("Routine drugs * * * are 'needed' when they are required to control the disabling condition, thereby enabling the individual to function at work.").

Dotson argues that, due to the severity of his drug addiction, he needs the cocaine and heroin in order for him to steal and panhandle. (Of course, he steals and panhandles so that he can purchase more cocaine and heroin, so that he can continue to steal and panhandle—and thus the cycle of addiction continues.) Because he needs the narcotics in order to engage in SGA, Dotson continues, he believes that the cost of the cocaine and heroin should be deducted from his earnings as an IRWE.

Sadly, we have no reason to disbelieve Dotson's self-characterization. Unfortunately for him, however, the regulations comprehend more than mere addiction to a substance before the cost of that substance will be considered an IRWE. As the statute and regulations reveal, a number of obstacles lie in the path of Dotson's argument. We content ourselves, however, to focus upon the requirement that in order to be an IRWE a drug must "reduce or eliminate" the symptoms of a claimant's impairment, or "slow down its progression." 20 CFR 416.976(c)(5)(i). In the face of Dotson's claim that his disability stems from drug abuse, he cannot hope to maintain the argument that his continued use of heroin and cocaine reduces or eliminates the symptoms of his impairment. Rather, Dotson's use of drugs serves as the basis of his alleged disability. And far from slowing Dotson's dependency upon narcotics, his continued use of heroin and cocaine only exacerbates his disability. With these considerations in mind, we must reject Dotson's claim for an IRWE.

E. The Constitutional Claims

Dotson lastly argues that using illegal activity to constitute SGA violates his rights to due process and equal protection of the laws under the United States Constitution, although he has encountered some difficulty in articulating the precise nature of his constitutional complaints. It would seem that his due process argument—one which might be more properly construed as an administrative challenge to the regulations—reduces to the theory that the ALJ's decision in this case attempts to override Congress' intent to provide SSI benefits to substance abusers and, therefore, is void for want of a rational basis. His equal protection claim, on the other hand, appears based on the assertion that, under the Secretary's position, rich drug addicts will be treated preferentially to the disadvantage of poor ones. We briefly address each of his arguments.

1. Due Process

To establish a due process violation, Dotson faces the well-settled and formidable burden of proving that the Secretary's regulations, as we have interpreted them, lack a rational basis. See, *e.g., Weinberger* v. *Salfi,* 422 U.S. 749, 768 (1975) ("the Due Process Clause can be thought to interpose a bar only if the statute [or, as here, a regulation] manifests a patently arbitrary classification, utterly lacking in rational justification [citation omitted]"). Moreover, that rational basis need not be expressed explicitly by Congress or the administrative agency; "any state of facts reasonably may be conceived to justify it." *Dandridge* v. *Williams,* 397 U.S. 471, 485 (1970) (citation omitted).

Initially, we note that interpreting the Secretary's regulations as allowing illegal activity to constitute SGA does not interfere with Congress' intent, assuming there is one, to provide disability benefits to substance abusers.[12] Rather, such an interpretation prevents only those substance abusers who are engaging in SGA, whether legally or illegally employed, from receiving SSI benefits reserved for disabled persons who are also poor. See *Bowen* v. *Yuckert,* 482 U.S. 137, 140 (1987) ("Title XVI of the Act provides for the payment of disability benefits to indigent persons * * *." [Emphasis added.]) Thus, the Secretary's regulations coincide with the SSI program's underlying purpose.

Moving to the next level, Dotson's myopic view of Congress' intent in the statutory context serves to highlight the flaw in his constitutional argument. Simply put, we cannot say that regulations which preclude the disbursement of federal disability benefits to persons who are engaging in substantial and gainful activity, regardless of the activity's legality, constitutes a "patently arbitrary classification" warranting judicial intervention. To the contrary, working within a system where the limited supply of federal funds will never satisfy the deserving demand, we are hard pressed to think of a better dividing line than the one drawn by the Secretary. Having said this much, we must reject Dotson's due process claim.

2. Equal Protection

Dotson faces an equally difficult burden when arguing to this court that the Secretary's regulations violate the equal protection component of the Fifth Amendment. Because a statute's or regulation's differential impact upon the poor versus the wealthy, by itself, does not subject that distinction to strict judicial scrutiny, see, *e.g., Kadrmas* v. *Dickinson Public Schools,* 487 U.S. 450, 458 (1988), Dotson must prove that the classification drawn by the Secretary's regulations fails to rationally further a legitimate interest, *Zobel* v. *Williams,* 457 U.S. 55, 60 (1982). Under such a standard, Dotson's constitutional claim again must fail.

Dotson argues that the Secretary's position, if implemented, will hurt only poor drug abusers because rich ones, who presumably will have paid into the Social Security system, will be eligible to receive OASDI benefits under Title II of the Act. This argument misses the mark for the simple reason that OASDI claimants, just like SSI claimants, must navigate the same five-step administrative process, the first of which requires that the claimant not be engaging in SGA. Compare 42 U.S.C. 423(d)(1)(A) and 20 CFR § 404.1520(a) (Title II) with 42 U.S.C. 1382c(a)(3)(A) and 20 CFR § 416.920(a) (title XVI).[13]

[12] We are inclined to agree with Dotson that Congress has envisioned the application of the Act to substance abusers. See, *e.g.,* 42 U.S.C. 1382(e)(3)(A) (requiring SSI recipients who are alcoholics or drug addicts to undergo treatment as a condition of receiving disability benefits); 42 U.S.C. 1383(a)(2)(A)(ii) (providing for payment of SSI benefits to alcoholics and drug addicts through representative payees).

[13] Dotson's argument would become relevant in two situations, the first of which is beyond the court's powers generally and the second of which is not implicated in this appeal. The first scenario involves a wealthy addict who is able to satisfy his or her addiction without resort to the welfare system. Such a person, of course, is better off than Dotson, but this disparity yields him no cause of action. In the second scenario, a wealthy addict who is not engaging in SGA, but who has paid into the Social Security system, applies for and receives OASDI benefits. This person, again undoubtedly better off than Dotson, presumably would be ineligible for SSI benefits due to an excess of resources and income. See generally note 6, *supra.* Importantly, however, Dotson is not in a position to make this argument because the ALJ below did not deny him benefits based on his income or

Even if Dotson could maintain such an argument, we would be inclined to reject it because the Secretary's classification seems rationally to further the legitimate interest of rewarding those persons with a prior attachment to the work force who have contributed to the Social Security system.

The judgment of the district court is affirmed.

[FR Doc. 94–657 Filed 1–11–94; 8:45 am]

BILLING CODE 4190–29–P

Agreement on Social Security Between the United States and Luxembourg; Entry Into Force

The Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and Luxembourg social security systems entered into force on November 1, 1993. The agreement with Luxembourg, which was signed on February 12, 1992, is similar to U.S. social security agreements already in force with fifteen other countries—Austria, Belgium, Canada, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Luxembourg agreement eliminates dual social security coverage—the situation that occurs when a person from one country works in the other country and is required, along with his employer, to pay social security taxes to both countries on the same earnings. Under the U.S.-Luxembourg agreement, a worker who is sent by an employer in the U.S. to work in Luxembourg for 5 years or less remains covered only by the U.S. system. The agreement includes additional rules that eliminate dual U.S. and Luxembourg coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial U.S. or Luxembourg benefits based on combined (totalized) work credits from both countries.

Individuals who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Policy, Post Office Box 17741, Baltimore, Maryland 21235.

Dated: January 25, 1994.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 94–735 Filed 1–11–94; 8:45 am]

BILLING CODE 4190–29–P

resources, but rather based on the fact that Dotson was engaging in SGA.

Social Security Ruling SSR 94–2p; Title XVI: Workers' Compensation (WC) Payments

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 94–2p. This Policy Interpretation Ruling clarifies the Social Security Administration's (SSA) longstanding policy that, under the supplemental security income program, any portion of a workers' compensation (WC) payment designated by the authorizing or paying agency for medical expenses, or for legal or other expenses attributable to obtaining the WC award is not income. These expenses may be past, current, or future.

EFFECTIVE DATE: January 12, 1994.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Program No. 93.807 Supplemental Security Income)

Dated: January 3, 1994.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Workers' Compensation (WC) Payments

Purpose: To clarify that, under the supplemental security income (SSI) program, any portion of a WC payment designated for medical expenses, or for legal or other expenses attributable to obtaining the WC award is not income.

Citations (Authority): Section 1612(a)(2)(B) of the Social Security Act (SSACT), as amended; Regulations No. 16, sections 416.1103(a), 416.1121(a), and 416.1123(b)(3)

Pertinent History: WC is awarded to an injured employee or to the survivor(s) of an employee under Federal and State WC programs and the Longshoremen and Harbor Workers' Act. It may be paid by a Federal or State agency, an insurance company, or an employer. Payments may include amounts for medical expenses, or for legal or other expenses attributable to obtaining the WC award. These expenses may be past, current, or future and may be lump-sum or periodic in nature.

The SSACT at section 1612(a)(2)(B), and regulations at 20 CFR 416.1121(a) provide that WC is unearned income for SSI purposes. Regulations at 20 CFR 416.1123(b)(3) provide for counting less than the amount actually received when part of the amount received is for an expense of obtaining the income. Regulations at 20 CFR 416.1103(a) provide that reimbursement for certain medical expenses is not income.

Policy Interpretation: If the Federal or State agency, insurance company, or employer that authorizes or makes a WC payment designates any portion of it for medical expenses, or for legal or other expenses attributable to obtaining the WC award, such portion is not income for SSI purposes. The expenses may be past, current, or future. Any portion of a WC award or payment not designated for such expenses is unearned income.

Effective Date: This Ruling merely clarifies longstanding SSI policy on the treatment of WC payments designated for certain types of expenses. If a case comes to SSA's attention where SSA did not apply this policy, SSA will reopen and revise the earliest determination possible under the rules of administrative finality. SSA will use the 2-year reopening rule, treating the

determination as an error on the face of the evidence.

Cross-Reference: Program Operations Manual System, Part 5, Chapter 008, Subchapter 30, Section SI 00830.235.

[FR Doc. 94–658 Filed 1–11–94; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–93–3699]

Notice of 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.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, 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 description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 14, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Notice of Fund Availability for HOPE for Public and Indian Housing Homeownership Program (HOPE 1) (FR–3501).

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: The purpose of this information collection is to provide grants to Resident Councils, Resident Management Corporations, Public Housing Authorities, and Indian Housing Agencies. They will use the grants to plan and implement the conversion of public housing to public housing resident and low income homeownership.

Form number: None.

Respondents: State or local Governments, businesses or other for-profit, and non-profit institutions.

Frequency of submission: Semi-annually and recordkeeping.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	100		1		91		9,100
Recordkeeping	100		1		40		4,000

Total estimated burden hours: 13,100.

Status: Reinstatement.

Contact: Gary Van Buskirk, HUD, (202) 708–4233; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: December 14, 1993.

[FR Doc. 94–689 Filed 1–11–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–93–3700]

Notices of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

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 comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, 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 proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone

numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 27, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Technical Suitability of Products Program, Section 521 of the National Housing Act.

Office: Housing.

Description of the need for the information and its proposed use: This information is needed under HUD's Technical Suitability of Products Program to determine the acceptance of materials and products to be used in structures approved for mortgages insured under the National Housing Act.

Form number: None.

Respondents: Businesses or other for-profit.

Frequency of submission: On occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	50		1		41		2,050
Recordkeeping	50		1		3		150

Total estimated burden hours: 2,200.

Status: Extension.

Contact: Donald R. Fairman, HUD, (202) 708–7440; Joseph F. Lackey, Jr., OMB, (202) 395–6880.

Dated: December 14, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Cooperative Membership Exhibit.

Office: Housing.

Description of the need for the information and its proposed use: The form is used to provide HUD with a listing of prospective cooperative members totaling not less than the percentage of cooperative subscribers necessary to validate the presale requirement.

Form number: HUD–93203.

Respondents: Individuals or households.

Frequency of submission: On occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–93203	300		1		.5		150

Total estimated burden hours: 150.

Status: Extension.

Contact: Kerry J. Mulholland, HUD, (202) 708–0283 Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: December 27, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for HUD/FHA Insured Mortgage.

Office: Housing.

Description of the need for the information and its proposed use: Form HUD–92900A and the related documents will determine the eligibility of the borrower and the proposed request for HUD/FHA mortgage insurance.

Form number: HUD–92900A, 92561, 92544, and 92900–WS.

Respondents: Individuals or households and businesses or other for-profit.

Frequency of submission: On occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92900A and Related Exhibits	1,000,000		1		.210		210,000
Computations of Buydowns	20,000		1		.250		5,000
Mortgagor Notice of Intent to Satisfy Occupancy	5,000		1		.005		25

Total estimated burden hours: 215,025.

Status: Extension.

Contact: Susan Hoyer, HUD, (202) 708–2700; Joseph F. Lackey, Jr., OMB, (202) 395–6880.

Dated: December 8, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgagor's Certificate of Actual Cost.

Office: Housing.

Description of the need for the information and its proposed use: The mortgagor submits this report certifying actual development cost so that HUD can make a determination of mortgage insurance acceptability and prevent windfall profits. It is also used to provide a base for evaluating housing programs, labor costs, and physical improvements in connection with construction of multifamily housing.

Form number: HUD–92330.

Respondents: Businesses or other for-profit and non-profit institutions.

Frequency of submission: On occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92330	500		1		8		4,000

Total estimated burden hours: 4,000.
Status: Reinstatement.
Contact: Genevieve A. Tucker, HUD, (202) 708–0283; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: December 22, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Tenant/Homebuyer Data Summary.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: The consolidated form HUD–50058, Tenant/Homebuyer Data Summary, reflects an effort to upgrade and expand the quality of data received from PHAs, IHAs, and organizations administering the Section 8 Certificate, Voucher and Moderate Rehabilitation Programs. Based on experience in obtaining tenant data summary information, the form has been reformatted and data elements significantly modified to more accurately assess the demographic, ethnic and economic character of assisted housing residents.

Form number: HUD–50058.

Respondents: State or local Governments.

Frequency of submission: Monthly.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Form HUD–50058	4,500		916.5		1		4,124,250

Total estimated burden hours: 4,124,250.
Status: Revision.
Contact: Earl Simons, HUD, (202) 708–0744; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: December 21, 1993.

[FR Doc. 94–690 Filed 1–11–94; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–93–3691; FR–3348–N–07]

State and Local Fair Housing Laws: Initial Determination Concerning Substantial Equivalency of Fair Housing Law of the State of Arizona

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice and request for comments.

SUMMARY: In accordance with 24 CFR 115.6(c) of the Department's regulations, this notice announces the Department's determination that the fair housing law of the State of Arizona is substantially equivalent, on its face, to the Fair Housing Act. This notice solicits comments from the public on this determination, and on the proposed determination that the present practices and past performance of the agency enforcing the fair housing law of the State of Arizona demonstrate that, in operation, the law provides rights and remedies that are substantially equivalent to those available under the Fair Housing Act.

DATES: Comment Due Date: February 11, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Marcella O. Brown, Director, Funded Programs Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., room 5234, Washington, DC 20410, telephone (202) 708–0455. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Under the Fair Housing Act (42 U.S.C. 3600–3619), the Department is authorized to investigate complaints alleging discrimination in housing. (Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 is cited as the "Fair Housing Act.") Section 810(f) of the Fair Housing Act requires the Department to refer complaints to State and local agencies that have "substantially equivalent" fair housing standards, as determined and certified by the Department. The standards and procedures for certifying State and local fair housing laws that provide substantive rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Fair Housing Act are set forth in 24 CFR part 115.

On July 23, 1993 (58 FR 39561), the Department published the annual notice required by 24 CFR 115.6, which announced, among other things, the updated, consolidated list of all certified agencies, and a list of agencies with which an agreement for interim referrals or other utilization of services had been entered into under 24 CFR 115.11. In the July 23, 1993 notice, the Department listed thirty-four jurisdictions, of which the State of Arizona was one, which had entered into an agreement with the Department, subsequent to September 12, 1988, for interim referrals, and were considered to have interim certification in accordance with section 810(f)(4) of the Fair Housing Amendments Act of 1988 (hereafter "Act"). (The Fair Housing Amendments Act of 1988 was enacted on September 13, 1988.)

Notice Announcements and Solicitation of Comments

In accordance with 24 CFR 115.6(c)(1), this notice announces that the fair housing law of the State of Arizona has been determined by the Assistant Secretary of Fair Housing and Equal Opportunity to be substantially equivalent, on its face, to the Fair Housing Act. The Assistant Secretary has determined, after application of the criteria set forth in 24 CFR 115.3 and 115.4, that the fair housing law of the State of Arizona provides, on its face, substantive rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Fair Housing Act.

Following a review of performance standards and other materials pertaining to the fair housing law of the State of

Arizona, and its enforcement by the State of Arizona, the Department expects to make a final determination that the law, in operation, provides rights and remedies that are substantially equivalent to those available under the Fair Housing Act. The Department intends to execute a Memorandum of Understanding with the agency charged with enforcement of the fair housing law of the State of Arizona in accordance with § 115.6(c).

In accordance with 24 CFR 115.6(b), the public is invited to submit written comments on this notice. Specifically, the Department requests written comments on the proposed determination that the current practices and past performance of the agency of the State of Arizona charged with administration and enforcement of the State's fair housing law demonstrate that, in operation, the State law provides substantive rights and remedies that are substantially equivalent to the Fair Housing Act. This notice also invites comments from the public on the Department's determination that the fair housing law of the State of Arizona is substantially equivalent, on its face, to the Fair Housing Act.

Dated: December 23, 1993.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–692 Filed 1–11–94; 8:45 am]

BILLING CODE 4210–28–P

Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. N–93–3701; FR–3633–N–01]

Task Force on Lead-Based Paint Hazard Reduction and Financing; Open Meeting

AGENCY: Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of open meetings.

SUMMARY: The Task Force was established by the Secretary pursuant to section 1015 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The charter of the Task Force was approved July 14, 1993.

The Task Force includes individuals representing the Department of Housing and Urban Development; the Farmers Home Administration; the Department of Veterans Affairs; the Federal Home Loan Mortgage Corporation; the Federal National Mortgage Association; the Environmental Protection Agency; employee organizations in the building and construction trades industry; landlords; tenants; primary lending institutions; private mortgage insurers; single-family and multifamily real estate interests; nonprofit housing developers; property liability insurers; public housing agencies; low-income housing advocacy organizations; national, State, and local lead-poisoning prevention advocates and experts; and community-based organizations located in areas with substantial rental housing. These members were selected on the basis of personal experience and expert knowledge.

DATES: The meetings will be held on February 9, 1994 (9 to 5:30), and February 10th, 1994 (9 to 1), (EST), at the Holiday Inn Capitol, 550 "C" St, SW. (corner of 6th & C Streets), Washington, DC 20024.

ADDRESSES: Members of the public are invited to provide written material to: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW., room B–133, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW., room B–133, Washington, DC 20410; telephone (202) 755–1805. The TTD numbers are (202) 708–9300 or 1–800–877–8339. (Except for the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The first meeting of the Task Force was on November 8, 1993, in Washington, DC. An announcement will be published in the **Federal Register** at least 15 days before each meeting. All meetings will be open to the public, with limited seating available on a first-come, first-served basis.

The mandate of the Task Force is to make recommendations to the Secretary of HUD and the Administrator of the Environmental Protection Agency (EPA) concerning:

(1) Incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) Developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) Adjusting appraisal guidelines to address lead safety;

(4) Incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) Revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) Reducing the current uncertainties of liability related to lead-based paint in rental housing, by clarifying standards of care for landlords and lenders and by exploring the "safe harbor" concept;

(7) Increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) Evaluating the utility and appropriateness of requiring both risk assessments or inspections and notification to prospective lessees of rental housing.

Authority: 42 U.S.C. 4852a, 4852b.

Dated: December 20, 1993.

Arthur S. Newburg,

Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

[FR Doc. 94–694 Filed 1–11–94; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–920–94–4120–03; COC 55135]

Colorado; Notice of Invitation for Coal Exploration License Application, Basin Resources, Inc.

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Basin Resources, Inc., in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Las Animas County, Colorado:

T. 32 S., R. 67 W., 6th P.M.
Sec. 31, E½SE¼;
Sec. 32, SW¼.
T. 33 S., R. 67 W., 6th P.M.
Sec. 6, lots 2 to 7, inclusive, E½SW¼;
Sec. 7, lot 2.
T. 33 S., R. 68 W., 6th P.M.
Sec. 1, lots 1, 2, S½NE¼, and E½SE¼;
Sec. 2, S½NE¼;
Sec. 12, E½NE¼.

The area described contains approximately 975.75 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 55135 at the Bureau of Land Management (BLM) Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the Canon City District Office, 3170 East Main Street, Canon City, Colorado 81212.

Written Notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after publication of the Notice of Invitation in the **Federal Register:**

Richard D. Tate, Chief, Mining Law and Solid Minerals Adjudication Section, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215

and

Ronald G. Thompson, Senior Mine Engineer, Basin Resources, Inc., 14300 Highway 12, Weston, Colorado 81091.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: January 3, 1994.

Richard D. Tate,

Chief, Mining Law and Solid Minerals Adjudication Section.

[FR Doc. 94–794 Filed 1–11–94; 8:45 am]

BILLING CODE 4310–JB–M

[UT–040–04–4320–01; 4–00152]

Availability of Environmental Assessment for Animal Damage Control Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Environmental Assessment.

SUMMARY: Notice is hereby given that the Cedar City District, Bureau of Land Management has prepared an environmental assessment and decision for authorization of animal damage control activities by the Animal Plant Health and Inspection Service (APHIS) in the Cedar City District. Within 30 days of the printing of this notice, the public has the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4.

FOR FURTHER INFORMATION CONTACT: District Manager Gordon R. Staker, Cedar City District Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84720. Telephone: 801-586-2401.

Dated: January 3, 1994.

Gordon R. Staker,

District Manager.

[FR Doc. 94–795 Filed 1–11–94; 8:45 am]

BILLING CODE 4310–DQ–M

[CO–920–94–4110–03; COC25040]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC25040, Mesa County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from April 1, 1993, the date of termination.

No valid lease has been issued affecting the lands. The lessees have agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessees have paid the required $500 administrative fee for the lease and have reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in sections 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective April 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Bill Norton of the Colorado State Office at (303) 239–3779.

Dated: January 3, 1994.

Janet M. Budzilek,

Chief, Fluid Minerals Adjudication Section.

[FR Doc. 94–796 Filed 1–11–94; 8:45 a.m.]

BILLING CODE 4310–JB–M

[CACA 33632]

Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 20 acres of National Forest System land for protection of the historic Harlow Cabin and the surrounding lands. This site is on the National Register of Historic Places. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System lands.

DATES: Comments and requests for meeting should be received on or before April 12, 1994.

ADDRESSES: Comments and meeting requests should be sent to the California State Director, BLM, 2800 Cottage Way, room E–2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: On November 19, 1993, the United States Department of Agriculture filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Mount Diablo Meridian

Rogue River National Forest

T. 48 N., R. 11 W.,

Sec. 14, Tract 49.

The area described contains 20 acres in Siskiyou County.

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 California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place with be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

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 temporary uses which will be permitted during this segregative period are land uses permitted by the Forest Service under existing laws and regulations.

Dated: December 21, 1993.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 94–716 Filed 1–11–94; 8:45 am]

BILLING CODE 3410–11–M

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Risk Identification and Assessment Committee Meeting

AGENCY: Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Risk Identification and Assessment Committee (Committee), a committee of the Aquatic Nuisance Species Task Force. The Committee meeting will focus on evaluating potential pathways of nonindigenous species introduction using the pathway evaluation process developed at the previous meeting.

DATES: The Risk Identification and Assessment Committee will meet from 9 a.m. to 3 p.m. on Wednesday, January 26, 1994.

ADDRESSES: The Risk Identification and Assessment Committee meeting will be held at the U.S. Fish and Wildlife Service Building, room 500, 4401 N. Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Richard Orr, Risk Identification and Assessment Committee Chairman, U.S. Dept. of Agriculture, Animal and Plant Health Inspection Service, 6505 Belcrest Rd., room 810, Hyattsville, MD (301) 436–8939.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Risk Identification and Assessment Committee established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meetings will be maintained by the Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the Risk Identification and Assessment Committee Chairman, U.S. Dept. of Agriculture, Animal and Plant Health Inspection Service, 6505 Belcrest Rd., room 810, Hyattsville, MD 20782 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: 5 January 1994.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force Assistant Director—Fisheries.

[FR Doc. 94–656 Filed 1–11–94; 8:45 am]

BILLING CODE 4310–65–M

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, January 28, 1994.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Park Headquarters, Marconi Station, for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Superintendent's Report
6. Mission and Vision Statements
7. Nauset Light Relocation
8. Transportation Issues
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Communications/Public Comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: December 29, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 94–756 Filed 1–11–94; 8:45 am]

BILLING CODE 4310–70–P

Sudbury, Assabet and Concord Rivers Wild and Scenic Study, MA; Sudbury, Assabet and Concord Rivers Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app. 1 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, January 27, 1994.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in Section 5 (a) (110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m., Thursday, January 27, 1994, at the Bedford Town Hall, Mudge Way, Bedford, MA. Directions: Bedford Town Hall is located on the left, along Mudge Way, off the south side of Great Road (where Rtes. 4/225 and 62 converge) in Bedford Center. From Rte. 128, take exit for Rtes. 4/225 West and travel approx. 2.3 miles. Turn left on Mudge Way. From west, travel approx. 0.3 miles from the intersection of Rtes. 4/225 and 62. Turn right at Mudge Way.

The agenda is as follows:

I. Welcome and introductions, approval of minutes from 12/2/93 meeting.

II. Brief questions and comments from public

III. Subcommittee Reports—Subcommittee Chairs

A. Water Resources Subcommittee: Water Resources Study and Recreation Task Force

B. River Conservation Planning Subcommittee

C. Public Participation Subcommittee

V. Issues of Local Concern

VI. Opportunity for public questions and comments

VII. Other Business

A. Next meeting dates and locations

Dated: December 29, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 94–755 Filed 1–11–94; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–351]

Monitoring of U.S. Imports of Peppers

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation.

EFFECTIVE DATE: December 30, 1993.

SUMMARY: The North American Free Trade Agreement Implementation Act, P.L. 103–182, directs the Commission to monitor imports of fresh or chilled peppers, other than chili peppers (HTS subheading 0709.60.00), until January 1, 2009, as if a proper request for such monitoring had been made under section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)), for purposes of expediting an investigation concerning provisional relief under section 202 of the Trade Act of 1974. As a result, the Commission instituted investigation No. 332–351, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of monitoring imports of fresh or chilled peppers.

In the course of the investigation, the Commission will monitor U.S. imports of fresh or chilled peppers from all foreign suppliers. In addition, the Commission will investigate and gather data, to the extent possible, on U.S. growers in such areas as shipments, prices, market share, employment levels, profit-or-loss, and efforts to compete. Wherever possible, the Commission will rely on existing data from other government agencies.

Although section 316 does not require that the Commission publish reports summarizing the information obtained as a result of such monitoring, the Commission plans to publish statistical annual reports of certain trade data through the year 2008.

FOR FURTHER INFORMATION CONTACT: Timothy McCarty (202–205–3324) or Lowell Grant (202–205–3312), Agriculture Division, Office of Industries, or William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on this study by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements at any time during the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirement of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submission should be addressed to the Secretary at the Commission's office in Washington, DC.

Issued: January 4, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–770 Filed 1–11–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–675 and 676 (Preliminary)]

Saccharin From China and Korea

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Korea of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On November 18, 1993, a petition was filed with the Commission and the Department of Commerce by PMC Specialties Group, Cincinnati, OH, alleging that an industry in the United States is materially injured by reason of LTFV imports of saccharin from China and Korea. Accordingly, effective November 18, 1993, the Commission instituted antidumping investigations Nos. 731–TA–675 and 676 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 29, 1993 (58 FR 62682). The conference was held in Washington, DC, on December 9, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 3, 1994. The views of the Commission are contained in USITC Publication 2716 (January 1994), entitled "Saccharin from China and Korea: Investigations Nos. 675 and 676 (Preliminary)."

Issued: January 3, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–772 Filed 1–11–94; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[Investigation No. 337–TA–354]

Certain Tape Dispensers; Decision Not To Review an Initial Determination Granting Motion To Amend Notice of Investigation To Clarify Identity of One Respondent and To Delete Another Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) in the above-captioned investigation granting complainant Minnesota Mining and Manufacturing, Inc.'s ("3M") motion to amend the notice of investigation to correct the identification of one respondent and to delete another respondent.

FOR FURTHER INFORMATION CONTACT: James M. Lyons, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Telephone: (202) 205–3094.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain tape dispensers, on July 15, 1993. Complainant 3M alleges infringement of U.S. Letters Patent Des. 289,180.

On November 29, 1993, complainant filed a second motion to amend the notice of investigation to clarify the identity of the named respondents. Complainant moved to delete one respondent, Shiang Shin Trading Co., and to change the identification of another respondent, Safina Office Products, to Shiang Shin International, Inc., d/b/a Safina Office Products. In

requesting this action, 3M stated that an affidavit received from one of the respondents had revealed that Safina Office Products is merely the assumed name for Shiang Shin International, Inc. and that Shiang Shin Trading Co. is an unrelated company that is not involved in the importation or sale of the subject tape dispensers. The Commission investigative attorney supported the motion. On December 13, 1993, the ALJ issued an ID (Order No. 4) granting complainant's motion.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

Issued: January 7, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–773 Filed 1–11–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–350]

Monitoring of U.S. Imports of Tomatoes

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation.

EFFECTIVE DATE: December 30, 1993.

SUMMARY: The North American Free Trade Agreement Implementation Act, Public Law 103–182, directs the Commission to monitor imports of fresh or chilled tomatoes (HTS heading 0702.00), until January 1, 2009, as if a proper request for such monitoring had been made under section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)), for purposes of expediting an investigation concerning provisional relief under section 202 of the Trade Act of 1974. As a result, the Commission instituted investigation No. 332–350, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of monitoring imports of fresh or chilled tomatoes.

In the course of the investigation, the Commission will monitor U.S. imports of fresh or chilled tomatoes from all foreign suppliers. In addition, the Commission will investigate and gather data, to the extent possible, on U.S. growers in such areas as shipments, prices, market share, employment levels, profit-or-loss, and efforts to compete. Wherever possible, the Commission will rely on existing data from other government agencies.

Although section 316 does not require that the Commission publish reports summarizing the information obtained as a result of such monitoring, the Commission plans to publish annual statistical reports of certain trade data through the year 2008.

FOR FURTHER INFORMATION CONTACT: Timothy McCarty (202–205–3324) or Lowell Grant (202–205–3312), Agriculture Division, Office of Industries, or William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on this study by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN SUBMISSION: Interested persons are invited to submit written statements at any time during the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirement of section 210.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submission should be addressed to the Secretary at the Commission's office in Washington, DC.

Issued: January 4, 1994.

By order of the Commission.

Donna R. Koeknke,

Secretary.

[FR Doc. 94–771 Filed 1–11–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Johnnie Davis, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–6212 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

AB–167 (SUB-NO. 1132X), Consolidated Rail Corporation Abandonment Exemption—In Washington County, Pa and Brooke County, WV. EA available 1/4/94.

AB–52 (SUB-NO. 76X), The Atchison Topeka and Santa Fe Railway Company Exempt Abandonment of 1.84 miles of right-of-way at or near Harper, Harper County, Kansas. EA available 1/7/94.

AB–32 (SUB-NO. 58X) and AB–355 (SUB-NO. 10X), Boston and Maine Corp. and Springfield Terminal Railway Co.—abandonment and discontinuance of service—Waterbury Industrial Track, in New Haven County, Ct. EA available 1/7/94.

AB–32 (SUB-NO. 61X) and AB–355 (SUB-NO. 13X), Boston and Maine Corp. and Springfield Terminal Railway Co.—abandonment and discontinuance of service—Dublin Street Track, in New Haven County, Ct. EA available 1/7/94.

Comments on the following assessment are due 30 days after the date of availability: None.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–766 Filed 1–11–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32427]

City of Los Angeles and City of Long Beach—Acquisition Exemption—Rail Lines of the Atchison, Topeka and Santa Fe Railway Co., Southern Pacific Transportation Co., and Union Pacific Railroad Co.; Notice of Exemption

The City of Los Angeles, acting by and through the Board of Harbor Commissioners of the Port of Los Angeles, and the City of Long Beach, acting by and through its Board of Harbor Commissioners (collectively referred to as the Cities), have jointly filed a notice of exemption to acquire from The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), Southern Pacific Transportation Company (SPT), and Union Pacific Railroad Company (UP) certain interest in property described below to construct

a railroad corridor that will permit consolidation of Santa Fe's, SPT's, and UP's overhead rail service to and from the ports to a point in central Los Angeles. The exemption became effective on December 24, 1993.

The lines being acquired, by subdivision, include the following: (a) Santa Fe's line on the Los Angeles Harbor Subdivision between milepost 27.6 and milepost 28.3 in the County of Los Angeles; and the connection track between SPT's San Pedro Branch and Santa Fe's Watson Yard; (b) SPT's line from the connection with UP switch at the east side of Santa Fe Avenue easterly of "J" Yard, milepost BG 486.17 (San Pedro Branch) southeasterly through "J" Yard and a portion of the SPT's Santa Monica Branch to a point of connection with the San Pedro Branch milepost BBM 484.99 (Wilmington Branch) then southerly paralleling Alameda Street to a crossing of the Wilmington Branch at Dominguez Junction milepost BG 496.50 (San Pedro Branch) crossing over to the Wilmington Branch southerly to a point southerly of Sepulveda Boulevard and merging into the San Pedro Branch with the Wilmington Branch terminating at the Santa Fe's Harbor Subdivision Thernard Crossing milepost BBM 501.20 (Wilmington Branch) and milepost BG 501.4 (San Pedro Branch) and the San Pedro Branch continuing southerly and southeasterly through the Port of Los Angeles to approximately 22nd Street in San Pedro and also including to the legs of the West Wye and the Long Beach Branch from the San Pedro Branch into the Port of Long Beach and terminating south of the 8th Street Yard milepost BH 503.73 (Long Beach Branch); and (c) UP's line from a connection with SPT's "J" Yard at the east side of Santa Fe Avenue in Los Angeles milepost 1.8 via Redondo Jct. and Bridge Jct. to a connection with the East Bank main line at Ninth St. Jct. milepost 0.97; from Bridge Jct. on the aforesaid line milepost 1.30 to Soto St. Jct. milepost 2.08 (a distance of approximately 500 feet); from Soto St. Jct. milepost 2.08 to Downey Road milepost 2.88; and from milepost 2.84 near Downey Road to Hobart Junction milepost 3.08 on the San Pedro Branch north of Santa Fe's at-grade crossing; and the San Pedro Branch from milepost 21.71 to milepost 23.73 in the County of Los Angeles.

Santa Fe, SPT, and UP are to retain trackage rights and/or permanent easements over those portions of property on which they currently conduct rail operations so as to continue rail freight service.

According to the Cities, their acquisition of the described property interests from Santa Fe, SPT, and UP will not confer common carrier status on the Cities, and the Cities reserve their right to file a motion to dismiss this notice or subsequently to seek revocation of the exemption. If we subsequently find that we lack jurisdiction over these transactions, we will enter a supplemental order vacating this exemption.

Any comments must be filed with the Commission and served on: Samuel M. Sipe, Jr., Steptoe & Johnson, 1330 Connecticut Ave., NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 5, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–769 Filed 1–11–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees

In accordance with 42 U.S.C. 9622(d)(2) and 28 CFR 50.7, notice is hereby given that two proposed consent decrees in *United States* v. *DiBiase Salem Realty Trust, et al.*, Civil Action No. 91–11028–MA, were lodged on December 30, 1993 with the United States District Court of Massachusetts. The Consent Decrees resolve certain claims of the United States against defendant South Essex Sewerage District ("SESD") and Massachusetts Electric Company ("Massachusetts Electric") under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606, 9607, in connection with the Salem Acres Superfund Site, a 234.5-acre parcel located approximately one quarter mile west of Route 107 in Salem, Massachusetts. Under the settlement reflected in the Consent Decree with SESD, SESD will pay the United States $460,948 in remedial costs incurred prior to March 31, 1993, and will perform the remedial cleanup of the sludge lagoons and certain other areas of the Site. Through the second Consent Decree, Massachusetts Electric will pay the United States $93,237 in remedial costs incurred prior to March 31, 1993, and will perform the remedial cleanup of the flyash pile on the Site. Both SESD and Massachusetts Electric agree through the settlements to pay certain future remedial costs incurred by the United States that are not inconsistent with the NCP.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *DiBiase Salem Reality Trust, et al.*, D.J. Ref. No. 90–11–3–744. The proposed Consent Decrees may be examined at the Office of the United States Attorney for the District of Massachusetts, 1107 John W. McCormack Federal Bldg., U.S. P.O. & Courthouse, Boston, Massachusetts 02109, the Region I Office of the United States Environmental Protection Agency, Office of Regional Counsel, 1 Congress Street, 10th Floor, Boston, Massachusetts and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $23.50 for each Consent Decree (25 cents per page for reproduction costs, exclusive of the costs of the appendices), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–797 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Salt Pond Associates

In keeping with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *Salt Pond Associates* v. *United States Army Corps of Engineers, et al.*, Civ. No. 92–597–LON (D. Del.), was lodged with the United States District Court for the District of Delaware on or about January 10, 1994. This consent decree concerns counterclaims filed in the above-entitled action by the United States pursuant to the Clean Water Act and the Rivers and Harbors Act of 1899. The counterclaims seek a permanent injunction and civil penalties for plaintiff Salt Pond Associates' alleged violations of section 301(a) of the Clean Water Act, 33 U.S.C 1311(a), and section 10 of the Rivers and

Harbors Act of 1899, 33 U.S.C. 403. The consent decree allows certain work conducted in wetlands and other waters of the United States to remain in place subject to Salt Pond Associates' compliance with restoration and mitigation requirements, and imposes a civil penalty of two hundred thousand dollars ($200,000) on Salt Pond Associates.

Pursuant to 28 CFR 50.7, the Department of Justice will accept written comments on the consent decree for a period of thirty (30) days after the date of publication of this Notice in the Federal Register. Comments should be addressed as follows: Assistant Attorney General/Environment and Natural Resources Division/United States Department of Justice/Attention: Timothy Burns/Environmental Defense Section/P.O. Box 23986/Washington, DC 20026–3986. Comments should reference *Salt Pond Associates* v. *United States Army Corps of Engineers, et al.*, No. 90–5–1–6–498.

The consent decree may be examined at the Clerk's Office/United States District Court/District of Delaware/844 King Street/Wilmington, Delaware (contact the Clerk at (302) 573–6170). It may also be examined at the United States Department of Justice/ Environmental Defense Section/10th Street and Pennsylvania Avenue, NW./ Washington, DC (contact Kevin Christof at (202) 514–0985).

Timothy Burns,

Trial Attorney, Environmental Defense Section, Environment & Natural Resources Division, United States Department of Justice.

[FR Doc. 94–655 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on December 28, 1993, a proposed Consent Decree in *United States* v. *Superior Contract Maintenance, Inc.*, Civil Action No. 1:93CV2754, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleged violations of the Clean Air Act, the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos, 40 CFR part 61, subpart M, by Superior Contract Maintenance, Inc. (SCM), Superior Demolition and Excavating, Inc. (SDE), and Market Plaza Properties Limited Partnership. The Consent Decree requires the defendants to pay a total civil penalty of $27,500 in full settlement of the claims set forth in the Complaint filed by the United States. The Consent Decree also requires the defendants to ensure that their employees have the required inspector and asbestos abatement worker training before those employees can inspect or work in facilities where asbestos containing material (ACM) or suspect ACM would be removed. Additionally, the compliance section requires SCM, SDE, and Market Plaza to provide written instructions to their employees not to handle, move, or otherwise disturb ACM or suspect ACM unless specially trained, licensed or authorized to do so, to comply with the asbestos NESHAP, and to provide EPA with notice before removing any asbestos in the future.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Superior Contract Maintenance, Inc.*, D.J. Ref. No. 90–5–2–1–1739.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, United States Courthouse, Room 208, 2 South Main Street, Akron, Ohio 44308 (contact Assistant United States Attorney James L. Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Padmavati G. Klejwa); and (3) the Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. For a copy of the Consent Decree please enclose a check in the amount of $5.50 (25 cents per page for reproduction costs, exclusive of the costs of the appendices), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–798 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Tropicana Energy Company, et al.*, Civil Action No. 3:92–CV–0668–P, was lodged on December 21, 1993 with the United States District Court for the Northern District of Texas. The Consent Decree resolves an action for civil penalties and injunctive relief brought under section 211(c) of the Clean Air Act, 42 U.S.C. 7545(c), and the regulations promulgated thereunder at 40 CFR part 80, for violations of the applicable gasoline volatility standards, which occurred in the States of Texas, Illinois, and Tennessee. Under the Consent Decree, defendant Tropicana Energy Company has agreed to pay a civil penalty in the amount of $1,000,000 to the United States. In addition, defendants Tropicana Investments Partnership, Linda Pescosolido (as personal representative of the estate of Carl A. Pescosolido, Jr.), and J. Kent Burt have agreed to pay a combined civil penalty in the amount of $100,000 to the United States. The Consent Decree also enjoins defendant J. Kent Burt and any corporation, partnership or association that he has an ownership interest in or substantially supervises or controls from violating section 211(c) of the Clean Air Act and its implementing regulations set forth at 40 CFR part 80.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Tropicana Energy Company, et al.*, DOJ Ref. #90–5–2–1–1214A.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Federal Building and Courthouse, 1100 Commerce Street, room 16G28, Dallas, Texas 75242; the Office of Air and Radiation, United States Environmental Protection Agency 401 M Street, SW., Washington, DC 20460; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.00 (25 cents

per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environment and Natural Resources Division.

[FR Doc. 94–799 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree and Insurance Agreement in *United States* v. *Uniroyal, Inc.*, No. 3:93CV0883RM (N.D. Ind.) entered into by the United States, the States of Indiana and Wisconsin, Uniroyal, Inc., CDU Holding, Inc., Uniroyal Holding Inc., CDU Holding, Inc. Liquidating Trust, and Uniroyal Technology Corporation (which is a signatory to the Insurance Agreement only) were lodged on December 27, 1993 with the United States District Court for the Northern District of Indiana. The proposed Consent Decree and Insurance Agreement resolve certain claims of the United States and the States of Indiana and Wisconsin under Sections 106 and 107 of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9606, 9607, Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973, and certain state environmental statutes with respect to the following seventeen CERCLA sites: The Alburn Incinerator/American Chemical Services Site in Chicago, Illinois; the American Chemical Service Site in Griffith, Indiana; the Calumet Container Site in Hammond, Indiana; the Cam-Or/Westville Oil Site in Westville, Indiana; the Douglass Road Landfill Site in Mishawaka, Indiana; the Dunn Landfill/City Disposal Sanitary Landfill Site in Dunn, Wisconsin; the Envirochem Site in Zionsville, Indiana; the Hagen Farm Site in Stoughton, Wisconsin; the I. Jones Site in Ft. Wayne, Indiana; the Midco I and Midco II Sites in Gary, Indiana; the Ninth Avenue Site in Gary, Indiana; the Northside Sanitary Landfill Site in Zionsville, Indiana; the Stoughton City Landfill Site in Stoughton, Wisconsin; the Thermo-Chem Site in Muskegon, Michigan; the Verona Wellfield/Thomas Solvent Site in Battle Creek, Michigan; and the Wayne Waste Oil/Wayne Reclamation Site in Columbia City, Indiana. Under the Consent Decree, Uniroyal, Inc. and the other parties will pay the United States, the States of Indiana and Wisconsin, and certain potentially responsible parties implementing remedial action $4,075,286. The Insurance Agreement also provides for some additional recovery from insurance proceeds under policies issued to Uniroyal, Inc. and United States Rubber Company.

The Department of Justice will receive comments relating to the proposed Consent Decree and Insurance Agreement for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20503, and should refer to *United States* v. *Uniroyal, Inc.*, D.J. Ref. No. 90–11–2–784B. The proposed Consent Decree and Insurance Agreement may be examined at the Office of the United States Attorney for the Northern District of Indiana, MO–1 Federal Bldg., 204 S. Main St., South Bend, Indiana 46601; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed Consent Decree and Insurance Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $22.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–800 Filed 1–11–94; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL SCIENCE FOUNDATION

Antarctic Conservation Act of 1978; Notice of Permit Modification

AGENCY: National Science Foundation.

SUMMARY: The Foundation modified a permit to conduct activities regulated under the Antarctic Conservation Act of 1978 (Pub. L. 95–541; Code of Federal Regulations title 45, part 670).

FOR FURTHER INFORMATION CONTACT: Guy G. Guthridge, (703) 306–1031. Permit Office, Office of Polar Programs, room 755, National Science Foundation, Arlington, Virginia 22230.

APPLICANT: John L. Bengtson, National Marine Mammal Laboratory, National Oceanic and Atmospheric Administration, Seattle, Washington 98115.

DESCRIPTION OF PERMIT AND MODIFICATION: The Foundation issued a permit to Dr. Bengtson, a marine mammals specialist, on 25 November 1992 after posting a notice in the 26 October 1992 **Federal Register**. Public comments were not received. The permit allows capture, handling, and release of six species of antarctic seals as part of a study, supported by NSF and NOAA, of the ecology, abundance, and distribution of pack ice seals.

The modification, issued on 30 December 1993 and good until the permit expires on 31 December 1994, allows Dr. Bengtson's project to inject stable isotopes before taking blood samples (a procedure that enables estimates of body composition); to collect tissue biopsies for study of genetics, contaminants, and diet; and to fly as low as 200 feet for aerial surveys when called for by conditions of survey design or human safety.

NSF review supports the applicant's statement that the requested modifications will not increase jeopardy to seals or other wildlife and that the information obtained will be valuable in determining the role of seals in the marine ecosystem.

LOCATION: Antarctic waters.

DATES: January 1, 1993–December 31, 1994.

Guy G. Guthridge,

Permit Office, Office of Polar Programs.

[FR Doc. 94–662 Filed 1–11–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Third Meeting of the CONTAIN Peer Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The CONTAIN Peer Review Committee will meet to review the technical adequacy of the CONTAIN code.

DATES: January 19–21, 1994.

TIME: 8:30 am each day.

ADDRESSES: Energy Research, Inc. 6290 Montrose Road, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: A. Notafrancesco, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–3537.

SUPPLEMENTARY INFORMATION: The objective of this effort is to organize and conduct a peer review of the CONTAIN code, light water reactor version. The peer review is to provide an independent assessment of the modeling capabilities and limitations,

and adequacy of the CONTAIN code. The results of the peer review are to be documented in a summary report that describes the results of the independent assessment by the peer review participants and the technical acceptability of the code.

A peer review committee has been organized using recognized experts from the national laboratories, universities, CONTAIN user community and independent contractors. Meetings are held to discuss and evaluate the applicability and state of validation of the various CONTAIN phenomenological models. The meeting scheduled for January 19–21, 1994, is the third meeting of the CONTAIN Peer Review Committee. The Committee will (1) present preliminary review findings, (2) review code sensitivity studies, and (3) receive briefings from the code development staff about the integrated code and the detailed models in the code.

Dated at Rockville, Maryland, this 3rd day of January, 1994.

For the U.S. Nuclear Regulatory Commission.

Farouk Eltawila,

Chief, Accident Evaluation Branch, Division of Systems Research, Office of Nuclear Regulatory Research.

[FR Doc. 94–703 Filed 1–11–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 72–4]

Duke Power Co.; Issuance of Amendment to Materials License SNM–2503

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Material License No. SNM–2503 held by Duke Power Company for the receipt and storage of spent fuel at the Oconee Independent Spent Fuel Storage Installation (ISFSI), located on the Oconee Nuclear Station site, Oconee County, South Carolina. This amendment is effective as of the date of issuance.

The amendment revises section 5.4.1 of the Technical Specification regarding the concrete density of Horizontal Storage Module (HSM) from "a minimum of 145 pounds per cubic foot" to "a minimum of 140 pounds per cubic foot." This amendment does not affect fuel receipt, handling, and storage safety.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated March 9, 1993, as supplemented by letter dated November 16, 1993; (2) Amendment No. 4 to Materials license No. SNM–2503; and (3) the Commission's letter to the licensee dated January 5, 1994. All of these items are available for public inspection at the Commission's Public Document Room, The Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC, and the Oconee County Library, 501 W. South Broad Street, Walhalla, SC 29691.

Dated at Rockville, Maryland, this 5th day of January 1994.

For the U.S. Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Storage and Transport Systems Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–705 Filed 1–11–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Procurement Regulatory Activity Report, No. 9; Availability

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of availability of the Procurement Regulatory Activity Report, Number 9.

SUMMARY: Subsections 25(g) (1) and (2) of the Office of Federal Procurement Policy (OFPP) Act, as amended by Public Law 100–679, codified at 41 U.S.C. 421(g), require the Administrator for Federal Procurement Policy to publish a report within six months after the date of enactment and every six months thereafter relating to the development of procurement regulations.

Accordingly, OFPP has prepared the ninth Procurement Regulatory Activity Report. This report is designed to satisfy all aspects of subsections 25(g) (1) and (2) of the OFPP Act, and includes information on the status of each regulation; a description of those regulations required by statute; a description of the methods by which public comment was sought; regulations, policies, procedures, and forms under review by the OFPP; whether the regulations have paperwork requirements; the progress made in promulgating and implementing the Federal Acquisition Regulation; and such other matters as the Administrator determines to be useful.

ADDRESSES: Those persons interested in obtaining a copy of the Procurement Regulatory Activity Report may contact the Executive Office of the President Publications Service, room 2200, 725 17th Street, NW., Washington, DC 20503, or phone (202) 395–7332.

FOR ADDITIONAL INFORMATION CONTACT: For additional information write or call the Office of Federal Procurement Policy, 725 17 St., NW., Washington, DC 20503, (202) 395–6803.

Dated: January 6, 1994.

Steven Kelman,

Administrator.

[FR Doc. 94–745 Filed 1–11–94; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33413; File No. SR–DGOC–91–01]

Self-Regulatory Organizations; Delta Government Options Corp.; Order Approving a Proposed Rule Change Relating to Permissible Forms of Margin Deposits

January 4, 1994.

On February 12, 1991, Delta Government Options Corp. ("Delta") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] relating to the acceptance of U.S. Treasury bills, notes, and bonds as margin. On March 23, 1991, the Commission published notice of the proposed rule change in the **Federal Register** to solicit comments

[1] 15 U.S.C. 78s(b)(1) (1988).

from interested persons.[2] One comment letter was received in response to which Delta amended its proposal on April 25, 1991.[3] On September 8, 1993, Delta submitted a second amendment concerning the participation of registered investment companies.[4] As discussed below, the Commission is approving Delta's proposal as amended.

I. Description

Delta's proposal expands the permissible forms of margin by permitting participants to deposit not only Fed Funds[5] but also U.S. Treasury bills with a remaining term to maturity of 365 days or less and Treasury securities which would be deliverable by a participant if an option contract written by the participant was exercised and assigned to the participant (i.e., "cover).[6] Treasury bills deposited as margin will be valued for purposes of determining the amount of margin on deposit with Delta as 100% of the lesser of their par value or their market value. Deposits of Treasury bills as margin must be made in principal amounts of $50,000 and integral multiples thereof.

In the event that Treasury bills deposited as margin mature while on deposit with Delta, Delta will hold the cash proceeds as margin and will invest them in accordance with its rules governing the investment of cash margin deposits.[7] If a participant that is an employee benefit plan (i.e., pension plan) subject to the Employee Retirement Income Security Act of 1974 ("ERISA")[8] deposits Treasury bills as margin, Delta will monitor the maturity date of such Treasury bills and will require the pension plan to substitute collateral prior to the maturity of the Treasury bills.[9]

II. Discussion

The Commission believes Delta's proposal is consistent with the Act and particularly with sections 17A(b)(3) (A) and (F) of the Act.[10] Those sections require that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

Delta's proposal will provide flexibility to its participants by expanding the types of assets eligible to be deposited as margin without exposing Delta to undue credit risk, market risk, or liquidation risk.[11] Because Treasury securities are backed by the full faith and credit of the United States, Delta is not subject to the credit risk of the obligor.[12] To reduce its exposure to market risk and liquidation risk, Delta will mark Treasury bills to market on a daily basis and will value them at the lower of par or fair market value. Furthermore, because the market for Treasury bills is extremely large and relatively liquid, Delta's liquidation risk is minimal.

The Commission also believes that Delta's proposal to accept cover as margin for short call option positions is appropriate. As an initial matter, the Commission notes that The Options Clearing Corporation ("OCC"), another registered clearing agency, accepts deposits of the security underlying a call option written by a participant in lieu of margin.[13] The deposit of cover protects Delta to the maximum extent possible by fully collateralizing a participant's obligations to Delta and by eliminating Delta's credit risk with respect to the depositing participant's short position. Accordingly, the Commission believes that Delta's proposal to accept Treasury bills and cover as margin is consistent with its obligation to safeguard the securities and funds for which it is responsible.

The Commission also believes that the special procedures for handling margin deposited by ERISA pension plan participants is both necessary and appropriate. Until now, Delta's procedures for investing margin deposits and certain aspects of ERISA have made participation in Delta impracticable for such plans. Under Delta's rules, Delta may invest the cash margin received from participants in overnight repurchase agreements and pass the profits earned on such investments back to participants.[14] Under section 1002(21) of ERISA, a

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[2] Securities Exchange Act Release No. 28983 (March 18, 1991), 56 FR 12572.

[3] The one comment letter, submitted by The First Boston Corporation ("First Boston"), generally supported Delta's proposal because it believed the acceptance of Treasury bills as margin would increase the competitiveness and usefulness of Delta and would not infuse any additional credit risk into the settlement system. First Boston noted, however, that pursuant to Delta's original proposal (1) deposits of Treasury bills as margin would have to be made in principal amounts of $500,000 and integral multiples thereof and (2) where the margin was deposited in the form of Treasury bills, excess margin of less than $500,000 would not be automatically returned to participants. First Boston stated that these $500,000 minimums were unreasonably high and would reduce needlessly the utility of using Treasury bills as margin. Letter from Scott H. Rockoff, Vice President, Regulatory Reporting and Analysis, First Boston, to Jonathan G. Katz, Secretary, Commission (April 15, 1991). In response, Delta amended its proposal so that the deposit and automatic return minimums are $50,000. Delta also added a provision to the proposal whereby participants can waive their rights to receive on a daily basis excess margin. Participants have an unqualified right to withdraw such a waiver at any time during business hours. Letter from Robert C. Mendelson, Morgan, Lewis and Bockius (Counsel for Delta), to Ross Pazzol, Esq., Division of Market Regulation ("Division"), Commission (April 24, 1991) and letter from David J. Maloy, President, Delta, to Sonia Burnett, Esq., Division, Commission (December 3, 1993).

[4] When Delta filed the original proposal, its rules permitted investment companies registered under the Investment Company Act of 1940 ("1940 Act"), 15 U.S.C. 80a (1990), to be participants. Accordingly, the original proposal would have allowed investment companies to deposit with their custodian banks that hold margin for the benefit of Delta Treasury bills, notes, and bonds as margin. Staff of the Commission's Division of Investment Management ("IM") raised concerns relating to Delta's custody and control of investment companies' securities deposited as margin. In response, Delta amended the proposal to prohibit participation in Delta by registered investment companies. Delta intends to remove the participation prohibition at such time as Delta and Commission staff determine the conditions under which investment companies may become participants. Letter from David J. Maloy, President, Delta, to Julia Ulstrup, Senior Counsel, IM, Commission (September 8, 1993).

[5] Under Delta's previous rules, Delta accepted as margin only "Fed Funds." Fed Funds is now defined in Delta's rules as cash balances available for immediate withdrawal in accounts maintained at banks that are members of the Federal Reserve System.

[6] Delta issues and clears put and call options on Treasury bills, notes, and bonds written or purchased by participants; therefore, cover can consist of Treasury bills, notes, or bonds.

[7] Letter from Robert C. Mendelson, Morgan, Lewis & Bockius (Counsel for Delta), to Ross Pazzol, Esq., Division, Commission (April 24, 1991).

Pursant to Delta's procedures, margin deposited in the form of Fed Funds (i.e., cash) can be invested in overnight repurchase agreements that require as collateral the delivery of Treasury bills with maturities not to exceed 180 days from the date of the repurchase agreement. Delta Procedures, Article VI, Section 601.

[8] Public Law 93–406. 88 Stat. 829 (1974) (codified at 29 U.S.C. 1001–1461).

[9] Letter from Robert C. Mendelson, Esq., Morgan, Lewis & Bockius (Counsel for Delta), to Ross Pazzol, Esq., Division, Commission (April 24, 1991). Under section 1002(21) of ERISA, a person that exercises discretionary authority or control over the assets of an employee benefit plan is deemed to be a plan fiduciary and is required to act solely in the interest of the plan's participants and beneficiaries and exclusively to provide benefits to these participants and beneficiaries. Because such fiduciary responsibilities may interfere and potentially conflict with Delta's obligations to its participants as a registered clearing agency, Delta is implementing a special procedure for handling margin deposited by pension plans to avoid this potential ERISA problem. Furthermore, as explained in greater detail in Section II of this order, the Pension and Welfare Benefits Administration of the Department of Labor has granted an exemption for certain transactions involving Delta that facilitates the participation of employee benefit plans in Delta.

[10] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[11] Credit risk is the risk that the counterparty to a transaction will not fulfill its obligation. Market risk is the risk associated with adverse changes in the market price of a security. Liquidation risk is the risk that the full value of collateral will not be realized upon liquidation of such collateral.

[12] Of course, Delta remains subject to the credit risk of its participants.

[13] OCC Rule 610.

[14] Delta Procedures, Article VI, Rule 601.

person could be deemed to be a plan fiduciary to the extent that such person exercises discretionary authority over the assets of a plan.[15] Accordingly, if Delta were to follow its usual investment procedures with respect to pension plan assets, Delta might be deemed to be a plan fiduciary under ERISA. In light of these provisions, Delta has not permitted pension plans to participate in its system.[16]

On March 15, 1991, the Pension and Welfare Benefits Administration of the Department of Labor ("DOL") granted an exemption that permits ERISA pension plans to participate in Delta without Delta becoming a plan fiduciary provided neither Delta nor any of its affiliates exercise discretionary authority or control with respect to the investment of plan assets.[17] To comply with the DOL exemption, Delta is implementing a procedure whereby pension plans will deposit substitute collateral upon the maturity of Treasury bills deposited as margin in order that Delta is not viewed as exercising discretionary authority or control with respect to the investment of any funds that are deemed to be plan assets.[18] Delta's proposal appears to provide a reasonable method of permitting employee benefit plans that are subject to ERISA to participate in Delta's system and thereby promotes the prompt and accurate clearance and settlement of securities transactions without exposing Delta to potential ERISA liability.

The Commission notes that under the DOL exemption, Delta is permitted to liquidate certain assets of a defaulting plan without being deemed to be exercising discretionary authority.[19] Delta's risk exposure is reduced to the extent that it has the authority to liquidate such assets free of ERISA constraints.

[15] See *supra* note 10.

[16] Section 17A of the Act enumerates the types of entities that may participate in registered clearing agencies. That section neither expressly permits nor precludes participation in a registered clearing agency by pension plans. Section 17A provides that the rules of a clearing agency must permit any (1) registered broker-dealer, (2) bank, (3) insurance company, (4) registered clearing agency, or (5) registered investment company to become a participant in a registered clearing agency. 15 U.S.C. 78q–1(b)(3)(B).

[17] DOL, Prohibited Transaction Exemption 91–19, Exemption Application No. D–8492, 56 FR 12396 (March 25, 1991) ("DOL Exemption").

[18] Because the plan will have no right to the Treasury bills it deposits with Delta as margin (unless the market has moved in its favor or it has closed out its positions), such Treasury bills will not be "plan assets" under ERISA.

[19] Specifically, Delta may draw on a letter of credit or a surety bond that has been issued to Delta on behalf of such participant. DOL Exemption, *supra* note 17 at 12397.

III. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change (File No. SR–DGOC–91–01) is consistent with section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–DGOC–91–01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–739 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[20] 17 CFR 200.30–3(a)(12) (1990).

[Release No. 34–33412; File No. SR–DTC–93–9]

Self-Regulatory Organizations; The Depository Trust Co.; Order Approving a Proposed Rule Change Relating to Implementation of a Deposit Automated Management Service

January 4, 1994.

On August 16, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] a proposed rule change (File No. SR–DTC–93–9) to implement its Deposit Automated Management ("DAM") service. The Commission published notice of this proposed rule change in the **Federal Register** on October 1, 1993.[2] No public comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change establishes procedures for implementation of DTC's DAM service.[3] DAM is an enhanced automated deposit service that enables DTC participants to send details of deposits to DTC in advance of forwarding physical certificates.

Using DAM, a DTC participant will send to DTC advance Computer-to-Computer Facility (CCF/CCF II) or PTS transmissions with details regarding securities that the participant plans to deposit. DTC then will determine whether the proposed deposit is acceptable by reviewing for such things as ineligible issues, chilled issues, and incorrect CUSIPs. At this point, DTC will send to the participant a PTS transmission which will flag rejected items (i.e., securities which are unacceptable for deposit), items with record dates that affect DTC's processing,[4] and other special processing items. The participant then will direct the printing of a special bar-coded deposit ticket for all accepted items on a thermal bar-code printer.[5] One bar-coded ticket will be printed for each CUSIP.[6] Each bar-coded ticket will contain information such as the identity of the transfer agent, the nature of the deposit (e.g., whether the deposit is made pursuant to a special corporate event or whether the shares are those of a limited partnership), and other information that is required for DTC's internal processing of the deposit. After the participant presents the physical certificates and the bar-coded deposit ticket to DTC, DTC will scan the bar-coded deposit ticket, and the information contained therein immediately will update DTC's mainframe computer. This process eliminates the need to enter data by keystroke.

Among other benefits, DAM will provide an opportunity for participants to consolidate deposits in the same issue (whether or not the advanced deposit notifications are transmitted to DTC together) and will enable DTC to produce a single deposit ticket for the total quantity of an issue deposited on a particular day.[7] By providing a unique

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 32957 (September 24, 1993), 58 FR 51395.

[3] The proposal will neither add new rules to nor amend any existing rules in DTC's Rules Manual. Telephone conversation between Jack R. Wiener, Associate Counsel, and Cheryl Lambert, Group Director, DTC, and Richard C. Strasser, Attorney, Division of Market Regulation ("Division"), Commission (September 7, 1993).

[4] DTC will not flag the record date of every corporate event. Letter from Jack R. Wiener, Associate Counsel, DTC, to Richard C. Strasser, Attorney, Division, Commission (September 29, 1993). For instance, DTC will not notate the record date of corporate events such as holiday parties.

[5] If a participant chooses not to acquire a bar-code printer (which costs between $2,000 and $8,000 depending on printer speed), the participant will print a deposit ticket that does not have a bar-code using the information and deposit control number received from DTC. When the participant presents the securities and the deposit tickets without bar-codes to DTC, DTC will use the deposit control numbers on the deposit tickets to print bar-coded deposit tickets on a printer located at DTC.

[6] If a CUSIP is eligible for deposit, the ticket will so signify. If a CUSIP is ineligible for deposit, the ticket will state "reject" and will give the reason for the rejection. Telephone conversation between Cheryl Lambert, Group Director, DTC, and Jerry W. Carpenter, Branch Chief, Division, Commission (December 17, 1993).

[7] Participants can realize cost savings by avoiding separate fees for multiple deposits made in the same issue on the same day. For instance, throughout a given day a participant repeatedly may notify DTC that it plans to deposit a certain number of shares of IBM common stock. Assume a participant announces in its first transmission that

Continued

deposit control number that will be printed on the deposit ticket for each deposit, the service will speed research, when needed, on the deposited item. DAM also will permit participants to suspend deposits for up to ten business days in the event of an emergency, transportation delay, or error.

Participants that have a low volume of deposits and that do not want to purchase a bar-coded printer will be able to use the PTS Deposit Automation Management Participant ("DAMP") function to enter details of their intended deposits.[8] The PTS DAMP function also can be used by CCF users to modify or delete deposit data already transmitted to DTC as well as to enter additional deposit data.

By year-end 1993, DTC expects to have processed more than 4.5 million deposits comprised of approximately 17.5 million certificates. The automation features of DAM will reduce DTC's costs and enhance DTC's efficiency in handling these deposits. DTC will pass the savings that it will realize from DAM directly to participants by lowering deposit fees as follows: (a) For deposits made under DAM, DTC will reduce the deposit charge by 40¢ (29¢ for legal deposits) from the applicable zone deposit charge for participants that print bar-coded tickets in their office and (b) by 29¢ (for deposits other than legal deposits) from the applicable zone deposit charge for participants that ask DTC to print the bar-coded tickets. In addition, because DTC will prescreen the issues of securities that participants intend to deposit, the new service will help participants save money by minimizing costly deposit rejects.

II. Discussion

The Commission believes that DTC's proposal is consistent with the Act and in particular with sections 17A (a)(1)(C) and (b)(3)(F) thereunder.[9] In section 17A(a)(1)(C) of the Act, Congress expressed its finding that new communications and data processing techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. In this regard, the Commission believes that DTC's DAM service facilitates the efficient, effective, and safe procedures for the clearance and settlement of securities transactions by employing the electronic communication of information between DTC and its participants.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to ensure the safeguarding of securities and funds that are in the clearing agency's custody or control or for which it is responsible. The Commission believes that by enabling DTC to review proposed deposits before securities are delivered, the DAM service helps to promote the prompt and accurate clearance and settlement of securities transactions in accordance with DTC's requirements under the Act.

Moreover, DTC's current safeguards will remain in place with the implementation of the DAM service. These safeguards require DTC participants to take steps necessary to assure that the certificates presented to DTC are in good deliverable and transferable form. As with current procedures, after the certificates are presented to DTC, DTC will send them to the transfer agent who will reregister them in DTC's nominee name, Cede & Co. The certificates typically then will be returned to DTC for safekeeping in its vault. On occasion, however, the transfer agent will reject a certificate for reregistration.[10] If a certificate is rejected, DTC will debit the depositing participant's securities account to the extent it was credited when the securities were delivered to DTC. If the debit results in a short position, DTC will impose a charge of 130% of market value until the short position is resolved.[11] These safeguards, as they have in the past, will help to ensure that suspect securities or those with transfer restrictions are excluded from DTC's system. Because the implementation of the DAM service will incorporate DTC's current safeguards, the Commission believes the proposal is consistent with DTC's requirements under the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and in particular with section 17A thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–DTC–93–9) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–740 Filed 1–11–94; 8:45 am]

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it will deliver 100 shares of IBM common stock, in its second transmission that it will deliver 200 more shares of IBM, and in its third transmission that it will deposit yet another 300 shares of IBM for a total of 600 shares for the day. DTC will sum the three deposits for the day, and the bar-coded deposit ticket will reflect an intended deposit of 600 shares of IBM common stock.

[8] The DAMP function is part of the DAM service that allows participants to enter data, to correct data previously entered, to make inquiries, or to print bar-code tickets. Telephone conversation between Cheryl Lambert, Group Director, DTC, and Richard C. Strasser, Attorney, Division, Commission (December 22, 1993). For instance, if a participant had notified DTC that it planned to deliver 1,000 shares of stock in ABC Corporation when in fact the participant intended to deliver 1,100 shares, the participant could use the DAMP function to make the necessary correction in the number of shares it intended to deliver.

[9] 15 U.S.C. 78q–1 (a)(1)(C) and (b)(3)(F) (1988).

[10] Transfer agents may reject a certificate for a number of reasons including improper or missing endorsements, missing stock or bond powers, stops, called bonds, certificates reported as lost or stolen, or restrictions on the transfer of the security.

[11] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC, to Judith Poppalardo, Assistant Director, Division, Commission (December 3, 1993).

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–33414; File No. SR–MCC–92–06]

Self-Regulatory Organizations; Midwest Clearing Corp.; Order Approving Proposed Rule Change to Reduce the Time Frames for Processing Dividend Settlement Service Claims

January 4, 1994.

On June 15, 1992, the Midwest Clearing Corporation ("MCC") submitted a proposed rule change (File No. SR–MCC–92–06) to the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal appeared in the **Federal Register** on September 17, 1992, to solicit comment from interested persons.[2] No comments were received by the Commission. This order approves the proposal.

I. Description of the Proposal

The purpose of the rule change is to expedite the settlement of claims for dividends or for registered bond interest by shortening the time frames during which MCC requires delivery of Claim Forms by participants who are filing claims against other participants. Under MCC's Dividend Settlement Service ("DSS"), MCC processes participants' claims for dividends and registered bond interest. DDS procedures require that before a participant can submit a claim against another participant, it must deliver to MCC a Notice of Intent. The Notice of Intent must include either

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No 31170 (September 10, 1992), 57 FR 43040.

documents which establish the basis for the claim or a written explanation of the basis for the claim.

MCC rules require the claiming participant to deliver two copies of a Claim Form to the participant against whom the claim is made. The Claim Form must now be delivered within five business days, previously within ten business days, after delivering the Notice of Intent to MCC.[3] Where the Notice of Intent is delivered six months or more after the record date of the dividend or interest claimed, the Claim Form must now be delivered within ten business days, previously within twenty business days, after the delivery of the Notice of Intent to MCC.[4] Both the Notice of Intent and Claim Form must be delivered through the facilities of MCC.[5] Once MCC receives the Notice of Intent and Claim Form, MCC distributes them to the participant against whom the claim is made on the same day the Claim Form is received.

MCC's rules require the participant receiving the Claim Form to respond by the Charge Date, which appears on the Claim Form. A participant who receives a Claim Form may honor it, may file an Intent Rejection with MCC, or may take no action. If an Intent Rejection is filed, the participants may settle the matter themselves or may submit the matter to arbitration. If the participant receiving the Claim Form honors the claim or fails to respond, MCC will debit that participant's account and will credit the account of the claiming participant.

II. Discussion

The Commission believes that the proposal is consistent with the Act and particularly with section 17A of the Act.[6] Section 17A(b)(3)(F) of the Act requires that the rules of clearing agencies be designed to promote the prompt and accurate clearance and settlement of securities transactions.[7] Moreover, in section 17A(a)(1) of the Act,[8] Congress encourages the use of efficient and effective safe procedures for securities clearance and settlement.

The Commission believes that shortening the time frames for filing claim forms, from ten business days to five business days and from twenty business days to ten business days, should result in more efficient and effective claim processing at MCC. Shortening the time frames also should encourage participants to settle their claims and disputes involving dividends and interest in a more prompt manner.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposal is consistent with the requirements of the Act, particularly section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[9] that the above-mentioned proposed rule change (File No. SR–MCC–92–06) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–741 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[3] MCC Rules, Art. V, R. 7, Section 4.

[4] *Id.*

[5] MCC Rules, Art. V, R. 7, Sections 3 and 4.

[6] 15 U.S.C. 78q–1 (1988).

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] 15 U.S.C. 78q–1(a)(1) (1988).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–33440; File No. SR–NASD–93–52]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Pricing of Open Orders

January 6, 1994.

On September 23, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission")[1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder.[3] The proposal amends the NASD Rules of Fair Practice by requiring members holding open orders of securities quoted ex-dividend, ex-rights, ex-distribution or ex-interest to adjust the price and, if necessary, the size of the order by the amount of any dividend, payment or distribution on the day that the security is quoted ex-dividend, ex-rights, ex-distribution or ex-interest.

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 33000, October 1, 1993) and by publication in the **Federal Register** (58 FR 53600, October 15, 1993). No comment letters were received. This order approves the proposed rule change.

The rule change approved herein amends Article III of the Rules of Fair Practice to require members holding open orders of securities quoted ex-dividend, ex-rights, ex-distribution or ex-interest to adjust the price and, if necessary, the size of the order by the amount of any dividend, payment or distribution on the day that the security is quoted ex-dividend, ex-rights, ex-distribution or ex-interest. The rule change exempts from its scope: (1) Open orders subject to the rules of a registered national securities exchange, (2) open stop orders to buy, and (3) open sell orders, as well as orders marked "do not reduce" or "do not increase."

The NASD does not currently require its members to adjust open orders of securities quoted ex-dividend, ex-rights, ex-distribution or ex-interest. An open order is an order to buy or sell which remains in effect until it is executed or cancelled, or expires. Such orders are also known as "good 'til cancelled," "limit," or "stop limit."[4] The NASD believes it is important to adopt a standard for business practices and ethics in dealing with customer open orders. Because there is currently no NASD rule governing open orders, members adjust them according to their own procedures unless the rules of another self-regulatory organization apply to the transaction (*e.g.*, New York Stock Exchange Rule 118). These procedures can vary from automatic adjustment, automatic withdrawal, reconfirmation of the order with the customer, or no action. Further, the procedures may vary among orders entered at the same firm because the orders are routed to different firms for execution. As a result, investors may find that their open orders are executed without adjustment after the ex-date at a higher cost per share than they intended based on their valuation of the security. For example, an investor entering a limit order for a security at $10 per share prior to the dividend date may have based his pricing judgment on the impending dividend declaration. If his order remains open after the ex-

[1] On November 24, 1993, the NASD filed Amendment No. 1 with the Commission. Amendment No. 1 reports the result of an NASD member vote on the proposed rule change, which was published for member vote in NASD Notice to Members 93–61 (September 1993). The results of the member vote are as follows: 1,682 voting in favor, 232 opposed, and 11 not voting, out of 1,925 ballots received.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1993).

[4] A "good 'til cancelled" order is an order to buy which remains in effect until it is either executed or cancelled. A "limit order" is an order to buy a stated amount of a security at a specified price, or at a better price, if obtainable after the order is given. A "stop limit" order to buy becomes a limit order executable at the limit price, or at a better price, if obtainable, when a transaction in the security occurs at or above the stop price after the order is given.

dividend date, he may find his order in the money and executed at the dividend-assuming price even though he would not be entitled to the dividend.

Moreover, the NASD believes the fact that some members adjust open orders on ex-dates while others do not, creates confusion for customers. The NASD believes that the rule change sets forth a uniform and predictable method for adjusting open orders, eliminates the potential unfairness associated with the failure to adjust these orders, and provides consistency in the adjustment of open orders for NASD members that are also members of the New York Stock Exchange and American Stock Exchange.

Subsection (a) of the new Rule of Fair Practice requires a member holding an open order from a customer or broker-dealer, prior to executing or permitting the order to be executed, to adjust the price of the order by the amount of any dividend, payment or other distribution on the ex-date.

Subsection (b) requires the member to reconfirm an open order prior to execution if the value of the distribution cannot be determined. Subsection (c) requires open orders to be cancelled where the security is the subject of a reverse split. Subsection (d) defines the term "open order" as an order to buy which remains in effect for a definite or indefinite period of time until it is either executed, cancelled, or expires, including, but not limited to, orders marked "good 'til cancelled," "limit" or "stop limit."

Finally, subsection (e) exempts: (1) Open orders subject to the rules of a registered national securities exchange, (2) open stop orders to buy, and (3) open sell orders, as well as orders marked "do not reduce" or "do not increase." Open stop orders to buy and open sell orders are exempted because the assumptions underlying such an order may not include the value of an upcoming dividend; the combination of stop and limit prices in such an order makes the effect of repricing unpredictable. Orders marked "do not reduce" or "do not increase" are the method for the customer to state that he is aware of the implications of not adjusting the order on the ex-date.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A(b)(6) of the Act.[5] Section 15A(b)(6) requires, *inter alia*, that the NASD's rules be designed to prevent fraudulent and manipulative acts, promote just and equitable principles of trade, and protect investors and the public interest. The Commission believes that the creation of a single method of handling the adjustment of open orders after the ex-date will serve the interest of investor protection. For this reason, and for the reasons stated above, the Commission believes that the proposed rule change satisfies the requirements of section 15A(b)(6) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the instant rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–688 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C.§ 78*o*–3.

[Release No. 34–33433; File No. SR–NASD–93–56]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Codification of Basic Requirements Respecting Access to and Use of the OTC Bulletin Board Service

January 5, 1994.

On October 12, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposal codifies the existing requirements respecting access to and use of the OTC Bulletin Board Service ("OTCBB").

Notice of the proposed rule change, together with its terms of substance, appeared in the **Federal Register** on October 21, 1993.[3] No comments were received on the proposal. This order approves the rule change.

I. Description

The proposal codifies, without substantive change, various requirements that the NASD has implemented, pursuant to Commission approval, since the OTCBB was launched as a pilot program on June 1, 1990. Specifically, these requirements are included in the following Rule 19b–4 NASD filings approved by the Commission: (1) File No. SR–NASD–88–19 (as amended), detailing the basic operational requirements for the OTCBB;[4] (2) File No. SR–NASD–90–37, expanding by one-half hour the quotation-update period applicable to market makers in foreign/ADR issues;[5] (3) File No. SR–NASD–91–12, establishing a firm quote requirement for all priced bids/offers in domestic equity securities; and (4) File No. SR–NASD–91–38, establishing the parameters for an inside bid-ask calculation.[6] Additionally, the codification references two recently approved regulatory initiatives affecting the OTCBB and participating member firms: (1) File No. SR–NASD–92–48, concerning real-time trade reporting requirements for OTC equity securities;[7] and (2) File No. SR–NASD–93–17, revising the minimum quotation size requirements for OTCBB market makers.[8] The present proposal provides that these initiatives will be published, respectively, in Part XIII of Schedule D to the NASD By-Laws and Section 5 of Schedule H to the NASD By-Laws.

II. Discussion

The Commission believes that the proposed rule change is consistent with sections 15A(b) (6) and (11) of the Act. Section 15A(b)(6) requires, in pertinent part, that NASD rules be designed to prevent fraudulent and manipulative acts or practices, to promote just and equitable principles of trade, to foster

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] Securities Exchange Act Release No. 33052 (October 15, 1993), 58 FR 54389 (October 21, 1993).

[4] Securities Exchange Act Release No. 27975 (May 30, 1990), 55 FR 23161 (June 6, 1990).

[5] Securities Exchange Act Release No. 28404 (August 31, 1990), 55 FR 37791 (September 3, 1990). The codification provides that, with respect to a priced bid and/or offer entered into OTCBB for a foreign equity security or an ADR, a market maker may update quotation entries twice daily (once between 8:30 a.m. and 9:30 a.m. ET, and once between noon and 21:30 p.m. ET).

[6] For any equity security quoted in the OTCBB, an inside bid-ask calculation (i.e., the highest bid and lowest offer being displayed by market makers registered in a particular security) is available only if the security has at least two registered market makers, each displaying a priced bid and offer. If additional market makers are displaying either one or two-sided quotations, those entries also are factored into the inside calculation. On the other hand, if the basic requirement of two market makers is not satisfied, an indication is generated denoting that no inside calculation is available.

[7] Securities Exchange Act Release No. 32647 (July 16, 1993), 58 FR 39262 (July 22, 1993). The NASD has announced that real-time trade reporting requirements for OTC equity securities would begin on December 20, 1993.

[8] Securities Exchange Act Release No. 32570 (July 1, 1993), 58 FR 36725 (July 8, 1993). File No. SR–NASD–93–17, approved by the Commission, replaced the previous 100-share minimum quote size requirement for OTCBB with a tiered structure for mandatory minimum quote size based on the price of the bid or offer.

cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general to protect investors and the public interest. Section 15A(b)(11) requires that the rules of the NASD include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange and that those rules, among other things, be designed to promote orderly procedures for collecting, distributing, and publishing quotations.

The Commission believes that, because the proposal embodies existing operational requirements that have been in place but, until now, have not been codified as NASD rules, the proposal should facilitate NASD members' efforts to research pertinent requirements by referencing a discrete section of the NASD Manual. Thus, the codification should facilitate members' ability to comply with the requirements since they will be in a readily accessible form. Moreover, the codification should promote orderly procedures for collecting, distributing, and publishing OTCBB quotations since those procedures now will be found in the NASD Manual. In sum, the Commission believes the proposed codification should facilitate the NASD's administration of and member firms' compliance with the operational requirements that are unique to the OTCBB, thereby furthering the purposes of sections 15A(b) (6) and (11) and the Act in general.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NASD–93–56) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–742 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–33437; File No. SR–NYSE–93–37]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Rules 450 ("Restrictions on Giving of Proxies"), 451 ("Transmission of Proxy Material"), 452 ("Giving of Proxies by Member Organizations") and 465 ("Transmission of Interim Reports and Other Material")

January 5, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is herewith filing proposed amendments to NYSE Rules 450, 451, 452 and 465 which will allow designated registered investment advisers to vote proxies and receive proxy and related issuer material in lieu of beneficial owners. The text of these rules follows:

Italics reflect additions

Proxies

(Rules and Policies Administered by Marketing Division.)

Applicability of proxy rules—Rules 450 to 460 [¶ 2450–2460], inclusive, apply to both listed and unlisted securities, unless the context otherwise limits application.

The term "unregistered company" as used in Rule 456 to 459 [¶ 2456–2459] means a company not required to conform to the proxy rules of the Securities and Exchange Commission in the solicitation of proxies with respect to its securities.

The term "member" as used in connection with Rules 456 to 459 [¶ 2456–2459] includes a member, allied member, member firm, member corporation and employee thereof.

The term "investment adviser" as used in Rules 450, 451, 452 and 465 [¶ 2450, 2451, 2452, 2465] may include a registered broker-dealer.

Restriction on Giving of Proxies

Rule 450. No member organization shall give or authorize the giving of a proxy to vote stock registered in its name, or in the name of its nominee, except as required or permitted under the provisions of Rule 452 [¶ 2452], unless such member organization is the beneficial owner of such stock. Notwithstanding the foregoing,

(1) Any member organization designated by a named fiduciary as the investment manager of stock held as assets of an ERISA Plan that expressly grants discretion to the investment manager to manage, acquire, or dispose of any plan asset and which has not expressly reserved the proxy voting right for the named fiduciary may vote the proxies in accordance with its ERISA Plan fiduciary responsibilities; *and*

(2) any person registered as an investment adviser under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for the beneficial owner and has been designated in writing by the beneficial owner to vote the proxies for stock which is in the possession or control of the member organization, may vote such proxies.

Transmission of Proxy Material

Rule 451.(a) Whenever a person soliciting proxies shall furnish a member organization:

(1) copies of all soliciting material which such person is sending to registered holders and

(2) satisfactory assurance that he will reimburse such member organization for all out-of-pocket expenses, including reasonable clerical expenses, incurred by such member organization in connection with such solicitation,

Such member organization shall transmit to each beneficial owner of stock which is in its possession or control *or to an investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for the beneficial owner and has been designated in writing by the beneficial owner of such stock to receive soliciting material in lieu of the beneficial owner,* the material furnished; and

(b) such member organization shall transmit with such material either:

(1) a request for voting instructions and, as to matters which may be voted without instructions under Rule 452 [¶ 2452], a statement to the effect that, if such instructions are not received by the tenth day before the meeting, the proxy may be given at discretion by the owner of record of the stock; provided, however, that such statement may be made only when the proxy soliciting material is transmitted to the beneficial owner of the stock *or to the beneficial owner's designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner,* at least fifteen days before the meeting. When the proxy soliciting material is transmitted to the beneficial owner of the stock *or to the beneficial owner's designated investment adviser registered under the Investment Advisers Act of 1940* twenty-five days or more before the meeting, the statement accompanying such material shall be to the effect that the proxy may be given fifteen days before the meeting at the discretion of the owner of record of the stock; or

(2) a signed proxy indicating the number of shares held for such beneficial owner and

bearing a symbol identifying the proxy records of such member organization, and also a letter informing the beneficial owner *or the beneficial owner's designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner,* of the necessity for completing the proxy form and forwarding it to the person soliciting proxies in order that the shares may be represented at the meeting.

This rule shall not apply to beneficial owners outside the United States.

. . . Supplementary Material:

.10 Annual reports to be transmitted.—The annual report shall be transmitted to beneficial owners *or to beneficial owners' designated investment advisers registered under the Investment Advisers Act of 1940 who exercise investment discretion pursuant to an advisory contract for such beneficial owners* under the same conditions as those applying to proxy soliciting material under Rule 451 even though it is not proxy-soliciting material under the proxy rules of the Securities and Exchange Commission.

.60 Duty to transmit even when requested not to.—The proxy material must be sent to a beneficial owner even though such owner has instructed the member organization not to do so, *unless the beneficial owner has instructed the member organization in writing to send such material to a designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner.*

Rule 452 Giving Proxies by Member Organization

Voting procedure without instructions

A member organization which has transmitted proxy soliciting material to the beneficial owner of stock *or to an investment adviser registered under the Investment Adviser Act of 1940 who exercises investment discretion pursuant to an advisory contract for the beneficial owner and has been designated in writing by the beneficial owner of such stock to receive soliciting material in lieu of the beneficial owner* and solicited voting instructions in accordance with the provisions of Rule 451 [¶ 2451], and which has not received instructions from the beneficial owner *or from such designated registered investment adviser* by the date specified in the statement accompanying such material, may give or authorize the giving of a proxy to vote such stock, provided the person in the member organization giving or authorizing the giving of the proxy has no knowledge of any contest as to the action to be taken at the meeting and provided such action is adequately disclosed to stockholders and does not include authorization for a merger, consolidation or any other matter which may affect substantially the rights or privileges of such stock.

. . . Supplementary Material:

Giving a Proxy To Vote Stock

.10 When member organization may vote without customer instructions.—Rule 452, above, provides that a member organization may give a proxy to vote stock provided that:

(1) It has transmitted proxy soliciting material to the beneficial owner of stock *or to an investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for the beneficial owner and has been designated by the beneficial owner to receive such material* in accordance with Rule 451 [¶ 2451], and

(2) it has not received voting instructions from the beneficial owner *or from the beneficial owner's designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner,* by the date specified in the statement accompanying such material, and

(3) [No change in text]

Transmission of Interim Reports and Other Material

Rule 465. A member organization, when so requested by a company, and upon being furnished with:

(1) copies of interim reports of earnings or other material being sent to stockholders, and

(2) satisfactory assurance that it will be reimbursed by such company for all out-of-pocket expenses, including reasonable clerical expenses, shall transmit such reports or material to each beneficial owner of stock of such company held by such member organization and registered in the name other than the name of the beneficial owner *unless the beneficial owner has instructed the member organization in writing to transmit such reports or material to a designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule amendments is to provide beneficial owners of stock with the ability to have investment advisers registered under the Investment Advisers Act of 1940 who exercise investment discretion for their account(s) pursuant to an advisory contract and who have been designated in writing by the beneficial owners to receive proxy materials and to vote proxies on behalf of such beneficial owners. The proposed rule amendments will also allow the designated registered investment advisers to receive annual reports and other related material. This would include both member organizations of the NYSE and other entities registered as investment advisers.

Currently, Exchange rules prohibit a member organization from voting proxies, on a discretionary basis, on securities held in its custody unless the securities are beneficially owned by the member organization, the beneficial owner has failed to provide the member organization with voting instructions and the subject of the vote is nonsubstantive, or the member organization is the investment manager for an ERISA account.

Further, Exchange rules require transmission of proxy and related issuer materials, as well as proxy voting instructions, to each beneficial owner of stock held in the member organization's possession and control. Rule 451.60 explicitly requires that proxy material be sent to a beneficial owner even though such owner has instructed the member organization not to do so.

A number of member organizations and the Investment Adviser Committee of the Securities Industry Association ("SIA") represented to the Exchange that many of their customers who have their accounts managed by investment advisers do not want to receive proxy related information and annual reports or vote the proxy. These member organizations have indicated that their customers would rather have the professionals, whom they pay to manage their accounts, represent their interests relative to the companies in which they own stock because the professionals are better qualified.

Also, banks, investment advisers and broker/dealers who are not subject to Exchange rules may receive proxy material and vote proxies on behalf of their customers in accordance with fiduciary obligations set forth by contractual arrangement.

The amendments to Exchange Rules 450, 451, 452 and 465 will permit investment advisers who exercise investment discretion pursuant to an advisory contract and who have been designated in writing by the beneficial owner, to receive proxy soliciting materials, annual reports and other related material and to vote proxies in lieu of the beneficial owners of

securities. The term investment adviser is defiend to include a registered broker-dealer (*e.g.*, a member organization).

The proposed rule change will not diminish a beneficial owner's rights to receive proxy related materials and to vote proxies. Rather, it will give beneficial owners the option to designate their investment adviser as the person to receive such materials and to vote proxies. In addition, it will enable member organizations to comply with customer desires concerning transmission of proxy materials and voting proxies.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect the investing public, in that it establishes standards for investment advisers to receive proxy and related material and to vote proxies, thereby meeting customer needs while providing appropriate regulatory safeguards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited, and does not intend to solicit, comments regarding this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–37 and should be submitted by February 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–687 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33411; International Series Release No. 627; File No. SR–OCC–92–29]

Self–Regulatory Organizations; the Options Clearing Corp.; Order Approving a Proposed Rule Change Relating to Delivery-Versus-Payment Settlement Procedures

January 4, 1994.

On September 17, 1992, The Options Clearing Corporation ("OCC") submitted a proposed rule change (File No. SR–OCC–92–29) to the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] concerning delivery-versus-payment ("DVP") settlement procedures. Notice of the proposal appeared in the **Federal Register** on December 14, 1992, to solicit comment from interested persons.[2] No comments were received by the Commission. This order approves the proposal.

I. Description of the Proposal

OCC is amending its Rule 1606A to modify its DVP settlement procedures. First, the proposal clarifies that a clearing member that elects to settle using DVP procedures in Rule 1606A is not discharged from its obligation to U.S. dollars or to deliver foreign currency in settlement of the exercise of foreign currency options until the earlier of the time when (i) the clearing member's agent bank irrevocably pays U.S. dollars or delivers foreign currency to OCC's correspondent bank on behalf of the clearing member of (ii) OCC's correspondent bank irrevocably credits OCC's account with the U.S. dollars or the foreign currency deliverable by the clearing member's agent bank whether or not the clearing member's agent bank has paid U.S. dollars or delivered foreign currency to OCC's correspondent bank. Second, the proposal emphasizes the conditional nature of OCC's obligation in the DVP settlement process. OCC is obligated to cause its correspondent bank to deliver the quantity of U.S. dollars or foreign currency payable by OCC only against receipt from the agent bank of the quantity of U.S. dollars or foreign currency payable to OCC. Finally, the proposal clarifies that OCC's delivery obligation is to the party designated in the DVP authorization, which may or may not be the clearing member's agent bank.

II Discussion

The Commission believes that the proposal is consistent with the Act and in particular section 17A of the Act.[3] Sections 17A(b)(3) (A) and (F) of the Act[4] require that a clearing agency be organized and its rules designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of funds in the custody or control of the clearing agency or for which it is responsible.

The proposal clarifies certain DVP settlement procedures and describes with more precision when a clearing member is discharged from its delivery and payment obligations in foreign currency options. It also clarifies OCC's payment and delivery obligations in connection with DVP settlement. In particular, the proposal clarifies that OCC's obligation arises only after the clearing member's agent bank fulfills its obligation to OCC's correspondent bank.

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[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 31566 (December 4, 1992), 57 FR 59190.

[3] 15 U.S.C. 78q–1 (1988).

[4] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

The Commission believes that this effort by OCC to clarify the terms of DVP settlement should add certainty to the settlement process and should provide an added measure of protection for OCC. Because the rule change should further enable OCC to comply with its statutory obligations to provide prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds, the Commission believes that approval of the rule change is warranted.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act,[5] and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the above-mentioned proposed rule change (File No. SR–OCC–92–29) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–743 Filed 1–11–94; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1991).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee Flight Service Technology Subcommittee Notice of Meeting; Correction

AGENCY: Federal Aviation Administration, USDOT.

ACTION: Correction.

SUMMARY: On page 59 FR 646 in the issue of Wednesday, January 5, 1994, make the following correction: The time published for the January 28 Research, Engineering and Development Advisory Committee, Flight Service Technology Subcommittee meeting was 10 a.m. This should be changed to read 9:30 a.m.

Dated: January 7, 1994.

Martin T. Pozesky,

Executive Director, Research, Engineering and Development Advisory Committee.

[FR Doc. 94–774 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Research, Engineering and Development (R,E&D) Advisory Committee to be held Friday, February 4, 1994, at 10 a.m. The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, in the Round Room on the tenth floor.

The agenda for this meeting will include subcommittee reports on: Global Navigation Satellite System Technology; Open Systems Architecture; Synthetic Vision; and Security R&D. Time permitting, brief updates on subgroup activities concerning Flight Service Technology, Airport Investment Criteria, Compatible Land Use, and Aircraft Safety will also be provided.

Attendance is open to the interested public but limited to space available. With the approval of the Committee Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or plan to access the building to attend the meeting should contact Ms. Jan Peters, ASE–3, at (202) 287–8543, in the Office of the Associate Administrator for System Engineering and Development, 800 Independence Avenue, SW., Washington, DC 20591. Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on January 6, 1994.

Martin T. Pozesky,

Executive Director, Research, Engineering and Development Advisory Committee.

[FR Doc. 94–775 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on January 12 in room 600, 301 4th Street SW., Washington, DC from 10:30 a.m. to 12 p.m.

At 10:30 a.m. the Commission will meet with Mr. Stanley Silverman, Comptroller, USIA, to discuss the Agency's budget. At 11:15 a.m. the Commission will meet with Mr. Robert Powers, Acting Associate Director, Bureau of Policy and Programs, to discuss proposals to create a new Bureau of Information within USIA.

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: January 6, 1994.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 94–693 Filed 1–11–94; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 8
Wednesday, January 12, 1994

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 MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, January 5, 1994.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Consolidation Coal Co.*, Docket No. WEVA 92–922. (Issues include whether the judge erred in finding that Consolidation violated 30 U.S.C. § 813(f) because it refused to allow a miners' walkaround representative to enter an area of its mine which it believed was too dangerous to be inspected.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: December 23, 1993.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 94–914 Filed 1–10–94; 3:55 pm]

BILLING CODE 6735–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, January 19, 1994.

PLACE: The Board Room, 5th floor, 490 L'Enfant Plaza, SW., Washington, DC. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6241 Safety Study: A Review of Flightcrew-Involved Major U.S. Air Carriers Accidents

6249 Aviation Accident Summary Report: GP Express Airlines, Inc., Beech C–99, N115GP, Shelton, Nebraska, April 28, 1993.

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: January 7, 1994.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 94–852 Filed 1–10–94; 11:21 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 10, 17, 24, and 31, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 10

Monday, January 10

10:30 a.m.
Briefing on Status of NRC's Agreement States Program (Public Meeting)
(Contact: Richard Bangart, 301–504–3340)

2:00 p.m.
Briefing on NRC Research Program on Low Level Waste (Public Meeting)
(Contact: Nick Costanzi, 301–492–3760)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 17—Tentative

Wednesday, January 19

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Part 55 on Renewal of Licenses and Requalification Requirements for Licensed Operators (Tentative)
(Contact: Anthony DiPalo, 301–492–3784 or Frank Collins, 301–504–3173)

Week of January 24—Tentative

Monday, January 24

9:30 a.m.
Briefing on Final Report of Regulatory Review Task Force: (Public Meeting)
(Contact: Frank Gillespie, 301–504–1275)

2:00 p.m.
Briefing on Options for Agreement States Compatibility Policy (Public Meeting)
(Contact: Cardelia Maupin, 301–504–2312)

Tuesday, January 25

10:00 a.m.
Briefing on Status of TVA Nuclear Programs (Public Meeting)

1:30 p.m.
Briefing on Activities of the Center for Nuclear Waste Regulatory Analyses (CNWRA) (Public Meeting)
(Contact: Malcolm Knapp, 301–504–3324)

Wednesday, January 26

10:00 a.m.
Briefing by GE on Status of ABWR Application for Design Certification (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Briefing by NARUC Nuclear Waste Program Office (Public Meeting)

Thursday, January 27

1:30 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
(Contact: Bill Bateman, 301–504–1711)

Friday, January 28

10:00 a.m.
Briefing on Progress of Design Certification Review and Implementation (Public Meeting)
(Contact: Dennis Crutchfield, 301–504–1199 or Richard Borchardt, 301–504–1118)

Week of January 31—Tentative

Monday, January 31

10:00 a.m.
Briefing on Plan for Implementation of PRA Working Group Report (Public Meeting)
(Contact: Joe Murphy, 301–492–3980)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: January 7, 1994.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 94–810 Filed 1–7–94; 4:43 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
January 12, 1994

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121, et al.
Removal of Burn Compound From First-Aid Kits; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 135

[Docket No. 25154; Amendment No. 121–236; 125–19; 135–47]

Removal of Burn Compound From First-Aid Kits

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment revises the regulations concerning first aid kits required on board air carrier, air taxi, and commercial aircraft to remove the burn compound from the list of items required for the kits. This amendment responds to a petition from Air Transport Association, supported by the American Red Cross, that the burn compound be removed from the kits since the use of ice or cold water is the preferred treatment for minor burns. This amendment will relieve affected operators from the expense of having to periodically replace an item in the first aid kits that is not needed.

DATES: Effective date: January 12, 1994. Comments must be received on or before March 14, 1994.

ADDRESSES: Send or deliver comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), room 916, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Regulatory Branch, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone: (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1986, the Air Transport Association (ATA) submitted a petition to delete burn compound (burn ointment) from the first-aid kits required to be carried on each aircraft operated under part 121 of the Federal Aviation Regulations. In the petition ATA noted that the application of ice or cold water is the preferred treatment for minor burns. As part of its supporting data, the petition included a request from Western Airlines to delete burn ointment from their first aid kits. Also included in the petition were copies of instructions from flight manuals for several other airlines in which flight attendants were advised to use ice compresses for the treatment of burns and not to use the burn ointment unless it is requested by the passenger. In addition, ATA stated that burn ointment normally has an expiration date, which requires replacement, inspection, and record-keeping.

On January 21, 1987, ATA submitted a second letter to the docket that transmitted an American Red Cross statement confirming their position that burn ointment retains heat within the wound, causing the wound to actually worsen in some cases. In addition, information provided by the Red Cross indicated that burn ointment must be removed before any other treatment can be applied.

ATA submitted additional information on April 9, 1987, in which it cited the March 1987 ATA Cabin Safety Panel meeting where the subject of first-aid for minor burns was discussed. At that meeting, each panel member present stated that their flight attendants were trained to use cold water or ice rather than burn ointment, unless burn ointment was specifically requested by the passenger. Representatives of most of the major airlines were included in this group, constituting over 80 percent of all the seat miles flown by the major airlines.

By letter dated July 6, 1987, ATA submitted a comment from the School of Nursing at the University of Miami as an additional medical opinion. That letter, from an associate professor, stated that emergency care for burns should begin with stopping the burning process by applying cool water to stop the pain and slow the process of heat damage. This medical opinion also noted that application of ointments, oils, etc., should be avoided.

The petition of ATA was published in the **Federal Register** on February 20, 1987 (52 FR 5309). The comment period closed April 20, 1987. The only comments received on the petition are those cited above.

By letter dated July 6, 1993, ATA petitioned on behalf of its member airlines and similarly situated operators for an exemption from the requirement to carry burn ointment in first aid kits as required by appendix A to part 121. A summary of that petition was published in the **Federal Register** on August 11, 1993, and the comment period closed August 31, 1993 (58FR42752). Two comments were received. The Air Line Pilots Association supports the removal of the ointment from first aid kits and notes that this removal would facilitate maintenance by eliminating the need for purchasing, stocking, record keeping, replacing, and disposing of the ointment. The Association of Flight Attendants (AFA) agrees that the removal of the ointment from first aid kits is an appropriate action; however, the AFA also suggests that the FAA should require an equivalent amount of an antibiotic ointment in its place. AFA adds that more recent information from the American Red Cross suggests that cool water or wet cloths is the first step in treatment, but that ice is not recommended except for minor burns.

The FAA's Analysis of the Petition

The FAA agrees with industry practice. Serious burns can be properly treated only by professionals in a medical facility. Neither burn ointment nor cold water is, by itself, an adequate response to a major burn injury. The intent of the burn ointment requirement has always been to provide relief from minor burns caused by cigarettes or hot beverages.

In the limited situation of treating minor burns aboard an aircraft, cold water is the preferred treatment. This treatment avoids the heat retentive properties of burn ointment. Moreover, if the wound requires further medical treatment, the use of ice or cold water eliminates the need to scrape the wound to remove burn ointment.

Therefore, the FAA has determined that burn ointment should be deleted from the list of items required for first aid kits in parts 121, 125, and 135. Ice or cold water is carried on aircraft operated under part 121 and on aircraft with 20 or more passenger seats operated under parts 125 and 135 to which aircraft the burn ointment requirement applies. This will spare air carriers the unnecessary expense of having to maintain an unneeded item.

Good Cause Justification

In consideration of the fact that burn ointment is not the preferred treatment for minor burns, the requirement to carry burn ointment aboard aircraft is inappropriate. Most types of burn ointment have expiration dates, thus new ointment must be purchased, kits must be opened, the ointment replaced, kit resealed and re-installed, and a record of the action must be made. The cost of this process, with labor being far more expensive than the ointment itself, represents a significant nuisance burden for air carriers and commercial operators. ATA carriers are required to maintain over 10,000 kits. This is an unnecessary cost to the industry for which the consumer derives no benefit.

It is clearly in the public interest to delete the requirement.

Since this is a minor amendment in which there is not expected to be any public comment or disagreement from the medical community, the FAA finds that public notice and comment on this amendment is unnecessary. Moreover, because this amendment relieves a requirement, it should be made effective upon publication in the **Federal Register.** Interested persons, however, are invited to submit such comments as they may desire regarding this amendment. Correspondence should identify the docket number and be submitted in duplicate to the address provided above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of comments received. All comments will be available for public review, both before and after the closing date for comments, in the rules docket.

Trade Impact Statement

The FAA finds that this amendment will have no impact on international trade.

Economic Assessment

Because the amendment imposes no cost to operators, the only impact of this amendment is expected to be that carriers will experience some cost savings. Accordingly, the FAA has determined that the impact of this amendment is so minimal that a full regulatory evaluation is not warranted.

Federalism Implications

The regulation adopted herein would not have substantial direct effects on the states, on the relationship between the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation would not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

Paperwork Reduction

This final rule is expected to produce a minor reduction in the record keeping requirements under parts 121, 125, and 135. The paperwork estimation for those parts will be revised accordingly.

Conclusion

To the extent that this amendment will have an economic effect on the airlines and the general public, it will only be a minor, positive one. Therefore, the FAA has determined that this amendment involves a regulation that is not a significant regulatory action under Executive Order 12866 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since no small entities would be affected by the rule, the FAA has determined, and it is certified that under the criteria of the Regulatory Flexibility Act, the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. The economic impact is so minimal that it does not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Parts 121, 125, 135

Air safety, Air transportation, Aviation safety, Safety, Transportation, Cabin safety, First-aid kits.

The Amendment

Accordingly, parts 121, 125, and 135 of the Federal Aviation Regulations (14 CFR part 121) are amended as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983).

2. In Appendix A to part 121, paragraph (5) is amended by removing the item "Burn compound, ⅛ ounce or an equivalent of other burn remedy, quantity 6" and by moving the remaining six items in the list to the end of the list in paragraph (4).

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

3. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 through 1430, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983.)

§ 125.207 [Amended]

4. Section 125.207(a)(1)(iii) is amended by removing the item: Burn compound, ⅛ oz or an equivalent of other burn remedy, quantity 6.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355(a), 1421 through 1431, and 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

§ 135.177 [Amended]

6. Section 135.177(a)(1)(iii) is amended by removing the item: Burn compound, ⅛ oz or an equivalent of other burn remedy, quantity 6.

Issued in Washington, DC on January 5, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–626 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
January 12, 1994

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Part 173, et al.

Construction of Cargo Tank Motor Vehicles; Final Rule

DEPARTMENT OF TRANSPORTATION

Research And Special Programs Administration

49 CFR Parts 173 and 180

[Docket No. HM–183; Amdt No. 173–212 and 180–2]

RIN 2137–AC37

Construction of Cargo Tank Motor Vehicles; Extension of Compliance Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of compliance date and announcement of a public meeting.

SUMMARY: RSPA is granting an extension for the continued construction of cargo tank motor vehicles to the MC 306, MC 307, MC 312, MC 331, and MC 338 specifications. The date is extended from April 21, 1994 to August 31, 1995. This extension is based on comments received from the Truck Trailer Manufacturers Association, the Heil Co., and members of the Compressed Gas Association. This final rule allows cargo tank manufacturers additional time to implement engineering procedures required for manufacture of cargo tank motor vehicles to the new DOT 406, DOT 407 and DOT 412 specifications and to implement design modifications as a result of changes to the structural integrity calculations in the MC 331 and MC 338 specifications.

DATES: *Effective:* This final rule will become effective on March 14, 1994, unless RSPA receives, by February 11, 1994, comments that illustrate that extension of the compliance date is not in the public interest. Upon receipt of such comments, RSPA will publish a document in the **Federal Register** withdrawing this final rule.

Public meeting: A public meeting will be held on February 7 and 8, 1994. It will begin at 9 a.m. on February 7, 1994.

ADDRESSES: *Written comments:* Comments may be mailed or hand-delivered to the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590–0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: (202) 366–5046. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday except Federal holidays.

Public meeting: The public meeting will be held at the U.S. Department of Transportation (Meeting room 2230, Nassif Building), 400 Seventh Street SW., Washington, DC, 20590–0001.

FOR FURTHER INFORMATION CONTACT: Ronald Kirkpatrick, telephone (202) 366–4545, Office of Hazardous Materials Technology, or Jennifer Karim, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

A. Background

RSPA published final rules under Docket Nos. HM–183/HM–183A establishing three new cargo tank specifications designated as DOT 406, DOT 407 and DOT 412 (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872). The rules also made changes to the structural integrity calculations for the MC 331 and MC 338 cargo tanks.

To allow manufacturers sufficient time to implement changes in their manufacturing operations, RSPA provided for the continued manufacture of cargo tanks to the MC 306, MC 307 and MC 312 specifications until August 31, 1993. However, as manufacturers began implementing the new requirements, certain technical issues were brought to RSPA's attention. To allow time for resolving these issues, RSPA extended the date that cargo tanks may no longer be constructed to the MC 306, MC 307, MC 312, MC 331 and MC 338 specifications from August 31, 1993 to April 21, 1994 (March 8, 1993, 58 FR 12904).

On March 3, 1993, RSPA published a notice of proposed rulemaking (NPRM) proposing to amend certain requirements for the manufacture, qualification and maintenance of cargo tank motor vehicles (March 3, 1993, 58 FR 12316). The NPRM was in response to petitions for rulemaking received after publication of the final rules. The NPRM addressed certain technical requirements for the construction of the DOT–400 series specifications and the structural integrity calculations in the MC 331 and MC 338 specifications. The comment period for the NPRM closed on June 15, 1993.

A public meeting to address issues raised in the NPRM was held in Chicago on March 24 and 25, 1993. At the meeting, several significantly different views of design engineers and cargo tank manufacturers were identified. Additionally, preliminary results were presented at the public meeting of an advanced structural evaluation (using finite element analysis) of the MC 331 cargo tank which raised questions in regard to stress levels in areas of concentrated loadings.

In response to the NPRM and to issues raised at the public meeting, commenters requested that RSPA provide a one-year continuation for construction of cargo tanks to the MC 306, MC 307, MC 312, MC 331 and MC 338 specifications. The commenters stated that they need time to finalize their engineering designs, develop written specifications, order raw materials, and establish new training requirements. Because of the complexity and impact of issues that will be addressed in the final rule and new concerns raised by the commenters, RSPA is extending the compliance date to August 31, 1995. However, because industry did not request an extension of the provisions specified in § 178.337–6, pertaining to inspection opening or manhole requirements for certain smaller cargo tanks, RSPA is not extending the April 21, 1994 compliance date specified in that section.

RSPA is issuing this extension of the compliance date because we view this as a noncontroversial amendment and do not anticipate any adverse comments. This final rule will be effective March 14, 1994, unless by February 11, 1994, RSPA receives comments that illustrate that extension of the compliance date is not in the public interest. Upon receipt of such comments, RSPA will withdraw this final rule before the effective date by simultaneously publishing two subsequent documents. One document will withdraw this final rule and another will begin a new rulemaking by announcing a proposal to extend the compliance date and establishing a comment period. If no such comments are received, RSPA will publish a document in the **Federal Register** confirming that this final rule will be effective on March 14, 1994.

B. Public Meeting

The process of developing the DOT–400 series cargo tank motor vehicle specifications and of updating the MC 331 and MC 338 cargo tank motor vehicle specifications has extended over more than ten years. During this time, the process has been conducted in accordance with the Administrative Procedure Act, with the attendant

advantage of offering ample time for manufacturers and users to comment on proposed changes and to provide alternative means of achieving enhanced safety of cargo tank motor vehicles in hazardous materials service. Some major issues, however, remain unresolved. These issues pertain to structural integrity, accident damage protection, use of dual function pressure relief devices, and ASME certification of low pressure cargo tank motor vehicle manufacturers. Changes endorsed several years ago are now being questioned by some industry members. In addition, RSPA received several petitions for rulemaking raising certain issues not previously addressed.

RSPA will conduct a public meeting, in an effort to resolve these issues. The following issues will be discussed at the times noted:

Date: February 7, 1994 9 a.m. until 12 p.m.

MC 331 and MC 338 Specifications

Structural integrity. Several commenters have expressed concern over the application and combination of loadings used to determine the effective stress at any given point on a cargo tank motor vehicle. Based on industry's experience in design, operation, maintenance and repair of high pressure cargo tank motor vehicles, RSPA solicits information on loading combinations that may be encountered during the operation of these tanks.

DATE: February 7, 1994, 1 p.m. until 5 p.m. and February 8, 1994, 8 a.m. until 5 p.m.

DOT 406, DOT 407 and DOT 412 Specifications

1. *Structural integrity.* Several commenters have expressed concern over the application and combination of loadings used to determine the effective stress at any given point on a cargo tank motor vehicle. Based on industry's experience in design, operation, maintenance and repair of cargo tank motor vehicles, RSPA solicits information on loading combinations that may be encountered during the operation of these tanks.

2. *Accident damage protection.* Several commenters have stated that it is not possible to meet the prescribed accident damage protection requirements. RSPA solicits information on alternative means to provide cargo tank motor vehicles with adequate bottom, rollover, and rear-end protection.

3. *Dual function pressure relief devices.* Several commenters have stated that it is not possible to design dual function pressure relief devices. However, advertisements in trade magazines indicate that such vents are available. RSPA solicits data on the development and availability of dual function pressure relief devices.

4. *ASME certification of low pressure cargo tank motor vehicle manufacturers.* The Cargo Tank Manufacturers Association (CTMA) submitted for RSPA's consideration a quality control program for manufacturers of low pressure DOT 406 cargo tank motor vehicles as an alternative to requiring each manufacturing facility to have ASME Certification. Copies of the CTMA proposal are available in RSPA's Docket Unit. RSPA solicits specific comments on the adequacy of the CTMA proposal; particularly in the areas of manufacturing quality control and independent inspection. Information received at the public meeting and in response to the NPRM will be used in the development of the final rule under Docket HM–183C. However, RSPA may make certain issues subject to a separate rulemaking action.

C. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking is exempt from review by the Office of Management and Budget under Executive Order 12866. Although the June 12, 1989 final rule was significant under the regulatory procedures of the Department of Transportation (44 FR 11034), this document is not significant because it does not impose additional requirements and has the effect of extending a compliance date. This rule, in fact, provides regulatory and economic relief in some areas. The original regulatory evaluation of the final rule was not modified because this final rule does not impose additional requirements and does not make substantive changes to the final rule.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Hazardous Materials Transportation Act contains an express preemption provision (49 App. U.S.C. 1804(a)(4)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This final rule concerns the manufacturing requirements for packagings represented as qualified for use in the transportation of hazardous materials.

This final rule preempts State, local, or Indian tribe requirements in accordance with the standards set forth above. The HMTA (49 App. U.S.C. 1804(a)(5)) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be 90 days after publication in the **Federal Register**.

Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule applies to manufacturers of DOT specification cargo tank motor vehicles.

Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which was approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137–0014.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used

to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I of the Code of Federal Regulations, is amended as set forth below.

PART 173—SHIPPERS–GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

§ 173.33 [Amended]

2. In § 173.33, the following changes are made:

a. In paragraph (c)(4), the date "April 21, 1994" is revised to read "August 31, 1995".

b. In paragraph (d)(1), the date "April 21, 1994" is revised to read "August 31, 1995".

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

3. The authority citation for part 180 continues to read as follows:

Authority: 49 App. U.S.C. 1803; 49 CFR part 1.

§ 180.405 [Amended]

4. In § 180.405, the following changes are made:

a. In paragraph (b), the date "April 21, 1994" is revised to read "August 31, 1995".

b. In paragraph (c)(1) table, under column 2, the date "April 22, 1994" is revised to read "September 1, 1995."

§ 180.413 [Amended]

5. In § 180.413, in paragraphs (d)(1)(i), (ii) and (iii), the date "April 21, 1994" is revised to read "August 31, 1995".

§ 180.417 [Amended]

6. In § 180.417, in the heading of paragraph (a)(3), the date "April 22, 1994" is revised to read "September 1, 1995".

Issued in Washington, DC on January 6, 1994 under authority delegated in 49 CFR Part 1.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 94–636 Filed 1–11–94; 8:45 am]

BILLING CODE 4910–60–P

federal register

Wednesday
January 12, 1994

Part IV

Environmental Protection Agency

40 CFR Part 372

Addition of Certain Chemicals; Toxic Chemical Release Reporting; Community Right-to-Know; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400082; FRL–4645–6]

RIN 2070–AC47

Addition of Certain Chemicals; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to add 313 chemicals and chemical categories to the list of toxic chemicals required to be reported on under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 and section 6607 of the Pollution Prevention Act of 1990. The proposed addition of these chemicals and chemical categories is based on their acute human health effects, carcinogenicity or other chronic human health effects, and/or their environmental effects. EPA believes that these chemicals and chemical categories meet the EPCRA section 313(d)(2) criteria for addition to the list of toxic chemicals.

DATES: Written comment on this proposed rule must be received on or before April 12, 1994. The public meeting will take place on March 2, 1994, at 1 p.m. and adjourn by 5 p.m.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460. Comments containing information claimed as confidential must be clearly marked as confidential business information (CBI). If CBI is claimed, three additional sanitized copies must also be submitted. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Comments should include the docket control number for this proposal, OPPTS–400082. Unit VI. of this preamble contains additional information on submitting comments containing information claimed as CBI.

The public meeting will be held at the: Environmental Protection Agency, Auditorium, Education Center, 401 M St., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202 or Toll free TDD: 800–553–7672, Attention: Docket Number OPPTS–400082.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This proposed rule is issued under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986.

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. When enacted, section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add chemicals to or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added to and deleted chemicals from the original statutory list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition is denied. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories.

II. Explanation for Expansion of the EPCRA Section 313 Chemical List

A. General Rationale

The Toxics Release Inventory (TRI), through the public access provisions of EPCRA, has proven to be one of the most powerful forces in empowering the Federal government, State governments, industry, environmental groups, and the general public, to fully participate in an informed dialogue about the environmental impacts of toxic chemicals in the United States.

A major section of EPCRA, which Congress passed in 1986, resulted in the creation of the Toxics Release Inventory. TRI is a publicly available data base that provides quantitative information on toxic chemical releases, transfers, recycling, and disposal. With the collection of this information for the first time in 1987, came the ability for the public, government, and the regulated community to understand the magnitude of chemical emissions in the United States; to compare chemical releases and transfers of chemical wastes among States, industries, facilities, and environmental media; and perhaps most importantly, to assess the need to reduce and where possible, eliminate these releases and transfers. TRI enables all interested in environmental progress to establish credible baselines, to set realistic goals, and to measure progress over time, in meeting those goals. The TRI system has become a neutral yardstick by which progress can be measured by all interested parties.

The original list of chemicals for which reporting was required consisted of 320 chemicals and chemical categories. The list was a combination of the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances and the New Jersey Environmental Hazardous Substance List. The combination of these two lists provided a sound and logical starting point for the national TRI program. Recognizing however that the list would need to be a dynamic one, EPCRA specifically authorizes additions to and deletions from the list. To date, EPA has added 16 chemicals to the list and has deleted 12 chemicals from the list.

With 5 years experience behind the program, EPA, other federal agencies, Congress, and the public have recognized the need to expand the TRI list beyond the original chemicals and chemical categories and beyond the relatively limited reporting universe. (Currently reporting is only required from facilities that fall within the manufacturing Standard Industrial Classification (SIC) codes 20 through 39 that meet certain thresholds).

While the data on the chemicals that are covered have allowed the public and private sectors to be informed and involved in environmental decisionmaking as they never were before, it has become increasingly evident to those same constituents that they have access to information on a relatively small number of important chemicals. Congress has echoed this recognition in the Right-to-Know More

bills that were put forward in the 102nd Congress. EPA and State regulatory agencies have integrated TRI information as a critical component in their environmental decisionmaking and in many cases are constrained by the lack of similar information on chemicals of concern not covered by the TRI. While the TRI has been successful in focusing attention on the initial list of chemicals and in many cases fostering emissions reductions and prevention activities, that same focus has highlighted the need to expand beyond that initial list and to include additional chemicals that exhibit similar toxicity characteristics. This proposal is one of the first in a series of actions that EPA plans to use to expand the coverage of the TRI. This first phase will focus on adding chemicals, followed by a second phase that will identify additional facilities for inclusion. EPA is considering a third phase, which would look at modification of the data elements currently required by TRI.

In conjunction with these expansion activities EPA has been considering whether other adjustments are needed in the scope of the TRI program. EPA received petitions from the Small Business Administration and the American Feed Industry Association seeking an exemption for "small sources" (i.e, those facilities that file TRI forms with zero or small release estimates). EPA previously put those petitions out for public comment and, on review, believes there is substantial merit to the general concerns raised in the petitions.

The Agency's plan for proceeding on the small source issue would include the following steps. EPA is examining four options for establishing a small release exemption from the TRI reporting obligation: Cutoffs at zero, 500 pounds, 1,000 pounds, and 5,000 pounds. EPA will provide the public with a report on these four options by the end of January. This analysis will consider what data might not be available at both the national and community level, and the cost savings to the government and to industry of the four exemption levels. EPA plans to hold a public meeting in February for discussion of the report. Based on this feedback, EPA will then design a regulatory strategy that will align the small source issue with final action on today's proposal. The Agency's objective will be to minimize unnecessary data collection and reporting by facilities, including for the chemicals identified in today's proposal.

B. Development of the Chemical Addition Candidates

As a starting point for screening candidates for addition to the toxic chemical list under EPCRA section 313, EPA chose to examine the lists of chemicals regulated or identified, as of concern, under various environmental statutes including: (1) Section 112(b) of the Clean Air Act (CAA) as amended in 1990 (Hazardous Air Pollutants); (2) section 602(b) of the CAA (Class II ozone depleting substances); (3) section 307(a) of the Clean Water Act (CWA) (Priority Pollutant List); (4) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Active Ingredients, including Special Review, Canceled/ Denied or Suspended, and Restricted Use Pesticides; (5) section 302 of EPCRA (Extremely Hazardous Substances); (6) section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); (7) section 3001 of the Resource Conservation and Recovery Act (RCRA) and chemicals listed at 40 CFR 261.33(e) and (f) and Appendix VIII; (8) section 1412 of the Safe Drinking Water Act as amended; (9) certain chemicals subject to the Toxics Substance Control Act (Existing Chemicals); and (10) the State of California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) (List of Chemicals Known to the State to Cause Reproductive Toxicity).

In addition, EPA considered chemicals designated as possible, probable, or known carcinogens in the Monographs of the International Agency for Research on Cancer (IARC) and the 6th Annual Report on Carcinogens of the National Toxicology Program (NTP), U.S. Department of Health and Human Services (DHHS).

From this initial group of substances, EPA excluded chemicals that are already listed on section 313 or are already reportable under one of the EPCRA section 313 categories. For example, "cyanide, total" is listed under section 307(a) of the CWA. This listing is considered to be a subset of the EPCRA section 313 cyanide compounds category and the hydrogen cyanide listing. EPA decided not to propose listing these types of chemicals separately because they are already reportable under one of the existing section 313 categories. To prioritize chemicals for possible addition to EPCRA section 313, EPA applied a human health and ecotoxicity screen and a production volume screen, which are described below. The results of the toxicity screen for a subset of these chemicals were presented at a public meeting on May 29, 1992 (Ref. 4).

Other chemicals were also removed from consideration for this rulemaking because they are the subjects of two recently published EPCRA petition responses. On March 4, 1992, EPA received a petition from Governor Mario M. Cuomo of New York and the Natural Resources Defense Council (NRDC) to add 80 chemicals and 2 chemical categories to the list of toxic chemicals under section 313 of EPCRA. All of these chemicals and chemical categories appear on the RCRA list of hazardous wastes under 40 CFR 261.33(f) and as such are a subset of the chemicals screened by EPA. EPA responded to the petition in a proposed rulemaking on September 8, 1992 (57 FR 41020) and in a final rule adding 22 chemicals on November 30, 1993 (58 FR 63500).

On December 3, 1991, EPA received a petition from the NRDC, Friends of the Earth, and the Environmental Defense Fund to add hydrochlorofluorocarbons (HCFCs) to the list of toxic chemicals under section 313 of EPCRA. The HCFCs are listed under section 602(b) of the CAA as Class II ozone depleting substances and as such are a subset of the chemicals screened by EPA. EPA responded to the petition in a proposed rulemaking on June 24, 1992 (57 FR 28159) and in a final rule adding 11 HCFCs on November 30, 1993 (58 FR 63496). An additional 16 HCFCs not added to the TRI list by the November 30, 1993 final rule are proposed for addition in this rulemaking (See Unit IV.B.135. of this preamble).

1. *Toxicity screen.* A toxicity screen is a limited review of readily available toxicity data (e.g., information in data bases and other secondary sources) that is used for a preliminary categorization of a chemical during the process of selecting candidates for possible listing under EPCRA section 313. The toxicity screen is used to identify chemicals for further consideration and does not reflect a final determination for listing a chemical under EPCRA section 313. Such a determination can only be made after a hazard assessment is conducted (See Unit II.B.3. of this preamble). The chemicals identified above were screened for four general effect categories: Acute human health effects, cancer, other chronic human health effects, and ecological effects.

The screening criteria associated with each of the effect areas used in the toxicity screen are discussed in detail in the *Revised Draft Hazard Assessment Guidelines for Listing Chemicals on the Toxic Release Inventory (Draft Hazard Assessment Guidelines)*, (Ref. 6). The numerical screening values reflected in

the *Draft Hazard Assessment Guidelines* were developed to capture, in the "sufficient for listing" screening category, the majority of chemicals already listed on various CERCLA and EPCRA lists, and thus known or suspected to be toxic and/or hazardous. These *Draft Hazard Assessment Guidelines* contain guidance for both the screening and hazard assessments of chemicals and are available for review in the docket associated with this rulemaking. This draft document was distributed at a public meeting on May 29, 1992. A final version of these guidelines has not yet been developed. Requests for further information about these draft guidelines should be addressed to the person identified under "FOR FURTHER INFORMATION CONTACT."

Based on the results of this screen, the chemicals were preliminarily placed in one of three screening categories defined in the *Draft Hazard Assessment Guidelines*: "sufficient;" "may be sufficient;" or "insufficient." EPA received comment in response to the *Draft Hazard Assessment Guidelines* that objected to the Agency's use of the terms "sufficient," "may be sufficient," and "insufficient" as titles for the toxicity screening categories. The commenter claimed that these terms are appropriate only for the results of a hazard assessment. The commenter stated that these terms should not be used for screening categories because the toxicity screen only identifies chemicals for further consideration. EPA agrees that the screening categories only reflect a preliminary determination on each chemical, and therefore, to avoid further confusion, will refer to the screening categories as "high priority," "medium priority," and "low priority" to reflect the difference between a toxicity screen and a hazard assessment. These terms will be used throughout this document in reference to the toxicity screening categories. Chemicals that were categorized as "low priority" during the screening process were not considered further as candidates for addition to the EPCRA section 313 list in this rulemaking.

2. *Production volume screen.* EPCRA section 313(f) establishes reporting thresholds related to the amount of a chemical that is manufactured, processed, or otherwise used. [The EPCRA section 313 manufacture (includes import) and processing thresholds are 25,000 pounds per facility per year. The otherwise use threshold is 10,000 pounds per facility per year]. EPA anticipates that the addition of chemicals manufactured, imported, processed, or used in quantities less than the EPCRA section 313 volume thresholds would not result in the submission of TRI reports. Thus, EPA elected to initially focus its attention on chemicals likely to yield reports. Accordingly, EPA also screened potential candidates for the likelihood of meeting the EPCRA section 313 volume thresholds. Chemicals for which there were no data to indicate that the chemical is likely to meet or exceed the EPCRA section 313 volume thresholds were not considered further as possible candidates for addition to the section 313 list at this time.

Production volume data on each of the chemicals were gathered primarily from two sources: (1) The TSCA Chemical Update System (1990); and (2) the FIFRA Section 7 Tracking System. On June 12, 1986 (51 FR 21438), EPA promulgated a rule pursuant to section 8(a) of TSCA which required manufacturers and importers to report every 4 years, subject to certain threshold production quantities and other exclusions, the quantities of chemicals they produced (40 CFR part 710). Among the exceptions to the inventory update rule (IUR) reporting were polymers, biological products, inorganic substances, and chemicals produced at less than 10,000 pounds, all with certain limitations. Data from the IUR is maintained in EPA's TSCA Chemical Update System (CUS).

Section 7 of FIFRA provides the Agency with annual production information on registered pesticides. EPA regulations implementing FIFRA section 7 (40 CFR part 167) require all manufacturers of pesticidal products (which includes formulated pesticides, active ingredients, and devices) to submit an annual report detailing the amount of each type of pesticidal product manufactured, sold and distributed during the past year, and estimated to be manufactured, imported, and processed during the current year (40 CFR 167.85).

For industrial inorganic compounds not subject to FIFRA or available on CUS, information from the public literature was used, supplemented with information from companies.

3. *Hazard evaluation.* EPA conducted a hazard evaluation for each of the addition candidates that resulted from the above analyses and determined based on the weight-of-the evidence if there was sufficient evidence to establish that the candidate chemical met the statutory criteria for addition to EPCRA section 313. To make this determination, EPA senior scientists reviewed readily available toxicity information on each chemical for each of the following effect areas: acute human health effects; cancer; other chronic human effects; and environmental effects. In addition, EPA reviewed, where appropriate, information on the environmental fate of the chemical.

The hazard assessment was conducted in accordance with relevant EPA guidelines for each adverse human health or environmental effect (e.g., the appropriate guidelines for hazard evaluation of chemical carcinogens and for the type of evidence required to substantiate a determination of carcinogenicity are the *Guidelines for Carcinogen Risk Assessment* (Ref. 2)). The guidelines that were used for each effect are Agency guidelines that are identified in the *Draft Hazard Assessment Guidelines* (Ref. 6). During this assessment the severity and significance of the effects induced by the chemical, the dose level causing the effect, and the quality and quantity of the available data, including the nature of the data (e.g., human epidemiological, laboratory animal, field or workplace studies) and confidence level in the existing data base, were all considered. Where a careful review of the scientific data for a particular chemical results in a high level of confidence that the chemical causes an adverse effect at relatively low dose levels, EPA believes that this evidence is sufficient for listing the chemical under section 313. On the other hand, where a review of the scientific data indicates that the chemical will cause various adverse effects at moderate dose levels, EPA believes, based on the total weight-of-the-evidence, that there is sufficient evidence for listing the chemical under EPCRA section 313.

EPA also conducted an analysis of exposure for each chemical or chemical category proposed for listing under EPCRA section 313(d)(2)(A) (i.e., based on adverse acute human health effects), and, where appropriate, under section 313(d)(2)(C) (i.e., based on adverse ecological effects). For chemicals listed under EPCRA section 313(d)(2)(A), this analysis included estimated concentrations of the chemical at or beyond the facility site boundary through the use of estimated releases and modelling techniques. EPA requests comment on its approach in considering exposure as a part of its evaluation of these chemicals under sections 313(d)(2)(A) and (C).

Based on this analysis for each of the chemicals proposed for listing, EPA determined that one or more of the statutory criteria were met. A discussion of EPA's interpretation of the EPCRA section 313 criteria is given in Unit III.

of this preamble. A discussion of the evidence supporting EPA's proposal to add each of the chemicals to EPCRA section 313 is presented in Unit IV. of this preamble and in the record supporting this proposed rule.

4. *Other considerations.* EPA excluded certain chemicals and chemical categories from consideration for proposed listing under EPCRA section 313 in this rulemaking for a number of reasons. Some chemicals were identified only as environmental degradation products rather than chemicals that are manufactured, processed, or otherwise used by a facility. These chemicals will only be present in the environment as a result of the release into the environment of precursor chemicals. If the degradation product meets the toxicity criteria of EPCRA section 313, the precursor chemical may be considered for listing on EPCRA section 313. The degradation product would not be considered for listing on EPCRA section 313 because a facility subject to EPCRA section 313 is only required to file a TRI report for a chemical that it manufactures, processes, or otherwise uses, within the facility boundaries. Therefore, EPA does not believe that it is appropriate to consider listing such chemicals at this time.

Some of the lists reviewed by EPA included listings that represented waste streams from particular processes. These waste streams, such as coke oven emissions, are not discrete chemicals or chemical categories, but contain a wide range of chemicals, many of which are currently listed individually on EPCRA section 313. The focus of this rulemaking is on the addition of specific chemicals and chemical categories and, as such, EPA believes that these waste streams are inappropriate for listing under EPCRA section 313 at this time.

EPA also excluded chemicals whose only identified toxicity concern was a result of their status as a volatile organic compound (VOC). VOCs contribute to the formation of tropospheric ozone which causes a number of health-related and environmental problems. EPA continues to believe that VOCs meet the listing criteria of EPCRA section 313. However, EPA intends to address the issue of how VOCs should be listed on EPCRA section 313 separately. Therefore, chemicals whose only identified toxicity concern is due to their status as VOCs were excluded from consideration at this time.

EPA also identified chemicals that are routinely manufactured, processed, or otherwise used at levels far below the reporting thresholds of EPCRA section 313. These chemicals are not expected to ever be manufactured, processed, or otherwise used in quantities at or above these reporting thresholds. In this proposed rulemaking, EPA is attempting to add chemicals to EPCRA section 313 that are manufactured, processed, or otherwise used in quantities greater than the EPCRA section 313 volume thresholds and thus would result in the submission of TRI reports. Consequently, chemicals that are manufactured, processed, or otherwise used in quantities less than the EPCRA section 313 volume thresholds were excluded from further consideration at this time, because no reports would be filed under EPCRA section 313 for such chemicals.

Some of the chemicals that are manufactured, processed, or otherwise used below the EPCRA section 313 activity thresholds, particularly those chemicals that are manufactured in trace amounts in waste streams, are highly toxic at very low dose levels and have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals, such as dioxins, are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemical from one component of the ecosystem to another. EPA may reconsider in the future the issue of listing such chemicals in a manner which would result in the submission of TRI reports. EPA requests comment on the following: Is it appropriate to list such chemicals on EPCRA section 313? If EPA were to add this type of chemical to EPCRA section 313, what modifications to EPCRA section 313, such as lowering the reporting thresholds and modifying the *de minimis* in mixture exemptions (40 CFR part 372.38), would be required to insure that release and transfer information would be collected?

III. EPCRA Section 313 Statutory Criteria

EPCRA section 313(d)(2) sets out criteria for adding chemicals to the list of chemicals subject to reporting under section 313(a). For a chemical (or category of chemicals) to be added to the EPCRA section 313(c) list of toxic chemicals, the Administrator must determine whether, in her judgement, there is sufficient evidence to establish any one of the following:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans--

(i) cancer or teratogenic effects, or

(ii) serious or irreversible--

(I) reproductive dysfunctions,

(II) neurological disorders,

(III) heritable genetic mutations, or

(IV) other chronic health effects.

(C) The chemical is known to cause or can reasonably be anticipated to cause, because of--

(i) its toxicity,

(ii) its toxicity and persistence in the environment, or

(iii) its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgement of the Administrator, to warrant reporting under this section.

To remove a chemical from the section 313(c) list, the Administrator must determine that there is not sufficient evidence to establish any of the criteria described above as required by EPCRA section 313(d)(3). Thus, the criteria for listing or delisting a chemical are identical. However, whereas EPA can add a chemical if only one of the criteria is met, it can only delete a chemical if none of the criteria are met.

To ascertain whether there is sufficient or insufficient evidence to determine that the statutory criteria are met for listing a chemical, EPA conducts a hazard assessment on the chemical and determines based on the weight-of-the-evidence, whether the chemical can reasonably be anticipated to cause any of the adverse effects specified in EPCRA section 313(d)(2). The hazard analysis is described above in Unit II.B.3. of this preamble. EPA's interpretation of the specific statutory criteria follows.

1. *Section 313(d)(2)(A) (acute human health effects).* To determine whether the section 313(d)(2)(A) "acute human health effects" criterion is met, EPA must examine the adverse effects associated with the chemical, the "concentration levels" which would cause acute human health effects, and the likelihood of such levels existing "beyond facility site boundaries as a result of continuous, or frequently recurring, releases." Such a determination may include, among other factors, consideration of production processes, workplace procedures, pollution controls, and the volume and pattern of production, use, and release, as well as other chemical-

specific factors. EPA believes that to make the section 313(d)(2)(A) determination it must demonstrate that a chemical can reasonably be anticipated to be released in quantities that result in concentration levels, or within a reasonable margin of exposure of the concentration levels, that would be expected to cause acute human health effects beyond the facility site boundary. The margin of exposure applied is dependent upon the type of hazard data (e.g., data in animals versus human) and the confidence in this hazard data base for acute effects (e.g., sufficiency of the hazard data). However, EPA is not required to make a facility-specific finding, nor is it necessary for EPA to demonstrate that these concentration levels or effects occur at or near any particular facility (Ref. 1). Furthermore, "EPA may, but is not required to, conduct new studies or risk assessments or perform site-specific analyses to establish actual ambient concentrations or to document adverse effects at any particular location" (Ref. 1). Nor is EPA limited to considering concentration levels and potential acute human health effects at the "fenceline." Rather, the phrase "beyond facility site boundaries" reflects Congress' recognition that the "highest concentration to which persons outside the site boundary may be exposed" could occur at "any point outside the boundaries of the site on which the facility is located," including, for example, where an air emissions plume cools and settles to the ground (Ref. 1). Therefore, EPA believes that to make a finding under EPCRA section 313(d)(2)(A), the Agency may estimate concentrations at or beyond the facility site boundary through the use of estimated releases and modelling techniques. The term "continuous or frequently recurring releases" is included only to distinguish routine releases that are a normal consequence of the operation of a facility from the episodic and accidental releases that are subject to EPCRA section 304 (Ref. 1). As such, EPA believes that episodic and accidental releases are not pertinent in a determination that a chemical meets the section 313(d)(2)(A) criterion.

2. *Section 313(d)(2)(B) (chronic human health effects).* In contrast to the section 313(d)(2)(A) criterion, section 313(d)(2)(B) does not require consideration of either the nature and frequency of releases or concentration levels at facility site boundaries. Rather, section 313(d)(2)(B) is focused solely on whether the chemical is known or can reasonably be anticipated to cause cancer, teratogenicity, or other serious or irreversible chronic human health effects. Consequently, EPA believes that it is sufficient to consider only the toxicity of the subject chemical to make the section 313(d)(2)(B) determination.

3. *Section 313(d)(2)(C) (environmental effects).* The section 313(d)(2)(C) criterion requires EPA to consider a chemical's potential to cause significant adverse effects on the environment. The statute directs EPA to base its determination on a consideration of the toxicity of the chemical, either alone or in combination with the persistence of the chemical or the potential for the chemical to bioaccumulate. Congress intended that EPA consider a broad range of environmental effects when making a determination under section 313(d)(2)(C).

> In determining what constitutes a significant adverse effect on the environment...the Administrator should consider the extent to which the toxic chemical causes or can reasonably be anticipated to cause any of the following adverse reactions, even if restricted to the immediate vicinity adjacent to the site: (1) Gradual or sudden changes in the composition of animal life or plant life, including fungal or microbial organisms in an area. (2) Abnormal number of deaths of organisms (e.g. fish kills). (3) Reduction of the reproductive success or the vigor of a species. (4) Reduction in agricultural productivity, whether crops or livestock. (5) Alterations in the behavior or distribution of a species. (6) Long lasting or irreversible contamination of components of the physical environment, especially in the case of groundwater, and surface water and soil resources that have limited self-cleansing capability (Ref. 1).

EPA believes that the environmental effects criterion inherently contains a limited exposure component because of the statutory requirement for EPA to find a "significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting" under EPCRA section 313. Unlike section 313(d)(2)(B), where EPA only has to determine whether certain kinds of effects are "known or reasonably anticipated" to occur, section 313(d)(2)(C) requires EPA to find the effect to be of sufficient seriousness to warrant reporting, which implies the possibility that under certain circumstances, a chemical that could theoretically cause a significant adverse effect on the environment is unlikely to cause one of a magnitude to warrant listing.

The extent to which exposure is factored into EPA's determination depends upon the inherent toxicity of a chemical, and a variety of other chemical-specific characteristics. EPA believes that when a chemical is inherently extremely toxic, that is, it is toxic at very low dose levels, an exposure assessment is not necessary because even minimal releases of such a chemical may reasonably be anticipated to result in significant adverse environmental effects. In such cases, EPA could rely on toxicity alone under section 313(d)(2)(C)(i) as a basis for listing.

However, for chemicals that exhibit adverse effects upon the environment solely based on toxicity at moderately low doses, EPA believes that consideration of potential exposure is warranted because minimal releases may not result in significant adverse effects upon the environment. These exposure considerations may include, among other factors, pollution controls, the volume and pattern of production, use, and release, environmental fate, as well as other chemical-specific factors, and the use of estimated releases and modelling techniques.

EPCRA sections 313(d)(2)(C)(ii) and (iii) allow EPA to consider the impacts of other characteristics of a chemical. Where a chemical exhibits significant adverse effects in the environment based on toxicity and persistence or toxicity and bioaccumulation at very low to moderately low dose levels, EPA believes that exposure considerations are not required in addition to those considerations implicit in evaluation of the chemical's potential for persistence and bioaccumulation. This is because even minimal releases of the chemical may result in elevated concentrations in the environment or in an organism that can reasonably be anticipated to result in significant adverse effects. This reflects the increased likelihood that there will be exposure to a chemical that persists due to its longer residence time in the environment. Repeated minimal releases of a persistent chemical may result in elevated concentrations in the environment. For a chemical that bioaccumulates, even low levels of the chemical in the environment may result in increased concentrations in an organism. Therefore, evaluation of a chemical's persistence or bioaccumulation potential may be considered the functional equivalent of an exposure analysis.

In addition, for chemicals which induce well-established adverse effects, e.g. chlorofluorocarbons, which cause stratospheric ozone depletion, EPA believes that an exposure assessment is unnecessary. EPA believes that these chemicals typically do not affect solely one or two species but rather affect changes across a whole ecosystem. EPA believes that these effects are of sufficient seriousness that additional

exposure considerations are not warranted because of the scope of their impact and the well-documented evidence supporting the adverse effects. EPA requests comment on its approach for considering exposure as a part of its evaluation for listing of these chemicals under section 313(d)(2)(C).

In Unit IV.B. of this preamble, EPA identifies each of the chemicals proposed for addition to EPCRA section 313 and the specific statutory criteria upon which the proposed addition is based.

IV. EPA's Technical Review

A. Introduction

Data on the chemicals and chemical categories were reviewed for evidence indicating adverse acute and chronic toxicity, carcinogenicity, mutagenicity, developmental and reproductive effects, neurotoxicity, and environmental effects. Information on the environmental fate was also reviewed.

For each chemical proposed for addition to EPCRA section 313 in this rulemaking, EPA conducted an extensive hazard assessment, and, where appropriate, an analysis of exposure, to determine whether the chemical met one or more of the EPCRA section 313(d)(2) listing criteria. This hazard assessment is discussed in detail in Unit II.B.3 of this preamble. Only after this careful review was a final determination made as to whether one of the EPCRA section 313(d)(2) listing criteria was met for each individual chemical or chemical category proposed for listing below. EPA need only show that one of the listing criteria is met in order to list a chemical or chemical category under EPCRA section 313. The information summarized below for each chemical or chemical category represents the key data elements that lead EPA to believe that there is sufficient evidence to establish that one of the section 313(d)(2) listing criteria is met. A more extensive review of the existing data base for each chemical or chemical category proposed for listing, which reflects the entire weight-of-the-evidence considered by EPA, is contained in following support documents: *Support Document for the Addition of Chemicals from Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) Active Ingredients to EPCRA Section 313* (Ref 3); *Physical Properties and Environmental Fate of Some TRI Expansion Chemicals* (Ref. 5); *Support Document for the Addition of Chemicals from Section 112(b) of the Clean Air Act Amendments and Chlorinated Paraffins to EPCRA Section 313* (Ref. 7); and *Support Document for the Health and Ecological Toxicity Review of TRI Expansion Chemicals* (Ref. 8). These support documents contain a complete list of the references (which can be found in the public record for this proposed rulemaking) that were used in support of these proposed additions.

A list of the 313 chemicals and chemical categories and their Chemical Abstract Service (CAS) number, where appropriate, follows.

1. Abamectin (Avermectin B1) (CAS No. 071751-41-2)
2. Acephate (Acetylphosphoramidothioic acid O,S-dimethyl ester) (CAS No. 030560-19-1)
3. Acifluorfen sodium salt (5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-benzoic acid, sodium salt) (CAS No. 062476-59-9)
4. Alachlor (CAS No. 015972-60-8)
5. Aldicarb (CAS No. 000116-06-3)
6. d-trans-Allethrin [d-trans-Chrysanthemic acid of d-allethrone] (CAS No. 028057-48-9)
7. Allylamine (CAS No. 000107-11-9)
8. Aluminum phosphide (CAS No. 020859-73-8)
9. Ametryn (N-Ethyl-N'-(1-methylethyl)-6-(methylthio)-1,3,5,triazine- 2,4 diamine) (CAS No. 000834-12-8)
10. Amitraz (CAS No. 033089-61-1)
11. Anilazine (4,6-Dichloro-N-(2-chlorophenyl)-1,3,5-triazin-2-amine) (CAS No. 000101-05-3)
12. Atrazine (6-Chloro-N-ethyl-N'-(1-methylethyl)-1,3,5,triazine-2,4-diamine) (CAS No. 001912-24-9)
13. Bendiocarb (2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate) (CAS No. 022781-23-3)
14. Benfluralin (N-Butyl-N-ethyl-2,6-dinitro-4-(trifluoromethyl) benzenamine) (CAS No. 001861-40-1)
15. Benomyl (CAS No. 017804-35-2)
16. o-Benzyl-p-chlorophenol (CAS No. 000120-32-1)
17. Bifenthrin (CAS No. 082657-04-3)
18. Bis(tributyltin) oxide (CAS No. 000056-35-9)
19. Boron trichloride (CAS No. 010294-34-5)
20. Boron trifluoride (CAS No. 007637-07-2)
21. Bromacil (5-Bromo-6-methyl-3-(1-methylpropyl)-2,4-(1H,3H)- pyrimidinedione) (CAS No. 000314-40-9)
22. Bromacil lithium salt (2,4-(1H,3H)-Pyrimidinedione, 5-bromo-6-methyl-3-(1-methylpropyl), lithium salt) (CAS No. 053404-19-6)
23. Bromine (CAS No. 007726-95-6)
24. 1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile (CAS No. 035691-65-7)
25. 2-Bromo-2-nitropropane-1,3-diol (Bronopol) (CAS No. 000052-51-7)
26. Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile) (CAS No. 001689-84-5)
27. Bromoxynil octanoate (Octanoic acid, 2,6-dibromo-4-cyanophenyl ester) (CAS No. 001689-99-2)
28. Brucine (CAS No. 000357-57-3)
29. Butylate (Bis-2-methylpropyl)carbamothioic acid S-ethyl ester) (CAS No. 002008-41-5)
30. Butylated hydroxyanisole (CAS No. 025013-16-5)
31. C.I. Acid Red 114 (CAS No. 006459-94-5)
32. C.I. Direct Blue 218 (CAS No. 028407-37-6)
33. Calcium hypochlorite (CAS No. 007778-54-3)
34. Caprolactam (CAS No. 000105-60-2)
35. Carbofuran (CAS No. 001563-66-2)
36. Carbon monoxide (CAS No. 000630-08-0)
37. Carboxin (5,6-Dihydro-2-methyl-N-phenyl-1,4-oxathiin-3-carboxamide) (CAS No. 005234-68-4)
38. Chinomethionat (6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one) (CAS No. 002439-01-2)
39. Chlorendic acid (CAS No. 000115-28-6)
40. Chlorimuron ethyl (Ethyl-2-[[[(4-chloro-6-methoxyprimidin-2-yl]-carbonyl]-amino]sulfonyl]benzoate) (CAS No. 090982-32-4)
41. Chlorinated paraffins
42. 1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride (CAS No. 004080-31-3)
43. p-Chloroaniline (CAS No. 000106-47-8)
44. 5-Chloro-2-(2,4-dichlorophenoxy)phenol (CAS No. 003380-34-5)
45. 3-Chloro-2-methyl-1-propene (CAS No. 000563-47-3)
46. p-Chlorophenyl isocyanate (CAS No. 000104-12-1)
47. Chloropicrin (CAS No. 000076-06-2)
48. 3-Chloropropionitrile (CAS No. 000542-76-7)
49. p-Chloro-o-toluidine (CAS No. 000095-69-2)
50. Chlorotrifluoromethane (CFC-13) (CAS No. 000075-72-9)
51. Chlorpyrifos methyl (O,O-Dimethyl-O-(3,5,6-trichloro-2- pyridyl)phosphorothioate) (CAS No. 005598-13-0)
52. Chlorsulfuron (2-Chloro-N-[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]benzenesulfonamide) (CAS No. 064902-72-3)
53. Clomazone (2-[(2-Chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone) (CAS No. 081777-89-1)
54. Crotonaldehyde (CAS No. 004170-30-3)
55. Cyanazine (CAS No. 021725-46-2)
56. Cycloate (CAS No. 001134-23-2)
57. Cyclohexanol (CAS No. 000108-93-0)
58. Cyfluthrin (3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, cyano(4-fluoro-3-phenoxyphenyl)methyl ester) (CAS No. 068359-37-5)
59. Cyhalothrin (3-(2-Chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylic acid cyano(3-phenoxyphenyl)methyl ester) (CAS No. 068085-85-8)
60. Cyromazine (N-Cyclopropyl-1,3,5-triazine-2,4,6-triamine) (CAS No. 066215-27-8)
61. Dazomet (Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione) (CAS No. 000533-74-4)
62. Dazomet, sodium salt (2H-1,3,5-Thiadiazine-2-thione, tetrahydro-3,5-dimethyl-, ion(1-), sodium) (CAS No. 053404-60-7)
63. 2,4-DB (CAS No. 000094-82-6)
64. 2,4-D butoxyethyl ester (CAS No. 001929-73-3)

65. 2,4-D butyl ester (CAS No. 000094-80-4)
66. 2,4-D chlorocrotyl ester (CAS No. 002971-38-2)
67. Desmedipham (CAS No. 013684-56-5)
68. 2,4-D 2-ethylhexyl ester (CAS No. 001928-43-4)
69. 2,4-D 2-ethyl-4-methylpentyl ester (CAS No. 053404-37-8)
70. Diazinon (CAS No. 000333-41-5)
71. 2,2-Dibromo-3-nitrilopropionamide (CAS No. 010222-01-2)
72. Dicamba (3,6-Dichloro-2-methyoxybenzoic acid) (CAS No. 001918-00-9)
73. Dichloran (2,6-Dichloro-4-nitroaniline) (CAS No. 000099-30-9)
74. 3,3'-Dichlorobenzidine dihydrochloride (CAS No. 000612-83-9)
75. 3,3'-Dichlorobenzidine sulfate (CAS No. 064969-34-2)
76. trans-1,4-Dichloro-2-butene (CAS No. 000110-57-6)
77. Dichloromethylphenylsilane (CAS No. 000149-74-6)
78. Dichlorophene (2,2'-Methylenebis(4-chlorophenol) (CAS No. 000097-23-4)
79. trans-1,3-Dichloropropene (CAS No. 010061-02-6)
80. Diclofop methyl (2-[4-(2,4-Dichlorophenoxy) phenoxy]propanoic acid, methyl ester) (CAS No. 051338-27-3)
81. Dicyclopentadiene (CAS No. 000077-73-6)
82. Diethatyl ethyl (CAS No. 038727-55-8)
83. Diflubenzuron (CAS No. 035367-38-5)
84. Diglycidyl resorcinol ether (CAS No. 000101-90-6)
85. Dimethipin (2,3,-Dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide) (CAS No. 055290-64-7)
86. Dimethoate (CAS No. 000060-51-5)
87. 3,3'-Dimethoxybenzidine dihydrochloride (o-Dianisidine dihydrochloride) (CAS No. 020325-40-0)
88. 3,3'-Dimethoxybenzidine hydrochloride (o-Dianisidine hydrochloride) (CAS No. 111984-09-9)
89. Dimethylamine (CAS No. 000124-40-3)
90. Dimethylamine dicamba (CAS No. 002300-66-5)
91. 3,3'-Dimethylbenzidine dihydrochloride (o-Tolidine dihydrochloride) (CAS No. 000612-82-8)
92. 3,3'-Dimethylbenzidine dihydrofluoride (o-Tolidine dihydrofluoride) (CAS No. 041766-75-0)
93. Dimethyl chlorothiophosphate (CAS. No. 002524-03-0)
94. Dimethyldichlorosilane (CAS No. 000075-78-5)
95. N,N-Dimethylformamide (CAS No. 000068-12-2)
96. 2,6-Dimethylphenol (CAS No. 000576-26-1)
97. Dinocap (CAS No. 039300-45-3)
98. Dinoseb (CAS No. 000088-85-7)
99. Diphenamid (CAS No. 000957-51-7)
100. Diphenylamine (CAS No. 000122-39-4)
101. Dipotassium endothall (7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid, dipotassium salt) (CAS No. 002164-07-0)
102. Dipropyl isocinchomeronate (CAS No. 000136-45-8)
103. Disodium cyanodithioimidocarbonate (CAS No. 000138-93-2)
104. 2,4-D isopropyl ester (CAS No. 000094-11-1)
105. 2,4-Dithiobiuret (CAS No. 000541-53-7)
106. Dithiopyr (2-(Difluoromethyl)-4-(2-methylpropyl)-6-(trifluoromethyl)-3,5-pyridinedicarbothioic acid S,S-dimethyl ester) (CAS No. 097886-45-8)
107. Diuron (CAS No. 000330-54-1)
108. 2,4-D 2-octyl ester (CAS No. 001917-97-1)
109. Dodine (Dodecylguanidine monoacetate) (CAS No. 002439-10-3)
110. 2,4-DP (Dichlorprop) (CAS No. 000120-36-5)
111. 2,4-D propylene glycol butyl ether ester (CAS No. 001320-18-9)
112. 2,4-D sodium salt (CAS No. 002702-72-9)
113. Ethoprop (Phosphorodithioic acid O-ethyl S,S-dipropyl ester) (CAS No. 013194-48-4)
114. Ethyl dipropylthiocarbamate (EPTC) (CAS No. 000759-94-4)
115. Famphur (CAS No. 000052-85-7)
116. Fenarimol (.alpha.-(2-Chlorophenyl)-.alpha.-4-chlorophenyl)-5-pyrimidinemethanol) (CAS No. 060168-88-9)
117. Fenbutatin oxide (hexakis(2-methyl-2-phenylpropyl)distannoxane) (CAS No. 013356-08-6)
118. Fenoxaprop ethyl (2-(4-((6-Chloro-2 benzoxazolylen)oxy)phenoxy)propanoic acid, ethyl ester) (CAS No. 066441-23-4)
119. Fenoxycarb (2-(4-Phenoxyphenoxy)ethyl]carbamic acid ethyl ester) (CAS No. 072490-01-8)
120. Fenpropathrin (2,2,3,3-Tetramethylcyclopropane carboxylic acid cyano(3-phenoxyphenyl)methyl ester) (CAS No. 039515-41-8)
121. Fenthion (O,O-Dimethyl O-[3-methyl-4-(methylthio) phenyl] ester, phosphorothioic acid) (CAS No. 000055-38-9)
122. Fenvalerate (4-Chloro-alpha-(1-methylethyl)benzeneacetic acid cyano(3-phenoxyphenyl)methyl ester) (CAS No. 051630-58-1)
123. Ferbam (Tris(dimethylcarbamodithioato-S,S')iron) (CAS No. 014484-64-1)
124. Fluazifop butyl (2-[4-[[5-(Trifluoromethyl)-2-pyridinyl]oxy]-phenoxy]propanoic acid, butyl ester) (CAS No. 069806-50-4)
125. Flumetralin (2-Chloro-N-(2,6-dinitro-4-(trifluoromethyl)phenyl)-N-ethyl-6-fluorobenzenemethanamine) (CAS No. 062924-70-3)
126. Fluorine (CAS No. 007782-41-4)
127. Fluorouracil (5-Fluorouracil) (CAS No. 000051-21-8)
128. Fluvalinate (N-[2-Chloro-4-(trifluoromethyl)phenyl]-DL-valine(+)- cyano (3-phenoxyphenyl)methyl ester) (CAS No. 069409-94-5)
129. Folpet (CAS No. 000133-07-3)
130. Fomesafen (5-(2-Chloro-4-(trifluoromethyl)phenoxy)-N methylsulfonyl)-2-nitrobenzamide) (CAS No. 072178-02-0)
131. alpha-Hexachlorocyclohexane (CAS NO. 000319-84-6)
132. Hexamethylene-1,6-diisocyanate (CAS No. 000822-60-0)
133. n-Hexane (CAS No. 000110-54-3)
134. Hexazinone (CAS No. 051235-04-2)
135. Hydramethylnon (Tetrahydro-5,5-dimethyl-2(1H)pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4(trifluoromethyl) phenyl]ethenyl]-2 propenylidene]hydrazone) (CAS No. 067485-29-4)
136—151. Hydrochlorofluorocarbons, specifically:
136. Dichloropentafluoropropane (CAS No. 127564-92-5)
137. 1,3-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea) (CAS No. 136013-79-1)
138. 2,2-Dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa) (CAS No. 128903-21-9)
139. 1,1-Dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb) (CAS No. 111512-56-2)
140. 1,1-Dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc) (CAS No. 13474-88-9)
141. 1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb) (CAS No. 000507-55-1)
142. 1,2-Dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da) (CAS No. 000431-86-7)
143. 3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca) (CAS No. 000422-56-0)
144. 2,3-Dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba) (CAS No. 000422-48-0)
145. 1,2-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb) (CAS No. 000422-44-6)
146. Dichlorofluoromethane (HCFC-21) (CAS No. 000075-43-4)
147. 1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a) (CAS No. 000354-11-0)
148. 1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121) (CAS No. 000354-14- 3)
149. 1,2-Dichloro-1,1-difluoroethane (HCFC-132b) (CAS No. 001649-08-7)
150. 2-Chloro-1,1,1-trifluoroethane (HCFC-133a) (CAS No. 000075-88-7)
151. 3-Chloro-1,1,1-trifluoropropane (HCFC-253fb) (CAS No. 000460-35-5)
152. Imazalil (1-[2-(2,4-Dichlorophenyl)-2-(2-propenyloxy)ethyl]1H-imidazole) (CAS No. 035554-44-0)
153. 3-Iodo-2-propynyl butylcarbamate (CAS No. 055406-53-6)
154. Iprodione (3-(3,5-Dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide) (CAS No. 036734-19-7)
155. Iron pentacarbonyl (CAS No. 013463-40-6)
156. Isodrin (CAS No. 000465-73-6)
157. Isofenphos (2-[[Ethoxyl[(1-methylethyl) amino]phosphinothioyl]oxy]benzoic acid 1-methylethyl ester) (CAS No. 025311-71-1)
158. Isophorone (CAS No. 000078-59-1)
159. Isophorone diisocyanate (CAS No. 004098-71-9)
160. Lactofen (5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-2-ethoxy-1-methyl-2-oxoethyl ester) (CAS No. 077501-63-4)
161. Linuron (CAS No. 000330-55-2)
162. Lithium carbonate (CAS No. 000554-13-2)

163. Malathion (CAS No. 000121-75-5)
164. Man-made mineral fibers
165. Mecoprop (CAS No. 000093-65-2)
166. 2-Mercaptobenzothiazole (MBT) (CAS No. 000149-30-4)
167. Merphos (CAS No. 000150-50-5)
168. Metham sodium (Sodium methyldithiocarbamate) (CAS No. 000137-42-8)
169. Methazole (2-(3,4-Dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione) (CAS No. 020354-26-1)
170. Methiocarb (CAS No. 002032-65-7)
171. Methoxone ((4-Chloro-2-methylphenoxy) acetic acid) (MCPA) (CAS No. 000094-74-6)
172. Methoxone sodium salt ((4-Chloro-2-methylphenoxy) acetate sodium salt) (CAS No. 003653-48-3)
173. 1,1-Methylene bis(4-isocyanatocyclohexane) (CAS No. 005124-30-1)
174. Methylene bis(thiocyanate) (CAS No. 006317-18-6)
175. Methyl isothiocyanate (CAS No. 00556-61-6)
176. 2-Methyllactonitrile (CAS No. 000075-86-5)
177. N-Methylolacrylamide (CAS No. 000924-42-5)
178. Methyl parathion (CAS No. 000298-00-0)
179. N-Methyl-2-pyrrolidone (CAS No. 000872-50-4)
180. Methyltrichlorosilane (CAS No. 000075-79-6)
181. Metiram (CAS No. 009006-42-2)
182. Metribuzin (CAS No. 021087-64-5)
183. Mevinphos (CAS No. 007786-34-7)
184. Molinate (1H-Azepine-1-carbothioic acid, hexahydro-S-ethyl ester) (CAS No. 002212-67-1)
185. Monuron (CAS No. 000150-68-5)
186. Myclobutanil (.alpha.-Butyl-.alpha.-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile) (CAS No. 088671-89-0)
187. Nabam (CAS No. 000142-59-6)
188. Naled (CAS No. 000300-76-5)
189. Nicotine and salts
190. Nitrapyrin (2-Chloro-6-(trichloromethyl) pyridine) (CAS No. 001929-82-4)
191. Nitrate ion (CAS No. 014797-55-8)
192. Nitric oxide (CAS No. 010102-43-9)
193. p-Nitroaniline (CAS No. 000100-01-6)
194. Nitrogen dioxide (CAS No. 010102-44-0)
195. Norflurazon (4-Chloro-5-(methylamino)-2-[3(trifluoromethyl)phenyl]-3(2H)-pyridazinone) (CAS No. 027314-13-2)
196. Oryzalin (4-(Dipropylamino)-3,5-dinitrobenzenesulfonamide) (CAS No. 019044-88-3)
197. Oxydemeton methyl (S-(2-(Ethylsulfinyl)ethyl) O,O-dimethyl ester phosphorothioic acid) (CAS No. 000301-12-2)
198. Oxydiazon (3-[2,4-Dichloro-5-(1-methylethoxy)phenyl]-5(1,1-dimethylethyl)-1,3,4-oxadiazol-2(3H)-one) (CAS No. 019666-30-9)
199. Oxyfluorfen (CAS No. 042874-03-3)
200. Ozone (CAS No. 010028-15-6)
201. Paraquat dichloride (CAS No. 001910-42-5)
202. Pebulate (Butylethylcarbamothioic acid S-propyl ester) (CAS No. 001114-71-2)
203. Pendimethalin (N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine) (CAS No. 040487-42-1)
204. Pentobarbital sodium (CAS No. 000057-33-0)
205. Perchloromethyl mercaptan (CAS No. 000594-42-3)
206. Permethrin (3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, (3-phenoxyphenyl)methyl ester) (CAS No. 052645-53-1)
207. Phenanthrene (CAS No. 000085-01-8)
208. Phenothrin (2,2-Dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylic acid (3-phenoxyphenyl)methyl ester) (CAS No. 026002-80-2)
209. 1,2-Phenylenediamine (CAS No. 000095-54-5)
210. 1,3-Phenylenediamine (CAS No. 000108-45-2)
211. 1,2-Phenylenediamine dihydrochloride (CAS No. 000615-28-1)
212. 1,4-Phenylenediamine dihydrochloride (CAS No. 000624-18-0)
213. Phenytoin (CAS No. 000057-41-0)
214. Phosphine (CAS No. 007803-51-2)
215. Phosphorus oxychloride (CAS No. 010025-87-3)
216. Phosphorus pentachloride (CAS No. 010026-13-8)
217. Phosphorus pentasulfide (CAS No. 001314-80-3)
218. Phosphorus pentoxide (CAS No. 001314-56-3)
219. Picloram (CAS No. 001918-02-1)
220. Piperonyl butoxide (CAS No. 000051-03-6)
221. Pirimiphos methyl (O-(2-(Diethylamino)-6-methyl-4-pyrimidinyl)-O,O-dimethyl phosphorothioate) (CAS No. 029232-93-7)
222— 249. Polycyclic aromatic compounds (PACs) including:
222. Benz(a)anthracene (CAS No. 000056-55-3)
223. Benzo(a)phenanthrene (CAS No. 000218-01-9)
224. Benzo(a)pyrene (CAS No. 000050-32-8)
225. Benzo(b)fluoranthene (CAS No. 000205-99-2)
226. Benzo(j)fluoranthene (CAS No. 000205-82-3)
227. Benzo(k)fluoranthene (CAS No. 000207-08-9)
228. Benzo(rst)pentaphene (CAS No. 000189-55-9)
229. Carbazole (CAS No. 000086-74-8)
230. Cyclopenta(cd)pyrene (CAS No. 027208-37-3)
231. Dibenz(a,h)acridine (CAS No. 000226-36-8)
232. Dibenz(a,j)acridine (CAS No. 000224-42-0)
233. Dibenz(a,c)anthracene (CAS No. 000215-58-7)
234. Dibenz(a,j)anthracene (CAS No. 000224-41-9)
235. Dibenzo(a,h)anthracene (CAS No. 000053-70-3)
236. Dibenzo(a,e)fluoranthene (CAS No. 005385-75-1)
237. Dibenzo(a,e)pyrene (CAS No. 000192-65-4)
238. Dibenzo(a,h)pyrene (CAS No. 000189-64-0)
239. Dibenzo(a,l)pyrene (CAS No. 000191-30-0)
240. 7H-Dibenzo(c,g)carbazole (CAS No. 000194-59-2)
241. 7,12-Dimethylbenz(a)anthracene (CAS No. 000057-976)
242. Indeno[1,2,3-cd]pyrene (CAS No. 000193-39-5)
243. 2-Methylchrysene (CAS No. 003351-32-4)
244. 3-Methylchrysene (CAS No. 003351-31-3)
245. 4-Methylchrysene (CAS No. 003351-30-2)
246. 5-Methylchrysene (CAS No. 003697-24-3)
247. 6-Methylchrysene (CAS No. 001705-85-7)
248. 2-Methylfluoranthene (CAS No. 033543-31-6)
249. 1-Nitropyrene (CAS No. 005522-43-0)
250. Potassium bromate (CAS No. 007758-01-2)
251. Potassium dimethyldithiocarbamate (CAS No. 000128-03-0)
252. Potassium N-methyldithiocarbamate (CAS No. 000137-41-7)
253. Primisulfuron (Methyl 2-[[[[[4,6-bis(difluoromethoxy)-2pyrimidinyl]-amino]carbonyl]amino]sulfonyl]benzoate) (CAS No. 086209-51-0)
254. Profenofos (O-(4-Bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate) (CAS No. 041198-08-7)
255. Prometryn (N,N'-Bis(1-methylethyl)-6-methylthio-1,3,5-triazine-2,4-diamine) (CAS No. 007287-19-6)
256. Propachlor (2-Chloro-N-(1-methylethyl)-N-phenylacetamide) (CAS No. 001918-16-7)
257. Propanil (N-(3,4-Dichlorophenyl)propanamide) (CAS No. 000709-98-8)
258. Propargite (CAS No. 002312-35-8)
259. Propargyl alcohol (CAS No. 000107-19-7)
260. Propetamphos (3-[(Ethylamino)methoxyphosphinothioyl]oxy]-2-butenoic acid, 1-methylethyl ester) (CAS No. 031218-83-4)
261. Propiconazole (1-[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]-methyl-1H-1,2,4,-triazole) (CAS No. 060207-90-1)
262. Quizalofop-ethyl (2-[4-[(6-Chloro-2-quinoxalinyl) oxy]phenoxy] propanoic acid ethyl ester) (CAS No. 076578-14-8)
263. Resmethrin ([5-(Phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate]) (CAS No. 010453-86-8)
264. Sethoxydim (2-[1-(Ethoxyimino)butyl]-5-[2(ethylthio)propyl]-3-hydroxyl-2-cyclohexen-1-one) (CAS No.074051-80-2)
265. Simazine (CAS No. 000122-34-9)
266. Sodium azide (CAS No. 026628-22-8)
267. Sodium chlorite (CAS No. 007758-19-2)
268. Sodium dicamba (3,6-Dichloro-2-methoxybenzoic acid, sodium salt) (CAS No. 001982-69-0)
269. Sodium dimethyldithiocarbamate (CAS No. 000128-04-1)
270. Sodium fluoroacetate (CAS. No. 000062-74-8)

271. Sodium hypochlorite (CAS No. 007681-52-9)
272. Sodium nitrite (CAS No. 007632-00-0)
273. Sodium pentachlorophenate (CAS No. 000131-52-2)
274. Sodium o-phenylphenoxide (CAS No. 000132-27-4)
275. Sodium 2-pyridinethiol-1-oxide (CAS No. 015922-78-8)
276. Strychnine and salts
277. Sulfur dioxide (CAS No. 007446-09-5)
278. Sulfur trioxide (CAS No. 007446-11-9)
279. Sulfuryl fluoride (Vikane) (CAS No. 002699-79-8)
280. Sulprofos (O-Ethyl O-[4-(methylthio)phenyl]phosphorodithioic acid S- propyl ester) (CAS No. 035400-43-2)
281. Tebuthiuron (N-[5-(1,1-Dimethylethyl)-1,3,4-thiadiazol-2-yl)- N,N'-dimethylurea) (CAS No. 034014-18-1)
282. Tefluthrin (CAS No. 079538-32-2)
283. Temephos (CAS No. 003383-96-8)
284. Terbacil (5-Chloro-3-(1,1-dimethylethyl)-6-methyl- 2,4-(1H,3H)-pyrimidinedione) (CAS No. 005902-51-2)
285. Tetracycline hydrochloride (CAS No. 000064-75-5)
286. Tetramethrin (2,2-Dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylic acid (1,3,4,5,6,7-hexahydro-1,3-dioxo-2H-isoindol-2-yl)methyl ester) (CAS No. 007696-12-0)
287. Tetrasodium ethylenediaminetetraacetate (CAS No. 000064-02-8)
288. Thiabendazole (2-(4-Thiazolyl)-1H-benzimidazole) (CAS No. 000148-79-8)
289. Thiabendazole, hypophosphite salt (2-(4-Thiazolyl) benzimidazole, hypophosphite salt) (CAS No. 028558-32-9)
290. Thiobencarb (Carbamic acid, diethylthio-, S-(p-chlorobenzyl)) (CAS No. 028249-77-6)
291. Thiodicarb (CAS No. 059669-26-0)
292. Thiophanate ethyl ([1,2-Phenylenebis (iminocarbonothioyl)] biscarbamic acid diethyl ester) (CAS No. 023564-06-9)
293. Thiophanate-methyl (CAS No. 023564-05-8)
294. Thiosemicarbazide (CAS No. 000079-19-6)
295. Triadimefon (1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone) (CAS No. 043121-43-3)
296. Triallate (CAS No. 002303-17-5)
297. Tribenuron methyl (2-(((((4-Methoxy-6-methyl-1,3,5-triazin-2-yl)-methylamino)carbonyl)amino)sulfonyl)-, methyl ester) (CAS No. 101200-48-0)
298. Tributyltin fluoride (CAS No. 001983-10-4)
299. Tributyltin methacrylate (CAS No. 002155-70-6)
300. S,S,S-Tributyltrithiophosphate (DEF) (CAS No. 000078-48-8)
301. Trichloroacetyl chloride (CAS No. 000076-02-8)
302. Trichloroethylsilane (CAS No. 000115-21-9)
303. Trichlorophenylsilane (CAS No. 000098-13-5)
304. 1,2,3-Trichloropropane (CAS No. 000096-18-4)
305. Triclopyr triethylammonium salt (CAS No. 057213-69-1)
306. Triethylamine (CAS No. 000121-44-8)
307. Triforine (N,N'-[1,4-Piperazinediylbis(2,2,2-trichloroethylidene)] bisformamide) (CAS No. 026644-46-2)
308. Trimethylchlorosilane (CAS No. 000075-77-4)
309. 2,3,5-Trimethylphenyl methylcarbamate (CAS No. 002655-15-4)
310. Triphenyltin chloride (CAS No. 000639-58-7)
311. Triphenyltin hydroxide (CAS No. 000076-87-9)
312. Vanadium pentoxide (CAS No. 001314-62-1)
313. Vinclozolin (3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione) (CAS No. 050471-44-8)

A limited discussion of the health and environmental effects associated with each of the 313 chemicals and chemical categories is provided below in Unit IV.B. of this preamble. Each chemical is identified by chemical name, CAS No., and the list(s) from which the chemical originated. These lists are designated as follows:

CAA HAP: Clean Air Act section 112(b) "Hazardous Air Pollutants."

CAA OD: Clean Air Act section 602(b) Class II ozone depleters.

CAL: State of California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) "List of Chemicals Known to the State to Cause Reproductive Toxicity."

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act section 102.

CWA PPL: Clean Water Act section 307(a) "Priority Pollutant List."

EPCRA EHS: EPCRA section 302 "Extremely Hazardous Substances."

FIFRA AI: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) "Active Ingredients."

FIFRA SR: FIFRA "Special Review, Canceled/Denied or Suspended, and Restricted Use Pesticides."

IARC: Monographs of the International Agency for Research on Cancer.

NTP: The 6th Annual Report on Carcinogens of the National Toxicology Program.

RCRA APP8: Resource Conservation and Recovery Act (RCRA) Chemicals listed at 40 CFR part 261 Appendix VIII.

RCRA P: RCRA Chemicals listed at 40 CFR part 261.33(e).

SDWA: Safe Drinking Water Act section 1412.

TSCA: Toxic Substances Control Act "Existing Chemicals."

EPA requests comment on the sufficiency of the evidence for each of the chemicals proposed for addition. In addition, EPA requests comment on any issues that may be specific to any of the individual chemicals or chemical categories. For example, should chemicals be listed on EPCRA section 313 that meet the EPCRA section 313 criteria but whose only use is as a drug product.

B. Chemicals Proposed for Addition to EPCRA Section 313

1. *Abamectin (avermectin B1)* (CAS No. 071751-41-2) (FIFRA AI) (Ref. 3). This compound induces developmental toxicity in several species with the mouse being the most sensitive species. Increased retinal folds in weanlings, decreased viability and lactation indices, and decreased body weight were noted in a two-generation rat reproduction study. The lowest-observed-effect level (LOEL) was 0.4 milligram per kilogram per day (mg/kg/day) and the no-observed-effect level (NOEL) was 0.12 mg/kg/day. Based on the NOEL, EPA derived a reference dose (RfD) of 0.0004 mg/kg/day. EPA believes that there is sufficient evidence for listing abamectin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data.

Aquatic acute toxicity values for abamectin include a bluegill 96–hour LC_{50} of 9.6 parts per billion (ppb), a rainbow trout 96–hour LC_{50} of 3.6 ppb, and a daphnid 48–hour LC_{50} of 0.34 ppb. EPA believes that there is sufficient evidence for listing abamectin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

2. *Acephate (acetylphosphoramidothioic acid O,S-dimethyl ester)* (CAS No. 030560-19-1) (FIFRA AI) (Ref. 3). In a 28–month feeding study in rats, inhibition of brain, plasma, and red blood cell cholinesterase activities was observed at 50 parts per million (ppm) (2.5 mg/kg/day). The NOEL for this study was 5 ppm (0.25 mg/kg/day). Similar findings were noted in a 2–year feeding study in dogs. The LOEL for this study was 100 ppm (2.5 mg/kg/day) and the NOEL was 30 ppm (0.75 mg/kg/day). EPA believes that there is sufficient evidence for listing acephate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurotoxicity data for this chemical.

3. *Acifluorfen sodium salt (5-(2-chloro-4-(triflouromethyl)phenoxy)-2-nitro-benzoic acid, sodium salt)* (CAS No. 062476-59-9) (FIFRA AI) (Ref. 3). Acifluorfen is classified as a Group B2 compound, i.e., the chemical is a probable human carcinogen. Acifluorfen produced an increased incidence of combined malignant and benign liver tumors in two different strains of mice. The compound also displayed positive mutagenic activity in several non-mammalian test systems, and is structurally similar to four other diphenyl ether herbicide compounds which caused increased incidences of

liver tumors in two different strains of mice. EPA believes that there is sufficient evidence for listing acifluorfen sodium salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data.

4. *Alachlor* (CAS No. 015972-60-8) (FIFRA SR) (Ref. 8). Alachlor is an aniline-type herbicide. Dose-related hemolytic anemia with reductions in red blood cell counts, hematocrit and hemoglobin, as well as hemosiderosis in the liver, spleen and kidney occurred in male dogs orally exposed to alachlor for 1–year. The LOEL based on these effects was 3.0 mg/kg/day, and the NOEL was 1.0 mg/kg/day. Effects in female dogs in the same study were not demonstrated as clearly as in males but were considered suggestive of anemia. EPA derived an oral RfD of 0.01 mg/kg/day from this study.

In a three-generation reproduction study in rats, chronic nephritis and increased relative and absolute kidney weights were reported in F_2 adult males and F_3 pups. The LOEL was 10 mg/kg/day, and the NOEL was 3 mg/kg/day. Rabbits (Dutch Belted strain) that received alachlor via oral gavage during gestation days 6 to 27 had an increased rate of preimplantation loss (49 percent) and offspring with increased incidences of developmental malformations including major vessel variations, presacral vertebrae, and rudimentary and full 13th ribs. The increased incidence of rudimentary and full 13th ribs was dose-related, and a lowest-observed-adverse-effect level (LOAEL) of 10 mg/kg/day was determined based on this effect. The no-observed-adverse effect level (NOAEL) was not determined.

EPA has classified alachlor as a category Group B2 compound, i.e., the chemical is a probable human carcinogen. In a 2–year rat feeding study with Long-Evans rats, there were increased incidences of nasal turbinate tumors, malignant stomach tumors and thyroid follicular adenomas and carcinomas in both sexes at doses greater than or equal to 42 mg/kg/day. In an 18–month study in female CD-1 mice, bronchiolar tumors occurred at an increased incidence at 200 mg/kg/day.

EPA believes that there is sufficient evidence for listing alachlor on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxicity and carcinogenicity data for this chemical.

5. *Aldicarb* (CAS No. 000116-06-3) (CERCLA; EPCRA EHS; FIFRA SR; RCRA APP8; RCRA P) (Ref. 8). Aquatic acute toxicity test data for aldicarb include a measured 96–hour LC_{50} of 50 ppb for bluegill and a measured 48–hour LC_{50} of 70 ppb for daphnid. In addition, the measured 48–hour EC_{50} for daphnid is 51 ppb. Measured terrestrial acute toxicity data for wildlife include an oral LD_{50} for female mallard ducks of 3.4 milligram per kilogram (mg/kg) and an oral LD_{50} for California quail of 2.58 mg/kg in males and 4.67 mg/kg in females. EPA believes that there is sufficient evidence for listing aldicarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

6. *d-trans-Allethrin [d-trans-Chrysanthemic acid of dallethrone]* (CAS No. 028057-48-9) (FIFRA AI) (Ref. 3). Centrilobular hydropic degeneration of the liver (LOEL was 1,000 ppm or 25 mg/kg/day; the NOEL was 200 ppm or 5 mg/kg/day) was seen in dogs fed allethrin for 3 months. Increases in serum liver enzymes in female rats and increased liver weights in male and female rats (the LOEL was 250 mg/kg/day; the NOEL was 1,500 ppm or 75 mg/kg/day) were observed in rats fed allethrin for 3 months. Histopathology data were not presented in this study. Taken together, the results of these studies indicate hepatotoxic potential for d-trans-allethrin. EPA believes that there is sufficient evidence for listing d-trans-allethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

7. *Allylamine* (CAS No. 000107-11-9) (EPCRA EHS) (Ref. 8). Repeated inhalation exposure to 5 ppm (0.011 mg/L) allylamine for 50 exposures of 7 hours caused liver and renal damage and myocarditis in rats. Congestion of the liver and kidney was observed in rats, rabbits, and dogs exposed to 5 or 20 ppm (0.011 or 0.044 milligram per liter (mg/L)) allylamine for 8 hours/day, 5 days/week, for 1–year. EPA believes that there is sufficient evidence for listing allylamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatotoxicity and nephrotoxicity data for this chemical.

8. *Aluminum phosphide* (CAS No. 020859-73-8) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). The median lethal dose of aluminum phosphide in humans is 20 mg/kg. The acute inhalation toxicity of aluminum phosphide is attributed to phosphine gas resulting from decomposition of aluminum phosphide on contact with moisture in the air. Symptoms of phosphine poisoning include restlessness, headache, dizziness, fatigue, chest tightness, nausea, vomiting, lethargy, stupor, coma, convulsions, lowered blood pressure, pulmonary edema and respiratory failure; disorders of the kidney, liver, heart and brain can also occur. In female CFT-Wistar rats exposed to phosphine gas generated from aluminum phosphide pellets in distilled water, 100 percent mortality was observed after a 6–hour exposure to 40 ppm (0.1 mg/L), and exposure to 20 to 40 ppm (0.05 to 0.1 mg/L) for 6 hours resulted in 33 percent mortality. Symptoms of toxicity reported in these animals included dyspnea, loss of muscular coordination, polyuria, and paralysis.

EPA's exposure analysis indicates that aluminum phosphide concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing aluminum phosphide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

9. *Ametryn (N-Ethyl-N'-(1-methylethyl)-6-(methylthio)1,3,5,-triazine- 2,4-diamine)* (CAS No. 000834-12-8) (FIFRA AI) (Ref. 3). Fatty degeneration of the liver was observed in rats administered 100 mg/kg/day ametryn by gavage, 6 days per week for 13 weeks. The NOEL was 10 mg/kg/day (8.6 mg/kg/day adjusted for duration). In another study, hepatic effects (severe vascular congestion, centrilobular liver necrosis and fatty degeneration of individual liver cells) were observed in rats that died following gavage administration of 500 mg/kg/day ametryn for 6 days per week for 28 days. The NOEL was 250 mg/kg/day. EPA believes that there is sufficient evidence for listing ametryn on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatotoxicity data for this chemical.

The 72-hour EC_{50} for green algae is 14 ppb. Ametryn is a herbicide and may be expected to affect nontarget plants such as algae. EPA believes that there is sufficient evidence for listing ametryn on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

10. *Amitraz* (CAS No. 033089-61-1) (FIFRA SR) (Ref. 8). Amitraz is an aniline-type insecticide. In a 2–year beagle dog feeding study, effects noted at the LOAEL dose (1.0 mg/kg/day) at various times during the study included significantly increased mean blood glucose concentration, slight hypothermia, and slight central nervous system depression (the latter effect occurred immediately after dosing on

days 1 and 2). The NOAEL in this study was 0.25 mg/kg/day and the oral RfD derived from the NOAEL was 0.0025 mg/kg/day. These findings were supported by similar results obtained in a 90–day feeding study in dogs. In studies with rats or mice exposed to amitraz from 90 days to 2 years, LOAELs less than or equal to 12 mg/kg/day were derived based on effects that included decreased body weight gain and changes in organ (brain or heart) weight (the NOELs were less than or equal to 3 mg/kg/day).

A three-generation reproduction study in rats demonstrated decreased litter size and increased mortality during suckling. The fetotoxic LOAEL in this study was 5 mg/kg/day and the NOAEL was 1.6 mg/kg/day. In a teratology study in rabbits, a fetotoxicity LOAEL of 5 mg/kg/day and NOAEL of 1 mg/kg/day were based on the incidences of cleft palate and meningocoele associated with small ears and displaced toes.

EPA believes that there is sufficient evidence for listing amitraz on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxicity and developmental toxicity data for this chemical.

11. *Anilazine (4,6-dichloro-N-(2-chlorophenyl)-1,3,5-triazin-2-amine)* (CAS No. 000101-05-3) (FIFRA AI) (Ref. 3). When anilazine was administered to rats, maternal reproductive parameters were not affected. The systemic maternal NOEL was 150 mg/kg and the LOEL was 500 mg/kg, based on decreased body weight gain. The developmental NOEL was 1,500 mg/kg, which was the highest dose tested. In rabbits, the maternal toxicity NOEL was 15 mg/kg and the LOEL was 40 mg/kg, based on increased mortalities and decreased body weight gain (also decreased percentage of pregnant does at 75 mg/kg). The developmental NOEL was 40 mg/kg and the LOEL was 75 mg/kg, based on increased fetal mortality, decreased fetal weight, and increased postimplantation loss and inhibited ossification (phalanges). EPA believes that there is sufficient evidence for listing anilazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data.

Aquatic acute toxicity values for anilazine include a scud (Gammarus) 96–hour LC_{50} of 0.27 ppb and an oyster 96–hour EC_{50} (growth) of 46 ppb. EPA believes that there is sufficient evidence for listing anilazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

12. *Atrazine (6-chloro-N-ethyl-N'-(1-methylethyl)-1,3,5,-triazine-2,4-diamine)* (CAS No. 001912-24-9) (FIFRA AI) (Ref. 3). Based on sufficient evidence of carcinogenicity in animals, the International Agency for Research on Cancer (IARC) has classified atrazine as a Group 2B compound; i.e., the chemical is possibly carcinogenic to humans. Administration of atrazine to Sprague Dawley rats was associated with an increased incidence of mammary gland fibroadenomas and adenocarcinomas in female rats. A hormonal mechanism may be involved in the induction of mammary tumors by atrazine. Therefore there is sufficient evidence for listing atrazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

13. *Bendiocarb (2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate)* (CAS No. 022781-23-3) (FIFRA AI) (Ref. 3). Depressed blood cholinesterase levels were reported in numerous species. In a developmental toxicity study in rats, cholinergic signs were observed in maternal animals at 4 mg/kg/day (LOEL). The maternal NOEL was 1 mg/kg/day; no adverse effects were observed in fetuses. A LOEL of 2.5 mg/kg/day for cholinesterase inhibition was reported in dogs in a 4–month dietary study. The NOEL was 0.5 mg/kg/day. Decreases in cholinesterase activity were observed in female rats fed 20, 30, or 40 mg/kg/day for 28 days. No NOEL was established in this study. However, no details regarding clinical signs or histopathological changes in neural tissue were reported. EPA believes that there is sufficient evidence for listing bendiocarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

Aquatic acute toxicity values for bendiocarb include a mysid 96–hour EC_{50} of 6.7 ppb and a daphnid 48–hour EC_{50} of 29.2 ppb. Avian acute toxicity values include a mallard duck LD_{50} of 3.1 mg/kg. EPA believes that there is sufficient evidence for listing bendiocarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

14. *Benfluralin (N-butyl-N-ethyl-2,6-dinitro-4(trifluoromethyl) benzenamine)* (CAS No. 001861-40-1) (FIFRA AI) (Ref. 3). Increased relative liver weights, decreased red blood cell counts and decreased hematocrit and hemoglobin levels were observed in dogs orally administered benfluralin at a dose of 125 mg/kg/day for 2 years. The NOAEL was 25 mg/kg/day. Based on the NOAEL, EPA has established an oral RfD of 0.003 mg/kg/day. EPA believes that there is sufficient evidence for listing benfluralin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data for this chemical.

15. *Benomyl* (CAS No. 017804-35-2) (CAL; FIFRA SR) (Ref. 8). In a three-generation study in rats, a dietary level of 25 mg/kg/day of benomyl resulted in decreased weanling weights. The no-effect level was 5 mg/kg/day. Microphthalmia (the LOEL was 62.5 mg/kg/day; the NOEL was 30 mg/kg/day) was reported in a rat developmental toxicity study. Decreased fetal weight (the LOEL was 62.5 mg/kg/day; the NOEL was 30 mg/kg/day) was observed in another rat developmental toxicity study. The developmental effects were observed at doses that were not toxic to the maternal animal. Anomalies consisting of supra occipital scars, subnormal vertebral centrum, supernumary ribs, and cleft palate were reported in an oral developmental toxicity study in mice (the LOEL was 100 mg/kg/day; the NOEL was 50 mg/kg/day). An increase in the incidence of anomalies including encephalocele, hydrocephalus, microphthalmia, and anophthalmia was noted following administration of benomyl to rats by intubation during the first 20 days of pregnancy at doses of 125, 250, and 500 mg/kg. The developmental effects were always associated with death and were considered to be the cause of death. EPA believes that there is sufficient evidence for listing benomyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for this chemical.

16. *o-Benzyl-p-chlorophenol* (CAS No. 000120-32-1) (FIFRA AI) (Ref. 3). In a 16–day oral rat study, dose-related increases in liver and kidney weights (absolute and relative) and nephrosis were observed at a dose level of greater than or equal to 62.5 mg/kg/day. A NOEL was not established. When the compound was administered by gavage for 13 weeks, rats developed multifocal dilation of renal tubules and increased liver weights (16 percent) at 240 mg/kg/day. The NOEL was 120 mg/kg/day. In a 90–day oral study, mice receiving 30 mg/kg/day developed kidney lesions. Increased liver weights were also noted. No NOEL was established in this study. EPA believes that there is sufficient evidence for listing o-benzyl-p-chlorophenol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data for this chemical.

17. *Bifenthrin* (CAS No. 082657-04-3) (FIFRA AI) (Ref. 3). Tremors or head and forelimb twitching were noted in dogs, rats and rabbits exposed to various

doses. NOEL values based on the appearance of tremors (often transient) ranged from 1 to 2.67 mg/kg/day. The oral RfD for bifenthrin was based on a 1year beagle dog feeding study, in which the LOEL, based on tremors observed during weeks 15 to 29, was 3.0 mg/kg/day and the NOEL was 1.5 mg/kg/day. The RfD based on this NOEL was 0.015 mg/kg/day.

In a rat teratology study, an increased incidence of hydroureter (without hydronephrosis) was noted in fetuses at 2 mg/kg/day (LOEL). The NOEL was 1 mg/kg/day.

EPA believes that there is sufficient evidence for listing bifenthrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological and developmental toxicity data.

Aquatic acute toxicity values for bifenthrin include a bluegill 96–hour LC_{50} of 0.35 ppb, a rainbow trout 96–hour LC_{50} of 0.15 ppb, a sheepshead minnow LC_{50} of 17.5 ppb, and a daphnid 48–hour EC_{50} of 1.6 ppb. EPA believes that there is sufficient evidence for listing bifenthrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

18. *Bis(tributyltin) oxide* (CAS No. 000056-35-9) (FIFRA AI) (Ref. 3). Adverse effects on the immune system were reported in rats exposed to various doses of bis(tributyltin) oxide for a duration as short as 4 weeks. SPF-derived Wistar rats were fed the compound for 17 months. In this study, a LOEL of 0.25 mg/kg/day and a NOEL of 0.025 mg/kg/day were based on immunotoxicity manifested as decreased resistance to *Trichinella spiralis*, reduced natural killer (NK) cell activity in the spleen and reduced macrophage function. The RfD derived from this NOEL was 0.00003 mg/kg/day. Similar immunological effects were reported in 4- and 6-week rat feeding studies with 20 and 80 ppm (1 and 4 mg/kg/day; the LOEL was 1 mg/kg/day).

In rats that received dietary levels (of a range of doses that included 50 mg/kg/day) for 106 weeks, kidney function was decreased and serum levels of alanine aminotransferase, aspartate aminotransferase and alkaline phosphatase were increased. At the end of the 2–year study, nephrosis and vacuolization and pigmentation of the proximal tubular epithelium were reported in animals administered 50 mg/kg/day. On the basis of marginal effects at 5 mg/kg/day (LOEL), a NOEL of 0.5 mg/kg/day was established.

EPA believes that there is sufficient evidence for listing bis(tributyltin) oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available immunological and renal toxicity data.

Aquatic acute toxicity values for bis(tributyltin) oxide include a bluegill 96–hour LC_{50} of 7.6 ppb, a rainbow trout 96–hour LC_{50} 6.9 ppb, a measured fathead minnow 96–hour LC_{50} of 2.7 ppb, and a daphnid 48–hour LC_{50} of 1.67 ppb. EPA believes that there is sufficient evidence for listing bis(tributyltin) oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

19. *Boron trichloride* (CAS No. 010294-34-5) (EPCRA EHS) (Ref. 8). Boron trichloride is corrosive to the skin and mucosal tissue due to its rapid hydrolysis to hydrochloric acid and boric acid, the former acid being the corrosive species. Single, relatively large doses of boron administered through any route affects the central nervous system causing depressed circulation, diarrhea, vomiting, shock, and coma. The kidneys are the most severely affected organ. Symptoms of acute irritation of the upper airways were observed in humans at exposure levels of greater than or equal to 0.004 mg/L. Inhalation of 0.48 mg/L of boron trichloride proved fatal to certain laboratory animals. Inhalation of 0.096 mg/L of boron trichloride for 7 hours produced adverse effects on the respiratory tract, and weight loss.

EPA's exposure analysis indicates that boron trichloride concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing boron trichloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

20. *Boron trifluoride* (CAS No. 007637-07-2) (EPCRA EHS) (Ref. 8). Boron trifluoride is a colorless gas that is corrosive to tissues due to its rapid hydrolysis to hydrofluoric acid and boric acid. The principal acute effect in animals is irritation of the mucous membranes of the respiratory tract and eyes; post mortem examination also revealed pneumonia and degenerative changes in renal tubules. The kidneys are most severely affected because boric acid concentrates in this organ. Exposure of six animal species to 0.28 mg/L of boron trifluoride for 4 to 7 hours a day, 5 days a week killed all animals within 30 days. Rats, rabbits, and guinea pigs were exposed to boron trifluoride via inhalation. Guinea pigs died of respiratory failure after being exposed to 0.036 mg/L for 19 days; rats experienced fluorosis of the teeth at this concentration. All three species were minimally affected at 0.004 mg/L. In a 2-week rat inhalation study, all animals died after 6 daily exposures to 0.18 mg/L. Rats exposed to 0.024 mg/L showed signs of respiratory irritation, increased lung weights, and depressed liver weights. Rats exposed to 0.17 mg/L of boron trifluoride 6 hours/day, 5 days a week for 13 weeks developed necrosis of the proximal tubular epithelium of the kidneys. Guinea pigs exposed to 0.035 mg/L, 7 hours/day, 5 days a week for 3 months developed severe pneumonitis and pulmonary changes indicating chemical irritation.

EPA believes that there is sufficient evidence for listing boron trifluoride on EPCRA section 313 pursuant to section 313(d)(2)(B) based on the available chronic toxicity data for this chemical.

21. *Bromacil (5-bromo-6-methyl-3-(1-methylpropyl)-2,4-(1H,3H)-pyrimidinedione)* (CAS No. 000314-40-9) (FIFRA AI) (Ref. 3). Increased thyroid activity was seen in male and female rats fed 5,000 ppm (250 mg/kg/day) bromacil for 90 days. In a 2–year dietary study, thyroid hyperplasia was seen in female rats fed 1,250 ppm (62.5 mg/kg/day). Thyroid follicular adenoma was observed in one female. EPA believes that there is sufficient evidence for listing bromacil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available thyroid toxicity data for this chemical.

22. *Bromacil lithium salt (2,4-(1H,3H)-pyrimidinedione, 5-bromo-6-methyl-3-(1-methylpropyl), lithium salt)* (CAS No. 05340419-6) (FIFRA AI) (Ref. 3). Bromacil lithium salt will dissociate into bromacil, which is soluble in aqueous systems and lithium ion. Defects of the palate, eye, and external ear were reported in the offspring of rats administered 50 mg lithium chloride intraperitoneally on gestation days 1, 4, 7, and 9 followed by 20 mg/day until day 17. Cleft palates were also observed in mouse fetuses when mothers were gavaged with 300 to 465 mg/kg/day lithium carbonate on gestation day 6 to 15. An increase in Ebstein's anomaly was reported among offspring of women taking lithium; cardiovascular defects were found in 212 offspring exposed in utero to lithium therapy.

Increased thyroid activity was seen in male and female rats fed 5,000 ppm (250 mg/kg/day) bromacil for 90 days. In a 2–year dietary study, thyroid hyperplasia was seen in female rats fed 1,250 ppm (62.5 mg/kg/day). Thyroid follicular adenoma was observed in one female.

EPA believes that there is sufficient evidence for listing bromacil lithium salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental and thyroid toxicity data.

23. *Bromine* (CAS No. 007726-95-6) (EPCRA EHS) (Ref. 8). Rats fed bromine at a dose of 0.01 mg/kg/day for 6 months experienced changes in their reflexes and blood indexes. Rats, mice, and rabbits inhaling 0.001 mg/kg/day for 4 months developed functional abnormalities of the respiratory, nervous, and endocrine systems. Data on the acute and chronic effects of bromine in humans are limited. Bromine is very corrosive to the eyes, skin, and mucous membranes in either the liquid or vapor form. A concentration of 10 ppm of bromine in air is intolerable in humans, and can cause severe irritation of the upper respiratory tract. Other clinical symptoms include neurologic, dermatologic, and gastrointestinal effects. The maximum concentration allowable in humans for a 0.5 to 1-hour exposure to bromine is 4 ppm. Bromine can cause lacrimation at concentrations less than 1 ppm. Chronic exposure to bromine (estimated concentration at 0.6 ppm) can result in eye irritation, upper respiratory irritation, coughing, and headache. Neurological symptoms have also been reported following chronic exposure to bromine.

EPA believes that there is sufficient evidence for listing bromine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for this chemical.

24. *1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile* (CAS No. 035691-65-7) (FIFRA AI) (Ref. 3). In a 3–month dietary study where rats were administered 83.5, 500, and 3,000 ppm (4, 25, and 150 mg/kg/day) 1-bromo-1-(bromomethyl)-1,3-propanedicarbonitrile, a NOEL of 83.5 ppm (4 mg/kg/day) and a LOEL of 500 ppm (25 mg/kg/day) were established (based on neonatal splenic hematopoiesis, decreased parental body weight and food consumption, increased male urinary epithelial cells, amorphous casts, and crystals). At 3,000 ppm (150 mg/kg/day) there was decreased lactase dehydrogenase, increased total cholesterol, total protein, and albumin, elevated female organ-to-body weight ratio for thyroid, liver, spleen, ovaries, and pituitary. In a 13-week dietary study in beagle dogs (administered 167, 1,000, and 4,000 ppm; 4, 25, and 100 mg/kg/day) the LOEL was greater than 167 ppm (4 mg/kg/day) (increased male thyroid and female ovary organ to body weight ratio). At 1,000 ppm (25 mg/kg/day), the same signs were seen as at 167 ppm (4 mg/kg/day), plus diarrhea and increased organ to body weight ratio of thyroid, heart, liver, and adrenals. At 4,000 ppm (100 mg/kg/day), emesis and ataxia in males, decreased body weight gain/food consumption, decreased hematocrit, hemoglobin, immature red blood cells, and alkaline phosphatase, extramedullary hematopoiesis in the liver and spleen, thyroid enlargement with follicular cell hyperplasia, increased organ to body weight ratios for thyroid, adrenals, liver and spleen were seen. In a 13–week dietary study where beagle dogs were administered 167 ppm (4 mg/kg/day), thyroid stimulating hormone (TSH)-stimulated T3 and T4 increased in both sexes. Thyroids were enlarged (both sexes) with absolute weights and organ to body weight ratios increased in females.

EPA believes that there is sufficient evidence for listing 1-bromo-1-(bromomethyl)-1,3-propanedicarbonitrile on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available toxicity data for this chemical.

25. *2-Bromo-2-nitropropane-1,3-diol (bronopol)* (CAS No. 000052-51-7) (FIFRA AI) (Ref. 3). Severe irritation was reported in the gastrointestinal tracts of rats, mice or dogs administered single or multiple oral doses of 2-bromo-2-nitropropane-1,3-diol. In an acute oral study in mice, the LD_{50} of 374 mg/kg resulted in ulceration of the stomach and duodenum, thickening of the intestinal wall, and adhesions of the stomach to the liver. Severe gastric irritation was reported in dogs administered a single oral dose of 250 mg/kg. The NOEL was 100 mg/kg. Superficial ulceration with epithelial hyperplasia and hyperkeratosis, and congested vessels in the gastrointestinal mucosa, was observed in rats fed 80 mg/kg/day (LOEL) in their diet for 13 weeks. The NOEL was 20 mg/kg/day. Vomiting was noted in dogs fed 20 mg/kg/day in their diet for 13 weeks. The NOEL in this study was 8 mg/kg/day. In addition, blood was noted in the urine of these dogs. Mortality, irritation of the gastrointestinal tract, ulceration and stomach lesions were reported in a 2–year dietary study in rats fed 40 mg/kg/day. The NOEL was 10 mg/kg/day. EPA believes that there is sufficient evidence for listing 2-bromo-2-nitropropane-1,3-diol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available toxicity data.

26. *Bromoxynil (3,5-dibromo-4-hydroxybenzonitrile)* (CAS No. 001689-84-5) (FIFRA AI) (Ref. 3). Developmental effects (hydrocephalus, microphthalmia, anophthalmia and severe defects in ossification of the skull) were observed in rabbits administered 60 mg/kg/day bromoxynil by gavage. The NOEL was 30 mg/kg/day. Developmental toxicity (increases in all forms of supernumerary ribs) was also observed in rats at 5 mg/kg/day. The NOEL was 1.5 mg/kg/day. The maternal LOEL (based on body weight loss) was 30 mg/kg/day. Several other developmental studies indicate potential developmental toxicity of bromoxynil. EPA believes that there is sufficient evidence for listing bromoxynil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

27. *Bromoxynil octanoate (octanoic acid, 2,6-dibromo-4-cyanophenyl ester)* (CAS No. 001689-99-2) (FIFRA AI) (Ref. 3). Bromoxynil octanoate hydrolyzes to yield bromoxynil and octanol. In a dermal developmental toxicity study, bromoxynil octanoate was developmentally toxic to rat fetuses (increased incidences of supernumerary ribs) at 15 mg/kg/day (LOEL). The NOEL was 10 mg/kg/day. The maternal LOEL for decreased body weight gain was 20 mg/kg/day. The NOEL was 15 mg/kg/day. Developmental effects (hydrocephalus, microphthalmia, anophthalmia and severe defects in ossification of the skull) were observed in rabbits administered 60 mg/kg/day bromoxynil by gavage. The NOEL was 30 mg/kg/day. Developmental toxicity (increases in all forms of supernumerary ribs) was also observed in rats at 5 mg/kg/day. The NOEL was 1.5 mg/kg/day. The maternal LOEL (based on body weight loss) was 30 mg/kg/day. EPA believes that there is sufficient evidence for listing bromoxynil octanoate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for bromoxynil and bromoxynil octanoate.

28. *Brucine* (CAS No. 000357-57-3) (CERCLA; RCRA APP8; RCRA P) (Ref. 8). Brucine is an alkaloid similar in structure to strychnine. It is capable of causing death or permanent injury due to exposures in normal use. In humans, brucine can cause central and peripheral paralysis, convulsions, and respiratory failure. A potentially lethal oral dose in small children is 5 to 10 mg. The lethal oral dose for an adult may be as low as 30 mg. The acute oral LD_{50} in rabbits is 4 mg/kg.

EPA's exposure analysis indicates that brucine concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can

reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing brucine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

29. *Butylate (Bis-2-methylpropyl)carbamothioic acid S-ethyl ester)* (CAS No. 002008-41-5) (FIFRA AI) (Ref. 3). In a 2–year feeding study in mice, hepatic (cellular infiltrates, focal necrosis) and renal effects (amyloidosis, chronic nephritis, lymphocytic foci) were observed at 80 mg/kg/day. The NOEL was 20 mg/kg/day. In a separate study, liver pericholangitis was observed in rats fed 180 mg/kg/day for 56 weeks. The NOEL was 30 mg/kg/day. An increased relative liver weight was observed in male dogs fed 25 mg/kg/day for 1–year. The NOEL was 5 mg/kg/day. Based on the NOEL, EPA has established a chronic oral RfD of 0.05 mg/kg/day. EPA believes that there is sufficient evidence for listing butylate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data for this chemical.

30. *Butylated hydroxyanisole* (CAS No. 025013-16-5) (CAL; IARC; NTP) (Ref. 8). Butylated hydroxyanisole is classified by IARC as a Group 2B compound; i.e., the chemical is possibly carcinogenic to humans. Butylated hydroxyanisole has been shown to induce gastrointestinal tumors in rats and hamsters. EPA believes that there is sufficient evidence for listing butylated hydroxyanisole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

31. *C.I. Acid Red 114* (CAS No. 006459-94-5) (TSCA) (Ref. 8). In a 2–year bioassay conducted by the National Toxicology Program (NTP) in which F344 rats were exposed to C.I. Acid Red 114 via drinking water, hepatocellular carcinomas of the liver, tumors of the skin, and adenomas or carcinomas in the Zymbal's gland of both sexes were observed. In the same study, female rats also had increased incidences of adenoma or carcinoma in the clitoral gland, and squamous cell papilloma or carcinoma in the oral cavity. The exposure concentrations in this study ranged from 70 to 300 ppm (9.8 to 42 mg/kg/day) for males and from 150 to 600 ppm (21 to 84 mg/kg/day) for females. EPA believes that there is sufficient evidence for listing C.I. Acid Red 114 on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

32. *C.I. Direct Blue 218* (CAS No. 028407-37-6) (NTP) (Ref. 8). In an NTP bioassay, there was clear evidence of carcinogenicity of C.I. Direct Blue 218 in male and female B6C3F1 mice based on significantly increased incidence of hepatocellular adenomas and carcinomas. In a 2–year NTP feeding study in rats, there was some evidence of carcinogenicity in male F344 rats based on a significant increase in the incidence of squamous cell papillomas of the pharynx in the high dose group (500 mg/kg/day). EPA believes that there is sufficient evidence for listing C.I. Direct Blue 218 on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

33. *Calcium hypochlorite* (CAS No. 007778-54-3) (CERCLA) (Ref. 8). Aquatic acute toxicity data for calcium hypochlorite include a 96–hour measured LC_{50} for rainbow trout of 60 ppb and a 96–hour measured LC_{50} for the Atlantic silverside of 37 ppb. EPA believes that there is sufficient evidence for listing calcium hypochlorite on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available ecotoxicity data for this chemical.

34. *Caprolactam* (CAS No. 000105-60-2) (CAA HAP) (Ref. 7). Rats were administered caprolactam by oral gavage at doses of 0, 100, 500, and 1,000 mg/kg/day on gestation days 6 through 20. This resulted in a LOAEL of 1,000 mg/kg/day and a NOAEL of 500 mg/kg/day for fetal resorption. Rabbits were administered caprolactam by oral gavage at doses of 0, 50, 150, and 250 mg/kg/day on gestation days 6 through 28. This resulted in a LOAEL of 150 mg/kg/day for maternal and fetal body weight depression. In addition, a slight increase in the severity of spontaneous nephropathy (10,000 ppm) was observed in male rats of the first parental generation fed 10,000 ppm of caprolactam in a three-generation reproductive study, resulting in a NOAEL of 1,000 ppm (50 mg/kg/day). Mean body weights and food consumption were reduced in both parental generations at 5,000 and 10,000 ppm. Body weights of offspring were also reduced at these dietary concentrations (the LOAEL was 250 mg/kg/day). EPA believes that there is sufficient evidence for listing caprolactam on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

35. *Carbofuran* (CAS No. 001563-66-2) (CERCLA; EPCRA EHS; FIFRA SR) (Ref. 8). Aquatic acute toxicity test data for carbofuran include a measured 96–hour LC_{50} for bluegill of 80 ppb. In addition, the measured 48–hour EC_{50} for daphnids is 35 ppb. Measured terrestrial acute toxicity data for wildlife include an oral LD_{50} for mallard ducks of 0.397 mg/kg for females and 0.480 mg/kg for males and an oral LD_{50} for female ring-necked pheasants of 4.15 mg/kg. EPA believes that there is sufficient evidence for listing carbofuran on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

36. *Carbon monoxide* (CAS No. 000630-08-0) (CAL) (Ref. 8). Cardiovascular (e.g., electrocardiograph changes, atrial fibrillation, ventricular arrhythmias) and neurological (e.g., headache, dizziness, convulsions, and coma) effects were reported in humans exposed to carbon monoxide. In humans, histological effects in the brain include extensive demyelination of white matter, and necrosis. Neuropsychiatric disorders have also been reported. Persistant electrocardiograph changes, and degeneration of myocardial muscle fibers, hemorrhage and necrosis were observed following inhalation exposure of dogs to 100 ppm (0.11 mg/L) carbon monoxide, 5.5 hours/day, 6 days/week, for 11 weeks. Some of the dogs showed disturbances in gait and in postural and position reflexes. The toxicity of carbon monoxide results from its combination with hemoglobin in the blood to form carboxyhemoglobin which is a poor oxygen carrier. Thus, oxygen delivery by the blood is severely compromised, which leads to tissue hypoxia and possibly tissue poisoning, resulting in the toxic effects (including death) known for this substance.

Infants born to women who survive acute exposure to high concentrations of carbon monoxide during pregnancy often display neurological sequelae and gross brain damage. Exposure of pregnant rats to 150 ppm (0.17 mg/L) carbon monoxide caused reduced pup growth rate, and altered behavior (poor performance on negative geotaxis and homing tests) in pups.

EPA believes that there is sufficient evidence for listing carbon monoxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic neurological, myocardial, and developmental toxicity data for this chemical.

Carbon monoxide is regulated under Title I of the CAA (Provisions for Attainment and Maintenance of National Ambient Air Quality Standards). In addition to this proposal to add carbon monoxide to EPCRA section 313, in Units IV.B.179. and 235, EPA is proposing to add two other

chemicals, nitrogen dioxide and sulfur dioxide, that are regulated under Title I of the CAA. Sulfur dioxide is also regulated under Title IV of the CAA (Acid Deposition Control). Extensive data, which are highly technical, are collected on these chemicals as required by the CAA. EPA requests comment on the following: (1) Is the information collected under the CAA sufficient for public right-to-know purposes; and (2) suggestions on how the data collected on these chemicals pursuant to CAA Titles I and IV could be used to meet the purposes of EPCRA section 313.

37. *Carboxin (5,6-dihydro-2-methyl-N-phenyl-1,4-oxathiin-3-carboxamide)* (CAS No. 005234-68-4) (FIFRA AI) (Ref. 3). Decreased body weight gain and food consumption, increased mortality, and reduced kidney, heart and spleen weights were observed in rats fed 600 ppm (30 mg/kg/day) carboxin for 2 years. The NOEL is 200 ppm (10 mg/kg/day). A similar NOEL was established in a three-generation rat reproduction study. Based on the NOEL, EPA established an oral RfD of 0.01 mg/kg/day. In a 90–day feeding study in rats, degeneration of the kidneys was seen at 600 ppm (30 mg/kg/day). The NOEL was 10 mg/kg/day. EPA believes that there is sufficient evidence for listing carboxin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available renal toxicity data for this chemical.

38. *Chinomethionat (6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one)* (CAS No. 002439-01-2) (FIFRA AI) (Ref. 3). Increases in liver weight, liver protein, and both total liver and microsomal RNA levels, as well as inhibition of mixed-function oxidase enzymes (e.g., N-demethylase, cytochrome P-450) were noted in rats administered 75 mg/kg/day by oral gavage for 4 days or in female rats administered 75 mg/kg/day in their diet for 21 days. Liver enlargement was reported in rats fed 10 mg/kg/day in their diet for 35 days. The increase in liver size was attributed to increased cellular protein and an increase in water content. Rats exposed orally to 2,700 mg/kg for 90 days (30 mg/kg/day) had changes in liver weight and effects on the hepatic microsomal oxidases as well as weight loss or decreased body weight gain. In a 1-year dog study, the NOEL was established at 0.6 mg/kg/day for the test material in the diet. The LOEL was 1.9 mg/kg/day as indicated by extra medullary hematopoietic nodules in the liver.

In a developmental toxicity study in rats, increased resorption and decreased fetal weight were reported at 37.5 mg/kg/day (the highest dose tested). The NOEL was 12.5 mg/kg/day. In another developmental study in rats given 30 mg/kg/day in carboxy methyl cellulose by gavage from gestation day 6 to 20, cleft palate, anasarca and micrognathia was observed.

EPA believes that there is sufficient evidence for listing chinomethionat on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and developmental toxicity data.

39. *Chlorendic acid* (CAS No. 000115-28-6) (NTP) (Ref. 8). Based on sufficient evidence of carcinogenicity in animals IARC classified chlorendic acid as a Group 2B compound; i.e., it is possibly carcinogenic in humans. In an NTP bioassay, there was clear evidence of liver carcinogenicity in both rats and mice. EPA believes that there is sufficient evidence for listing chlorendic acid on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

40. *Chlorimuron ethyl (ethyl-2-[[[(4-chloro-6-methoxyprimidin-2-yl)-carbonyl]-amino]sulfonyl]benzoate)* (CAS No. 090982-32-4) (FIFRA AI) (Ref. 3). In a 1–year dog study, dietary administration of 37.5 mg/kg/day (LOEL) produced an increase in white blood cells in both sexes, a decrease in red blood cells, hematocrit, and hemoglobin in females, and an increase in alkaline phosphatase in males. The NOEL was 6.25 mg/kg/day. Based on the NOEL, an oral RfD of 0.02 mg/kg/day was derived. This study was given a high confidence rating. In a 2–year rat feeding study, changes in hematology parameters were observed at the LOEL of 125 mg/kg/day. The NOEL was 12.5 mg/kg/day. In an 18–month mouse feeding study, centrilobular hepatocellular hypertrophy was observed at 90 days at 187.5 mg/kg/day (LOEL). The NOEL was 18.75 mg/kg/day. EPA believes that there is sufficient evidence for listing chlorimuron ethyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data.

41. *Chlorinated paraffins category* (CAA HAP) (Ref. 7). Chlorinated paraffins are defined as mixtures of linear saturated chlorinated hydrocarbons obtained through the partial chlorination of paraffin, olefin, or acetylene feedstocks which have an average chain length of 10 to 30 carbon atoms and contain average chlorine levels ranging from 40 to 70 percent by weight. Chlorinated paraffins can be described by the general formula: $C_xH_{2x-y+2}Cl_y$ where x ranges from 10 to 30 and y ranges from 3 to 26. Both 58 percent-chlorinated, short-chain (10 to 12 carbons) and 43 percent-chlorinated, long-chain (22 to 26 carbons) chlorinated paraffins were tested in rats and mice by gavage in a 2–year bioassay. The 58 percent-chlorinated, short-chain (10 to 12 carbons) chlorinated paraffins were carcinogenic in rats and mice: dosed male and female mice showed increased incidences of liver tumors, dosed male rats had increased incidences of kidney tubular cell hyperplasia and adenomas or adenocarcinomas (combined), and dosed female rats and mice showed increased thyroid gland follicular cell neoplasms, indicating an EPA Group B2 classification, i.e., a probable human carcinogen. The 43 percent-chlorinated, long-chain (22 to 26 carbons) chlorinated paraffins were carcinogenic in male mice showing an increased incidence of malignant lymphomas, and marginal increase in hepatocellular neoplasms in female mice and adrenal gland pheochromocytomas in female rats, indicating an EPA Group B2 category classification, i.e., the chemical is a probable human carcinogen. EPA believes that there is sufficient evidence for listing chlorinated paraffins on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for these chemicals.

The following ecotoxicity data (LC_{50}s followed by experiment duration in parenthesis) have been reported for short chain (10 to 13 carbons) and intermediate chlorination (59 percent chlorine) chlorinated paraffins: daphnid, 46 ppb (48–hour); mysid shrimp, 14 ppb (96–hour); marine algae, 42 ppb (96–hour); daphnid, 2 ppb and 9 ppb (21–day chronic study); and midge, 78 ppb (49–day chronic study). Ranges of chronic toxicity values are as follow: Freshwater invertebrates, 2 to 162 ppb; freshwater fish, 3 to 17.2 ppb; marine invertebrates, 2.4 to 24 ppb; and marine fish, 2.4 ppb to 620.5 ppm. Chlorinated paraffins are persistent with a half-life of greater than 30 days in the environment. EPA believes that there is sufficient evidence for listing the category chlorinated paraffins on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available ecotoxicity data for these chemicals and their persistence in the environment.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards

the manufacturing threshold for that category. When filing reports for chemical categories the releases are determined in the same manner as the thresholds. One report if filed for the category and all releases are reported on this form.

42. *1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride* (CAS No. 004080-31-3) (FIFRA AI) (Ref. 3). Decrease in heart weight, obliterative vasculitis, and perivasculitis of the hepatic blood vessels were observed in dogs orally administered 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane for 90 days. The NOEL was 7.5 mg/kg/day; the LOEL was 15 mg/kg/day. EPA believes that there is sufficient evidence for listing 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane.

43. *p-Chloroaniline* (CAS No. 000106-47-8) (CERCLA; RCRA APP8; RCRA P) (Ref. 8). In a 78–week study in which rats were fed p-chloroaniline, non-neoplastic proliferative lesions of the splenic capsule (focal fibrosis with subcapsular mesenchymal proliferation) were observed. The LOAEL was 12.5 mg/kg/day (the lowest dose tested) and the RfD derived from this data is 0.004 mg/kg/day. EPA believes that there is sufficient evidence for listing p-chloroaniline on EPCRA section 313 pursuant to section 313(d) (2)(B) based on the chronic toxicity data for this chemical.

44. *5-Chloro-2-(2,4-dichlorophenoxy)phenol* (CAS No. 003380-34-5) (FIFRA AI) (Ref. 3). In a 3–month dog feeding study, decreased red blood cell and hemoglobin values, increased serum alkaline phosphatase, jaundice, and increased liver weight were observed at 25 mg/kg/day (LOEL). No NOEL could be established. In another 3–month dog feeding study, the LOEL of 25 mg/kg/day produced morphologic changes in the liver (focal acidophilic granular degeneration of cytoplasm). The NOEL was 12.5 mg/kg/day. In a 3–month rat feeding study, 125 mg/kg/day (LOEL) produced increased liver weights in males. The NOEL was 50 mg/kg/day. At 150 mg/kg/day (LOEL), decrease in triglycerides, increase in creatinine, decrease in red blood cells, increase in spleen and heart weight, and cytomegaly were observed in another 3–month rat feeding study (NOEL was 50 mg/kg/day). In a 2–year study, dietary administration of 15 mg/kg/day produced decreases in red blood cells, hemoglobin concentration, and hematocrit as well as hepatic necrosis in males. At 50 mg/kg/day, there were decreases in red blood cells in females. EPA believes that there is sufficient evidence for listing 5-chloro-2-(2,4-dichlorophenoxy)phenol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data for this chemical.

45. *3-Chloro-2-methyl-1-propene* (CAS No. 000563-47-3) (NTP) (Ref. 8). In an NTP gavage bioassay there was clear evidence of carcinogenicity from 3-chloro-2-methyl-1-propene in rats and mice. The substance induced adrenal cortex, testicular and gastrointestinal tumors in rats and adrenal cortex and gastrointestinal tumors in mice. EPA believes that there is sufficient evidence for listing 3-chloro-2-methyl-1-propene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

46. *p-Chlorophenyl isocyanate* (CAS No. 000104-12-1) (TSCA) (Ref. 8). p-Chlorophenyl isocyanate is very lethal following inhalation. The 4–hour mouse inhalation LC_{50} value is 0.053 mg/L. In addition, isocyanates as a class are generally severe skin, eye, and respiratory irritants following acute exposure.

EPA's exposure analysis indicates that p-chlorophenyl isocyanate concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing p-chlorophenyl isocyanate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

47. *Chloropicrin* (CAS No. 000076-06-2) (FIFRA AI) (Ref. 3). Measured aquatic acute toxicity data for chloropicrin include a rainbow trout 96–hour LC_{50} of 16.5 ppb, a bluegill 96–hour LC_{50} of 105 ppb, and a 48–hour EC_{50} of 80 ppb. EPA believes that there is sufficient evidence for listing chloropicrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

48. *3-Chloropropionitrile* (CAS No. 000542-76-7) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). 3-Chloropropionitrile is metabolized by hepatic cytochrome P450 enzymes to release cyanide. The substance is readily absorbed both dermally and orally. The mouse oral LD_{50} is 51.3 mg/kg.

EPA's exposure analysis indicates that 3-chloropropionitrile concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing 3-chloropropionitrile on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

49. *p-Chloro-o-toluidine* (CAS No. 000095-69-2) (IARC; NTP) (Ref. 8). p-Chloro-o-toluidine is classified as a Group B2 carcinogen by EPA; i.e., the compound is a probable human carcinogen. It is classified as a Group 2B carcinogen by IARC; i.e., a possible human carcinogen. Epidemiology studies are inadequate in evaluating the carcinogenic potential of 4-chloro-o-toluidine hydrochloride in humans. In a long-term feeding study by NCI, p-chloro-o-toluidine hydrochloride induced hemangiomas, hemangiosarcomas, and vascular tumors in mice. An increase in the incidence of pituitary chromophobe adenomas was observed in female rats following dietary administration. EPA believes that there is sufficient evidence for listing p-chloro-o-toluidine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

50. *Chlorotrifluoromethane (CFC-13)* (CAS No. 000075-72-9) (CAA OD) (Ref. 8). Chlorofluorocarbons, including chlorotrifluoromethane (CFC-13) are known to release chlorine radicals into the stratosphere. Chlorine radicals act as catalysts to reduce the net amount of stratospheric ozone.

Stratospheric ozone shields the earth from ultraviolet-B (UV-B) radiation (i.e., 290 to 320 nanometers). Decreases in total column ozone will increase the percentage of UV-B radiation, especially at its most harmful wavelengths, reaching the earth's surface.

Exposure to UV-B radiation has been implicated by laboratory and epidemiologic studies as a cause of two types of nonmelanoma skin cancers: squamous cell cancer and basal cell cancer. Studies predict that for every 1 percent increase in UV-B radiation, nonmelanoma skin cancer cases would increase by about 1 to 3 percent.

Recent epidemiological studies, including large case control studies, suggest that UV-B radiation plays an important role in causing malignant melanoma skin cancer. Recent studies predict that for each 1 percent change in UV-B intensity, the incidence of

melanoma could increase from 0.5 to 1 percent.

Studies have demonstrated that UV-B radiation can suppress the immune response system in animals, and, possibly, in humans. Increases in exposure to UV-B radiation are likely to increase the incidence of cataracts and could adversely affect the retina.

Aquatic organisms, particularly phytoplankton, zooplankton, and the larvae of many fishes, appear to be susceptible to harm from increased exposure to UV-B radiation because they spend at least part of their time at or near the surface of waters they inhabit.

Increased UV-B penetration has been shown to result in adverse impacts on plants. Field studies on soybeans suggest that yield reductions could occur in some cultivars of soybeans, while evidence from laboratory studies suggest that two out of three cultivars are sensitive to UV-B. Because this increased UV-B radiation can be reasonably anticipated to lead to cancer and other chronic human health effects and significant adverse environmental effects, there is sufficient evidence for listing chlorotrifluoromethane (CFC-13) on EPCRA section 313 pursuant to EPCRA sections 313(d)(2)(B) and (C).

51. *Chlorpyrifos methyl (O,O-dimethyl-O-(3,5,6-trichloro-2-pyridyl)phosphorothioate)* (CAS No. 005598-13-0) (FIFRA AI) (Ref. 3). Humans experienced a 10 percent reduction in plasma cholinesterase activity after 10 dermal exposures to 10 mg/kg/day and a 47 percent reduction after 4 dermal exposures to 25 mg/kg/day (exposures were for 12 hours per day). Rabbits experienced a 97 to 100 percent reduction in plasma cholinesterase activity after 5 dermal exposures to 10 mg/kg/day for 12 hours a day or 2 dermal exposures to 25 mg/kg/day for 12 hours a day. In a 2–year rat feeding study, red blood cell and plasma cholinesterase inhibition were observed at 1 mg/kg/day (LOEL). The NOEL was 0.1 mg/kg/day. In a 2–year dog feeding study, plasma cholinesterase inhibition was observed at 1 mg/kg/day (LOEL). The NOEL was 0.1 mg/kg/day. The oral rat LD_{50} is between 1,159 mg/kg and 3,833 mg/kg. Lethargy, ataxia, diarrhea, salivation, and tremors were observed in these studies. EPA believes that there is sufficient evidence for listing chlorpyrifos methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

Aquatic acute toxicity values for chlorpyrifos methyl include a daphnid 48–hour LC_{50} of 1.11 ppb and a rainbow trout 96–hour LC_{50} of 12.6 ppb. EPA believes that there is sufficient evidence for listing chlorpyrifos methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

52. *Chlorsulfuron (2-chloro-N-[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]benzenesulfonamide)* (CAS No. 064902-72-3) (FIFRA AI) (Ref. 3). In a rabbit developmental study, an increased incidence of fetal resorptions was observed at the LOEL of 75 mg/kg/day. The NOEL was 25 mg/kg/day.

In a 3-generation rat reproduction study, a decrease in fertility index was observed at 125 mg/kg/day (LOEL). The NOEL was 25 mg/kg/day. EPA believes that there is sufficient evidence for listing chlorsulfuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental and reproductive toxicity data for this chemical.

53. *Clomazone (2-[(2-chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone)* (CAS No. 081777-89-1) (FIFRA AI) (Ref. 3). In a 90–day dog feeding study, increased cholesterol and increased absolute and relative liver weights were observed at 62.5 mg/kg/day (LOEL). The NOEL was 12.5 mg/kg/day. Dietary administration of 62.5 mg/kg/day (LOEL) to dogs for 1–year also produced increased cholesterol and increased liver weights. The NOEL was 12.5 mg/kg/day. In a 90–day mouse feeding study, megalocytosis of the liver cells was seen at 2.6 mg/kg/day (LOEL). No NOEL was established. In a 2–year rat feeding study, elevated cholesterol levels and liver-to-body weight ratios were observed at 21.5 mg/kg/day (LOEL). The NOEL was 4.3 mg/kg/day. Dietary administration of 62.5 mg/kg/day (LOEL) to dogs for 1–year increased cholesterol and liver weights. The NOEL was 12.5 mg/kg/day.

In a two-generation reproduction study, decreased pup viability, reduced survival, decreased body weight, and nonfunctional limbs were observed in the offspring of rats that were orally administered 50 mg/kg/day (LOEL). The NOEL was 5 mg/kg/day.

EPA believes that there is sufficient evidence for listing clomazone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and developmental toxicity data.

54. *Crotonaldehyde* (CAS No. 004170-30-3) (RCRA APP8) (Ref. 8). Crotonaldehyde has been tested for carcinogenicity in one animal study. When crotonaldehyde was administered to male F344 rats at 0, 42, or 421 mg/L for 113 weeks, there was a statistically significant increase in the incidence of hepatocellular neoplasms (benign and malignant combined) in the low dose group. The lack of tumorigenic effects at the high-dose group is believed to be due to the hepatotoxicity observed in this group. At high dose, crotonaldehyde is cytotoxic; cells died before neoplasms are manifested. Crotonaldehyde and other alpha, beta-unsaturated carbonyls are chemically reactive compounds which can readily react with cellular macromolecules such as DNA and proteins. Mutagenicity studies in a slightly modified preincubation Ames test have clearly shown that crotonaldehyde is mutagenic. EPA believes that there is sufficient evidence for listing crotonaldehyde on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity and mutagenicity data for this chemical.

55. *Cyanazine* (CAS No. 021725-46-2) (CAL; FIFRA SR) (Ref. 8). Cyanazine is a triazine-type herbicide. In a three-generation reproduction study in Long-Evans rats, F_3b female weanlings had increased relative brain weights and decreased relative kidney weights. The LOAEL was 4.05 mg/kg/day and the NOAEL was 1.35 mg/kg/day. In rabbits that received cyanazine in gelatin capsules during gestation days 6 to 18, there was increased postimplantation loss, decreased litter size, and alterations in ossification. In addition, there were increased malformations in the offspring, including anophthalmia/microphthalmia, dilated brain ventricles, dome cranium and thoracoschisis (the LOAEL was 2 mg/kg/day; the NOAEL was 1 mg/kg/day). Similar developmental effects were reported in Fischer 344 rats administered cyanazine during gestation days 6 to 15 (the LOAEL was 25 mg/kg/day; the NOAEL 5 was mg/kg/day). EPA believes that there is sufficient evidence for listing cyanazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for this chemical.

56. *Cycloate* (CAS No. 001134-23-2) (FIFRA AI) (Ref. 3). Cycloate, a carbamate pesticide, is a cholinesterase inhibitor. Symptoms of poisoning include salivation, lacrimation, convulsions, and death. Depressed plasma cholinesterase was observed in a 9–week rat inhalation study at 0.0025 mg/L. The NOEL was less than 0.0025 mg/L. Decreased serum cholinesterase (in males and females) and Wallerian degeneration of nerve fibers in spinal cord and sciatic nerve (females) were observed at 0.12 mg/L in a 10-week rat inhalation study (cholinesterase NOEL is 0.012 mg/L). In both inhalation studies, animals were exposed for 6

hours/day, 5 days/week. Plasma, red blood cell, and brain cholinesterase inhibition was reported in rats fed 8 mg/kg/day for 2 years. The NOEL was less than 8 mg/kg/day. Dose-related neuropathy and muscle myopathy were observed. In a 2–year rat feeding study, distended myelin sheath demyelination and nerve fiber loss occurred at 3 mg/kg/day (LOEL). The NOEL was 0.5 mg/kg/day.

Decreased weight and survival were observed in the offspring of rats orally administered 24 mg/kg/day (LOEL) and 72 mg/kg/day of cycloate, respectively (duration and frequency of dosing not reported). The reproductive NOEL was 8 mg/kg/day. Decreased pup weight was observed at 20 mg/kg/day and decreased pup survival was observed at 50 mg/kg/day in a 2-generation rat reproduction study. The NOEL values for these endpoints were 2.5 mg/kg/day and 20 mg/kg/day, respectively.

EPA believes that there is sufficient evidence for listing cycloate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological and developmental toxicity data.

57. *Cyclohexanol* (CAS No. 000108-93-0) (TSCA) (Ref. 8). Four rabbits exposed to 997 ppm (4 mg/L) for 11 days (6 hours/day, 5 days/week) and a rabbit receiving dermal applications of approximately 2,500 mg/kg/day for 10 days (1 hour/day) developed tremors, central nervous system depression, lethargy or hypothermia.

Microscopic or degenerative changes were observed in the livers and kidneys of rabbits inhaling 145 ppm (0.59 mg/L) of cyclohexanol for 50 days (6 hours/day, 5 days/week), or repeated doses at 272 ppm (1.1 mg/L). In addition, degenerative myocardial effects were observed at this exposure level. Repeated inhalation exposure to higher doses (997 to 1,229 ppm; 4 to 5 mg/L) in rabbits resulted in degenerative changes in the brain and heart as well as liver and kidneys.

Reproductive effects including testicular atrophy, loss of Type A spermatogonia, spermatocytes and spermatozoa, "shrinkage" of seminiferous tubules and Leydig cells, reductions in RNA protein, sialic acid, and glycogen in testes, epididymis and seminal vesicles and increased testicular cholesterol and alkaline phosphatase were observed in male rats or gerbils exposed to 15 mg/kg of cyclohexanol for 21 to 37 days. These changes were accompanied with decreased fertility, and occurred at exposure levels which had no effect on the liver or kidney.

EPA believes that there is sufficient evidence for listing cyclohexanol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurological, hepatic, renal, myocardial, and reproductive toxicity data for this chemical.

58. *Cyfluthrin (3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, cyano(4-fluoro-3-phenoxyphenyl)methyl ester)* (CAS No. 068359-37-5) (FIFRA AI) (Ref. 3). In a 14–day rat study, oral administration of 60 mg/kg/day produced tremors, uncoordinated gait, salivation, slight brain hemorrhages, necrosis of the skeletal muscle fibers, and death. The NOEL was not defined. In another study, salivation, straddled gait, axonal degeneration of sciatic nerve, microtubular dilation, and mitochondria degeneration in the sciatic and femoral nerves were observed in rats administered 80 mg/kg/day orally for 5 days and 40 mg/kg/day for the following 9 days. No NOEL was established.

Liver and adrenal weight increases were observed in rats orally administered 40 to 80 mg/kg/day for 28 days. The highest dose of 80 mg/kg/day was reduced to 40 mg/kg/day. The NOEL was 20 mg/kg/day. Liver weight changes and urobilinogen and ketone bodies in the urine were observed in rats fed 15 mg/kg/day for 28 days. No NOEL was established. In a 28–day mouse feeding study, increased liver weight was observed at 50 mg/kg/day (LOEL). The NOEL was 15 mg/kg/day. Inflammatory foci in the kidneys of females were observed at 7.5 mg/kg/day in a 2–year rat feeding study. The NOEL was 2.5 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.025 mg/kg/day was determined. Increased alkaline phosphatase activity was observed in males at 7.5 mg/kg/day in a 23–month mouse feeding study.

EPA believes that there is sufficient evidence for listing cyfluthrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological, hepatic, and renal toxicity data.

Aquatic acute toxicity values for cyfluthrin include a rainbow trout 96–hour LC_{50} of 0.68 ppb, a bluegill 96–hour LC_{50} of 1.5 ppb, and a daphnid 48–hour EC_{50} of 0.14 ppb. EPA believes that there is sufficient evidence for listing cyfluthrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

59. *Cyhalothrin (3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylic acid cyano(3-phenoxyphenyl)methyl ester)* (CAS No. 068085-85-8) (FIFRA AI) (Ref. 3). Cyhalothrin administered orally (in capsules) to dogs at 10 mg/kg/day for 26 weeks produced occasional disturbances of the nervous system (unsteadiness and/or muscular trembling). The NOEL for these effects was not defined. In a 1–year dog study, ataxia, muscle tremors, and convulsions were observed following oral administration at 3.5 mg/kg/day. Abnormal gait and convulsions were observed at 0.5 mg/kg/day. The LOEL of the study was 0.5 mg/kg/day and the NOEL was 0.1 mg/kg/day. EPA believes that there is sufficient evidence for listing cyhalothrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

60. *Cyromazine (N-cyclopropyl-1,3,5-triazine-2,4,6-triamine)* (CAS No. 066215-27-8) (FIFRA AI) (Ref. 3). In a 6–month dog feeding study, 7.5 mg/kg/day (LOEL) produced changes in hematocrit and hemoglobin levels. The NOEL was 0.75 mg/kg/day. Based on the NOEL, an oral RfD of 0.0075 mg/kg/day was derived. In a 90–day dog feeding study, the LOEL of 25 mg/kg/day produced an increase in relative liver weights in males. The NOEL was 7.5 mg/kg/day. In a 90–day rat feeding study, the LOEL of 15 mg/kg/day produced a decrease in relative liver weights in males. The NOEL was 1.5 mg/kg/day. EPA believes that there is sufficient evidence for listing cyromazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data.

61. *Dazomet (tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione)* (CAS No. 000533-74-4) (FIFRA AI) (Ref. 3). Animals fed dazomet at a dietary dose of 40 ppm for 2 years showed focal necrosis and fatty metamorphosis of the liver. Rats fed 30.3 mg/kg/day experienced decreased weight gain and changes in liver weight. Renal focal tubular necrosis was seen in rats fed 10 ppm (0.5 mg/kg/day) for 2 years. EPA believes that there is sufficient evidence for listing dazomet on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data for this chemical.

62. *Dazomet sodium salt (tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione, ion(1-), sodium)* (CAS No. 053404-60-7) (FIFRA AI) (Ref. 3). The available toxicity data is on dazomet. Rats fed 80 ppm for 2 years (4 mg/kg/day) showed focal necrosis and fatty metamorphosis of the liver. Rats fed 30.3 mg/kg/day experienced decreased weight gain and changes in liver weight. Renal focal tubular necrosis was seen in

rats fed 10 ppm (0.5 mg/kg/day) for 2 years. EPA believes that there is sufficient evidence for listing dazomet sodium on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available renal toxicity data for its free acid, dazomet.

63. *2,4-DB* (CAS No. 000094-82-6) (FIFRA SR) (Ref. 8). 2,4-DB (4-(2,4-dichlorophenoxy)butanoic acid) is a 2,4-dichlorophenoxy-type herbicide. In a study involving beagle dogs fed a diet containing 2,4-DB for 90 days, a LOAEL of 25 mg/kg/day was determined, based on internal hemorrhaging and mortality observed during the first 3 to 9 weeks of treatment. The NOAEL in this study was 8 mg/kg/day. At this dose level, slight increases in liver weights were observed, but unaccompanied by any gross or histopathologic lesions. EPA has derived an oral RfD of 0.008 mg/kg/day from the LOAEL. In a subchronic rat feeding study, the LOAEL and NOAEL values determined were higher (the LOAEL was approximately 80 to 100 mg/kg/day; the NOAEL was approximately 25 to 30 mg/kg/day), and were based on severe liver and kidney damage.

In the above-mentioned subchronic (90–day) dog feeding study, it was observed that the animals exposed to doses of 2,4-DB at 25 mg/kg/day (the LOAEL) and higher exhibited aspermatogenesis within the first 3 to 9 weeks of treatment. The offspring of rats orally exposed to 17 mg/kg of 2,4-DB during days 1 to 7 of gestation developed abnormalities. There was also an increase in stillbirths at this dose level. In a separate study, offspring of rats orally exposed to 416 mg/kg on days 5 or 9 of gestation exhibited increased preimplantation loss and/or developmental toxicity.

EPA believes that there is sufficient evidence for listing 2,4-DB on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatic, reproductive, and developmental toxicity data for this chemical.

64. *2,4-D butoxyethyl ester* (CAS No. 001929-73-3) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D butoxyethyl ester is a 2,4-dichlorophenoxy-type herbicide. In mammals, the butoxyethyl ester of 2,4-D is hydrolyzed to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D butoxyethyl ester is expected to be similar to that of 2,4-D, in which the kidney, liver, and nervous system are the primary targets of injury. EPA believes that there is sufficient evidence for listing 2,4-D butoxyethyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the known chronic effects of its metabolite 2,4-D.

65. *2,4-D butyl ester* (CAS No. 000094-80-4) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D butyl ester is a 2,4-dichlorophenoxytype herbicide. In mammals, the butyl ester of 2,4-D is hydrolyzed to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D butyl ester is expected to be similar to that of 2,4-D, in which the kidney, liver, and nervous system are the primary targets of injury. EPA believes that there is sufficient evidence for listing 2,4-D butyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the known toxic effects of its metabolite 2,4-D.

66. *2,4-D chlorocrotyl ester* (CAS No. 002971-38-2) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D chlorocrotyl ester is a 2,4-dichlorophenoxy-type herbicide. In mammals, the chlorocrotyl ester of 2,4-D is hydrolyzed to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D chlorocrotyl ester is expected to be similar to that of 2,4-D, in which the kidney, liver and nervous system are the primary targets of injury. EPA believes that there is sufficient evidence for listing 2,4-D chlorocrotyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the known toxic effects of its metabolite 2,4-D.

67. *Desmedipham* (CAS No. 013684-56-5) (FIFRA AI) (Ref. 3). In a 90–day dog study, groups of four beagles/sex were fed diets containing 0 to 5.24 mg/kg/day. This caused increased methemoglobin at 5.24 mg/kg/day (LOEL). EPA believes that there is sufficient evidence for listing desmedipham on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data.

68. *2,4-D 2-ethylhexyl ester* (CAS No. 001928-43-4) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D 2-ethylhexyl ester is a 2,4-dichlorophenoxy-type herbicide. The 2-ethylhexyl moiety contains eight carbons and, therefore, is an isooctyl group. Developmental toxicity following maternal exposure to 2,4-D isooctyl esters has been demonstrated in the rat and mouse. Fetotoxicity occurred in offspring of rats exposed to 528 mg/kg during gestation days 8 through 11. Rats orally exposed to doses as low as 302 mg/kg during gestation days 9 through 12 had musculoskeletal abnormalities. Exposure to a lower dose (188 mg/kg) for a longer period during gestation (days 6 through 15) caused developmental effects on homeostasis and effects on newborn growth statistics. In mice, 438 mg/kg administered orally during gestation days 8 to 12 also caused effects on newborn growth statistics.

EPA believes that there is sufficient evidence for listing 2,4-D 2-ethylhexyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for 2,4-D isooctyl esters, and on the toxic effects of its metabolite 2,4-D.

The aquatic acute toxicity data for 2,4-D isooctyl esters include a measured 48–hour LC_{50} of 8.8 ppm for bluegill. In addition, 2,4-D isooctyl esters are expected to bioaccumulate based on the estimated log K_{ow} of 6.6. EPA believes that there is sufficient evidence for listing 2,4-D 2-ethylhexyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data and the potential for bioaccumulation.

69. *2,4-D 2-ethyl-4-methylpentyl ester* (CAS No. 053404-37-8) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D 2-ethyl-4-methylpentyl ester is a 2,4-dichlorophenoxy-type herbicide. The 2-ethyl-4-methylpentyl ester moiety contains eight carbons and, therefore, is an isooctyl group. Developmental toxicity following maternal exposure to 2,4-D isooctyl esters has been demonstrated in the rat and mouse. Fetotoxicity occurred in offspring of rats exposed to 528 mg/kg during gestation days 8 through 11. Rats orally exposed to doses as low as 302 mg/kg during gestation days 9 through 12 had musculoskeletal abnormalities. Exposure to a lower dose (188 mg/kg) for a longer period during gestation (days 6 through 15) caused developmental effects on homeostasis and effects on newborn growth statistics. In mice, 438 mg/kg administered orally during gestation days 8 through 12 also caused effects on newborn growth statistics.

EPA believes that there is sufficient evidence for listing 2,4-D 2-ethyl-4-methylpentyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for 2,4-D isooctyl esters, the toxic effects of its metabolite 2,4-D. The aquatic acute toxicity data for 2,4-D isooctyl esters include a measured 48–hour LC_{50} of 8.8 ppm for bluegill. In addition, 2,4-D isooctyl esters are expected to bioaccumulate based on the estimated log K_{ow} of 6.6. EPA believes that there is sufficient evidence for listing 2,4-D 2-ethyl-4-methylpentyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data and the potential for bioaccumulation.

70. *Diazinon* (CAS No. 000333-41-5) (CERCLA; FIFRA SR) (Ref. 8). Diazinon, an organophosphate insecticide, causes plasma cholinesterase inhibition and

central nervous system depression. Significant inhibition of plasma cholinesterase was observed in two men administered five doses of 0.025 mg/kg/day. Diazinon administered to men at doses of 0.05 mg/kg/day for 28 days caused a 35 to 40 percent reduction in plasma cholinesterase. A NOEL for cholinesterase inhibition of 0.02 mg/kg/day was identified from several controlled studies in humans. Clinical symptoms of diazinon poisoning include headache, nausea, sweating, vomiting, and diarrhea all of which are indicative of neurotoxicity. Plasma cholinesterase inhibition (93 percent) and red blood cell inhibition (90 percent) occurred in monkeys orally exposed to diazinon in doses of 5 mg/kg/day for 52 weeks. The NOEL for inhibition of cholinesterase in this study was 0.05 mg/kg/day and the LOEL was 0.5 mg/kg/day.

Urogenital defects in the offspring of female rats orally administered diazinon at doses of 26.4 mg/kg on days 12 to 15 of gestation has been reported. Diazinon also induced musculoskeletal abnormalities in offspring when administered orally to mothers at doses of 45 mg/kg on days 8 to 12 of gestation. Post-implantation mortality was increased in female rats administered 63.5 mg/kg on day 10 of gestation. Similar reproductive and developmental effects were observed in mice. Oral administration of 3.96 mg/kg of diazinon (days 1 to 22 of gestation) caused decreased litter size and delayed behavioral effects in the newborn. Doses of 0.210 mg/kg and 3.78 mg/kg administered orally on days 1 to 21 of gestation caused abnormalities in the immune and reticuloendothelial system and biochemical and metabolic abnormalities of the offspring, respectively.

EPA believes that there is sufficient evidence for listing diazinon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental and chronic neurotoxicity data for this chemical.

Measured aquatic acute toxicity data for diazinon include a 96–hour LC_{50} for rainbow trout of 90 ppb and a daphnid 96–hour LC_{50} of 0.90 ppb. In addition, measured terrestrial wildlife acute toxicity data for diazinon include an oral LD_{50} for male mallard ducks of 3.54 mg/kg and an oral LD_{50} for male pheasants of 4.33 mg/kg. EPA believes that there is sufficient evidence for listing diazinon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

71. *2,2-Dibromo-3-nitrilopropionamide* (CAS No. 010222-01-2) (FIFRA AI) (Ref. 3). Oral administration of 50 mg/kg/day (LOEL) to rats for 4 weeks produced dyspnea and weight loss. The NOEL was 25 mg/kg/day. Oral administration of 30 mg/kg/day to rats for 13 weeks produced dyspnea. The NOEL was 13 mg/kg/day. These data may be indicative of direct effects of the compound on the respiratory system. EPA believes that there is sufficient evidence for listing 2,2-dibromo-3-nitrilopropionamide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic respiratory data.

72. *Dicamba (3,6-Dichloro-2-methyoxybenzoic acid)* (CAS No. 001918-00-9) (FIFRA AI) (Ref. 3). Decreased fetal body weights and increased post-implantation loss was observed in the offspring of rabbits receiving 10 mg/kg/day of dicamba on days 6 through 18 of gestation. The LOEL was 10 mg/kg/day and NOEL was 3 mg/kg/day. Based on the NOEL, EPA derived an oral RfD value of 0.03 mg/kg/day. In a separate study, disorders of oxidative phosphorylation and focal necrosis in the heart were observed in newborn rats following transplacental exposure to dicamba. In a developmental toxicity study, an increase in skeletal malformations was seen in the offspring of rats orally administered 64 mg/kg/day on days 6 through 19 of gestation. EPA believes that there is sufficient evidence for listing dicamba on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

73. *Dichloran (2,6-Dichloro-4-nitroaniline)* (CAS No. 000099-30-9) (FIFRA AI) (Ref. 3). Dichloran, an aniline, is a potential inducer of methemoglobinemia. Either single or repeated oral doses of dichloran produced enlarged livers and induction of microsomal enzymes in the rat. Dogs fed 21 mg/kg/day had increases in serum transaminases. In Rhesus monkeys, where dichloran does not induce hepatic enzymes, 160 mg/kg/day for 3 months caused hepatic centrilobular fatty infiltration and death. Inhalation exposure to 0.17 mg/L produced elevated cholesterol levels and increased liver weight in a 3–month rabbit study and increased liver weight in a 21–day rat study. In a 2–year mouse study, dietary administration of 102.7 mg/kg/day (LOEL) produced centrilobular hepatocyte enlargement, focal necrosis, acute inflammatory cell infiltration, vacuolization of centrilobular hepatocytes, increased weight of the liver and increased incidence of erythropoiesis in males. The NOEL was 30 mg/kg/day. EPA believes that there is sufficient evidence for listing dichloran on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

74. *3,3'-Dichlorobenzidine dihydrochloride* (CAS No. 000612-83-9) (TSCA) (Ref. 8). IARC has classified 3,3'dichlorobenzidine (o-dichlorobenzidine) as a group 2B compound, i.e. this chemical is possibly carcinogenic in humans. IARC uses the generic name 3,3'-dichlorobenzidine interchangeably with 3,3'-dichlorobenzidine dihydrochloride. The dihydrochloride salt of 3,3'-dichlorobenzidine is expected to be equally as toxic as the free base (3,3'-dichlorobenzidine). EPA believes that there is sufficient evidence for listing 3,3'-dichlorobenzidine dihydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans.

75. *3,3'-Dichlorobenzidine sulfate* (CAS No. 064969-34-2) (TSCA) (Ref. 8). IARC has classified 3,3'-dichlorobenzidine (o-dichlorobenzidine) as a group 2B compound, i.e. this chemical is possibly carcinogenic in humans. The sulfate salt of 3,3'dichlorobenzidine is expected to be equally as toxic as the free base (3,3'-dichlorobenzidine). EPA believes that there is sufficient evidence for listing 3,3'-dichlorobenzidine sulfate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans.

76. *trans-1,4-Dichloro-2-butene* (CAS No. 000110-57-6) (EPCRA EHS) (Ref. 8). Mortality in two of six rats was observed following inhalational exposure to 62 ppm (0.34 mg/L) for 4 hours. An acute inhalation LC_{50} in rats was 86 ppm (0.44 mg/L). EPA's exposure analysis indicates that trans-1,4-dichloro-2-butene concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing trans-1,4-dichloro-2-butene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

77. *Dichloromethylphenylsilane* (CAS No. 000149-74-6) (EPCRA EHS) (Ref. 8). As a class, chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. The 2–hour mouse inhalation LC_{50} value for dichloromethylphenylsilane is 0.17 mg/L. EPA's exposure analysis indicates

that dichloromethylphenylsilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing dichloromethylphenylsilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

78. *Dichlorophene (2,2'-methylenebis(4-chlorophenol)* (CAS No. 000097-23-4) (FIFRA AI) (Ref. 3). Increased incidence of microphthalmia was observed in the offspring of rats administered 25 mg/kg/day (teratogenic LOEL). The NOEL was 5.0 mg/kg/day. A dose of 75 mg/kg/day (fetotoxic LOEL) produced delayed ossification of vertebral centra and sternaebrae, reduced body weight and length, and increased resorptions in rat fetuses. The fetotoxic NOEL was 5.0 mg/kg/day. No other developmental studies were available. EPA believes that there is sufficient evidence for listing dichlorophene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data.

Aquatic acute toxicity values for dichlorophene include a measured 48–hour LC_{50} of 50 ppb for Spicodioptomus (calanoid copipod). EPA believes that there is sufficient evidence for listing dichlorophene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

79. *trans-1,3-Dichloropropene* (CAS No. 010061-02-6) (CERCLA; CWA PPL) (Ref. 8). Clinical reports have documented the occurrence of histiocytic lymphoma in two firemen and acute myelomonocytic leukemia in a farmer exposed accidently to 1,3-dichloropropene. Information on the isomer or isomer mixture (i.e., trans/cis isomers) was not specified. The lymphoma and leukemia were refractory to treatment, and all three men died. There is evidence that 1,3-dichloropropene may cause cancer in rats and mice after oral exposure. In a 2–year gavage study, rats treated with 25 or 50 mg/kg/day 1,3-dichloropropene (53 percent cis isomer, 45 percent trans isomer, 1 percent epichlorhydrin) developed squamous cell papillomas and carcinomas of the forestomach. Male rats also developed neoplastic nodules of the liver. Female mice that received 50 or 100 mg/kg/day developed squamous cell papillomas and carcinomas of the forestomach, transitional cell carcinomas of the urinary bladder, and an increased incidence of alveolar/bronchiolar adenomas. A statistically significant increase in bronchioalveolar adenomas was noted in male mice exposed to 60 ppm (272 mg/L) 1,3-dichloropropene vapors (50 percent cis isomer, 43 percent trans isomer). This benign lung tumor was not seen in female mice or in male or female rats. IARC assigned 1,3-dichloropropene to Group 2B, i.e., possibly carcinogenic in humans. EPA believes that there is sufficient evidence for listing trans-1,3-dichloropropene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for 1,3-dichloropropene (unspecified isomer).

80. *Diclofop methyl (2-[4-(2,4-dichlorophenoxy) phenoxy]propanoic acid, methyl ester)* (CAS No. 051338-27-3) (FIFRA AI) (Ref. 3). In a rat teratology study, increased resorptions, reduced body weights, and dilation of the renal pelvis or distension of the ureter in offspring were reported in rats fed 1.6 mg/kg/day (LOEL). The NOEL was 0.5 mg/kg/day. Increased pup mortality was observed at 5 mg/kg/day (LOEL) in a 3-generation rat reproduction study. The NOEL was 1.5 mg/kg/day.

In a 30–day rat feeding study, increased relative heart, liver, and kidney weights were observed at the LOEL of 4 mg/kg/day. No NOEL was established. Jaundice, increased bilirubin, increased serum glutamic-pyruvic transaminase and serum glutamic-oxaloacetic transaminase, and increased liver and kidney weights were observed in a 30–day dog feeding study at 50 mg/kg/day. The NOEL was 12.5 mg/kg/day. In a 90–day rat feeding study, elevated liver weights and centrilobular enlargement of hepatic cells were observed at 4 mg/kg/day. The NOEL was 1.6 mg/kg/day. Dogs fed 6.25 mg/kg/day for 90 days had increased lipid content and focal changes in the renal cortex. The NOEL was 2 mg/kg/day. EPA believes that there is sufficient evidence for listing diclofop methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental, hepatic, and renal toxicity data.

81. *Dicyclopentadiene* (CAS No. 000077-73-6) (TSCA) (Ref. 8). Convulsions were reported in rats or mice following inhalation of dicyclopentadiene at dosage levels of 332 or 145 ppm (1.8 or 0.78 mg/L), respectively, for 1 or 2 days. The reported acute oral LD_{50} in rats is 353 mg/kg. Animals at this dose level had convulsions and muscle weakness. In a 90–day inhalation study in dogs, neurotoxic symptoms observed included diarrhea, excessive salivation and lack of control of hind quarters. The NOAEL in this study was 8.9 ppm (0.048 mg/L); no LOEL was reported. EPA believes that there is sufficient evidence for listing dicyclopentadiene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity data for this chemical.

82. *Diethatyl ethyl* (CAS No. 038727-55-8) (FIFRA AI) (Ref. 3). In a 2–year study, groups of six beagles/sex were given doses orally from 0 to 31.25 mg/kg/day. The lowest dose (0.25 mg/kg/day) produced a positive Coombs test. EPA believes that there is sufficient evidence for listing diethatyl ethyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data for this chemical.

83. *Diflubenzuron* (CAS No. 035367-38-5) (FIFRA SR) (Ref. 8). In a 2–year study in which beagle dogs received diflubenzuron daily in gelatin capsules, the LOAEL for increases in sulfhemoglobin and methemoglobin was 10 mg/kg/day and the NOAEL was 2 mg/kg/day. EPA has derived an oral RfD of 0.02 mg/kg/day for this chemical from this study. Similar effects were noted in two separate 2–year rat feeding studies (the LOAEL was 7.8 to 8 mg/kg/day; the NOAEL was 2 mg/kg/day), and in a lifetime oral study in mice (the LOAEL was 12 mg/kg/day; the NOAEL was 2.4 mg/kg/day). EPA believes that there is sufficient evidence for listing diflubenzuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data.

Measured aquatic acute toxicity data for diflubenzuron include a 48–hour LC_{50} of 4.55 ppb for daphnids. EPA believes that there is sufficient evidence for listing diflubenzuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

84. *Diglycidyl resorcinol ether* (CAS No. 000101-90-6) (IARC; NTP) (Ref. 8). Diglycidyl resorcinol ether is classified by IARC as a Group 2B compound, i.e., it is possibly carcinogenic in humans. In an NTP bioassay, rats orally administered 12 mg/kg of diglycidyl resorcinol ether 5 days a week for 103 weeks developed squamous cell papillomas and squamous cell carcinomas of the stomach. Mice orally administered 50 mg/kg 5 days a week for 103 weeks developed squamous cell carcinomas and squamous cell papillomas of the stomach. Mice orally administered 70.5 mg/kg/day of diglycidyl resorcinol ether for 2 years developed blood lymphomas and Hodgkin's disease. Mice receiving

dermal applications of diglycidyl resorcinol ether for 1–year developed skin tumors. EPA believes that there is sufficient evidence for listing diglycidyl resorcinol ether on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

85. *Dimethipin (2,3,-Dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide)* (CAS No. 055290-64-7) (FIFRA AI) (Ref. 3). In a 1–year dog feeding study, decreased erythrocyte, hemoglobin, and hematocrit levels as well as increased platelet levels were observed at 75 mg/kg/day. The LOEL for systemic toxicity based on decreased body weight was 7.5 mg/kg/day. No NOEL could be established. In a 2–year rat feeding study, increased absolute and relative liver weights were observed at 10 mg/kg/day (LOEL). The NOEL was 2 mg/kg/day. Based on the NOEL in the study, EPA established an oral RfD of 0.02 mg/kg/day. EPA believes that there is sufficient evidence for listing dimethipin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological and hepatic toxicity data.

86. *Dimethoate* (CAS No. 000060-51-5) (CERCLA; EPCRA EHS; FIFRA SR; RCRA APP8; RCRA P) (Ref. 8). Dimethoate is an organophosphate insecticide. In humans, dimethoate causes typical symptoms of cholinesterase inhibition (sweating, diarrhea, salivation, headache, difficulty in breathing, etc.). In a controlled human study, subjects were administered dimethoate for 57 days. Whole blood and erythrocyte cholinesterase inhibition was observed from day 20 on. The NOEL was 0.202 mg/kg/day, and the LOEL was 0.434 mg/kg/day. In another study in which humans were administered dimethoate for 57 days, the NOEL for cholinesterase inhibition was 15 mg/day (0.2 mg/kg based on a 70 kg person). The LOEL was not specified. Cholinergic symptoms reflective of cholinesterase inhibition following dimethoate administration have also been observed in laboratory animals. A 2–year feeding study in rats determined the NOEL and LOEL for plasma and brain cholinesterase inhibition to be 0.05 and 0.5 mg/kg/day, respectively.

Dimethoate was tested for developmental effects in Wistar rats. Cygon 4E (47.3 percent dimethoate, 52.7 percent unspecified constituents) was administered to pregnant females on days 6 to 15 of gestation. The NOEL for developmental effects was 6 mg/kg/day. At a LOEL of 12 mg/kg/day, an increase in the incidence of wavy ribs was observed in the fetuses. An increase in offspring mortality occurred in a five-generation chronic feeding study (actual doses were 9.5 to 10.5 mg/kg/day) in male and female CD-1 mice. At 12 mg/kg/day (120 mg/kg, gestation days 6 to 15), musculoskeletal abnormalities were observed in the rat offspring. EPA believes that there is sufficient evidence for listing dimethoate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental and neurotoxicity data for this chemical.

87. *3,3'-Dimethoxybenzidine dihydrochloride (o-Dianisidine dihydrochloride)* (CAS No. 020325-40-0) (TSCA) (Ref. 8). IARC has classified 3,3'-dimethoxybenzidine (o-dianisidine) as a Group 2B compound, i.e., this chemical is possibly carcinogenic. In an NTP carcinogenicity bioassay, increases in neoplasms of the skin, oral cavity, large intestine, liver, uterus, and cervix were noted in rats administered this chemical in drinking water at dose levels of 6, 12, or 21 mg/kg/day in males and 7, 14, or 23 mg/kg/day in females. The dihydrochloride salt of o-dianisidine is expected to be equally as toxic as the free base (o-dianisidine). EPA believes that there is sufficient evidence for listing 3,3'-dimethoxybenzidine dihydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans.

88. *3,3'-Dimethoxybenzidine hydrochloride (o-Dianisidine hydrochloride)* (CAS No. 111984-09-9) (TSCA) (Ref. 8). IARC has classified 3,3'-dimethoxybenzidine (o-dianisidine) as a Group 2B compound, i.e., this chemical is possibly carcinogenic. In an NTP carcinogenicity bioassay, increases in neoplasms of the skin, oral cavity, large intestine, liver, uterus and cervix were noted in rats administered this chemical in drinking water at dose levels of 6, 12, or 21 mg/kg/day in males and 7, 14, or 23 mg/kg/day in females. The hydrochloride salt of o-dianisidine is expected to be equally as toxic as the free base (o-dianisidine). EPA believes that there is sufficient evidence for listing 3,3'dimethoxybenzidine hydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans.

89. *Dimethylamine* (CAS No. 000124-40-3) (TSCA) (Ref. 8). Dimethylamine is corrosive to the mucous membranes, respiratory tract and eyes of treated animals. B6C3F1 mice and F344 rats exposed to 10 to 175 ppm (0.018 to 0.32 mg/L) dimethylamine via inhalation for 6 to 12 months developed dose-related lesions in the respiratory and olfactory epithelium. Significant decreases in body weight occurred in high-dose (175 ppm; 0.32 mg/L) animals of both species, and some of the high-dose mice died following exposure.

Centrilobular fatty degeneration and necrosis of parenchymal cells were reported in mice, rats, rabbits or guinea pigs administered 97 or 183 ppm (0.18 or 0.34 mg/L) dimethylamine via inhalation for 18 to 20 weeks. Increased liver weight without any histopathological changes were reported following 8–month oral exposure of rats to 0.35 mg/kg/day and guinea pigs exposed to 3.5 mg/kg/day.

Rats administered oral doses of dimethylamine as low as 0.035 mg/kg for 8 months exhibited changes in conditional reflexes including marked attenuation of the excitation process and speedier extinction of the positive reflex.

EPA believes that there is sufficient evidence for listing dimethylamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic respiratory, hepatic, and neurological toxicity of this chemical.

90. *Dimethylamine dicamba* (CAS No. 002300-66-5) (FIFRA AI) (Ref. 3). In a pilot rabbit developmental toxicity study, an increase in early and late fetal resorptions was observed in animals receiving the LOEL of 1.0 mg/kg/day. The NOEL was 0.5 mg/kg/day (oral doses, days 6 to 18 of gestation). In another study, increased post-implantation loss was observed in rabbits receiving the LOEL of 10 mg/kg/day (oral doses, days 6 to 18 of gestation). Developmental toxicity was also observed at doses of 10 mg/kg/day in studies with dicamba. EPA believes that there is sufficient evidence for listing dimethylamine dicamba on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

91. *3,3'-Dimethylbenzidine dihydrochloride* (o-Tolidine dihydrochloride) (CAS No. 000612-82-8) (TSCA) (Ref. 8). In a bioassay conducted by NTP, 3,3'-dimethylbenzidine dihydrochloride was found to be carcinogenic in both mice and rats. Male and female mice exposed to concentrations of 5 to 140 ppm (0.95 to 26.6 mg/kg/day) in drinking water for 112 weeks developed lung alveolar cell adenoma and adenocarcinoma. Male and female F344 rats exposed to concentrations of 30 to 150 ppm (4.2 to 21 mg/kg/day) in drinking water for 60 to 61 weeks developed tumors in the gastrointestinal tract, liver, lung and oral cavity. Tumors in the skin, Zymbal's gland, preputial gland in males, clitoral gland and mammary

gland in females, and leukemia in females were also noted in this study. EPA believes that there is sufficient evidence for listing 3,3'-dimethylbenzidine dihydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans.

92. *3,3'-Dimethylbenzidine dihydrofluoride (o-Tolidine dihydrofluoride)* (CAS No. 041766-75-0) (TSCA) (Ref. 8). Neither IARC or EPA has classified 3,3'-dimethylbenzidine dihydrofluoride with respect to carcinogenicity. In a bioassay conducted by NTP, however, 3,3'-dimethylbenzidine dihydrochloride was found to be carcinogenic in both mice and rats. Male and female mice exposed to concentrations of 5 to 140 ppm (0.952 to 6.6 mg/kg/day) in drinking water for 112 weeks developed lung alveolar cell adenoma and adenocarcinoma. Male and female F344 rats exposed to concentrations of 30 to 150 ppm (4.2 to 21 mg/kg/day) in drinking water for 60 to 61 weeks developed tumors in the gastrointestinal tract, liver, lung, and oral cavity. Tumors in the skin, Zymbal's gland, preputial gland in males, clitoral gland and mammary gland in females, and leukemia in females were also noted in this study. EPA believes that there is sufficient evidence for listing 3,3'-dimethylbenzidine dihydrofluoride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer in humans and on the carcinogenicity data for 3,3'-dimethylbenzidine dihydrochloride.

93. *Dimethyl chlorothiophosphate* (CAS. No. 002524-03-0) (EPCRA EHS) (Ref. 8). In a dominant lethal study, male rats were administered dimethyl chlorothiophosphate by gavage for 5 consecutive days and mated to untreated females. The LOEL of 7.5 mg/kg/day was determined based on an increase in preimplantation losses and dead implants. No NOEL for dimethyl chlorothiophosphate was determined from this study. EPA believes that there is sufficient evidence for listing dimethyl chlorothiophosphate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for this chemical.

94. *Dimethyldichlorosilane* (CAS No. 000075-78-5) (CERCLA; EPCRA EHS) (Ref. 8). As a class, however, chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. Dimethyldichlorosilane causes severe burns and the vapor is harmful to humans. The 2–hour mouse inhalation LC_{50} value is 0.30 mg/L. EPA's exposure analysis indicates that dimethyldichlorosilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing dimethyldichlorosilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

95. *N,N-Dimethylformamide* (CAS No. 000068-12-2) (CAA HAP) (Ref. 7). In humans, N,N-dimethylformamide (DMF) produced an increase in subjective symptoms suggestive of mild liver dysfunction in workers and changes in objective measurements of liver damage (serum enzymes and liver enlargement) via inhalation exposure, resulting in a LOAEL of 22 mg/m3 (adjusted LOAEL of 7.9 mg/m3)). Although there are several additional studies which are generally inadequate when considered individually, taken together, these studies demonstrate that DMF exposure is associated with hepatic toxicity in humans. Several animal inhalation studies further support the hepatotoxic effects of DMF. EPA believes that there is sufficient evidence for listing N,N-dimethylformamide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based upon the available hepatotoxicity data for this chemical.

96. *2,6-Dimethylphenol* (000576-26-1) (TSCA) (Ref. 8). Oral administration of 2,6-dimethylphenol to rats for 8 months produced histologic lesions (the LOEL was 6.0 mg/kg/day; the NOEL was 0.6 mg/kg/day) in the liver, kidneys, and spleen. Another supporting oral study in rats that also reported histological lesions in the liver and kidneys (the LOEL was 6.0 mg/kg/day; the NOEL was 0.06 mg/kg/day) of rats following subchronic oral administration of 2,6-dimethylphenol. EPA believes that there is sufficient evidence for listing 2,6-dimethylphenol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatotoxicity and nephrotoxicity data for this chemical.

97. *Dinocap* (CAS No. 039300-45-3) (CAL; FIFRA SR) (Ref. 8). Dinocap is a dinitrophenyl-type fungicide. In mice, oral administration of 25 mg/kg/day of dinocap on days 7 to 16 of gestation has been shown to increase post-implantation mortality and reduce newborn viability. Oral administration of 5.0 mg/kg/day to pregnant mice produced developmental toxicity in the offspring (administration of 10 mg/kg/day resulted in abnormalities of the musculoskeletal and hepatobiliary system in the offspring). In the same study, oral administration of 20 mg/kg/day on days 7 to 16 of gestation produced craniofacial abnormalities in offspring. In the same study, behavioral abnormalities and delayed growth were observed in offspring of mice receiving 12 mg/kg/day on days 7 to 16 of gestation. EPA believes that there is sufficient evidence for listing dinocap on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for this chemical.

Measured aquatic acute toxicity data for dinocap indicate that the LC_{50} for rainbow trout is 15 ppb and the LC_{50} for bluegill is 20 ppb. EPA believes that there is sufficient evidence for listing dinocap on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

98. *Dinoseb* (CAS No. 000088-85-7) (CAL; EPCRA EHS; FIFRA SR; RCRA APP8; RCRA P; SDWA) (Ref. 8). Dinoseb is a dinitrophenyl-type herbicide and insecticide. In a three generation reproduction study dinoseb produced decreased pup weights (the LOEL was 1 mg/kg/day; the NOEL was not determined) in the F_{1b}, F_{2a}, and F_{3a} pups. The F_{1b} pup weights diminished (combined sexes) by day 21 at dose levels greater than 1 mg/kg/day. Other studies have shown biologically and statistically significant increases in developmental malformations and/or anomalies (the LOEL was 10 mg/kg/day; the NOEL was 3 mg/kg/day), and an increased incidence of an absence of ossification for a number of skeletal sites and supernumerary ribs (the LOEL was not specified; the NOEL was 3 mg/kg/day). Dinoseb administered by gavage to rabbits from days 6 to 18 of gestation produced neural tube defects (the LOEL was 10 mg/kg/day; the NOEL was 3 mg/kg/day).

The fertility index in male rats was reduced in a reproductive study in animals fed dinoseb at dose levels of 15.6 mg/kg/day or 22.2 mg/kg/day over an 11–week period. Decreased seminal vesicle weight, decreased sperm count and increased incidence of abnormal sperm were noted at dose levels of 9.1 mg/kg/day and higher. The NOEL was 3.8 mg/kg/day.

EPA believes that there is sufficient evidence for listing dinoseb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental and reproductive toxicity data for this chemical.

Aquatic acute toxicity data for dinoseb include a measured fat-head minnow 96–hour LC_{50} of 88 ppb. EPA

believes that there is sufficient evidence for listing dinoseb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

99. *Diphenamid* (CAS No. 000957-51-7) (FIFRA SR) (Ref. 8). Diphenamid is a diphenylacetamide-type herbicide. In a 2–year study in dogs fed diphenamid, an increase in liver weight and an increase in portal macrophages and fibroblasts were seen at the LOEL of 10 mg/kg/day. The NOEL was 3 mg/kg/day. Based on the NOEL, an RfD of 0.03 mg/kg/day was derived. In a 2–year study in rats fed diphenamid, an increase in liver weight was seen at the LOEL of 30 mg/kg/day; the NOEL was 10 mg/kg/day. Although, no histopathological changes were reported in these studies, biochemical changes accompanied by histo-pathological changes were observed in a 2–generation study in rat pups. EPA believes that there is sufficient evidence for listing diphenamid on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatotoxicity data for this chemical.

100. *Diphenylamine* (CAS No. 000122-39-4) (RCRA APP8) (Ref. 8). Increased liver and kidney weights were noted in dogs that received 25 mg/kg/day (the LOAEL) of diphenylamine in their feed for 2 years. The NOAEL in this study was 2.5 mg/kg/day and the oral RfD was 0.025 mg/kg/day. Pronounced anemia and decreased body weight gain were also noted in these animals. The hepatotoxicity induced by diphenylamine is manifested by peripherolobular fat changes and increased lipids. Vacuolar degeneration and hepatocyte necrosis were reported in rats or guinea pigs that received 2 or 4 percent (i.e., 1,000 or 2,000 mg/kg/day for rats and 800 to 1,600 mg/kg/day for guinea pigs) of diphenylamine in the diet for 6 months. In another 2–year rat study, changes reported in the kidney in diphenylamine-fed animals included epithelial necrosis in the proximal tubule, cystic dilatation of tubules, and interstitial inflammation.

EPA believes that there is sufficient evidence for listing diphenylamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic hepatic and renal toxicity data for this chemical.

101. *Dipotassium endothall (7-oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid, dipotassium salt)* (CAS No. 002164-07-0) (FIFRA AI) (Ref. 3). In a 2–year dog feeding study, increased absolute and relative weight of the stomach and small intestine was observed at 6 mg/kg/day (LOEL). The NOEL was 2 mg/kg/day. An oral RfD of 0.02 mg/kg/day was derived based on the NOEL. EPA believes that there is sufficient evidence for listing dipossium endothall on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for this chemical.

102. *Dipropyl isocinchomeronate* (CAS No. 000136-45-8) (FIFRA AI) (Ref. 3). Dipropyl isocinchomeronate has been classified by EPA as a Group B2 compound, i.e., a probable human carcinogen. This classification is based on the findings of multiple malignant and benign tumors in the rat (liver adenomas and carcinomas in both sexes, kidney carcinomas in both sexes, benign testes tumors in males and uterine tumors in females), and multiple malignant tumors in the mouse (liver adenomas and carcinomas in both sexes and lung/bronchiolar adenomas and carcinomas in males). EPA believes that there is sufficient evidence for listing dipropyl isocinchomeronate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity toxicity data.

103. *Disodium cyanodithioimidocarbonate* (CAS No. 000138-93-2) (FIFRA AI) (Ref. 3). Rats administered disodium cyanodithioimidocarbonate by gavage on gestation days 6 to 15 demonstrated increased skeletal variations in offspring. The NOEL is 6 mg/kg, and the LOEL is 18 mg/kg. In a rabbit teratology study, increased resorptions were observed in rabbits administered the compound by gavage on gestation days 6 to 18. The NOEL is 3 mg/kg, and the LOEL is 10 mg/kg. EPA believes that there is sufficient evidence for listing disodium cyanodithioimidocarbonate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data.

104. *2,4-D isopropyl ester* (CAS No. 000094-11-1) (CERCLA; FIFRA AI: IARC) (Ref. 8). 2,4-D isopropyl ester is a 2,4-dichlorophenoxy-type herbicide. In mammals, the isopropyl ester of 2,4-D is hydrolyzed to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D isopropyl ester is expected to be similar to that of 2,4-D, in which the kidney, liver, and nervous system are the primary targets of injury. 2,4-D is presently included in the EPCRA section 313 list of toxic chemicals. EPA believes that there is sufficient evidence for listing 2,4-D isopropyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the known toxic effects of its metabolite 2,4-D.

105. *2,4-Dithiobiuret* (CAS No. 000541-53-7) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). In experimental animals, 2,4-dithiobiuret is a highly toxic substance that causes death through respiratory depression and respiratory failure. Rats receiving 1 mg/kg/day for 6 days suffered from delayed onset of neuromuscular depression. Rats given 2,4-dithiobiuret for 52 days showed signs of muscle weakness after a latency period of 3 to 4 days. The NOEL was determined to be 0.125 mg/kg/day. The LOEL was 0.25 mg/kg/day. The cause of the muscle weakness was depressed neuromuscular transmission. EPA believes that there is sufficient evidence for listing 2,4-dithiobiuret on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity data for this chemical.

106. *Dithiopyr (2-(difluoromethyl)-4-(2-methylpropyl)-6-(trifluoromethyl)-3,5-pyridinedicarbothioic acid S,S-dimethyl ester)* (CAS No. 097886-45-8) (FIFRA AI) (Ref. 3). In a 2-generation rat reproduction study, decreased body weight, diffuse hepatocellular swelling, and "white spots" on the livers were observed in the offspring of rats administered greater than or equal to 16.4 mg/kg/day. The NOEL values were 1.7 mg/kg/day. In a 13–week rat feeding study, the LOEL of 6.62 mg/kg/day produced diffuse hepatocellular swelling. The NOEL was 0.662 mg/kg/day. In a 13-week dog feeding study, increased alkaline phosphatase, discolored livers, and cholestasis was observed at 10 mg/kg/day (LOEL). The NOEL was 1 mg/kg/day. In addition, at 30 mg/kg/day, increased serum glutamic-pyruvic transaminase and serum glutamic oxaloacetic transaminase, increased liver and kidney weights, and decreased cholesterol and albumin were observed. EPA believes that there is sufficient evidence for listing dithiopyr on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data.

107. *Diuron* (CAS No. 000330-54-1) (CERCLA) (Ref. 8). In a 2–year study in dogs administered diuron, sulfhemoglobin (an abnormal blood pigment) was detected following doses as low as 3.125 mg/kg/day (LOAEL). The NOAEL was 0.625 mg/kg/day. Higher doses (6.25 and 31.25 mg/kg/day) caused decreased red blood cell, hemoglobin, and hematocrit values. The highest dose tested (31.25 mg/kg/day) also caused an increase in erythrogenic activity in the bone marrow, hemosiderosis in the spleen, increased liver weight, and body weight loss. EPA has derived an oral RfD of 0.002 mg/kg/day for this chemical from this study. Similar effects (anemia, increased erythrogenic activity in the bone

marrow, and abnormal pigments in the blood) were also observed in rats exposed orally to doses as low as 6.25 mg/kg/day for 2 years, or to 250 mg/kg/day for 90 days. In a 7–week study, rats receiving diuron doses of greater than or equal to 10 mg/kg/day had decreased red blood cells and significantly increased methemoglobinemia.

Offspring of Wistar rats fed diuron during days 6 to 15 of gestation showed developmental toxicity, that included malformed ribs, extra ribs, and delayed ossification. The developmental LOAEL in this study was 100 mg/kg/day. No NOAEL was determined. Maternal and fetal body weights decreased at 400 mg/kg/day. In a three-generation reproduction study in rats fed diuron at 6.25 mg/kg/day, decreased body weights were reported in the F_{2b} and F_{3a} litters.

EPA believes that there is sufficient evidence for listing diuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological and developmental toxicity data for this chemical.

The measured aquatic toxicity data for diuron includes a 1.5–hour EC_{50} of 0.010 ppm (10 ppb) for marine green algae. EPA believes that there is sufficient evidence for listing diuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

108. *2,4-D 2-octyl ester* (CAS No. 001917-97-1) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D 2-octyl ester is a 2,4-dichlorophenoxy-type herbicide. The 2-octyl moiety contains eight carbons and, therefore, is an isooctyl group.

Developmental toxicity following maternal exposure to 2,4-D isooctyl esters has been demonstrated in the rat and mouse. Fetotoxicity occurred in offspring of rats exposed to 528 mg/kg during gestation days 8 to 11. Rats orally exposed to doses as low as 302 mg/kg during gestation days 9 through 12 had musculoskeletal abnormalities. Exposure to a lower dose (188 mg/kg) for a longer period during gestation (days 6 through 15) caused developmental effects on homeostasis and effects on newborn growth statistics. In mice, 438 mg/kg administered orally during gestation days 8 through 12 also caused effects on newborn growth statistics.

EPA believes that there is sufficient evidence for listing 2,4-D 2-octyl ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for 2,4-D isooctyl esters, and the toxic effects of its metabolite 2,4-D.

The aquatic acute toxicity data for 2,4-D isooctyl esters include a measured 48–hour LC_{50} of 8.8 ppm for bluegill. In addition, 2,4-D isooctyl esters are expected to bioaccumulate based on the estimated log K_{ow} of 6.6. EPA believes that there is sufficient evidence for listing 2,4-D isooctyl esters on EPCRA section 313 pursuant to section EPCRA 313(d)(2)(C) based on the available environmental toxicity data and the potential for bioaccumulation.

109. *Dodine (dodecylguanidine monoacetate)* (CAS No. 002439-10-3) (FIFRA AI) (Ref. 3). Aquatic acute toxicity values for dodine include a daphnid 48–hour EC_{50} of 17.8 ppb. EPA believes that there is sufficient evidence for listing dodine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

110. *2,4-DP (dichlorprop)* (CAS No. 000120-36-5) (FIFRA SR; IARC) (Ref. 8). 2,4-DP (2-(2,4-dichlorophenoxy)propionic acid) is a 2,4-dichlorophenoxy-type herbicide. Developmental toxicity has been reported in rats and mice administered oral doses of 2,4-DP as low as 20 mg/kg during gestation days 4 through 18. Behavioral changes and physical effects were observed in newborn rats, while increased post-implantation loss was observed in the mothers. Exposure of mice to much higher doses (3,000 and 4,000 mg/kg) for shorter durations (i.e., gestation days 6 through 15) caused musculoskeletal abnormalities and fetotoxicity.

EPA believes that there is sufficient evidence for listing 2,4-DP on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

111. *2,4-D propylene glycol butyl ether ester* (CAS No. 001320-18-9) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D propylene glycol butyl ether ester is a 2,4-dichlorophenoxy-type herbicide. In mammals, the propylene glycol butyl ether ester is expected to hydrolyze to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D propylene glycol butyl ether ester is expected to be similar to that of 2,4-D, in which the kidney, liver, and nervous system are the primary targets of injury. EPA believes that there is sufficient evidence for listing 2,4-D propylene glycol butyl ether ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxicity data for this chemical.

112. *2,4-D sodium salt* (CAS No. 002702-72-9) (CERCLA; FIFRA AI; IARC) (Ref. 8). 2,4-D sodium salt is a 2,4-dichlorophenoxy-type herbicide. In mammals, the sodium salt is expected to hydrolyze to yield the free acid, 2,4-D. Therefore, the toxicity of 2,4-D sodium salt is expected to be similar to that of 2,4-D, in which the kidney, liver, and nervous system are the primary targets of injury. 2,4-D is presently included in the EPCRA section 313 list of toxic chemicals. EPA believes that there is sufficient evidence for listing 2,4-D sodium salt ester on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the systemic toxicity data for this chemical.

113. *Ethoprop (phosphorodithioic acid O-ethyl S,S-dipropyl ester)* (CAS No. 013194-48-4) (FIFRA AI) (Ref. 3). Ethoprop is acutely toxic to animals. The acute oral LD_{50} in rats is 5.62 mg/kg/day. Clinical signs of toxicity observed in animals at this dose level included depression, salivation, inactivity, convulsions and prostration. Similar signs were reported at the 4–hour inhalation LC_{50} of 0.12 mg/L in rats. In a 2–year rat chronic feeding study, plasma, red blood cell, and brain cholinesterase inhibition were observed in both sexes at 0.5 mg/kg/day. The NOEL was 0.05 mg/kg/day. Similar results were reported in a chronic dietary study in mice at 0.1 mg/kg/day. The NOEL was 0.01 mg/kg/day. The two chronic studies together with the results of acute studies indicate the potential neurotoxicity of ethoprop. EPA believes that there is sufficient evidence for listing ethoprop on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

Aquatic acute toxicity values for ethoprop include a mysid 96–hour LC_{50} of 7.5 ppb, a shrimp 96–hour LC_{50} of 13 ppb, and a daphnid 48–hour EC_{50} of 93 ppb. Avian acute and dietary toxicity data include a ring-necked pheasant 14–day LD_{50} of 4.2 mg/kg and a mallard duck 14–day LD_{50} of 12.6 mg/kg. EPA believes that there is sufficient evidence for listing ethoprop on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

114. *Ethyl dipropylthiocarbamate (EPTC)* (CAS No. 000759-94-4) (FIFRA AI) (Ref. 3). EPTC is a cholinesterase inhibitor. Workers exposed to EPTC complained of headache, malaise, nausea, and impaired working ability. Poisoned animals exhibited salivation, lacrimation, blepharospasm, and depression. Neuropathy was observed in rats orally administered 25 mg/kg/day for 2 years. The LOEL was 25 mg/kg/day and the NOEL was 5 mg/kg/day. Decreased brain cholinesterase activity was observed in female rats orally administered 15 mg/kg/day (LOEL). The

NOEL was 3 mg/kg/day. The 4-hour inhalation rat and cat lowest-lethal-concentration values are 0.2 mg/L and 0.4 mg/L, respectively. Somnolence and salivation were observed in exposed animals. The dermal rabbit LD_{50} is 10,000 mg/kg. Depressed righting reflexes, prostration, and clonic convulsions were observed.

In a 2–year dietary rat study, degenerative cardiomyopathy was observed in males receiving 9 mg/kg/day of EPTC. No NOEL was established. This effect was observed in females at 36 mg/kg/day. The NOEL was 18 mg/kg/day. In a 2-generation rat reproduction study, parental toxicity included cardiomyopathy observed in rats orally administered 10 mg/kg/day. Based on the NOEL of 2.5 mg/kg/day, EPA derived an oral RfD of 0.025 mg/kg/day. In a 2–year dietary rat study, chronic myocarditis was observed at the LOEL of 125 mg/kg/day. The NOEL was 25 mg/kg/day.

An increased incidence of fetal resorptions, increased incidence of fetal retardations, and decreased fetal body weights were observed in rats receiving 300 mg/kg/day of EPTC on days 6 to 15 of gestation. The LOEL was 300 mg/kg/day and the NOEL was 100 mg/kg/day. The NOEL was 10 mg/kg/day. In a 2-generation rat reproduction study, decreased pup weight was observed in both generations at 40 mg/kg/day. The NOEL was 10 mg/kg/day.

EPA believes that there is sufficient evidence for listing EPTC on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological, cardiovascular, and reproductive toxicity data for this chemical.

115. *Famphur* (CAS No. 000052-85-7) (CERCLA; FIFRA AI; RCRA APP8; RCRA P) (Ref. 8). Famphur is a thiophosphate-type cholinesterase inhibitor. In a 90–day feeding study, rats given diets supplemented with famphur showed decreased plasma and brain cholinesterase activity at 1.25 mg/kg/day, and decreased whole blood cholinesterase activity at 0.15 mg/kg/day. A bull was treated with famphur for 43 days before signs of neurotoxicity appeared. The symptoms, including paresis of all four limbs, were attributed to focal cervical or diffuse spinal cord lesions. Calves receiving 60.75 mg/kg showed marked inhibition of whole blood cholinesterase. EPA believes that there is sufficient evidence for listing famphur on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity known for this chemical.

Measured terrestrial wildlife acute toxicity data for famphur indicate that the oral LD_{50} values for the redwinged blackbird and the starling are 1.78 mg/kg and 4.22 mg/kg, respectively. In addition, the measured oral LD_{50} for mallard ducks is 3.45 mg/kg (based on 35 percent active ingredient). EPA believes that there is sufficient evidence for listing famphur on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

116. *Fenarimol (.alpha.-(2-chlorophenyl)-.alpha.-4-chlorophenyl)-5-pyrimidinemethanol)* (CAS No. 060168-88-9) (FIFRA AI) (Ref. 3). In a 3–month mouse feeding study, liver weights were increased in males at levels greater than or equal to 620 ppm (80.6 mg/kg/day) and in females at levels greater than 1,100 ppm (143 mg/kg/day). At higher doses (143 to 260 mg/kg/day), decreased total bilirubin, hepatomegaly, and/or periportal fatty liver changes were observed. Mice exposed to dietary levels of 78 mg/kg/day for 1–year had increased liver weight and slight fatty changes. One year feeding studies in Wistar rats also resulted in increased liver weights (the LOEL was 17.5 mg/kg/day; the NOEL was 6.5 mg/kg/day). In a 2–year feeding study with Wistar rats, fatty changes in the liver were observed at 17.5 mg/kg/day (LOEL). The NOEL was 6.5 mg/kg/day. A 2–year feeding study in mice resulted in fatty liver changes. The LOEL was 78 mg/kg/day and the NOEL was 22.1 mg/kg/day. EPA believes that there is sufficient evidence for listing fenarimol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

117. *Fenbutatin oxide (hexakis(2-methyl-2-phenylpropyl)distannoxane)* (CAS No. 013356-08-6) (FIFRA AI) (Ref. 3). In a rat teratology study, the LOEL for developmental toxicity (toxic to zygote) was 60 mg/kg/day and the NOEL was 30 mg/kg/day. In a rabbit teratology study, oral administration of 5 mg/kg/day produced intrauterine lethality and was also toxic to maternal animals. The NOEL was 1 mg/kg/day. In a 3-generation rat reproduction study, administration of 15 mg/kg/day (LOEL) produced decreased viability index. The NOEL was 5 mg/kg/day. EPA believes that there is sufficient evidence for listing fenbutatin oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

Aquatic acute toxicity values for fenbutatin oxide include a rainbow trout 96–hour LC_{50} of 1.7 ppb, a fathead minnow 96–hour LC_{50} of 1.9 ppb, a daphnid 48–hour EC_{50} of 3.1 ppb, a bluegill sunfish 96–hour of LC_{50} of 4.8 ppb, and a sheepshead minnow 96–hour LC_{50} of 20.8 ppb. Avian acute toxicity values include a quail oral LD_{50} of 0.007 mg/kg. EPA believes that there is sufficient evidence for listing fenbutatin oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

118. *Fenoxaprop ethyl (2-(4-((6-chloro-2-benzoxazolylen)oxy)phenoxy)propanoic acid,ethyl ester)* (CAS No. 066441-23-4) (FIFRA AI) (Ref. 3). In a 30–day mouse feeding study, liver weight increases were observed (LOEL 20 ppm or 2.6 mg/kg/day and NOEL 10 ppm or 1.3 mg/kg/day). In a 32–day rat feeding study, changes in the liver and kidney as well as altered lipid metabolism and decreased cholesterol were observed. The LOEL in the rat study was 80 ppm (4 mg/kg/day). The NOEL was 20 ppm (1 mg/kg/day). Inflammatory changes in the kidney (chronic interstitial nephritis) were reported in dogs that received a 3–month feeding of 80 ppm (2 mg/kg/day, the LOEL). The NOEL was 16 ppm or 0.4 mg/kg/day. Decreased serum lipids and cholesterol were reported in rats exposed for 2 years to dietary levels greater than or equal to 180 ppm (9 mg/kg/day, the LOEL). The NOEL in this study was 30 ppm (1.5 mg/kg/day).

In a developmental toxicity study, fetotoxic effects (slightly impaired growth and delayed ossification) were reported at 100 mg/kg/day. The NOEL was 32 mg/kg/day. These effects were observed at doses that were also toxic to maternal animals. In a 2–generation reproductive toxicity feeding study in rats, decreased survival, decreased body weight at study termination, and significant changes in kidney and liver weights were reported in the F_{2a} and F_{2b} litters. The fetotoxic LOEL in this study was 5 ppm (0.25 mg/kg/day, the lowest dose tested). The LOEL and NOEL for maternal toxicity (increased kidney and liver weights) were 80 ppm (4 mg/kg/day) and 30 ppm (1.5 mg/kg/day), respectively. Thus, the fetotoxic effects were observed at doses lower than those that produced maternal toxicity.

EPA believes that there is sufficient evidence for listing fenoxaprop ethyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available renal and developmental toxicity data for this chemical.

Aquatic acute toxicity values for fenoxaprop ethyl include a mysid 96–hour EC_{50} of 98 ppb. EPA believes that there is sufficient evidence for listing fenoxaprop ethyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C)

based on the available environmental toxicity data.

119. *Fenoxycarb (2-(4-phenoxyphenoxy)ethyl]carbamic acid ethyl ester)* (CAS No. 072490-01-8) (FIFRA AI) (Ref. 3). Liver changes (including fatty changes, glycogen depletion, hepatocyte hypertrophy and multinucleated hepatocytes) were reported in mice (the LOEL was 80 mg/kg/day; the NOEL was not determined) and rats (the LOEL was 300 mg/kg/day; the NOEL was 100 mg/kg/day) following 3–month dietary exposures. Dose-related changes in the liver of male rats, including increased relative liver weight, focal necrosis, centrilobular hypertrophy and pigmented histiocytes, were reported after the first year of a 2–year oncogenicity study. The LOEL for these effects was 600 ppm (30 mg/kg/day) and the NOEL was 200 ppm (10 mg/kg/day). Male and female rats exposed to a higher dose (1,800 ppm or 90 mg/kg/day) in this study had increased alkaline phosphatase and reduced platelets and white blood cells, and fibrosis was present in the hepatic lesions in the males.

In a reproduction study in rats, delays in pinna unfolding and eye opening were reported at 10 mg/kg/day.

EPA believes that there is sufficient evidence for listing fenoxycarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and developmental toxicity data for this chemical.

120. *Fenpropathrin (2,2,3,3-tetramethylcyclopropane carboxylic acid cyano(3-phenoxyphenyl)methyl ester)* (CAS No. 039515-41-8) (FIFRA AI) (Ref. 3). In a 1–year feeding study, tremors were noted in dogs exposed to 6.25 mg/kg/day. The NOEL was 2.5 mg/kg/day. In a developmental toxicity study in rats, signs of neurotoxicity reported in the pregnant dams included ataxia, tremors, convulsions, lacrimation, prostration of death. The LOEL for maternal toxicity was 10 mg/kg/day and the NOEL was 6 mg/kg/day. In 2–year dietary studies in rats and mice, body tremors and increased mortality were observed in male rats (the LOEL was 30 mg/kg/day; the NOEL was 22.5 mg/kg/day), whereas only marginally increased hyperactivity was noted in female mice (the LOEL was 65.2 mg/kg/day; the NOEL was 16.2 mg/kg/day). EPA believes that there is sufficient evidence for listing fenpropathrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

Aquatic acute toxicity values for fenpropathrin include a rainbow trout 96–hour LC_{50} of 2.3 ppb, a bluegill 96–hour LC_{50} of 2.2 ppb, a sheepshead minnow 96–hour LC_{50} of 3.1 ppb, and a daphnid 48–hour EC_{50} of 0.53 ppb. EPA believes that there is sufficient evidence for listing fenpropathrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

121. *Fenthion (O,O-dimethyl O-[3-methyl-4-(methylthio) phenyl] ester, phosphorothioic acid)* (CAS No. 000055-38-9) (FIFRA AI) (Ref. 3). In cases of human poisonings from fenthion exposure, reported cholinergic manifestations included the following: A man who ingested 257 mg/kg had an increased pulse rate (no effect on blood pressure) and gastrointestinal symptoms including diarrhea and nausea or vomiting; a woman that ingested 525 mg/kg experienced muscle contraction or spasticity, respiratory depression, and miosis; a woman that ingested an unspecified amount of fenthion did not exhibit the initial cholinergic crisis until 5 days postexposure, and symptoms (primarily psychosis) recurred 24 days later. Similar signs of toxicity, characteristic of organophosphate poisoning, were observed in rats that were fed 300 ppm (15 mg/kg/day). Symptoms reported in these rats included spasms, nervousness, salivation and diarrhea as well as ophthalmological symptoms such as eyeball protrusion and corneal turbidity. LOEL and NOEL values for cholinesterase inhibition from animal studies of various durations include the following: In a 28–day feeding study in rats, the LOEL was 10 ppm (0.5 mg/kg/day) and the NOEL was 5 ppm (0.65 mg/kg/day) for brain cholinesterase inhibition; in another 28–day rat feeding study, plasma and erythrocyte cholinesterase recovered 2 weeks postexposure. The LOEL for cholinesterase inhibition in a 30–day inhalation study in rats was 0.163 mg/L. In a 63–day rat feeding study, significant cholinesterase inhibition occurred by day 3 at 25 mg/kg/day. In a 16–week feeding study in rats, the LOEL for cholinesterase inhibition was 5 ppm in females (0.65 mg/kg/day) and the NOEL was 3 ppm (0.15 mg/kg/day). EPA believes that there is sufficient evidence for listing fenthion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

Aquatic acute toxicity values for fenthion include a daphnid 48–hour LC_{50} of 0.62 ppb for immobilization. Acute toxicity values for other non-standard aquatic invertebrates range from a 48–hour EC_{50} of 0.024 ppb for brown shrimp to a 96–hour EC_{50} of 110 ppb for scud. Avian acute toxicity values include a male mallard duck oral LD_{50} of 5.94 mg/kg, a male bobwhite quail LD_{50} of 4 mg/kg, and a mourning dove oral LD_{50} of 4.63 mg/kg. EPA believes that there is sufficient evidence for listing fenthion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

122. *Fenvalerate (4-chloro-alpha-(1-methylethyl)benzeneacetic acid cyano(3-phenoxyphenyl)methyl ester)* (CAS No. 051630-58-1) (FIFRA AI) (Ref. 3). Excitement and ataxia were observed in rats administered fenvalerate at the oral LD_{50} dose of 70.2 mg/kg. The oral mouse LD_{50} for fenvalerate is 185 mg/kg. Tremor, convulsions, and ataxia were observed in this study. Neurological dysfunctions consisting of jerky leg movements, exaggerated flexion of the hind limb, and unsteady gait were observed in rats fed 7.5 mg/kg/day (LOEL) of fenvalerate for 13 weeks. The NOEL was 2.5 mg/kg/day. Based on the NOEL of the study, EPA derived an oral RfD of 0.0025 mg/kg/day. Peripheral nerve and spinal cord lesions were observed in rats orally administered 360 mg/kg.

In a 6–month dog feeding study, normocytic anemia, increased serum cholesterol levels, and hepatic microgranulomatosis were observed in animals administered fenvalerate at 6.25 mg/kg/day (LOEL). No NOEL was defined. In a 2–year mouse feeding study, multifocal granulomata in the liver was observed in males and females fed fenvalerate at 7.5 and 37.5 mg/kg/day, respectively. The male NOEL was 1.5 mg/kg/day and the female NOEL was 7.5 mg/kg/day. In a 20–month mouse feeding study, decreased erythrocyte count, increased mean cell volume of the blood, and granulomatous changes in the liver were observed at 15 mg/kg/day (LOEL). The NOEL was 4.5 mg/kg/day.

EPA believes that there is sufficient evidence for listing fenvalerate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological, hepatic, and hematological toxicity data for this chemical.

Measured aquatic acute toxicity data for fenvalerate include a bluegill 96–hour LC_{50} of 0.26 ppb, a fathead minnow 96–hour LC_{50} of 0.33 ppb, a rainbow trout 96–hour LC_{50} of 1.2 ppb, an Atlantic salmon 96–hour LC_{50} of 1.2 ppb, and a sheepshead minnow 96–hour LC_{50} of 4.4 ppb. In addition, the 48–hour LC_{50} for daphnids is 0.05 ppb. EPA believes that there is sufficient evidence

for listing fenvalerate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

123. *Ferbam (tris(dimethylcarbamodithioato-S,S')iron)* (CAS No. 014484-64-1) (FIFRA AI) (Ref. 3). In an 80–week feeding study in rats, females fed 96 mg/kg/day had ataxia that progressed to hind limb paralysis. The NOEL was not determined. Symptoms of neurotoxicity reported in mice following acute oral exposure included somnolence, excitement and ataxia, although the doses at which these signs occurred were much higher (the LD_{50} in this study was 3,400 mg/kg). EPA believes that there is sufficient evidence for listing ferbam on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

Aquatic acute toxicity values for ferbam include a daphnid 48–hour LC_{50} of 90 ppb, a 96–hour LC_{50} of 52 ppb for the eastern oyster, and a guppy 96–hour LC_{50} of 90 ppb. EPA believes that there is sufficient evidence for listing ferbam on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

124. *Fluazifop butyl (2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]-phenoxy]propanoic acid, butyl ester)* (CAS No. 069806-50-4) (FIFRA AI) (Ref. 3). A 3–month rat feeding study demonstrated hepatocyte hypertrophy in males (the LOEL was 5 mg/kg/day; the NOEL was 0.5 mg/kg/day). In a 1–year feeding study, dogs had changes in serum alkaline phosphatase and alanine aminotransferase and/or alanine sulfatransferase (the LOEL was 25 mg/kg/day; the NOEL was 5 mg/kg/day). Similar changes were also reported in dogs following 3 months exposure in their diet (the LOEL was 125 mg/kg/day). In a carcinogenicity study, male mice fed 20 ppm (2.6 mg/kg/day, the LOEL) had an increased incidence of hepatocyte hypertrophy. The NOEL was 5 ppm or 0.65 mg/kg/day. Male and female mice exposed to a higher dose of 80 ppm (10.4 mg/kg/day) had increased liver weight (relative and absolute) and hypertrophy of periacinal hepatocytes. Males in this dose group also had increased pigmentation in hepatocytes and Kupffer cells.

In a teratogenicity study in Sprague-Dawley rats exposed via oral gavage, delayed ossification and an increased incidence of hydroureter were observed in fetuses (the fetotoxic LOEL was 5 mg/kg/day; the NOEL 1 mg/kg/day) and a teratogenic LOEL of 200 mg/kg/day (the NOEL was 10 mg/kg/day) was determined based on the incidence of diaphragmatic hernia. Maternal toxicity was observed in this study at doses higher than those causing fetotoxicity and included reduced body weight gain and decreased gravid uterus (the maternal LOEL was 200 mg/kg/day; the NOEL was 10 mg/kg/day). In a 2-generation reproductive toxicity dietary study in Wistar rats, the reproductive LOEL of 250 ppm (12.5 mg/kg/day; the NOEL was 80 ppm or 4 mg/kg/day) was based on reduced litter sizes, reduced viability, reduced testis and epididymis weights and tubular atrophy in offspring. Fetotoxicity (delayed ossification and eye opacities) was also demonstrated in New Zealand White rabbits (the LOEL was 30 mg/kg/day; the NOEL was 10 mg/kg/day). EPA believes that there is sufficient evidence for listing fluazifop butyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and developmental toxicity data for this chemical.

125. *Flumetralin (2-chloro-N-(2,6-dinitro-4-(trifluoromethyl)- phenyl)-N-ethyl-6-fluorobenzenemethanamine)* (CAS No. 062924-70-3) (FIFRA AI) (Ref. 3). Aquatic acute toxicity values for flumetralin include a daphnid 48–hour EC_{50} of greater than 2.8 ppb, a bluegill sunfish 96–hour LC_{50} of greater than 3.2 ppb, and a rainbow trout 96–hour LC_{50} of greater than 3.2 ppb. EPA believes that there is sufficient evidence for listing flumetralin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

126. *Fluorine* (CAS No. 007782-41-4) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). Inhalation of fluorine causes initial coughing, choking and chills, which is followed 1 or 2 days later with pulmonary edema. Fluorine has a strong caustic action on mucous membranes, eyes and skin. In human volunteers exposed to 100 ppm (0.16 mg/L) for 30 seconds, much irritation to the nose and eyes was reported. In acute inhalation studies in animals, lethality occurs at a fairly uniform level and is the result of pulmonary edema. Following 1 hour exposures in mice, rats or guinea pigs, the inhalation LC_{50} values ranged from 150 to 185 ppm (0.23 to 0.29 mg/L). The LC_{50} for rabbits following a 30-minute exposure was 270 ppm (0.42 mg/L). EPA's exposure analysis indicates that fluorine concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing fluorine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

127. *Fluorouracil (5-Fluorouracil)* (CAS No. 000051-21-8) (CAL; EPCRA EHS) (Ref. 8). A major use of fluorouracil is in the palliative treatment of carcinoma of the colon, rectum, breast, stomach, and pancreas that is not amenable to surgery or irradiation. The major toxic effects of fluorouracil are on the normal, rapidly proliferating tissues particularly of the bone marrow and lining of the gastrointestinal tract. Leukopenia, predominantly of the granulocytopenic type, thrombocytopenia, and anemia occur commonly with intravenous fluorouracil therapy at doses ranging from 6 to 12 mg/kg. Pancytopenia and agranulocytosis also have occurred.

Developmental abnormalities or other effects on newborns were reported in offspring of women receiving 150 or 240 mg/kg fluorouracil intravenously during weeks 11 to 14 or 20 to 31 of pregnancy. In addition, maternal toxicity to the reproductive organs, toxicity to the fetus, and developmental abnormalities have been reported in mice, rats, and hamsters receiving oral, intraperitoneal, or intramuscular doses of fluorouracil ranging from 10 to 700 mg/kg.

Chronic neurotoxic effects were noted in dogs fed fluorouracil at a dietary dose of 2 mg/kg/day for 6 months. In this study, animals were examined at the end of 3 months and 6 months. At the end of the experiment, or at death, the brain was removed and examined (only one dog survived the entire 6–month period). Histological sections of the brain showed the presence large multiple monolocular vacuoles in the wall of the fornix of the third ventricle.

EPA believes that there is sufficient evidence for listing fluorouracil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the toxicity of this substance to bone marrow, and on the developmental and chronic neurotoxicity data for this chemical.

128. *Fluvalinate (N-[2-chloro-4-(trifluoromethyl)phenyl]DL-valine(+)-cyano (3-phenoxyphenyl)methyl ester)* (CAS No. 069409-94-5) (FIFRA AI) (Ref. 3). Delayed ossification and decreased weight and length of fetuses were observed in offspring of rats orally administered 50 mg/kg/day (LOEL) on days 6 to 15 of gestation. The NOEL was 10 mg/kg/day. These effects were observed at doses that produced maternal toxicity. Curved tibia and fibula were observed in the offspring of

rabbits orally administered 125 mg/kg/day (LOEL). The NOEL was 25 mg/kg/day. In a 2–generation reproduction study, a decrease in pup weight and growth were observed in offspring of rats orally administered 5 mg/kg/day (LOEL). The NOEL was 1 mg/kg/day. Significantly decreased weight and survival were observed in offspring of rats orally administered 25 mg/kg/day.

In a range finding study, dietary administration of 50 mg/kg/day for 30 days produced skin lesions in rats. The NOEL was not determined. A 2–year rat feeding study was terminated at 64 weeks due to dermal lesions produced in animals at 15 mg/kg/day. The NOEL was 2 mg/kg/day. Dietary administration of 10 mg/kg/day (LOEL for effect) to mice for 2 years produced scabbing and dermal abrasion. No NOEL for these effects was established. An increase in plantar ulcers was observed in rats fed 2.5 mg/kg/day (LOEL) for 2 years. The NOEL was 1 mg/kg/day. Decreases in body weight gain were also observed in this study. Based on the NOEL of the study, an oral RfD of 0.01 mg/kg/day was derived. In a 2–generation rat reproduction study, dietary administration of 5 mg/kg/day produced decreased body weight gain and skin lesions in parents and offspring.

Dietary administration of 2.5 mg/kg/day to rats for 13 weeks produced anemia in blood parameters (decreased hematocrit, hemaglobin, and red blood cells). The NOEL was 1.0 mg/kg/day. Dietary administration of 30 mg/kg/day (LOEL) to rats for 3 months produced decreased hemoglobin, hematocrit, and red blood cell count in rats. The NOEL was 3 mg/kg/day.

EPA believes that there is sufficient evidence for listing fluvinate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental, dermal, and hematological toxicity data for this chemical.

Aquatic acute toxicity values for fluvalinate include a daphnid 48–hour EC_{50} of 0.40 ppb, a bluegill sunfish 96–hour LC_{50} of 0.9 ppb, a rainbow trout 96–hour LC_{50} of 2.9 ppb, and a sheepshead minnow 96–hour LC_{50} of 10.8 ppb. EPA believes that there is sufficient evidence for listing fluvinate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

129. *Folpet* (CAS No. 000133-07-3) (CAL) (Ref. 8). Folpet is classified as a Group B2 compound by EPA; i.e., the substance is a probable human carcinogen. Folpet has been shown to induce carcinoma and adenoma of the duodenum in both sexes of CD-1 and B6C3F1 mice. EPA believes that there is sufficient evidence for listing folpet on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

Aquatic acute toxicity test data for folpet include a measured 96–hour LC_{50} of 39 ppb for rainbow trout, and a measured 96–hour LC_{50} of 72 ppb (0.072 ppm) for bluegill. EPA believes that there is sufficient evidence for listing folpet on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

130. *Fomesafen (5-(2-chloro-4-(trifluoromethyl)phenoxy)-N methylsulfonyl)-2-nitrobenzamide)* (CAS No. 072178-02-0) (FIFRA AI) (Ref. 3). Decreased plasma cholesterol and triglycerides and increased liver weights (reversible at 7 days post-treatment) were observed at 50 mg/kg/day (only dose tested) when administered in the diet of rats for 4 weeks. In a 90–day rat study, dietary administration of 5 mg/kg/day (LOEL) produced alterations in lipid metabolism and increases in liver weight. The NOEL was 0.25 mg/kg/day. In a 26-week dog study, dietary administration of 25 mg/kg/day (LOEL) produced alterations in lipid metabolism and liver changes (changes not defined). The NOEL was 1 mg/kg/day. Liver toxicity (increased liver masses, discolored hepatocytes, and pigmented Kupffer cells) was observed in a 2–year rat feeding study at 50 mg/kg/day (LOEL). The NOEL was 5 mg/kg/day. Metabolism studies have shown that fomesafen accumulates in the liver. EPA believes that there is sufficient evidence for listing fomesafen on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data for this chemical.

131. *alpha-Hexachlorocyclohexane* (CAS No. 000319-84-6) (CERCLA; CWA PPL; FIFRA SR) (Ref. 8). alpha-Hexachlorocyclohexane is classified by EPA as a Group B2 compound; i.e., the substance is a probable human carcinogen. Although human data are limited, there is a case report of acute leukemia in a Japanese sanitation employee following occupational exposure to alpha-hexachlorocyclohexane and DDT. alpha-Hexachlorocyclohexane has been shown in dietary studies to cause an increase in the incidence of liver tumors in five mouse strains and in Wistar rats. EPA believes that there is sufficient evidence for listing alpha-hexachlorocyclohexane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

Measured aquatic acute toxicity test data for alpha-hexachlorocyclohexane include a 48–hour EC_{50} of 800 ppb for daphnids. This chemical is expected to bioaccumulate in aquatic systems because the measured bioconcentration factor (BCF) for rainbow trout is 1950. EPA believes that there is sufficient evidence for listing alpha-hexachlorocyclohexane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical and its potential for bioaccumulation.

132. *Hexamethylene-1,6-diisocyanate or Diisocyanates category* (CAS No. 000822-60-0) (CAA HAP) (Ref. 7). Hexamethylene-1,6-diisocyanate (HDI) is extremely toxic via the inhalation route. The rat LC_{50} for HDI ranges from 56 (385 mg/m^3) to 45 ppm (310 mg/m^3). The mouse LC_{50} for HDI is 4 ppm (30 mg/m^3). HDI also induces irritation of the upper respiratory tract in mice after acute exposure. The mouse LOAEL was 0.062 ppm (0.43 mg/m^3) for a 3–hour exposure. A NOAEL was not established. Acute exposures to HDI vapors may induce pulmonary irritation in the rat at 60 mg/m^3, but data were insufficient to generate a LOAEL or NOAEL for this effect.

Although the data are insufficient to evaluate the potential for HDI to produce pulmonary hypersensitivity, indirect evidence suggests that inhalation of monomeric HDI may cause pulmonary sensitivity. In addition, data are insufficient to evaluate the potential for HDI to elicit an allergic reaction in previously sensitized animals or people; however, indirect evidence suggests that inhalation of monomeric HDI may elicit allergic responses (i.e., asthma, alveolitis) in isocyanate-sensitized individuals.

EPA's exposure analysis indicates that HDI concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing hexamethylene-1,6-diisocyanate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

EPA is proposing to list HDI as an individual chemical on EPCRA section 313. In addition, in Units IV.B.144. and 158. of this preamble, EPA is proposing to individually list isophorone diisocyanate and 1,1-methylene bis(4-isocyanatocyclohexane) on EPCRA

section 313. As an alternative proposal to the individual listing of HDI, isophorone diisocyanate, and 1,1-methylene bis(4-isocyanatocyclohexane), EPA is proposing to create a diisocyanates category that includes HDI, isophorone diisocyanate, 1,1-methylene bis(4-isocyanatocyclohexane), and 16 other diisocyanates.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards the manufacturing threshold for that category. When filing reports for chemical categories, the releases are determined in the same manner as the thresholds. One report is filed for the category and all releases are reported on this form.

The chemicals selected for this proposed category are members of the diisocyanates category under review by EPA's Office of Pollution Prevention and Toxics. This category has been defined as monomeric diisocyanates of molecular weight less than or equal to 300, plus polymeric diphenylmethane diisocyanate (which is only 40 to 60 percent polymerized). Chemicals were included in this category based on similar chronic and acute adverse respiratory effects. The following chemicals are the proposed members of the EPCRA section 313 diisocyanates category:

1,3-Bis(methylisocyanate)cyclohexane (CAS No. 038661-72-2)

1,4-Bis(methylisocyanate)cyclohexane (CAS No. 010347-54-3)

1,4-Cyclohexane diisocyanate (CAS No. 002556-36-7)

Diethyldiisocyanatobenzene (CAS No. 134190-37-7)

4,4'-Diisocyanatodiphenyl ether (CAS No. 004128-73-8)

2,4'-Diisocyanatodiphenyl sulfide (CAS No. 075790-87-3)

3,3'-Dimethoxybenzidine-4,4'-diisocyanate (CAS No. 000091-93-0)

3,3'-Dimethyl-4,4'-diphenylene diisocyanate (CAS No. 000091-97-4)

3,3'-Dimethyldiphenylmethane-4,4'-diisocyanate (CAS No. 000139-25-3)

Hexamethylene-1,6-diisocyanate (CAS No. 000822-06-0)

Isophorone diisocyanate (CAS No. 004098-71-0)

4-Methyldiphenylmethane-3,4-diisocyanate (CAS No. 075790-84-0)

1,1-Methylene bis(4-isocyanatocyclohexane) (CAS No. 005124-30-1)

1,5-Naphthalene diisocyanate (CAS No. 003173-72-6)

1,3-Phenylene diisocyanate (CAS No. 000123-61-5)

1,4-Phenylene diisocyanate (CAS No. 000104-49-4)

Polymeric diphenylmethane diisocyanate (CAS No. 009016-87-9)

2,2,4-Trimethylhexamethylene diisocyanate (CAS No. 016938-22-0)

2,4,4-Trimethylhexamethylene diisocyanate (CAS No. 015646-96-5)

These diisocyanates represent a category of chemicals that may effect many organ systems. However, the primary toxicity target for diisocyanates is the upper and lower respiratory tract resulting in chronic pulmonary irritation. Diisocyanates are also known respiratory and dermal sensitizing agents. Both acute and chronic effects may result from acute or chronic exposures. These effects may be immune- or non-immune mediated. EPA believes that diisocyanates should be listed as a category because it is the isocyanate functionality that is responsible for the observed chronic pulmonary irritation associated with exposures to members of this category. The other part of the molecule does not mitigate to any large degree the observed toxic effects. EPA believes that there is sufficient evidence for listing diisocyanates as a category on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available toxicity data for members of the category.

Currently there are four other diisocyanates listed on EPCRA section 313, these are:

Toluene-2,4-diisocyanate (CAS No. 000584-84-9)

Toluene-2,6-diisocyanate (CAS No. 000091-08-7)

Toluenediisocyanate (mixed isomers) (CAS No. 026471-62-5)

Methylenebis(phenylisocyanate) (CAS No. 000101-68-8)

EPA intends to maintain the individual listings for the three toluene diisocyanate compounds. In addition to the effects discussed above, these compounds have been classified as probable carcinogens. EPA intends to continue to individually list diisocyanates that are possible of probable carcinogens. Methylenebis(phenylisocyanate) has not been shown to be a carcinogen and EPA is proposing to remove it as an individually listed chemical, and add it to the diisocyanates category if the alternative proposal for creation of the category is finalized.

EPA requests comment on the alternative proposal to create a diisocyanates category and what other diisocyanates should be included in such a category.

133. *n-Hexane* (CAS No. 000110-54-3) (CAA HAP) (Ref. 7). In an epidemiology study, no neurological abnormalities were noted in workers. However, neurophysiological tests showed that the mean motor nerve conduction velocities of the exposed group was significantly decreased over the values for the control group. Also, the residual latency of motor nerve conduction of the posterior tibial nerve in the exposed group was significantly slowed when compared with the nonexposed group. A LOAEL of 204 mg/m^3 (58 ppm, LOAEL(ADJ) of 73 mg/m^3) was established for these electrophysiological alterations in humans. The alterations observed are consistent with n-hexane-induced peripheral neuropathy observed in other studies in humans and in animals. EPA believes that there is sufficient evidence for listing n-hexane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based upon the available neurotoxicity data for this chemical.

134. *Hexazinone* (CAS No. 051235-04-2) (FIFRA AI) (Ref. 3). In a 2–year mouse feeding study, liver hypertrophy, hyperplastic nodules and focal necrosis were observed at 375 mg/kg/day (LOEL). The NOEL was 30 mg/kg/day. In a 90–day feeding study in dogs, decreased body weight, increased alkaline phosphatase activity, decreased albumin/globulin ratio and increased absolute and relative liver weights were noted in both sexes at 5,000 ppm (125 mg/kg/day; LOEL). The NOEL was 1,000 ppm (25 mg/kg/day). EPA believes that there is sufficient evidence for listing hexazinone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available toxicity data for this chemical.

Measured aquatic acute toxicity test data for hexazinone include an EC_{50} of 7 ppb for *S. capricornutum*. EPA believes that there is sufficient evidence for listing hexazinone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

135. *Hydramethylnon (tetrahydro-5,5 dimethyl-2(1H)-pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4(trifluoromethyl) phenyl]ethenyl]-2-propenylidene]hydrazone)* (CAS No. 067485-29-4) (FIFRA AI) (Ref. 3). In a 90–day dog feeding study, testicular atrophy was observed at 6 mg/kg/day (LOEL). The NOEL was 3 mg/kg/day. In a 90–day rat study, dietary administration of 5 mg/kg/day (LOEL) produced testicular atrophy. The NOEL was 2.5 mg/kg/day. Dietary

administration of 6.5 mg/kg/day for 18 months produced testicular lesions in mice. The NOEL was 2.75 mg/kg/day. In a 2–year rat study, dietary administration of 5 mg/kg/day produced decreased testicular weight and testicular atrophy. The NOEL was 2.5 mg/kg/day. In a 3-generation rat reproduction study, oral administration of 5 mg/kg/day produced male infertility. The NOEL was 2.5 mg/kg/day.

Decreased fetal weight was observed in the offspring of rats administered 30 mg/kg/day (LOEL). The NOEL was 10 mg/kg/day. Increased post implantation loss and decreased fetal viability were observed in the offspring of rabbits administered 15 mg/kg/day (LOEL). The NOEL was 5 mg/kg/day. Vertebral anomalies were seen in the offspring of rabbits administered 10 mg/kg/day (LOEL). The NOEL was 5 mg/kg/day.

Dietary administration of 1 mg/kg/day (LOEL) for 6 months to dogs produced increased absolute and relative liver weights. The NOEL was 0.33 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.0003 mg/kg/day was derived.

EPA believes that there is sufficient evidence for listing hydramethylnon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available reproductive, developmental, and hepatic toxicity data for this chemical.

The 96–hour LC_{50} in the Chanel Catfish was 90 ppb. Bioaccumulation factors in bluegill sunfish are 1300 for the whole fish, 780 for the fillet, and 1900 for viscera. EPA believes that there is sufficient evidence for listing hydramethylon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data and the potential for bioaccumulation.

136. *Hydrochlorofluorocarbons* (CAA OD) (Ref. 8). Hydrochlorofluorocarbons are known to release chlorine radicals into the stratosphere. Chlorine radicals act as catalysts to reduce the net amount of stratospheric ozone.

Stratospheric ozone shields the earth from ultraviolet-B (UV-B) radiation (i.e., 290 to 320 nanometers). Decreases in total column ozone will increase the percentage of UV-B radiation, especially at its most harmful wavelengths, reaching the earth's surface.

Exposure to UV-B radiation has been implicated by laboratory and epidemiologic studies as a cause of two types of nonmelanoma skin cancers: squamous cell cancer and basal cell cancer. Studies predict that for every 1 percent increase in UV-B radiation, nonmelanoma skin cancer cases would increase by about 1 to 3 percent.

Recent epidemiological studies, including large case control studies, suggest that UV-B radiation plays an important role in causing malignant melanoma skin cancer. Recent studies predict that for each 1 percent change in UV-B intensity, the incidence of melanoma could increase from 0.5 to 1 percent.

Studies have demonstrated that UV-B radiation can suppress the immune response system in animals, and, possibly, in humans. Increases in exposure to UV-B radiation are likely to increase the incidence of cataracts and could adversely affect the retina.

Aquatic organisms, particularly phytoplankton, zooplankton, and the larvae of many fishes, appear to be susceptible to harm from increased exposure to UV-B radiation because they spend at least part of their time at or near the surface of waters they inhabit.

Increased UV-B penetration has been shown to result in adverse impacts on plants. Field studies on soybeans suggest that yield reductions could occur in some cultivars of soybeans, while evidence from laboratory studies suggest that two out of three cultivars are sensitive to UV-B.

Because this increased UV-B radiation can be reasonably anticipated to lead to cancer and other chronic human health effects and significant adverse environmental effects, EPA believes there is sufficient evidence for listing the following HCFCs that are commercially viable on EPCRA section 313 pursuant to EPCRA sections 313(d)(2)(B) and (C). EPA is proposing that the following HCFCs be added individually to EPCRA section 313:

Dichloropentafluoropropane (CAS No. 127564-92-5)

1,3-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea) (CAS No. 136013-79-1)

2,2-Dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa) (CAS No. 128903-21-9)

1,1-Dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb) (CAS No. 111512-56-2)

1,1-Dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc) (CAS No. 13474-88-9)

1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb) (CAS No. 000507-55-1)

1,2-Dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da) (CAS No. 000431-86-7)

3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca) (CAS No. 000422-56-0)

2,3-Dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba) (CAS No. 000422-48-0)

1,2-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb) (CAS No. 000422-44-6)

Dichlorofluoromethane (HCFC-21) (CAS No. 000075-43-4)

1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a) (CAS No. 000354-11-0)

1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121) (CAS No. 000354-14-3)

1,2-Dichloro-1,1-difluoroethane (HCFC-132b) (CAS No. 001649-08-7)

2-Chloro-1,1,1-trifluoroethane (HCFC-133a) (CAS No. 000075-88-7)

3-Chloro-1,1,1-trifluoropropane (HCFC-253fb) (CAS No. 000460-35-5).

137. *Imazalil (1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1H-imidazole)* (CAS No. 035554-44-0) (FIFRA AI) (Ref. 3). In a rat teratology study, increased maternal mortality, decreased litter size, and increased number of dead fetuses were observed in animals administered 40 mg/kg/day (LOEL). The NOEL was 10 mg/kg/day. Stillbirths and altered live birth index were observed in rats orally administered 80 mg/kg/day days 16 through 22 of gestation and 21 days post gestation. Altered lactation index was observed in rats orally administered 20 mg/kg/day on days 16 through 22 of gestation and 21 days post gestation. Post-implantation loss was observed in rabbits orally administered 0.63 mg/kg/day on days 6 through 18 of gestation. Altered viability index was observed in rabbits orally administered 2.5 mg/kg/day on days 6 through 18 of gestation. EPA believes that there is sufficient evidence for listing imazalil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

138. *3-Iodo-2-propynyl butylcarbamate* (CAS No. 055406-53-6) (FIFRA AI) (Ref. 3). In a 90–day rat study, oral administration of 50 mg/kg/day (LOEL) produced increased liver-to-body-weight ratios. The NOEL was 20 mg/kg/day. In a 2–year rat study, dietary administration of 40 and 80 mg/kg/day produced significant non-neoplastic pathological changes in the stomach. No NOEL was established; the LOEL was 20 mg/kg/day. Based on this study, EPA derived an oral RfD of 0.07 mg/kg/day. EPA believes that there is sufficient evidence for listing 3-iodo-2-propynyl butylcarbamate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for this chemical.

139. *Iprodione (3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide)*

(CAS No. 036734-19-7) (FIFRA AI) (Ref. 3). Increased red blood cell Heinz bodies and decreased prostate weight (the LOEL was 15 mg/kg/day; the NOEL was 4.2 mg/kg/day) were observed in dogs fed iprodione for 1–year. Increased Heinz bodies were also seen in females at 15 mg/kg/day. At 90 mg/kg/day, increased liver weight was noted in male and female dogs. Based on the NOEL, an oral RfD of 0.04 mg/kg/day was derived. In another 1–year feeding study in dogs, decreased red blood cell counts and hemoglobin and hematocrit levels (the LOEL was 600 ppm or 15 mg/kg/day; the NOEL was 100 ppm or 2.5 mg/kg/day) were observed. At 3,600 ppm (90 mg/kg/day), increased absolute and relative liver weights and increase liver alkaline phosphatase, serum glutamic-pyruvic transaminase, serum glutamic-oxaloacetic transaminase, and lactate dehydrogenase activities were noted. Decreased red blood cell count and decreased hemoglobin and hematocrit levels (the LOEL was 24.6 mg/kg/day in males, 26.4 mg/kg/day in females; the NOEL was 17.5 mg/kg/day in males, 18.4 mg/kg/day in females). EPA believes that there is sufficient evidence for listing iprodione on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological and hepatic toxicity data for this chemical.

Acute aquatic toxicity data include a green algae 120–hour EC_{50} of 21 ppb. EPA believes that there is sufficient evidence for listing iprodione on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

140. *Iron pentacarbonyl* (CAS No. 013463-40-6) (EPCRA EHS) (Ref. 8). Humans exposed to high concentrations of iron pentacarbonyl immediately experience headache and dizziness. These effects are followed 12 to 36 hours after exposure by symptoms such as fever, cyanosis, cough, and shortness of breath. In humans, iron pentacarbonyl has also been known to cause adverse effects on the respiratory and central nervous system, liver, and kidney. The rat oral LD_{50} is 25 mg/kg and the rat inhalation LC_{50} value is 0.044 mg/L. The 4–hour inhalation LC_{100} in mice is 0.007 mg/L. The rabbit oral LD_{50} is 12 mg/kg. EPA's exposure analysis indicates that iron pentacarbonyl concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing iron pentacarbonyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

141. *Isodrin* (CAS No. 000465-73-6) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). Measured aquatic acute toxicity data for isodrin include a 24–hour LC_{50} of 12 ppb for bluegills and a 24–hour LC_{50} of 6 ppb for minnows. EPA believes that there is sufficient evidence for listing isodrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

142. *Isofenphos (2-[[ethoxyl[(1-methylethyl) amino] phosphinothioyl] oxy] benzoic acid 1-methylethyl ester)* (CAS No. 025311-71-1) (FIFRA AI) (Ref. 3). In a 108–week feeding study in mice, inhibition of brain cholinesterase (the LOEL was 100 ppm or 13 mg/kg/day; the NOEL was 10 ppm or 1.3 mg/kg/day) and plasma cholinesterase (the LOEL was 10 ppm or 1.3 mg/kg/day; the NOEL was 0.13 mg/kg/day) was observed. Inhibition of red blood cell cholinesterase (the LOEL was 10 ppm or 0.5 mg/kg/day; the NOEL was 1 ppm or 0.05 mg/kg/day) was seen in a 2–year feeding study in rats. Other studies (14– and 90–day feeding studies in dogs, 30– and 90–day studies in rats, and a 3–week inhalation study in rats) also demonstrate cholinesterase (plasma, red blood cell or brain) inhibition in rats and dogs. EPA believes that there is sufficient evidence for listing isophenphos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

Aquatic acute toxicity values for isofenphos include a daphnid 48–hour EC_{50} of 1.6 ppb and a mysid 96–hour EC_{50} of 1.7 ppb. EPA believes that there is sufficient evidence for listing isofenphos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

143. *Isophorone* (CAS No. 000078-59-1) (CAA HAP) (Ref. 7). Isophorone has been shown to cause neurotoxic effects in humans exposed to atmospheric concentrations of 5 to 8 ppm. After being exposed for 1 month, workers complained of fatigue and malaise. Neurotoxicity was also observed in humans following acute exposure. At 40 to 85 ppm, effects included nausea, headache, dizziness, faintness, inebriation, and a feeling of suffocation. Increasing exposure concentrations resulted in increasing severity of symptoms. Irritation and central nervous system (CNS) depression were observed at concentrations of 200 to 400 ppm. EPA believes that there is sufficient evidence for listing isophorone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurotoxicity data for this chemical.

144. *Isophorone diisocyanate* (CAS No. 004098-71-9) (TSCA) (Ref. 8). The 4–hour inhalation LC_{50} value of isophorone diisocyanate in rats is 0.123 mg/L. The rat and mouse 3–hour inhalation RD_{50} (50 percent reduction in respiratory rate) values are 0.0046 mg/L and 0.0019 mg/L, respectively. A 50–year old man developed severe asthma after exposure to an unspecified amount of paint containing isophorone diisocyanate. A 1–hour exposure to an unspecified amount of the compound caused eczema in three out of four workers. In addition, isocyanates as a class are generally severe skin, eye and respiratory irritants. EPA's exposure analysis indicates that isophorone diisocyanate concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing isophorone diisocyanate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

As detailed in Unit IV.B.132. of this preamble, as an alternative proposal to the individual listing of HDI, isophorone diisocyanate, and 1,1-methylene bis(4-isocyanatocyclohexane), EPA is proposing to create a diisocyanates category that includes HDI, isophorone diisocyanate, 1,1-methylene bis(4-isocyanatocyclohexane), and 16 other diisocyanates.

145. *Lactofen (5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitro-2-ethoxy-1-methyl-2-oxoethyl ester)* (CAS No. 077501-63-4) (FIFRA AI) (Ref. 3). Lactofen meets the criteria of an EPA Group B2 compound, i.e., a probable human carcinogen. This conclusion was based on an increased incidence of hepatocellular carcinomas in males and combined incidence of hepatocellular adenomas and carcinomas in both sexes of CD-1 mice following dietary administration of lactofen. In CD rats, there was increased incidence of liver neoplastic nodules in both sexes. Four structurally similar chemicals, acifluorfen, nitrofen, oxyfluorfen, and fomesafen, all produced hepatocellular tumors in rodents.

Results of several subchronic and chronic studies indicated the liver and kidney as target organs for lactofen.

Increased absolute and relative liver weight and hepatocytomegaly (the LOEL was 1.5 mg/kg/day; the NOEL was not determined) were observed in male mice fed lactofen for 78 weeks. At 37.5 mg/kg/day, there was also an increased incidence of cataracts and renal pigmentation. Based on the LOEL, an oral RfD of 0.002 mg/kg/day was derived. Renal dysfunction and decreased hemoglobin and hematocrit levels and red blood cell counts (the LOEL was 25/75 mg/kg/day; the NOEL was 5 mg/kg/day) were observed in a 1–year feeding study in dogs. Increased renal and hepatic pigmentation (the LOEL was 50 mg/kg/day; the NOEL was 25 mg/kg/day) were noted in a 2–year feeding study in rats. In a 90–day mouse study, increased alkaline phosphatase, serum glutamate oxaloacetate transaminase (SGOT), and serum gleutanic pyruvic transaminase (SGPT) activities, increased liver weight, hepatic necrosis, biliary hyperplasia, decreased hematocrit and hemoglobin levels and red blood cell counts, extramedullary hematopoiesis, and kidney nephrosis and fibrosis (the LOEL was 26 mg/kg/day; the NOEL was not determined) were seen. Decreased hemoglobin and hematocrit levels, decreased red blood cell counts, and brown pigment in the kidney and liver (the LOEL was 50 mg/kg/day) were noted in a 90–day feeding study in rats.

EPA believes that there is sufficient evidence for listing lactofen on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data and hepatic, renal, and hematological toxicity data for this chemical.

146. *Linuron* (CAS No. 000330-55-2) (FIFRA SR) (Ref. 8). The appearance of sulfhemoglobin in the blood of dogs, rats, or mice exposed to linuron has been reported. In fact, available animal data from feeding studies of various durations (30 days to 2 years) with linuron as well as from studies with structurally similar urea-based herbicides indicate that the presence of sulfhemoglobin (abnormal blood pigment) and morphological changes in red blood cells provide the most sensitive indicator of exposure to linuron. In a 2–year feeding study with beagle dogs, the LOAEL, based on the presence of the sulfhemoglobin, was 0.625 mg/kg/day. This was the lowest dose tested. Red blood cell counts were decreased in dogs exposed to higher doses of linuron. EPA has derived an oral RfD of 0.002 mg/kg/day for linuron from this study. Similar findings were reported in two separate 2–year rat feeding studies. In one of these studies, the LOAEL was 31.25 mg/kg/day and the NOAEL was 6.25 mg/kg/day. These values were based on spleen and bone marrow changes indicative of hemolysis, and an increase in mortality and growth retardation. In the other 2–year rat study, a LOAEL of 2.5 mg/kg/day (the lowest dose tested) was based on decreased red blood cell counts and reticulocytosis. Elevated sulfhemoglobin levels were reported in rats exposed for as little as 30 days to 150 mg/kg/day. This exposure level also caused severe growth retardation and increased mortality. The LOAEL for decreased body weight gain was 15 mg/kg/day and the NOAEL was 3 mg/kg/day. Chronic administration of linuron at 4 mg/kg/day to rats caused hypochromic anemia, decreased cholinesterase and peroxidase activities in the blood.

A LOAEL of 31.25 mg/kg/day was established in a 3–generation reproductive toxicity study in which linuron (in the diet) caused reduced weanling weights, reduced liver and kidney weights, liver atrophy, and reduced pup survival. In a separate developmental toxicity study in rats administered linuron orally, a LOAEL of 31.25 mg/kg/day was based on an increased incidence of fetal resorptions. The LOAEL for maternal toxicity in this study was 6.25 mg/kg/day (NOAEL 2.50 mg/kg/day), and was based on decreased food consumption and decreased body weight gain. An oral teratology study in rabbits indicated a LOAEL of 5 mg/kg/day (lowest dose tested) based on decreased fetal body weight, decreased litter size and an increase in skull malformations.

EPA believes that there is sufficient evidence for listing linuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hematological and developmental toxicity data for this chemical.

147. *Lithium carbonate* (CAS No. 000554-13-2) (CAL) (Ref. 8). A major use of lithium carbonate is in the treatment of manic episodes of manic-depressive illness. Decreases in the number of implantations, number of live fetuses and fetal body weight, and increases in resorptions and various limb/skeletal anomalies were reported in the offspring of Wistar rats that received 100 mg/kg (the fetotoxic LOEL; the fetotoxic NOEL was 50 mg/kg) during gestation days 6 through 15. Offspring of mice that received 465 mg/kg/day during gestation days 6 through 15 had increased craniofacial abnormalities. Fetal death and reductions in litter size were also noted. EPA believes that there is sufficient evidence for listing lithium carbonate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

148. *Malathion* (CAS No. 000121-75-5) (CERCLA) (Ref. 8). Malathion is a phosphorothioate insecticide. Its insecticidal properties are due to cholinesterase inhibition. A 42–year old woman ingested a minimum of 120 ml of a 50 percent solution (approximately 850 mg/kg). She quickly became comatose, cyanotic, flaccid, devoid of tendon reflexes, and miotic. Her serum cholinesterase activity was 22 percent of normal for 9 days and her red blood cell cholinesterase activity was 10 to 25 percent of normal for 45 days. Thirty-five cases of poisoning by ingestion were reported in India. The symptoms observed were cyanosis, excess salivation, pinpoint pupils, pulmonary edema, and electrocardiographic abnormalities; all of which are indicative of cholinesterase inhibition. Autopsy of the fatalities indicated damage to the myocardium. In a 56–day study in which men were orally administered malathion, the NOEL for neurotoxic effects was 0.23 mg/kg/day and the LOEL was 0.34 mg/kg/day. Plasma and red blood cell cholinesterase inhibition was observed at 0.34 mg/kg/day; however, no clinical signs of overt toxicity were noted at this dose. Based on the NOEL, EPA has derived an oral RfD of 0.02 mg/kg/day for this chemical. Cholinesterase inhibition symptoms have also been observed in experimental animals exposed to malathion. EPA believes that there is sufficient evidence for listing malathion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity data for this chemical.

Measured aquatic acute toxicity data for malathion include a 96–hour LC_{50} of 68 ppb for rainbow trout, a 96–hour LC_{50} of 51 ppb for sheepshead minnow, and a 96–hour LC_{50} of 76 ppb for lake trout. In addition, the measured 48–hour EC_{50} for daphnids is 0.9 ppb. EPA believes that there is sufficient evidence for listing malathion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

149. *Man-made mineral fibers category* (CAA HAP) (Ref. 7). Man-made mineral fibers are synthetic, amorphous (noncrystalline) fibers which consist of three major groups: Glass fibers; mineral wool fibers (which includes mainly rock wool and slag wool); and refractory ceramic fibers. Health concerns for these fibers are based on the morphological and toxicologic similarities with asbestos, a known human carcinogen, causing lung cancer and mesotheliomas in humans and non-malignant

respiratory diseases (e.g. lung fibrosis). Injection studies, in which glass wool and glass microfibers were directly placed into the respiratory airways, the pleural or abdominal cavities of laboratory animals, have shown consistent evidence of carcinogenesis. Experimental studies have shown evidence of carcinogenesis by injection of rock wool and slag wool. IARC has classified glass wool, rock wool, and slag wool fibers as Group 2B compounds, i.e., possible human carcinogens. EPA has classified refractory ceramic fibers as Group B2 compounds, i.e., probable human carcinogen. EPA believes that there is sufficient evidence for listing man-made mineral fibers as a category on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for these fibers.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards the manufacturing threshold for that category. When filing reports for chemical categories, the releases are determined in the same manner as the thresholds. One report is filed for the category and all releases are reported on this form.

EPA considered a number of options for listing man-made mineral fibers on EPCRA section 313. In 1977, the National Institute for Occupational Safety and Health (NIOSH) recommended that exposures to fibers be limited to 3 fibers per cubic centimeters (f/cc) for fibers that are less than 3.5 micrometers in diameter and longer than 10 micrometers in length. NIOSH has since commented that in order to protect workers from lung cancer it will be necessary to lower the exposure to 0.2 f/cc for fibrous glass. In 1992, the Occupational Safety and Health Administration (OSHA) proposed a 1 f/cc 8–hour time-weighted average (TWA) limit for respirable fibers of fibrous glass, including refractory ceramic fibers. Respirable fibers are generally defined as fibers with a diameter of less than 3.5 micrometers whose length is at least 3 times the diameter (i.e., an aspect ratio (fiber length divided by fiber diameter) of 3 or greater). In order to ease the burden of reporting, EPA considered listing fibers based on an aspect ratio that simply discriminates between particles and fibers. This, however, seemed to be overly inclusive in that it would cover nonrespirable as well as respirable fibers. EPA also considered using a diameter criteria without an aspect ratio but this option also appears to be too inclusive since it may include particles as well as fibers. EPA is proposing to list man-made mineral fibers as a category that includes glass microfibers, glass wool fibers, rock wool fibers, slag wool fibers, and refractory ceramic fibers that have a diameter less than 3.5 micrometers and an aspect ratio greater than 3. This definition is consistent with both the NIOSH and OSHA recommendations and is limited to fibers that are respirable. EPA requests comment on this definition of man-made mineral fibers and any other options for defining a fibers category.

150. *Mecoprop* (CAS No. 000093-65-2) (IARC) (Ref. 8). Mecoprop is a mono-chloro, mono-methylphenoxy isopropanoic acid type herbicide. IARC has assigned mecoprop to Group 2B, i.e., it is possibly carcinogenic to humans.

In several animal studies, changes in liver or kidney weights were the most sensitive indicators of mecoprop toxicity. In a 90–day rat feeding study, the LOAEL was 9 mg/kg/day and the NOAEL was 3 mg/kg/day. At 26 mg/kg/day, the changes in organ weights were accompanied by decreased glucose levels in males and increased creatinine levels in females. EPA has derived an oral RfD of 0.001 mg/kg/day from this study.

EPA believes that there is sufficient evidence for listing mecoprop on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatic and renal toxicity data for this chemical.

151. *2-Mercaptobenzothiazole (MBT)* (CAS No. 000149-30-4) (TSCA) (Ref. 8). The 21–day maximum acceptable toxicant concentration (MATC) for daphnids range from 240 to 470 ppb. The 60-day MATC for rainbow trout range from 41 to 78 ppb. EPA's exposure analysis indicates that releases of 2-mercaptobenzothiazole will result in concentration levels that can reasonably be anticipated to cause significant adverse environmental effects. EPA believes that there is sufficient evidence for listing 2-mercaptobenzothiazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data and exposure data for this chemical.

152. *Merphos* (CAS No. 000150-50-5) (FIFRA SR) (Ref. 8). Merphos is a thiophosphate-type cholinesterase inhibitor. Delayed neurotoxic effects have been reported in a 28-year old man following accidental exposure to the chemical over a period of 3 days. Fourteen days later, he developed complete facial diplegia and decreased conduction velocity in his nerve fibers. He recovered completely. Both immediate and delayed neurotoxic effects following exposure to merphos have been reported in experimental animals. In a 3–month hen feeding study the NOEL for neurotoxic effects was 0.1 mg/kg/day and the LOEL was 0.5 mg/kg/day. At 0.5 mg/kg, hens showed delayed neurotoxicity, ataxia, and equivocal changes in the spinal cord and peripheral nerves. Based on the NOEL, EPA derived an oral RfD of 0.00003 mg/kg/day for this chemical. In a 112-day rat feeding study, females showed red blood cell cholinesterase inhibition at the LOEL of 0.25 mg/kg/day. The NOEL was 0.1 mg/kg/day. In a 90–day rat feeding study, animals showed reduced brain cholinesterase activity at the LOEL of 3.8 mg/kg/day. The NOEL was 1.8 mg/kg/day. In a 90–day dog feeding study, plasma cholinesterase inhibition was observed at the LOEL of 2.5 mg/kg/day. The NOEL was 0.75 mg/kg/day. Fourteen cattle and 20 sheep administered single doses of merphos (25 to 200 mg/kg) or 10 daily doses of merphos (2.5 mg/kg/day) showed emaciation, diarrhea, and depression of blood cholinesterase. Ingested merphos is rapidly metabolized to n-butyl mercaptan within the gastrointestinal tract. n-Butyl mercaptan has been shown to be responsible for the acute neurotoxic effects of merphos. Thus, oral exposure to merphos is expected to cause acute neurotoxic symptoms while dermal exposure to merphos is expected to cause delayed neurotoxic symptoms. EPA believes that there is sufficient evidence for listing merphos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity data for this chemical.

153. *Metham sodium (sodium methyldithiocarbamate)* (CAS No. 000137-42-8) (FIFRA AI) (Ref. 3). Postimplanatation loss was observed in rabbits administered metham sodium at 30 mg/kg/day (LOEL) on days 6 to 18 of gestation. The NOEL was 10 mg/kg/day (4.2 mg/kg/day based on active ingredient). In rats fed metham sodium, increased variations, retardations, and anomalies were reported at doses of 10 mg/kg/day (LOEL) administered on days 6 to 15. The NOEL was less than or equal to 10 mg/kg/day (less than or equal to 4.2 mg/kg/day based on active ingredient). Although neither study was considered to be fully adequate due to study design and reporting deficiencies, the weight of evidence indicates that metham sodium induces developmental

toxicity. In addition, metham sodium is metabolized to carbon disulfide, a potent developmental toxicant. EPA believes that there is sufficient evidence for listing metham sodium on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical and its metabolite, carbon disulfide.

154. *Methazole (2-(3,4-dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione)* (CAS No. 020354-26-1) (FIFRA AI) (Ref. 3). Rabbits receiving 30 or 60 mg/kg/day by gavage on days 6 to 18 of gestation exhibited increased embryolethality. The NOEL was 10 mg/kg/day. EPA believes that there is sufficient evidence for listing methazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

155. *Methiocarb* (CAS No. 002032-65-7) (CERCLA; EPCRA EHS) (Ref. 8). Measured terrestrial acute toxicity data for wildlife include an oral LD_{50} of 4.6 mg/kg for red-winged blackbirds. EPA believes that there is sufficient evidence for listing methiocarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

156. *Methoxone ((4-Chloro-2-methylphenoxy) acetic acid) (MCPA)* (CAS No. 000094-74-6) (FIFRA SR; IARC) (Ref. 8). Methoxone is a chlorophenoxy-type herbicide. Animal studies indicate that the kidney and liver are the primary target organs of methoxone toxicity. Beagle dogs fed diets containing methoxone for 1–year developed liver toxicity, which was demonstrated by increased liver weights associated with alterations in serum glutamate-pyruvate transaminase, serum glutamate-oxaloacetate transaminase, bilirubin, triglyceride and cholesterol levels. These effects occurred at doses of 0.75 mg/kg/day (LOAEL) and higher. The NOAEL was 0.15 mg/kg/day. Kidney changes in the treated animals included deposition of kidney pigment in the proximal tubular epithelium (the LOAEL was 0.75 mg/kg/day; the NOAEL was 0.15 mg/kg/day), and was accompanied by alterations in creatinine, urea, and potassium levels. EPA derived an oral RfD of 0.0005 mg/kg/day from this study. Similar changes suggesting liver and kidney toxicity were reported in another 90–day dog feeding study (the LOAEL was 3 mg/kg/day; the NOAEL was 1 mg/kg/day) and in rats in a 90–day feeding study (the LOAEL was 7.5 mg/kg/day; the NOAEL was 2.5 mg/kg/day).

EPA believes that there is sufficient evidence for listing methoxone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data for this chemical.

157. *Methoxone sodium salt ((4-chloro-2-methylphenoxy) acetate sodium salt)* (CAS No. 003653-48-3) (FIFRA SR; IARC) (Ref. 8). Methoxone sodium salt is a chlorophenoxy-type herbicide. Animal studies indicate that the kidney and liver are the primary target organs of methoxone toxicity. Beagle dogs fed diets containing methoxone for 1–year developed liver toxicity, which was demonstrated by increased liver weights associated with alterations in serum glutamate-pyruvate transaminase, serum glutamate-oxaloacetate transaminase, bilirubin, triglyceride and cholesterol levels. These effects occurred at doses of 0.75 mg/kg/day (LOAEL) and higher. The NOAEL was 0.15 mg/kg/day. Kidney changes in the treated animals included deposition of kidney pigment in the proximal tubular epithelium (the LOAEL was 0.75 mg/kg/day; the NOAEL was 0.15 mg/kg/day), and was accompanied by alterations in creatinine, urea, and potassium levels. EPA derived an oral RfD of 0.0005 mg/kg/day from this study. Similar changes suggesting liver and kidney toxicity were reported in another 90–day dog feeding study (the LOAEL was 3 mg/kg/day; the NOAEL was 1 mg/kg/day) and in rats in a 90–day feeding study (the LOAEL was 7.5 mg/kg/day; the NOAEL was 2.5 mg/kg/day).

EPA believes that there is sufficient evidence for listing methoxone sodium salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on its potential to cause cancer and on the available hepatic and renal toxicity data for this chemical.

158. *1,1-Methylene bis(4-isocyanatocyclohexane)* (CAS No. 005124-30-1) (TSCA) (Ref. 8). The 5–hour rat inhalation LC_{50} value for 1,1-methylenebis(4-isocyanatocyclohexane) is 0.21 mg/L. The 3–hour mouse inhalation RD_{50} (50 percent reduction in respiratory rate) value is 0.027 mg/L. In addition, isocyanates as a class are generally severe skin, eye, and respiratory irritants. EPA's exposure analysis indicates that 1,1-methylenebis(4-isocyanatocyclohexane) concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing 1,1-methylenebis(4-isocyanatocyclohexane) on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

As detailed in Unit IV.B.132. of this preamble, as an alternative proposal to the individual listing of HDI, isophorone diisocyanate, and 1,1-methylene bis(4-isocyanatocyclohexane), EPA is proposing to create a diisocyanates category that includes HDI, isophorone diisocyanate, 1,1-methylene bis(4-isocyanatocyclohexane), and 16 other diisocyanates.

159. *Methylene bis(thiocyanate)* (CAS No. 006317-18-6) (FIFRA AI) (Ref. 3). The minimal human lethal dose for methylene bis(thiocyanate) is 15 to 30 g (214 to 429 mg/kg), although fatalities have been reported at 300 mg (4.3 mg/kg). Clinical effects may include decreased blood pressure, apnea, cerebral excitation, convulsions, coma, vomiting, diarrhea, abdominal cramping, albuminuria, skin rashes, exfoliative dermatitis, muscle weakness, goiter, and toxic psychosis. The intravenous mouse LD_{50} is 3.6 mg/kg. The subcutaneous rabbit DLo is 20 mg/kg; convulsions and lowered blood pressure were observed in this study. EPA believes that there is sufficient evidence for listing methylene bis(thiocyanate) on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

160. *Methyl isothiocyanate* (CAS No. 00556-61-6) (FIFRA AI) (Ref. 3). Aquatic acute toxicity values for methyl isothiocyanate include a fish 96–hour LC_{50} of 94 ppb, a 96–hour LC_{50} of 130 ppb for bluegills, and a daphnid 48–hour LC_{50} of 55 ppb. EPA believes that there is sufficient evidence for listing methyl isothiocyanate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

161. *2-Methyllactonitrile* (CAS No. 000075-86-5) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). 2-Methyllactonitrile belongs to a class of substances known as the cyanohydrins. Cyanohydrins are generally quite toxic because they can release hydrogen cyanide. An oral dose of 5 mg/rat (approximately 14 mg/kg) of 2-methyllactonitrile administered twice weekly for 3 to 8 months produced liver and kidney lesions. Inhalation of 10.2 mg/L twice weekly for 3 to 8 months (duration of each individual exposure not reported) produced kidney lesions, desquamation of the bronchial epithelium, and bronchial ulcerations. EPA believes that there is sufficient

evidence for listing 2-methyllactonitrile on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxic effects to the liver, kidney, and bronchi caused by this chemical.

162. *N-Methylolacrylamide* (CAS No. 000924-42-5) (CAL) (Ref. 8). There was clear evidence of carcinogenicity from N-methylolacrylamide in a 2–year study using B6C3F1 mice administered the substance by oral gavage. In both sexes, there were increased incidences of Harderian gland adenomas or carcinomas, hepatocellular adenomas or carcinomas, and alveolar or bronchiolar adenomas and carcinomas. There was also an increase in ovarian granulosa cell tumors. EPA believes that there is sufficient evidence for listing N-methylolacrylamide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

163. *Methyl parathion* (CAS No. 000298-00-0) (CERCLA; FIFRA SR; RCRA APP8; RCRA P) (Ref. 8). Methyl parathion is a thiophosphate-type cholinesterase inhibitor. Methyl parathion is highly toxic when administered to experimental animals at low doses. The rat and mouse oral LD_{50} values are reported to be 6.01 mg/kg and 18 mg/kg, respectively. The rat and mouse 4-hour inhalation LC_{50} values are reported to be 0.034 mg/L and 0.12 mg/L, respectively, at which symptoms of cholinesterase inhibition were observed.

Human volunteers showed a 37 percent decrease in red blood cell cholinesterase activity following oral administration of 0.43 mg/kg/day of methyl parathion for 10 days. The LOEL was 0.43 mg/kg/day and the NOEL was 0.31 mg/kg/day. In a 90–day dog feeding study, brain, red blood cell, and plasma cholinesterase inhibition was observed at the LOEL of 1.0 mg/kg/day. The NOEL was 0.3 mg/kg/day. In a chronic rat feeding study, plasma and erythrocyte cholinesterase were inhibited throughout the study and brain cholinesterase was depressed at the termination of the study at 2.5 mg/kg/day. The NOEL for systemic toxicity was 0.025 mg/kg/day. An adequate NOEL for neurologic changes was not defined. Overt signs of cholinergic toxicity (tremors, abnormal gait, alopecia) were observed in the animals at a dose of 2.5 mg/kg/day. Histologic examination revealed evidence of peripheral neuropathy in animals administered this dose. EPA has derived an oral RfD of 0.00025 mg/kg/day based on the systemic NOEL for this chemical.

Hepatocellular swelling, degeneration, and fatty change have been observed in humans acutely intoxicated with methyl parathion. Hepatocellular changes were observed in patients that survived for 28 hours to 9 days after intoxication. Methyl parathion was orally administered to rats in increasing doses for 36 days (starting with 0.37 mg/kg/day and increasing by a factor of 1.5 on every 4th day). Weight loss, hyperglycemia, and macrocytic anemia, all secondary to hepatotoxicity, were observed.

EPA believes that there is sufficient evidence for listing methyl parathion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity and hepatic toxicity data for this chemical.

Measured aquatic acute toxicity data for methyl parathion include a 48–hour EC_{50} of 0.14 ppb for daphnids and a 96–hour LC_{50} of 15 ppb for crayfish. EPA believes that there is sufficient evidence for listing methyl parathion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

164. *N-Methyl-2-pyrrolidone* (CAS No. 000872-50-4) (TSCA) (Ref. 8). In a 2–generation reproductive study, there was evidence of reproductive toxicity in the F_1 generation after exposure to 50 mg/kg/day (LOAEL; no NOAEL was established). Exposure to 50 mg/kg/day or more resulted in significant reductions in the male fertility index and in the female fecundity index. In addition, exposure to 500 mg/kg/day resulted in an increased incidence of dams with decreased corpora lutea. There was also evidence of developmental toxicity in both generations after exposure to 500 mg/kg/day as demonstrated by reduced litter size, reduced postnatal survival, and reduced pup weight.

Maternal toxicity (significant reduction in mean body weight gain) was observed in rabbits receiving 175 mg/kg by gavage on days 6 through 18 of gestation (The NOAEL was 55 mg/kg/day). Exposure to 540 mg/kg/day (LOAEL) resulted in developmental toxicity as demonstrated by a significant increase in resorptions, and malformations (misshapen skull bone and cardiovascular malformations). The NOAEL for developmental toxicity was 175 mg/kg/day.

EPA believes that there is sufficient evidence for listing N-methylpyrrolidone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental and reproductive toxicity data for this chemical.

165. *Methyltrichlorosilane* (CAS No. 000075-79-6) (EPCRA EHS) (Ref. 8). As a class, chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. Methyltrichlorosilane causes severe burns and the vapor is harmful to humans. The 2–hour mouse inhalation LC_{50} value is 0.180 mg/L. EPA's exposure analysis indicates that methyltrichlorosilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing methyltrichlorosilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

166. *Metiram* (CAS No. 009006-42-2) (FIFRA SR) (Ref. 8). Metiram is an ethylene bisdithiocarbamate (EBDC) fungicide. Evidence suggests that ethylene bisthiocarbamate fungicides and ethylenethiourea (a common contaminant, metabolite, and degradation product of these fungicides) cause cancer and adverse developmental effects in experimental animals. In a 2–year diet study, ethylenethiourea caused liver adenomas and carcinomas in mice, and thyroid follicular cell adenomas and carcinomas in mice and rats. A NOAEL of less than or equal to 5 mg/kg has been reported for ethylenethiourea, based on a rat developmental toxicity study. Ethylenethiourea caused delayed ossification or hardening of the parietal bone in pups. EPA believes that there is sufficient evidence for listing metiram on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity and developmental toxicity data for ethylenethiourea, a metabolite and degradation product of metiram.

In Unit IV.B.172. of this preamble, EPA is proposing to add another ethylene bisdithiocarbamate (EBDC), nabam. An additional two EBDCs, zineb and maneb, are currently individually listed on the EPCRA section 313 list of toxic chemicals. The category of EBDCs has recently been added to EPCRA section 313 (December 1, 1993, 58 FR 63500). EPA requests comment on the following: (1) Should the individual EBDCs, metiram and nabam, be added individually to EPCRA section 313 even though they are members of the EBDC category, which is listed on EPCRA section 313; and (2) should the individual listings for two EBDCs, zineb and maneb, be deleted and added as members of the newly created EBDC category.

167. *Metribuzin* (CAS No. 021087-64-5) (FIFRA AI) (Ref. 3). In a rabbit teratology study, the NOEL for maternal and fetotoxicity was 15 mg/kg/day, and the LOEL was 45 mg/kg/day. Developmental effects including irregular spinus process and decreased pup body weight were observed in rats treated with metribuzin (Sencor) during gestation day 7 to 19 at 85 mg/kg/day (LOEL). The NOEL for developmental toxicity was 30 mg/kg/day. The LOEL and NOEL for maternal toxicity were 30 and 10 mg/kg/day, respectively.

In a 2–year dog feeding study, adverse effects observed at 1,500 ppm (37.5 mg/kg/day; LOEL) included weight reduction, increased mortality, hematologic changes, and liver/kidney damage. The systemic NOEL was 100 ppm (2.5 mg/kg/day). In a 2–year rat feeding study, decreased weight gain, mortality, and pathological changes in the liver and kidney were observed at 300 ppm (15 mg/kg/day). The NOEL was 100 ppm (5 mg/kg/day).

EPA believes that there is sufficient evidence for listing metribuzin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic, renal, and developmental toxicity data for this chemical.

168. *Mevinphos* (CAS No. 007786-34-7) (CERCLA; EPCRA EHS) (Ref. 8). Measured aquatic acute toxicity values for mevinphos include a 96–hour LC_{50} of 70 ppb for bluegills, and a 96–hour LC_{50} of 0.16 ppb for daphnids. Measured acute avian toxicity data include a pheasant oral LD_{50} of 1.37 mg/kg, a mallard duck oral LD_{50} of 4.63 mg/kg, and a sharp-tailed grouse oral LD_{50} of 1.34 mg/kg. EPA believes that there is sufficient evidence for listing mevinphos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

169. *Molinate (1H-azepine-1-carbothioic acid, hexahydro-S-ethyl ester)* (CAS No. 002212-67-1) (FIFRA AI) (Ref 3). In a rat developmental toxicity study, adverse effects observed following administration of molinate at 35 mg/kg/day (LOEL) included increased post-implantation loss, lower fetal body weight, increased incidence of runts, and external/soft tissue/skeletal variants; the NOEL was 2.2 mg/kg. In a rabbit developmental study, adverse effects such as an increase in the number of abortions, and a decrease in the number of females with live fetuses were noted at 200 mg/kg/day. The NOEL was 20 mg/kg/day. The developmental effects were observed at levels which were toxic to maternal animals.

In a rat fertility test, reductions in fertility, dose-related altered sperm morphology, and a reduction in the number of viable fetuses were observed following administration of molinate. The NOEL was 0.2 mg/kg/day and the LOEL was 4 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.002 mg/kg/day was derived. In a 90–day study in male rats, the lowest toxic oral dose of 324 mg/kg produced adverse effects on spermatogenesis, male fertility, and viability index. The 20–day inhalation male rat lowest-toxic contentration (TCLo) is 0.0006 mg/L. At this exposure level adverse effects on spermatogenesis and male fertility index were reported. In a 2-generation rat reproduction study, the reproductive NOEL was 0.3 mg/kg/day, and the LOEL was 2.5 mg/kg/day based on reduced fecundity and increased incidence of ovarian vacuolation/hypertrophy. In a 3–month rat inhalation study, testicular degeneration and abnormal spermatozoa were observed at 0.002 mg/L (LOEL). No NOEL was determined.

In a 2–year study in rats fed molinate, adverse effects seen at 0.35 mg/kg/day included degeneration and demyelination of the sciatic nerve and skeletal muscle atrophy/reserve cell hyperplasia; no NOEL was determined. In a 1–year study in dogs administered molinate orally, adverse effects observed at 50 mg/kg/day included anemia, loss of ability to bark, ataxia, splayed hind limbs, vacuolation of the medulla, demyelination of the pons and spinal cord, tremors, and eosinophilic bodies in the nervous system.

EPA believes that there is sufficient evidence for listing molinate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental, reproductive, and neurological toxicity data for this chemical.

170. *Monuron* (CAS No. 000150-68-5) (FIFRA SR) (Ref. 8). The measured aquatic toxicity data for monuron include a 1.5-hour EC_{50} of 90 ppb and a 10-day EC_{50} of 100 ppb for marine algae. EPA believes that there is sufficient evidence for listing monuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

171. *Myclobutanil (alpha-butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile)* (CAS No. 088671-89-0) (FIFRA AI) (Ref. 3). Hepatocellular hypertrophy (the LOEL was 5.9 mg/kg/day; the NOEL was 0.3 mg/kg/day) was seen in a 90–day feeding study in dogs. In another 90–day feeding study, hepatocellular necrosis and hypertrophy (the LOEL was 147.2 mg/kg/day; the NOEL was 49.1 mg/kg/day) were observed in rats. Hepatocellular hypertrophy (the LOEL was 14.3 mg/kg/day in males and 15.7 mg/kg/day in females; the NOEL was 3.1 mg/kg/day in males and 3.83 mg/kg/day in females) was noted in a 1–year feeding study in dogs. Hepatic effects (centrilobular hepatocytic hypertrophy, kupffer cell pigmentation, periportal vacuolation and altered foci) were observed in mice fed 75 mg/kg/day myclobutanil for 2 years. At 15 mg/kg/day, increased liver mixed function oxidase (the NOEL was 3 mg/kg/day) was also seen.

Testicular atrophy (the LOEL was 9.84 mg/kg/day; the NOEL was 2.49 mg/kg/day) was observed in a 2–year chronic feeding study in rats. The seminiferous tubules were frequently devoid of spermatid formation and germinal epithelial cells. Based on the NOEL, an oral RfD of 0.025 mg/kg/day was derived. Testicular atrophy (the LOEL was 46.4 mg/kg/day; the NOEL was 9.28 mg/kg/day) was also noted in a 2-generation reproduction study.

In a developmental toxicity study in rats, increased resorption and decreased viability were observed at 93.8 mg/kg/day (LOEL). The NOEL was 31.3 mg/kg/day. In a developmental toxicity study in rabbits, an increased number of resorptions per litter, reduced viability index, and reduced litter size were observed at 200 mg/kg/day (LOEL). The NOEL was 60 mg/kg/day.

EPA believes that there is sufficient evidence for listing myclobutanil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic, reproductive, and developmental toxicity data for this chemical.

172. *Nabam* (CAS No. 000142-59-6) (FIFRA SR) (Ref. 8). Nabam is an ethylene bisthiocarbamate fungicide. Evidence suggests that ethylene bisthiocarbamate fungicides and ethylenethiourea (a common contaminant, metabolite, and degradation product of these fungicides) cause cancer and adverse developmental effects in experimental animals. In a 2–year diet study ethylenethiourea caused liver adenomas and carcinomas in mice, and thyroid follicular cell adenomas and carcinomas in mice and rats. A NOAEL of less than or equal to 5 mg/kg has been reported for ethylenethiourea, based on a rat developmental toxicity study. Ethylenethiourea caused delayed ossification or hardening of the parietal bone in pups. EPA believes that there is sufficient evidence for listing nabam on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity and developmental

toxicity data for ethylenethiourea, a metabolite and degradation product of nabam.

173. *Naled* (CAS No. 000300-76-5) (CERCLA; FIFRA SR) (Ref. 8). Naled is an organophosphate-type cholinesterase inhibitor. In a human acute poisoning case, toxic symptoms included abdominal cramps, hypersecretion, emesis, perspiration, anxiety, vertigo and horizontal nystagmus, and persisted for 4 months. In a 2–year rat feeding study the NOEL for neurotoxic effects was 0.2 mg/kg/day and the LOEL was 2.0 mg/kg/day. It was observed in this study that, at 2.0 mg/kg/day, brain cholinesterase activity was inhibited by approximately 24 percent. At 10.0 mg/kg/day, brain cholinesterase activity was inhibited by approximately 60 percent, and both plasma and red blood cell cholinesterase were also inhibited. Based on the NOEL, EPA has an oral RfD of 0.002 mg/kg/day for this chemical. In a 1-year feeding study using dogs as the test species, plasma and red blood cell cholinesterase activity were inhibited at 2.0 mg/kg/day. The NOEL was 0.2 mg/kg/day and the LOEL was 2.0 mg/kg/day.

In a 2-generation reproduction study of naled in rats, the NOEL was 6 mg/kg/day. At 18 mg/kg/day, decreased litter size, survival, and pup body weight were observed.

EPA believes that there is sufficient evidence for listing naled on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity and reproductive toxicity data for this chemical.

Measured aquatic acute toxicity values for naled include a 48–hour EC_{50} of 0.35 ppb for daphnids and a 96–hour LC_{50} of 87 ppb for lake trout. EPA believes that there is sufficient evidence for listing naled on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

174. *Nicotine and salts* (CAL; CERCLA; EPCRA EHS; FIFRA AI; RCRA APP8; RCRA P) (Ref. 8). Nicotine salts will dissociate in aqueous solutions to yield soluble nicotine. Nicotine is highly toxic in humans. The estimated lethal oral dose in adults is approximately 40 to 60 mg. The onset of toxicity is rapid. Symptoms include nausea, salivation, abdominal pain, vomiting, diarrhea, headache, weakness, sweating, and confusion. Nicotine markedly stimulates the central nervous system, causing tremors and convulsions. The stimulation is followed by depression, and death resulting from paralysis of respiratory muscles. Nicotine can also activate parasympathetic ganglia and cholinergic nerve endings resulting in gastrointestinal hyperactivity.

Skeletal defects and occasional cleft palates were observed in mice injected with 25 mg/kg nicotine on gestation days 9 to 11. Reduced size in the newborn of rats and limb deformities in the offspring of swine were reported in swine and rats following oral exposure to 1,058 ppm nicotine (approximately 53 mg/kg/day). Deformities were found in some rabbit fetuses when dams were administered nicotine at a dose of 20 mg/kg 5 times during pregnancy. Pregnant swine fed aqueous leaf extracts of tobacco at the rate of 16 and 32 mg/kg nicotine produced arthrogrypotic newborn pigs.

EPA believes that there is sufficient evidence for listing nicotine and its salts as a category on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for these substances.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards the manufacturing threshold for that category. When filing reports for chemical categories, the releases are determined in the same manner as the thresholds. One report if filed for the category and all releases are reported on this form.

175. *Nitrapyrin (2-chloro-6-(trichloromethyl) pyridine)* (CAS No. 001929-82-4) (FIFRA AI) (Ref. 3). In a 1–year study in dogs fed nitrapyrin adverse effects noted included increased cholesterol and alkaline phosphatase, increased absolute and relative liver weight and panlobular/centrilobular hepatocellular hypertrophy. The NOEL was 3 mg/kg/day and the LOEL was 15 mg/kg/day. In a 10–week reproductive rat study, adverse effects observed included increased incidence of fetal liver hypertrophy and vacuolization at 75 mg/kg/day (LOEL). The NOEL was 20 mg/kg/day. In a 90–day rat feeding study, hepatocellular fatty change and necrosis, renal tubule epithelial cell swelling and increasingly severe interstitial nephritis were observed at 50 mg/kg/day. The NOEL was 15 mg/kg/day. In a 2–year rat feeding study, an increase in glomerulonephropathy was observed in males dosed with 60 mg/kg/day and an increase in hepatic hypertrophy and vacuolization was observed in males and females dosed with 60 mg/kg/day. The NOEL was 20 mg/kg/day.

Increased incidence of crooked hyoid bone and craniofacial abnormalities were observed in the offspring of rabbits orally administered nitrapyrin at 30 mg/kg/day (LOEL) on days 6 through 18 of gestation. The NOEL was 10 mg/kg/day. Decreased weight and hypertrophy and vacuolization of the liver were observed in offspring of rats dosed with 75 mg/kg/day (LOEL) for 10 weeks prior to mating. The NOEL was 20 mg/kg/day. EPA believes that there is sufficient evidence for listing nitrapyrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available renal, hepatic, and developmental toxicity data for this chemical.

176. *Nitrate ion* (CAS No. 014797-55-8) (SDWA) (Ref. 8). Nitrate refers to the nitrate ion (NO_3^-). Infantile methemoglobinemia occurs in human infants exposed to aqueous solutions of nitrate ion and can progress to cyanosis and death. Based on numerous epidemiological and clinical studies, EPA has determined a LOAEL of 1.8 to 3.2 mg/kg/day and a NOAEL and RfD of 1.6 mg/kg/day, corresponding to 10 mg/L nitrate-nitrogen or 44 mg/L nitrate ion in drinking water. Infants weighing an average of 4 kg (0 to 3 months of age) are the most sensitive population to nitrate-induced methemoglobinemia. This is primarily due to their higher stomach pH which favors the growth of nitrate-reducing bacteria, the immaturity of their metabolic enzyme systems, and reduced capacity of their erythrocytes to reduce methemoglobin to hemoglobin. EPA believes that there is sufficient evidence for listing nitrate ion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data for this chemical.

In nitrogen-limited waters, nitrates have the potential to cause increased algal growth leading to eutrophication in the aquatic environment. (Nitrate-nitrogen is the form of nitrogen most available to plants.) Studies of estuarine water at several locations along the eastern coast of the United States have indicated that low concentrations of dissolved nitrogen (e.g., nitrate) limit primary production of plants.

Additions of nitrate to such estuarine systems stimulate primary production of plants and can produce changes in the dominant species of plants, leading to cultural eutrophication and ultimately to deterioration of water quality, including algal blooms.

It has been determined that lakes with a spring maximum concentration of more than 300 ug/L of inorganic nitrogen (e.g., nitrates) could be

expected to have algal nuisances in the summer.

Toxic effects result from oxygen depletion as the algae die and decay. Toxic effects have also been related to the release of decay products or direct excretion of toxic substances from sources such as blue-green algae.

EPA believes that there is sufficient evidence for listing nitrate ion on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

177. *Nitric oxide* (CAS No. 010102-43-9) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). The acute toxicity of nitric oxide has been rated high. Nitric oxide causes death or permanent injury after very short exposure to small quantities. Exposure to nitric oxide can result in acute and chronic changes of the pulmonary system including pulmonary edema, pneumonitis, bronchitis, bronchiolitis, emphysema, and methemoglobinemia. Neurologic effects (fatigue, restlessness, anxiety, mental confusion, lethargy, loss of consciousness) have also been reported. The effects of nitric oxide may be related to the formation of methemoglobin. EPA believes that there is sufficient evidence for listing nitric oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological and hematological toxicity data for this chemical.

178. *p-Nitroaniline* (CAS No. 000100-01-6) (CERCLA; RCRA APP8; RCRA P) (Ref. 8). In a 14–day study in mice fed p-nitroaniline in doses as low as 10 mg/kg, 5 days per week, methemoglobin concentrations were found to be significantly higher than those in control animals. In the same study, hematocrit values in mice that received 300 mg/kg, and total erythrocyte counts in mice that received 100 or 300 mg/kg, were significantly lower than those of control animals. Similar effects were observed in 13–week and 2–year mouse studies. In the 2–year study, lesions related to the administration of p-nitroaniline occurred in the spleen, liver, and bone marrow (primarily in mice receiving 30 or 100 mg/kg) and were observed at 9 and 15 months. In addition, increases in the incidence or severity of splenic congestion, hematopoiesis, pigment (hemosiderin) accumulation, Kupffer cell pigmentation in the liver, and bone marrow hypercellularity (hyperplasia). EPA believes that there is sufficient evidence for listing p-nitroaniline on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxicity data for this chemical.

179. *Nitrogen dioxide* (CAS No. 010102-44-0) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). Acid precipitation occurs in large regions of the Eastern United States and Canada, Europe, and Japan. This widespread occurrence of acid precipitation and dry deposition results in large part from man-made emissions of oxides of sulfur and nitrogen (e.g., nitrogen dioxide). These substances are transformed in the atmosphere into sulfuric acid and nitric acid, transported over great distances and deposited on vegetation, soils, surface waters, and materials. These substances are transferred from the atmosphere into ecosystems by the absorption of gases, the impaction and gravitational settling of fine aerosols and coarse particles, and precipitation.

Acids contained in polluted snow are released as contaminated meltwater. The resulting release of pollutants can cause major or rapid changes in the acidity of streams and lake waters. Interference with normal reproduction in fish populations is induced by acidity of lake and stream waters. Reproduction of frogs and salamanders is also inhibited by atmospheric acidification of surface waters.

Atmospheric deposition of sulfuric acid and nitric acid can cause serious damage to crops and forests. Biological effects include induction of necrotic lesions, loss of nutrients due to leaching from foliar organs, accelerated erosion of waxes and leaf surfaces, and interference with normal reproductive processes. Acidification also decreases the rate of many soil processes such as nitrogen fixation and the breakdown of organic matter.

EPA believes that there is sufficient evidence for listing nitrogen dioxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

Nitrogen dioxide is regulated under Title I of the CAA (Provisions for Attainment and Maintenance of National Ambient Air Quality Standards). In addition to this proposal to add nitrogen dioxide to EPCRA section 313, in Units IV.B.36. and 235, EPA is proposing to add two other chemicals, carbon monoxide and sulfur dioxide, that are regulated by Title I of the CAA. Sulfur dioxide is also regulated by Title IV of the CAA (Acid Deposition Control). Extensive data, which are highly technical, are collected on these chemicals as required by the CAA. EPA requests comment on the following: (1) Is the information collected under the CAA sufficient for public right-to-know purposes; and (2) suggestions on how the data collected on these chemicals pursuant to CAA Titles I and IV could be used to meet the purposes of EPCRA section 313.

180. *Norflurazon (4-Chloro-5-(methylamino)-2-[3(trifluoromethyl)phenyl]-3(2H)-pyridazinone)* (CAS No. 027314-13-2) (FIFRA AI) (Ref. 3). Congestion of the liver, hepatocyte swelling and increased liver weights, and increase in colloid vacuole in the thyroid were observed in dogs fed 450 ppm (10.25 mg/kg/day) norflurazon for 6 months. The NOEL was 150 ppm (3.75 mg/kg/day). An oral RfD of 0.04 mg/kg/day has been determined. Increased relative liver weight and hypertrophy of the thyroid with depletion of colloid were seen in rats fed 2,500 ppm (125 mg/kg/day) norflurazon for 90 days. The NOEL was 500 ppm (25 mg/kg/day). Hepatic hyperplasia and hypertrophy and increased relative liver weight were noted in a 28–day feeding study in rats. The LOEL was 1,000 ppm (50 mg/kg/day) and the NOEL was 500 ppm (25 mg/kg/day). Increased relative liver weight and diffuse and smooth granular livers were seen in a 28–day feeding study in mice. The LOEL was 2,520 ppm (328 mg/kg/day) and the NOEL was 420 ppm (55 mg/kg/day). EPA believes that there is sufficient evidence for listing norflurazon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and thyroid toxicity data.

181. *Oryzalin (4-(Dipropylamino)-3,5-dinitrobenzene sulfonamide)* (CAS No. 019044-88-3) (FIFRA AI) (Ref. 3). Reduced hemoglobin and hematocrit levels, decreased red blood cell count, increased blood urea nitrogen (BUN) and alkaline phosphatase and SGPT, anemia, hepatic changes, splenic hematopoiesis and hyperplastic bone marrow were observed in dogs fed 56.25 mg/kg/day (the NOEL was 18.75 mg/kg/day) for 3 months. Increases in serum cholesterol levels, alkaline phosphatase activity, and relative liver and kidney weights and decreases in alanine transaminase (the LOEL was 50 mg/kg/day; the NOEL was 5 mg/kg/day) were observed in dogs fed oryzalin for 1–year. Decreased red blood cell count and hematocrit and hemoglobin levels (LOEL was 45 mg/kg/day; NOEL was 15 mg/kg/day) were noted in a 1-year feeding study in rats. In a 2–year feeding study in rats, decreased red blood cell count and hematocrit and hemoglobin levels, and increased BUN and liver and kidney weights (the LOEL was 45 mg/kg/day; the NOEL was 15 mg/kg/day) were observed. EPA believes that there is sufficient evidence for listing oryzalin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on

the available hepatic and hematological toxicity data for this chemical.

182. *Oxydemeton methyl (S-(2-(Ethylsulfinyl)ethyl) O,O-dimethyl ester phosphorothioic acid)* (CAS No. 000301-12-2) (FIFRA AI) (Ref. 3). Two multigeneration reproduction studies indicate a variety of reproductive effects at 2.1 to 2.5 mg/kg/day. These effects include decreased litter size and viability, decreased weight of the testes and ovaries, and increased epididymal vacuolation. The NOELs were 0.38 and 0.5 mg/kg/day. A NOEL of 0.9 mg/kg/day was determined in a 5–day study in the rat. The LOEL for decreased fertility and epididymal sperm motility was 5 mg/kg/day.

Oxydemeton methyl can cause inhibition of brain, plasma, and red blood cell cholinesterase. In a 2-generation reproduction study, statistically significant inhibition of red blood cell and brain cholinesterase activity (the NOEL was less than 0.043 mg/kg/day) was observed in adult males and females of the F^0 and F^1 generations. In a 5–day feeding (dominant lethal plus) study, inhibition of plasma cholinesterase activity (the LOEL was 1.5 mg/kg/day; the NOEL was 0.45 mg/kg/day) was observed. EPA believes that there is sufficient evidence for listing oxydemeton methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available reproductive and neurological toxicity data for this chemical.

183. *Oxydiazon (3-[2,4-Dichloro-5-(1-methylethoxy)phenyl]5- (1,1-dimethylethyl)-1,3,4-oxadiazol-2(3H)-one)* (CAS No. 019666-30-9) (FIFRA AI) (Ref. 3). Rats given 40 mg/kg/day by gavage on days 6 to 15 of gestation exhibited increased fetal resorptions. The NOEL was 12 mg/kg/day.

Increased liver and kidney weight (associated with no pathology) and increased alkaline phosphatase activity were observed in rats fed 100 mg/kg/day (the NOEL was 25 mg/kg/day) for 90 days. Increased levels of SGPT and alkaline phosphatase activities and increased liver weight (the LOEL was 5 mg/kg/day; the NOEL was 0.5 mg/kg/day) were observed in a 2–year feeding study in rats. Effects noted at 150 mg/kg/day included liver pathology, hemolytic anemia, increased kidney weight, and pigment nephrosis. Based on the NOEL, an oral RfD of 0.005 mg/kg/day was derived. EPA believes that there is sufficient evidence for listing oxydiazon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental, hepatic, and renal toxicity data for this chemical.

184. *Oxyfluorfen* (CAS No. 042874-03-3) (FIFRA SR) (Ref. 8). Oxyfluorfen is a phenoxyphenyl-type herbicide. Several chronic oral toxicity studies suggest that oxyfluorfen may be hepatotoxic. Hepatic effects (e.g. increased absolute liver weight, necrosis, regeneration, and hyperplastic nodules) were observed in mice fed diets containing greater than 3 mg/kg/day oxyfluorfen for 20 months (the NOEL was 0.3 mg/kg/day). Based on these findings, an oral RfD value of 0.003 mg/kg/day was derived. This study was supported by other chronic feeding studies that demonstrated increases in liver weight, alkaline phosphatase activity, and bile pigmented hepatocytes (the LOEL was 15 mg/kg/day; the NOEL was 2.5 mg/kg/day) in dogs, and minimal hypertrophy of centrilobular hepatocytes (the LOEL was 40 mg/kg/day; the NOEL was 2 mg/kg/day) in rats. EPA believes that there is sufficient evidence for listing oxyfluorfen on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatotoxic effects of this chemical.

The estimated chronic MATC values for fish and daphnids are 9 ppb and 20 ppb oxyfluorfen, respectively. The estimated log K_{ow} is 6.1. EPA believes that there is sufficient evidence for listing oxyfluorfen on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data and potential for bioaccumulation for this chemical.

185. *Ozone* (CAS No. 010028-15-6) (EPCRA EHS) (Ref. 8). Information from a large number of studies of both humans and animals indicate that ozone can affect structure, function, metabolism, pulmonary defense against bacterial infection, and extrapulmonary effects. Among these extrapulmonary effects are: (1) Cardiovascular effects; (2) reproductive and teratological effects; (3) central nervous system effects; (4) alterations in red blood cell morphology; (5) enzymatic activity; and (6) cytogenetic effects on circulating lymphocytes. EPA believes that there is sufficient evidence for listing ozone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available toxicity data for this chemical.

Effects of ozone on green plants include injury to foliage, reductions in growth, losses in yield, alterations in reproductive capacity, and alterations in susceptibility to pests and pathogens. Based on the known interrelationships of different components of ecosystems, such effects, if of sufficient magnitude, may potentially lead to irreversible changes of sweeping nature to ecosystems.

Measured aquatic acute toxicity values for ozone include a 96–hour LC_{50} of 80 ppb for striped bass, a 96–hour LC_{50} of 30 ppb for channel catfish, and a 96–hour LC_{50} of 9.3 ppb for rainbow trout. EPA believes that there is sufficient evidence for listing ozone on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available ecotoxicity data for this chemical.

186. *Paraquat dichloride* (CAS No. 001910-42-5) (EPCRA EHS; FIFRA SR) (Ref. 8). Paraquat can cause death in humans as a consequence of severe injury to the lungs, or as a result of kidney, liver, or heart failure. Following exposure, death may occur in 24 hours or less. The acute oral LD_{50} values for paraquat are reported as 57, 120, 25, 50 and 35 mg/kg in the rat, mouse, dog, monkey, and cat, respectively. Chronic pneumonitis (the LOEL was 0.93 mg/kg/day; the NOEL was 0.45 mg/kg/day) was reported in dogs fed diets containing paraquat dichloride for 52 weeks. These results are supported by the results of a 2–year feeding study in rats (the LOEL was 3.75 mg/kg/day based on nonneoplastic lung lesions; the NOEL was 1.25 mg/kg/day) and a 90–day feeding study in dogs (the LOEL was 1.5 mg/kg/day based on increased lung weight, alveolitis, and alveolar collapse; the NOEL was 0.5 mg/kg/day).

EPA believes that there is sufficient evidence for listing paraquat dichloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic toxicity data for this chemical.

187. *Pebulate (Butylethylcarbamothioic acid S-propyl ester)* (CAS No. 001114-71-2) (FIFRA AI) (Ref. 3). In a 1-year dog feeding study, a NOEL of greater than 5 mg/kg/day was established due to abnormal behavior, ataxia, convulsions, and neurological effects in the brain and spinal cord at 100 mg/kg/day. EPA believes that there is sufficient evidence for listing pebulate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

188. *Pendimethalin (N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine)* (CAS No. 040487-42-1) (FIFRA AI) (Ref. 3). Increased liver weights and alkaline phosphatase activity and hepatic lesions (the LOEL was 50 mg/kg/day; the NOEL was 12.5 mg/kg/day) were observed in dogs fed pendimethalin for 2 years. EPA derived an oral RfD of 0.04 mg/kg/day. Hypertrophy of the liver and increased liver weights were observed in rats fed 5,000 ppm (250 mg/kg/day) for 3 months. The NOEL was 25 mg/kg/day.

EPA believes that there is sufficient evidence for listing pendimethalin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

189. *Pentobarbital sodium* (CAS No. 000057-33-0) (CAL) (Ref. 8). Pentobarbital sodium is commonly used as a sedative hypnotic. The average adult sedative dose is 20 to 40 mg orally. The average adult hypnotic dose is 100 to 200 mg orally. Pentobarbital is also used parenterally or rectally to provide basal hypnosis for general, spinal, or regional anesthesia. Like other barbiturates, a common adverse effect to using pentobabital sodium is central nervous system depression. Chronic exposure to pentobarbital sodium may lead to psychological and physical dependence.

Intraperitoneal injection of 20 mg/kg on day 1 of pregnancy produced adverse effects on fertility in rats. Intraperitoneal injections of 80 mg/kg to rats on day 1 of pregnancy caused preimplantation loss. Intraperitoneal injection of 94.5 mg/kg on day 2 of pregnancy decreased fertility and caused fetal death in rats. Intraperitoneal injection of 22 mg/kg on day 10 of pregnancy caused adverse effects in rat fetuses (details of study not reported). Subcutaneous injection of 520 mg/kg of pentobarbital sodium on days 9 to 21, or administration of 30 mg/kg on day 19 of pregnancy produced abnormal behavioral effects in rat offspring. Exposure to pentobarbital sodium during pregnancy can cause fetal addiction to the substance.

EPA believes that there is sufficient evidence for listing pentobarbital sodium on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental, reproductive, and chronic neurological toxicity data for this chemical.

190. *Perchloromethyl mercaptan* (CAS No. 000594-42-3) (CERCLA; EPCRA EHS) (Ref. 8). The rat oral LD_{50} and 4–hour rat inhalation LC_{50} values for perchloromethyl mercaptan are 8.26 mg/kg and 0.26 mg/L, respectively. The 2–hour mouse inhalation LC_{50} value is reported to be 0.296 mg/L. In an eye irritation test, 50 micrograms (μg) (0.13 mg/kg/day) placed in a rabbit's eye for 24 hours produced a severe reaction. EPA's exposure analysis indicates that perchloromethyl mercaptan concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing perchloromethyl mercaptan on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

191. *Permethrin (3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, (3-phenoxyphenyl)methyl ester)* (CAS No. 052645-53-1) (FIFRA AI) (Ref. 3). Increased liver weights (the LOEL was 500 ppm or 25 mg/kg/day; the NOEL was 100 ppm or 5 mg/kg/day) were observed in rats fed permethrin for 2 years. Based on the NOEL, EPA derived an oral RfD of 0.05 mg/kg/day. Decreased alkaline phosphatase activity, hepatocellular swelling, and increased liver weight (the LOEL was 100 mg/kg/day; the NOEL was 5 mg/kg/day) were observed in dogs orally administered (in capsules) permethrin for 1–year. Tremors, excessive salivation, convulsions, and incoordination were noted at 1,000 mg/kg/day. EPA believes that there is sufficient evidence for listing permethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

Aquatic acute toxicity values for permethrin include a fathead minnow 96–hour LC_{50} of 3.5 ppb, a rainbow trout 96–hour measured LC_{50} of 0.62 ppb, a bluegill 96–hour LC_{50} of 2.52 ppb, an Atlantic silverside 96–hour measured LC_{50} 2.2 ppb, and a daphnid 48–hour LC_{50} of 0.32 ppb. EPA believes that there is sufficient evidence for listing permethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

192. *Phenanthrene* (CAS No. 000085-01-8) (CERCLA; CWA PP) (Ref. 8). Measured aquatic acute toxicity data for phenanthrene include a 48–hour LC_{50} of 700 ppb for daphnids. The measured 28–day LC_{50} for rainbow trout is 40 ppb, and teratogenetic effects were noted. The measured bioconcentration factor (BCF) values include a fathead minnow 28–day BCF of 5,100 and a daphnid 24–hour BCF of 1,165. EPA believes that there is sufficient evidence for listing phenanthrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical and its potential to bioaccumulate.

193. *Phenothrin (2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylic acid (3-phenoxyphenyl)methyl ester)* (CAS No. 026002-80-2) (FIFRA AI) (Ref. 3). Hepatocellular enlargement and increased absolute and relative liver weights were observed in a chronic feeding study in dogs. The LOEL was 27.7 mg/kg/day in males and 26.8 mg/kg/day in females. The NOEL was 8.2 mg/kg/day in males and 7.1 mg/kg/day in females. Hepatocellular hypertrophy and increased relative liver weight (the LOEL was 150 mg/kg/day; the NOEL was 50 mg/kg/day) were observed in a chronic oncogenicity study in rats. Increased liver weight (the LOEL was 150 mg/kg/day, the NOEL was 45 mg/kg/day) was noted in another chronic oncogenicity feeding study in mice. EPA believes that there is sufficient evidence for listing phenothrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data for this chemical.

Aquatic acute toxicity values for phenothrin include a rainbow trout 96–hour LC_{50} of 16.7 ppb and a goldfish 48–hour LC_{50} of 100 ppb. EPA believes that there is sufficient evidence for listing phenothrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

194. *1,2-Phenylenediamine* (CAS No. 000095-54-5) (RCRA APP8) (Ref. 8). EPA has classified 1,2-phenylenediamine as a Group B2 compound, i.e., a probable human carcinogen. 1,2–Phenylenediamine dihydrochloride appeared to be carcinogenic in both rats and mice, as evidenced by an increased incidence of hepatocellular carcinomas in both species. A significantly increased incidence of hepatocellular carcinomas was observed in high dose group male rats and mice, and female mice of both treated groups. EPA believes that there is sufficient evidence for listing 1,2-phenylenediamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for 1,2–phenylenediamine dihydrochloride.

195. *1,3-Phenylenediamine* (CAS No. 000108-45-2) (RCRA APP8) (Ref. 8). Increased absolute and relative liver weights and degenerative liver lesions (the LOEL was 18 mg/kg/day; the NOEL was 6.0 mg/kg/day) were noted in a 90–day oral study in rats exposed to 1,3-phenylenediamine. EPA believes that there is sufficient evidence for listing 1,3-phenylenediamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatotoxicity data for this chemical.

196. *1,2-Phenylenediamine dihydrochloride* (CAS No. 000615-28-1) (RCRA APP8) (Ref. 8). EPA has classified 1,2–phenylenediamine as a Group B2 compound, i.e., a probable human carcinogen. 1,2-Phenylenediamine dihydrochloride appeared to be carcinogenic in both rats and mice, as evidenced by an increased incidence of hepatocellular carcinomas in both species. A significantly increased incidence of hepatocellular

carcinomas was observed in high dose group male rats and mice, and female mice of both treated groups. EPA believes that there is sufficient evidence for listing 1,2-phenylenediamine dihydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

197. *1,4-Phenylenediamine dihydrochloride* (CAS No. 000624-18-0) (RCRA APP8) (Ref. 8). Measured aquatic acute toxicity for 1,4-phenylenediamine include a fish 96–hour LC_{50} of 60 ppb. EPA believes that there is sufficient evidence for listing 1,4-phenylenediamine dihydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for 1,4-phenylenediamine.

198. *Phenytoin* (CAS No. 000057-41-0) (CAL; IARC; NTP) (Ref. 8). Phenytoin is a hydantoin-type anticonvulsant, and is used mainly in the prophylactic management of tonic-clonic (grand mal) seizures and partial seizures with complex symptomatology. In doses used to treat seizure disorders (i.e., 300 mg/day in adults, 5 mg/kg/day in children) phenytoin can cause adverse effects such as constipation, dysphagia, nausea, vomiting, anorexia and weight loss. Ingestion of 4.5 g (64 mg/kg/day) by adults and 0.6 g (60 mg/kg/day) by children has produced transient coma with motor restlessness. Ingestion of 11 mg/kg/day produced changes in motor activity in a child (duration of study not reported). Oral administration of 7.8 mg/kg/day for 4 days produced encephalitis, hallucinations, and irritability in a man. Ingestion of 7.6 mg/kg/day for 2 weeks caused encephalitis, hallucinations, and ataxia in a woman.

Phenytoin is classified as a Group 2B compound by IARC; i.e., possible human carcinogen. Ingestion of 16.5 mg/kg/day for 1–year produced lymphoma including Hodgkin's disease and skin tumors in a child. Oral exposure to phenytoin produced lymphoma in mice (doses and duration of study not reported).

Oral administration of 5.9 mg/kg/day to a woman for the first 39 weeks of pregnancy induced kidney tumors in the offspring. In another study, oral administration of 5.9 mg/kg/day to a woman for the first 39 weeks of pregnancy induced brain tumors in the offspring. Oral administration of 2 mg/kg/day to a woman for 1–year produced lymphoma including Hodgkin's disease. Congenital malformation was reported in 6.12 percent of births to 98 epileptic mothers receiving phenytoin regularly during the first 4 months of pregnancy. Hypothrombinemia and hemorrhage has occurred in newborns of mothers who received phenytoin during pregnancy. Oral doses of 4.0 to 5.9 mg/kg/day administered to women for the first 39 weeks of pregnancy produced craniofacial abnormalities, nervous system disorders, and delayed physical effects in their children. Doses of 2.0 mg/kg/day given to a woman for the first 39 weeks of pregnancy produced abnormalities of skin, appendages, and musculoskeletal system in her child as well as other developmental abnormalities. Oral doses of 5.0 mg/kg/day produced biochemical and metabolic abnormalities in the offspring. Higher doses of phenytoin (130 mg/kg/day) orally administered to rats produced behavioral, growth, musculoskeletal, and nervous system abnormalities in the offspring.

EPA believes that there is sufficient evidence for listing phenytoin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurological and developmental toxicity data and on the carcinogenicity data for this chemical.

199. *Phosphine* (CAS No. 007803-51-2) (CAA HAP) (Ref. 7). Available data on phosphine indicate that its inhalation LC_{50} for rats is between 4 and 40 ppm (the exposure time was 4 hours). Phosphine is a highly-toxic gas with a probable oral lethal dose of 5 mg/kg. An air concentration of 3 ppm is safe for long-term exposure, 500 ppm is lethal in 30 minutes, and a concentration of 1,000 ppm is lethal after a few breaths.

EPA's exposure analysis indicates that phosphine concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing phosphine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

200. *Phosphorus oxychloride* (CAS No. 010025-87-3) (CERCLA; EPCRA EHS) (Refs. 5 and 8). Phosphorus oxychloride reacts with water to yield phosphoric acid and hydrochloric acid.

Phosphoric acid, as well as other phosphates, have the potential to cause increased algal growth leading to eutrophication in the aquatic environment.

Eutrophication may result when nutrients, especially phosphates, enter into an aquatic ecosystem in the presence of sunlight and nitrogen. The phosphate ion is a plant nutrient, which can be a major limiting factor for plant growth in freshwater environments. In excess, phosphates can cause algal blooms. Toxic effects result from oxygen depletion as the algae die and decay. Toxic effects have also been related to the release of decay products or direct excretion of toxic substances from sources such as blue-green algae.

Laboratory studies indicate that eutrophication may occur at phosphate concentrations as low as 50 ppb in lakes. The resulting oxygen depletion and toxic decay products (e.g., hydrogen sulfide) kill many invertebrates and fish.

Although green algae are more sensitive to growth stimulation by phosphates in fresh water, blue-green algal blooms may cause greater damage. At least three species of blue-green algae are known to excrete toxins. Secretion by cyanobacteria of dyalyzable metabolites have inhibited the growth of other species of algae and may result in algal monoculture. When algal blooms of these toxic species occur in a reservoir, lake, slough, or pond, the cells and toxins can become sufficiently concentrated to cause illness or death in invertebrates and vertebrates. Major losses have been reported for cattle, sheep, hogs, birds (domestic or wild) and fishes, minor losses for dogs, horses, small wild animals, amphibians, and invertebrates.

Eutrophication may occur in slow moving rivers, but is less likely in swift rivers where rapid mixing occurs. Light is the most important limiting factor because rivers are murkier than lakes thus, the chances of eutrophication in swift rivers are slight. However, lakes and reservoirs collect phosphates from influent streams and store a fraction of them within consolidated sediments, thus serving as a phosphate sink.

The available information derived from animal and controlled human studies clearly indicates that exposure to acid aerosols can produce health effects of concern, particularly in sensitive subgroups of the population and after chronic exposure. The bulk of these studies, however, have examined sulfuric acid exposures. Data for other acid species and mixtures are extremely limited. However, as the effects appear to be due to the acidity of the species, this data should pertain to acid aerosols consisting of other mineral acids, such as hydrochloric acid. The effects seen range from mild and transient changes, such as small, reversible functional effects in exercising asthmatics, to more substantial effects that may have acute or chronic health consequences, such as persistently altered clearance and structural changes that may be suggestive of chronic lung disease. In addition, there are some notable consistencies in the health effects

information across various studies and disciplines.

EPA believes that there is sufficient evidence for listing phosphorous oxychloride on EPCRA section 313 pursuant to EPCRA sections 313(d)(2)(B) and (C) based on the available chronic human and environmental toxicity data for its degradation products phoshoric acid and hydrochloric acid.

201. *Phosphorus pentachloride* (CAS No. 010026-13-8) (EPCRA EHS) (Refs. 5 and 8). Phosphorus pentachloride reacts with water to yield phosphoric acid and hydrochloric acid. As described in Unit IV.B.200. of this preamble, phosphates, including phosphoric acid, have the potential to cause increased algal growth leading to eutrophication and fish kills in the aquatic environment.

The available information derived from animal and controlled human studies clearly indicates that exposure to acid aerosols can produce health effects of concern, particularly in sensitive subgroups of the population and after chronic exposure. The bulk of these studies, however, have examined sulfuric acid exposures. Data for other acid species and mixtures are extremely limited. However, as the effects appear to be due to the acidity of the species, this data should pertain to acid aerosols consisting of other mineral acids, such as hydrochloric acid. The effects seen range from mild and transient changes, such as small, reversible functional effects in exercising asthmatics, to more substantial effects that may have acute or chronic health consequences, such as persistently altered clearance and structural changes that may be suggestive of chronic lung disease. In addition, there are some notable consistencies in the health effects information across various studies and disciplines.

EPA believes that there is sufficient evidence for listing phosphorus pentachloride on EPCRA section 313 pursuant to EPCRA sections 313(d)(2)(B) and (C) based on the available chronic human and environmental toxicity data for its degradation products phoshoric acid and hydrochloric acid.

202. *Phosphorus pentasulfide* (CAS No. 001314-80-3) (CERCLA) (Refs. 5 and 8). Phosphorus pentasulfide reacts in water to yield phosphoric acid and hydrogen sulfide.

As described in Unit IV.B.200. of this preamble, phosphates, including phosphoric acid, have the potential to cause increased algal growth leading to eutrophication and fish kills in the aquatic environment.

Acute exposures to large amounts of hydrogen sulfide (approximately 250 ppm or more) have produced pulmonary edema, unconsciousness, respiratory paralysis, asphyxiation, and/or death in some individuals. Similar effects are also noted in animals. In a subchronic study, inflammation of the nasal mucosa occurred in mice following 90–day inhalation of hydrogen sulfide, resulting in a NOAEL of 42.5 mg/m^3 (30.5 ppm; Human Equivalent Concentration (HEC) is 0.93 mg/m^3) and a LOAEL of 110 mg/m^3 (80 ppm; HEC is 2.4 mg/m^3). Other respiratory effects, such as alveolar edema, infiltrates in the bronchioles, cellular necrosis, hyperplasia, and exfoliation in various respiratory tissues, have been reported in rats.

Aquatic toxicity test data for hydrogen sulfide show that measured fish 96–hour LC_{50} values range from 7 to 776 ppb.

EPA believes that there is sufficient evidence for listing phosphorus pentasulfide on EPCRA section 313 pursuant to EPCRA sections 313(d)(2)(B) and (C) based on the available chronic human and environmental toxicity data for its degradation products, phosphoric acid and hydrogen sulfide.

203. *Phosphorus pentoxide* (CAS No. 001314-56-3) (EPCRA EHS) (Refs. 5 and 8). Phosphorus pentoxide rapidly hydrolyzes in the presence of water to yield phosphoric acid.

As described in Unit IV.B.200. of this preamble, phosphates, including phosphoric acid, have the potential to cause increased algal growth leading to eutrophication and fish kills in the aquatic environment. EPA believes that there is sufficient evidence for listing phosphorous pentoxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for its degradation product phosphoric acid.

204. *Picloram* (CAS No. 001918-02-1) (FIFRA AI; SDWA) (Ref. 8). Animal studies in dogs, rats, or mice for various durations (2 weeks to 2 years) have indicated the liver as the primary target of picloram toxicity. In a 6–month feeding study in beagle dogs, a LOAEL of 35 mg/kg/day and a NOAEL of 7 mg/kg/day were determined for increased liver weights (relative and absolute). At a higher dose (175 mg/kg/day), there were increases in serum alkaline phosphatase concomitant with the increases in liver weight. Other toxic effects in the higher dosed animals included reduced food consumption and body weight. EPA has derived an oral RfD of 0.07 mg/kg/day for this chemical based on the findings of this study. Hepatotoxicity has also been reported in a 2–year rat feeding study. The LOAEL was 60 mg/kg/day based on changes in liver histopathology. The NOAEL was 20 mg/kg/day. Hepatotoxicity was also observed in a 90–day rat feeding study. The LOAEL was 150 mg/kg/day based on changes in liver histopathology, necrosis, and bile duct proliferation. The NOAEL was 50 mg/kg/day. Increased liver weights were also reported in mice following dietary exposure to picloram for 13 weeks. The LOAEL was 1,000 mg/kg/day. Liver swelling was reported in rats administered picloram in feed for 13 weeks. The LOAEL was 150 mg/kg/day. EPA believes that there is sufficient evidence for listing picloram on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatotoxicity data for this chemical.

205. *Piperonyl butoxide* (CAS No. 000051-03-6) (FIFRA SR) (Ref. 8). Measured aquatic acute toxicity data for piperonyl butoxide include a 96–hour LC_{50} of 3.4 ppb for rainbow trout and a 96–hour LC_{50} of 4.2 ppb for bluegill. EPA believes that there is sufficient evidence for listing piperonyl butoxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

206. *Pirimiphos methyl (O-(2-(diethylamino)-6-methyl-4-pyrimidinyl)-O,O-dimethyl phosphorothioate)* (CAS No. 029232-93-7) (FIFRA AI) (Ref. 3). Pirimiphos methyl is a cholinesterase inhibitor in humans and other mammalian species. A mild and transient decrease in plasma cholinesterase activity was observed in 2 of 4 female humans given pirimiphos methyl daily in a capsule at dose levels of 0.25 mg/kg/day for 56 days. This effect was not seen in 3 of 3 males. The dose level of 0.25 mg/kg/day was considered a NOEL for plasma cholinesterase inhibition. Based on the NOEL, an oral RfD of 0.01 mg/kg/day was derived. The findings of the 56–day study were corroborated by the 28–day feeding study (capsule) with 5 male human volunteers where 1 individual showed borderline cholinesterase depression. Inhibition of brain cholinesterase (LOEL was 0.5 mg/kg/day, the NOEL for cholinesterase inhibition was not determined) was observed in a 2–year feeding study in dogs. Inhibition of plasma cholinesterase activity (the LOEL was 2.5 mg/kg/day; the NOEL was 0.5 mg/kg/day) was seen in a 2–year feeding study in rats. No clinical signs were reported for the above studies. EPA believes that there is sufficient evidence for listing pirimiphos methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

207. *Polycyclic aromatic compounds (PACs)* (CAS No. NA) (CAA HAP) (Ref. 7). Polycyclic aromatic compounds are a class of chemicals that include polycyclic aromatic hydrocarbons, azapolycyclic aromatic hydrocarbons, thio-polycyclic aromatic hydrocarbons, nitroarenes, and others. PACs can be formed in any combustion process that involves the burning of fuels or, more generally, materials containing carbon and hydrogen. Some industrial sources include coke ovens, catalytic cracking of crude oil, carbon black production, and iron and steel processes.

Materials containing mixtures of PACs have been shown to be carcinogenic. Several epidemiology studies have shown increased mortality due to lung cancer in humans exposed to coke-oven emissions, roofing-tar emissions, and cigarette smoke. Each of these mixtures contains benzo(a)pyrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)phenanthrene, and dibenzo(a,h)anthracene as well as other potentially carcinogenic PACs and other carcinogenic and potentially carcinogenic chemicals, tumor promotors, initiators, and co-carcinogens such as nitrosoamines, coal tar pitch, and creosote. Although it is impossible to evaluate the contribution of any individual PAC to the total carcinogenicity of these mixtures to humans, reports of this nature provide qualitative evidence of the potential for mixtures containing PACs to cause cancer in humans. In addition, several PACs caused cancer in animals when orally (e.g., benz(a)anthracene, benzo(a)pyrene, dibenz(a,h)anthracene), dermally (e.g., benz(a)anthracene, benzo(a)phenanthrene, benzo(b)fluoranthene, benzo(a)pyrene, dibenz(a,h)anthracene, and indeno (1,2,3-cd)pyrene) or inhalationally (e.g., benzo(a)pyrene) exposed. EPA believes that there is sufficient evidence for listing these PACs on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for these chemicals. EPA is proposing to create a delimited category for PACs that includes the chemicals discussed below.

a. *Benzo(b)fluoranthene* (CAS No. 000205-99-2). Benzo(b)fluoranthene is classified as a Group B2 compound by EPA, i.e., the compound is a probable human carcinogen. It is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Benzo(b)fluoranthene produced tumors in mice after lung implantation, intraperitoneal or subcutaneous injection and skin painting. EPA believes that there is sufficient evidence for listing benzo(b)fluoranthene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

b. *Benzo(j)fluoranthene* (CAS No. 000205-82-3). Benzo(j)fluoranthene is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. In multiple skin painting assays and in a mouse-skin initiation-promotion assay, benzo(j)fluoranthene produced tumors in female mice. EPA believes that there is sufficient evidence for listing benzo(j)fluoranthene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

c. *Benzo(k)fluoranthene* (CAS No. 000207-08-9). Benzo(k)fluoranthene is classified as a Group B2 compound by EPA, i.e., the compound is a probable human carcinogen. It is also classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Benzo(k)fluoranthene produced tumors after lung implantation in mice and when administered with a promoting agent in skin painting studies. Equivocal results have been found in a lung adenoma assay in mice. Benzo(k)fluoranthene is mutagenic in bacteria. EPA believes that there is sufficient evidence for listing benzo(k)fluoranthene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

d. *Carbazole* (CAS No. 000086-74-8). Mice fed a basal diet containing carbazole showed a dose-related increase in liver nodules and hepatocellular carcinomas after oral administration. EPA believes that there is sufficient evidence for listing carbazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

e. *Cyclopenta(cd)pyrene* (CAS No. 027208-37-3). In a skin painting assay and in several mouse-skin initiation-promotion assays, cyclopenta(cd)pyrene produced tumors in female mice. Cyclopenta(cd)pyrene is also mutagenic to Salmonella and mammalian cells in vitro and induces morphologic transformation in C3H10T1/2 cells in vitro. EPA believes that there is sufficient evidence for listing cyclopenta(cd)pyrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

f. *Dibenz(a,c)anthracene (CAS No. 000215-58-7).* In a skin painting assay and in several mouse-skin initiation-promotion assays, dibenz(a,c)anthracene produced tumors in female mice. EPA believes that there is sufficient evidence for listing dibenz(a,c)-anthracene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

g. *Dibenz(a,h)acridine* (CAS No. 000226-36-8). Dibenz(a,h)acridine is classified as a Group 2A compound by IARC, i.e., the compound is a probable human carcinogen. Dibenz(a,h)acridine has been shown to be carcinogenic in animals. EPA believes that there is sufficient evidence for listing dibenz(a,h)acridine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

h. *Dibenz(a,j)acridine* (CAS No. 000224-42-0). Dibenz(a,j)acridine is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Dibenz(a,j)acridine has been shown to be carcinogenic in animals. EPA believes that there is sufficient evidence for listing dibenz(a,j)acridine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

i. *Dibenz(a,j)anthracene* (CAS No. 000224-41-9). Dibenz(a,j)anthracene produced tumors after subcutaneous injection and after skin painting in female mice. EPA believes that there is sufficient evidence for listing dibenz(a,j)anthracene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

j. *Dibenzo(a,e)fluoranthene* (CAS No. 005385-75-1). Dibenzo(a,e)fluoranthene produced tumors in female mice after mouse-skin initiation-promotion assay and skin painting. Dibenzo(a,e)fluoranthene also produced tumors in both male and female mice after subcutaneous injection. EPA believes that there is sufficient evidence for listing dibenzo(a,e)fluoranthene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

k. *Dibenzo(a,e)pyrene* (CAS No. 000192-65-4). Dibenzo(a,e)pyrene is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Dibenzo(a,e)pyrene has been shown to be carcinogenic in animals. EPA believes that there is sufficient evidence for listing dibenzo(a,e)pyrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

l. *Dibenzo(a,h)pyrene* (CAS No. 000189-64-0). Dibenzo(a,h)pyrene is

classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Dibenzo(a,h)pyrene has been shown to be carcinogenic in animals. EPA believes that there is sufficient evidence for listing dibenzo(a,h)pyrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

m. *Dibenzo(a,l)pyrene* (CAS No. 000191-30-0). Dibenzo(a,l)pyrene is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. Dibenzo(a,l)pyrene produced tumors in both male and female mice after subcutaneous (s.c.) injection and tumors in female mice after skin painting. EPA believes that there is sufficient evidence for listing dibenzo-(a,l)pyrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

n. *7H-Dibenzo(c,g)carbazole* (CAS No. 000194-59-2). 7H-Dibenzo(c,g)carbazole is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. 7H-Dibenzo(c,g)carbazole has been shown to be carcinogenic in animals. EPA believes that there is sufficient evidence for listing 7H-dibenzo(c,g)carbazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

o. *2-Methylchrysene* (CAS No. 003351-32-4). In a skin painting assay and in a mouse-skin initiation-promotion assay, 2-methylchrysene produced tumors in female mice. EPA believes that there is sufficient evidence for listing 2-methylchrysene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

p. *3-Methylchrysene* (CAS No. 003351-31-3). In a skin painting assay and in a mouse-skin initiation-promotion assay, 3-methylchrysene produced tumors in female mice. EPA believes that there is sufficient evidence for listing 3-methylchrysene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

q. *4-Methylchrysene* (CAS No. 003351-30-2). In a skin painting assay and in a mouse-skin initiation-promotion assay, 4-methylchrysene produced tumors in female mice. EPA believes that there is sufficient evidence for listing 4-methylchrysene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

r. *5-Methylchrysene* (CAS No. 003697-24-3). 5-Methylchrysene is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. In a skin-painting assay and in a mouse-skin initiation-promotion assay, 5-methylchrysene produced tumors in female mice. EPA believes that there is sufficient evidence for listing 5-methylchrysene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

s. *6-Methylchrysene* (CAS No. 001705-85-7). In a skin painting assay and in a mouse-skin initiation-promotion assay, 6-methylchrysene produced tumors in female mice. EPA believes that there is sufficient evidence for listing 6-methylchrysene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

t. *2-Methylfluoranthene* (CAS No. 033543-31-6). In a skin painting assay, 2-methylfluoranthene produced benign and malignant skin tumors in female mice. In a female mouse-skin initiation-promotion assay, 2-methylfluoranthene produced skin papillomas. EPA believes that there is sufficient evidence for listing 2-methylfluoranthene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

u. *1-Nitropyrene* (CAS No. 005522-43-0). 1-Nitropyrene is classified as a Group 2B compound by IARC, i.e., the compound is a possible human carcinogen. 1-Nitropyrene produced mammary adenocarcinomas and squamous-cell carcinomas in a dose-dependent manner by oral administration in rats, papillomas (not statistically significant) by skin application in mice, and lung adenomas by intratracheal instillation in hamsters. In a s.c. injection study, 1-nitropyrene produced tumors (i.e., one extraskeletal osteosarcoma and seven malignant fibrous histiocytomas) at the injection site in male Fisher rats. In another s.c. injection study, 1-nitropyrene produced tumors at the injection site in both male and female CD rats and mammary tumors in females. EPA believes that there is sufficient evidence for listing 1-nitropyrene on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

In addition to the above compounds, EPA proposes that the PAC category also include the following seven PACs:

Benz(a)anthracene (CAS No. 000056-55-3)

Benzo(a)phenanthrene (CAS No. 000218-01-9)

Benzo(a)pyrene (CAS No. 000050-32-8)

Benzo(rst)pentaphene (CAS No. 000189-55-9)

Dibenzo(a,h)anthracene (CAS No. 000053-70-3)

7,12-Dimethylbenz(a)anthracene (CAS No. 000057-97-6)

Indeno[1,2,3-cd]pyrene (CAS No. 000193-39-5)

These PACs were proposed for listing individually in EPA's response to a petition to add certain chemicals that appear on the RCRA list of toxic wastes under 40 CFR 261.33(f) to EPCRA section 313 (57 FR 41020, September 8, 1992). These chemicals were proposed for addition based on the available carcinogenicity data. Due to the similarities of these seven PACs to the chemicals listed in Unit IV.B.207.a. through IV.B.207.u. of this preamble, EPA believes that these chemicals should be added to EPCRA section 313 as part of the delineated PAC category rather than listed individually.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards the manufacturing threshold for that category. When filing reports for chemical categories the releases are determined in the same manner as the thresholds. One report is filed for the category and all releases are reported on this form. In the case of the delimited PAC category, only the 28 chemicals listed above would be included for purposes of making the threshold determinations and in filing reports on releases.

The Clean Air Act Amendments section 112(b) Hazardous Air Pollutants list includes a listing for polycyclic organic matter (POM) that includes PACs. The definition given for the POM category is broad and chemically non-specific and may be delineated by test method. For the purpose of listing under EPCRA section 313, EPA considered the following more chemically-specific definition for a PAC category: "includes all chemical species from the polycyclic aromatic hydrocarbon, aza-polycyclic, thio-polycyclic, or nitroarene families where polycyclic means three or more fused rings. More specifically, it means any combination of three or more fused six or five membered hydrocarbon rings with at least two or more rings being aromatic. The structure may contain fused non-aromatic five-membered rings, a ring nitrogen, a ring sulfur, one or more attached nitro groups, or one or more attached alkyl groups." As an

alternative to the delimited category, EPA is proposing to add a PAC category based on this broad definition. Although this definition may include chemicals of low or no concern, it may be less of a burden for facilities to report their total PACs rather than trying to determine which and how much of the specific PACs covered by the delimited category they are producing and releasing. EPA requests comment on the addition of the delimited PACs category versus the alternative PAC category based on the broader definition.

208. *Potassium bromate* (CAS No. 007758-01-2) (IARC) (Ref. 8). IARC has assigned potassium bromate to Group 2B, i.e., it is possibly carcinogenic to humans. Male and female rats orally exposed to 250 or 500 ppm (35 to 70 mg/kg/day) potassium bromate in drinking water for 110 weeks had an increased incidence of renal cell adenomas and adenocarcinomas and, in males, there was also an increased incidence of mesothelioma in the peritoneal cavity. EPA believes that there is sufficient evidence for listing potassium bromate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for this chemical.

209. *Potassium dimethyldithiocarbamate* (CAS No. 000128-03-0) (FIFRA AI) (Ref. 3). New Zealand White rabbits given 38 mg/kg/day by gavage on days 6 to 18 of gestation exhibited malalignment of sternebrae, total postimplantation loss, and fetal weight decrement. Also at this dose level, various malformations including adactyly, gastroschisis, short tail, anal atresia, spina bifida, atelectasis, costal cartilage anomaly, vertebral anomaly with/without rib, caudal vertebrea anomaly, and severe sternebrae malalignment were observed in 6 of 52 fetuses from 5 of 11 litters. At the 77 mg/kg/day dose level, there was severe fetal/embryo lethality. The NOEL was 12.8 mg/kg/day. EPA believes that there is sufficient evidence for listing potassium dimethyldithiocarbamate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

210. *Potassium N-methyldithiocarbamate* (CAS No. 000137-41-7) (FIFRA AI) (Ref. 3). By analogy to the analogue, potassium dimethyldithiocarbamate, potassium N-methyldithiocarbamate can reasonably be anticipated to cause fetotoxicity, postimplantation loss and malformations. Data on potassium dimethyldithiocarbamate follows. New Zealand White rabbits given 38 mg/kg/day by gavage on days 6 to 18 of gestation exhibited malalignment of sternebrae, total postimplantation loss, and fetal weight decrement. Also at this dose level various possible malformations including adactyly, gastroschisis, short tail, anal atresia, spina bifida, atelectasis, costal cartilage anomaly, vertebral anomaly with/without rib, caudal vertebrea anomaly, and severe sternebrae malalignment in 6 of 52 fetuses from 5 of 11 litters. At the 77 mg/kg/day dose level, there was severe fetal/embryo lethality. The NOEL was 12.8 mg/kg/day. EPA believes that there is sufficient evidence for listing potassium N-methyldithiocarbamate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for potassium dimethyldithiocarbamate.

211. *Primisulfuron (methyl 2-[[[[[4,6-bis(difluoromethoxy)2-pyrimidinyl]-amino] carbonyl] amino]sulfonyl] benzoate)* (CAS No. 086209-51-0) (FIFRA AI) (Ref. 3). In a 90–day dog feeding study, reduced thyroid weights accompanied by colloid depletion and parafollicular hyperplasia and anemia were observed at the LOEL of 25 mg/kg/day. The NOEL was 0.625 mg/kg/day. In a 1-year dog study, dietary administration of 250/125 mg/kg/day (LOEL: the dose was changed after week 10 in the study) produced thyroid hyperplasia, anemia, increased platelet levels, vacuolar changes, and increased absolute and relative liver weights. The NOEL was 25 mg/kg/day. In an 18–month study in mice, dietary administration of 1.7 mg/kg/day produced increased absolute and relative liver weights in females. No NOEL was established. Based on this study, an oral RfD of 0.006 mg/kg/day was derived. In a 2–year mouse study, increases in absolute and relative liver weights were observed at 408 mg/kg/day in males and 1.7 mg/kg/day in females. The systemic LOEL and NOEL in males was 408 mg/kg/day and 40.2 mg/kg/day, respectively. The systemic LOEL in females was 1.7 mg/kg/day and a NOEL could not be established. EPA believes that there is sufficient evidence for listing primisulfuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available thyroid and liver toxicity data for this chemical.

Plant toxicity values include a duckweed 14–day EC_{50} of 0.27 ppb and an algae 7–day EC_{50} of 24 ppb. EPA believes that there is sufficient evidence for listing primisulfuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

212. *Profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl-Spropyl phosphorothioate)* (CAS No. 041198-08-7) (FIFRA AI) (Ref. 3). In a 6–month feeding study in dogs, inhibition of plasma and red blood cell cholinesterase activities were observed at 2 ppm (0.05 mg/kg/day). The NOEL was 0.2 ppm (0.005 mg/kg/day). Based on the NOEL, EPA derived an oral RfD of 0.00005 mg/kg/day. Other studies (21, 28, and 90–day studies in rat, rabbit and dog) also demonstrate cholinesterase (plasma, red blood cell or brain) inhibition in rats and mice. EPA believes that there is sufficient evidence for listing profenofos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

213. *Prometryn (N,N'-bis(1-methylethyl)-6-methylthio-1,3,5-triazine-2,4-diamine)* (CAS No. 007287-19-6) (FIFRA AI) (Ref. 3). Degenerative changes in the liver and kidney, and bone marrow atrophy (the LOEL was 37.5 mg/kg/day; the NOEL was 3.75 mg/kg/day) were observed in dogs fed prometryn for 2 years. Based on the NOEL, EPA derived an oral RfD of 0.004 mg/kg/day. Fatty liver degeneration (the LOEL was 500 mg/kg; the NOEL was 250 mg/kg) was observed in rats fed prometryn for 28 days.

In a teratology study in rabbits, test material was administered by gavage from gestation day 7 to 19. Increased abortions and late resorptions occurred at 72 mg/kg/day. The NOEL was 12 mg/kg/day.

EPA believes that there is sufficient evidence for listing prometryn on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic, renal, bone marrow, and developmental toxicity data.

214. *Propachlor (2-chloro-N-(1-methylethyl)-N-phenylacetamide)* (CAS No. 001918-16-7) (FIFRA AI) (Ref. 3). No evidence of maternal toxicity was seen in rabbits administered propachlor by gavage at 0, 5, 15, or 50 mg/kg/day on days 7 to 19 of gestation. Statistically significant increases in mean resorptions/postimplantation loss with corresponding decreases in the mean number of viable fetuses were reported at 15 and 50 mg/kg/day when compared to controls. EPA believes that there is sufficient evidence for listing propachlor on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data.

215. *Propanil (N-(3,4-dichlorophenyl)propanamide)* (CAS No. 000709-98-8) (FIFRA AI) (Ref. 3). Results of several subchronic and chronic toxicity studies indicated the

liver and spleen as the target organs for propanil. Increased relative spleen weight (the LOEL was 20 mg/kg/day; the NOEL was 5 mg/kg/day) was noted in female rats fed propanil for 2 years. Based on the NOEL, EPA derived an oral RfD of 0.005 mg/kg/day. Histopathological changes (the LOEL was 30 mg/kg/day; the NOEL was 25 mg/kg/day) in the liver and spleen were observed in mice orally administered propanil for 90 days. At higher dose levels (i.e., 240 and 1,920 mg/kg/day) cyanosis, methemoglobinemia, and increased liver and spleen weight were noted. In a 90–day rat study, increased spleen weight (the LOEL was 50 mg/kg/day; the NOEL was 16.5 mg/kg/day) was seen in females. Decreased hemoglobin levels was seen in males. Increased SGOT and SAP activities (the LOEL was 100 mg/kg/day; the NOEL was 15 mg/kg/day) were observed in dogs orally administered propanil for 2 years. EPA believes that there is sufficient evidence for listing propanil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic toxicity data.

216. *Propargite* (CAS No. 002312-35-8) (CERCLA) (Ref. 8). In a developmental toxicity study in which rabbits were exposed via oral gavage to doses greater than or equal to 6 mg/kg/day (fetotoxic LOAEL) of propargite during gestation days 6 to 18, delayed ossification, increased fetal resorption, decreased fetal viability and reductions in fetal body weight were noted. The maternal LOAEL in this study was also 6 mg/kg/day and was based on body weight reductions. The NOEL for maternal and fetal toxicity was 2 mg/kg/day. Developmental effects (increased incidence of missing sternebrae) were also reported in offspring of rats exposed orally during gestation days 6 to 15. The fetotoxicity LOAEL was 25 mg/kg/day and the NOAEL was 6 mg/kg/day. EPA believes that there is sufficient evidence for listing propargite on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the developmental toxicity data for this chemical.

Measured aquatic acute toxicity data for propargite include a bluegill sunfish LC_{50} of 31 ppb. EPA believes that there is sufficient evidence for listing propargite on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

217. *Propargyl alcohol* (CAS No. 000107-19-7) (CERCLA; RCRA APP8; RCRA P) (Ref. 8). Histopathological changes in the liver and kidney were reported in a subchronic rat feeding study following exposure to propargyl alcohol in the diet for as little as 4 weeks. The liver changes included increased organ weight, hepatocytic megalocytosis with proliferation of bile ducts and cytoplasmic vacuolization of hepatocytes, as well as hematological and serum enzyme changes indicative of liver damage. The kidney weights were increased in females only, and both sexes had karyomegaly of the renal tubular epithelial cells. The LOAEL for these changes was 15 mg/kg/day and the NOAEL was 5 mg/kg/day. EPA derived an oral RfD of 0.002 mg/kg/day from this study. EPA believes that there is sufficient evidence for listing propargyl alcohol on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatotoxicity and nephrotoxicity data for this chemical.

218. *Propetamphos (3-[[(Ethylamino)methoxyphosphinothioyl] oxy]-2-butenoic acid, 1-methylethyl ester)* (CAS No. 031218-83-4) (FIFRA AI) (Ref. 3). Purebred beagle dogs were given propetamphos for 52 weeks in feed. A dose of 2.5 mg/kg/day caused increased relative liver weight and increased liver enzymes. Dogs given 12.5 mg/kg/day developed hepatocellular necrosis. The NOEL was 0.5 mg/kg/day.

Red blood cell and plasma cholinesterase inhibition were seen in a 2-week rat inhalation study at 1 mg/kg/day (LOEL). No NOEL could be established. Cholinesterase inhibition was observed at 0.4 mg/kg/day in a 13–week rat dietary study. The NOEL was 0.2 mg/kg/day. Cholinesterase inhibition was also observed at 0.1 mg/kg/day (LOEL) in a 6–month dog dietary study. The NOEL was 0.05 mg/kg/day. In a 92–week mouse feeding study, red blood cell, brain, and plasma cholinesterase were inhibited at 1.0 mg/kg/day (LOEL). The NOEL was 0.5 mg/kg/day. Based on this study, an oral RfD of 0.005 mg/kg/day was derived. In a 2–year dietary rat study, plasma cholinesterase depression was observed at 0.6 mg/kg/day (LOEL). The cholinesterase NOEL was 0.3 mg/kg/day. Alopecia and hyperflexia were observed at 6 mg/kg/day (systemic LOEL). The systemic NOEL was 0.6 mg/kg/day. In a lifetime mouse study, dietary administration of 1 mg/kg/day produced plasma, red blood cell, liver, and brain cholinesterase depression. The NOEL was 0.05 mg/kg/day.

EPA believes that there is sufficient evidence for listing propetamphos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and neurological toxicity data for this chemical.

219. *Propiconazole (1-[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]- methyl-1H-1,2,4,-triazole)* (CAS No. 060207-90-1) (FIFRA AI) (Ref. 3). In a 2-generation rat reproduction study, dietary administration of 25 mg/kg/day produced an increased incidence of hepatic clear cell change in parental animals and administration of 125 mg/kg/day produced an increased incidence of hepatic lesions in offspring. The parental NOEL was 5 mg/kg/day and the developmental NOEL was 25 mg/kg/day. In a 2–year mouse study, dietary administration of 65 mg/kg/day (LOEL) produced increased liver lesions and liver weight in males, whereas, administration of 325 mg/kg/day produced increased liver tumors, increased SGPT and SGOT levels, increased liver weight, hepatocyte enlargement, and vacuolation and fat deposition in the liver of both sexes. The NOEL was 13 mg/kg/day.

In a 3–month dog dietary study, lymphoid follicles were observed in the mucous membranes of the pyloric part of the stomach at 6.25 mg/kg/day. The NOEL was 1.25 mg/kg/day. In a 1–year dog study, dietary administration of 6.25 mg/kg/day produced mild gastric mucosal irritation. The NOEL was 1.25 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.013 mg/kg/day was derived.

EPA believes that there is sufficient evidence for listing propiconazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and gastrointestinal toxicity data for this chemical.

220. *Quizalofop-ethyl (2-[4-[(6-chloro-2-quinoxalinyl) oxy]phenoxy] propanoic acid ethyl ester)* (CAS No. 076578-14-8) (FIFRA AI) (Ref. 3). In a 3–month rat study, dietary administration of 6.4 mg/kg/day produced changes in liver weight and liver lesions. The NOEL was 2 mg/kg/day. In a 6–month dietary dog study, 10 mg/kg/day produced testicular atrophy in males. The NOEL was 2.5 mg/kg/day. Liver cell enlargement was observed at 3.7 mg/kg/day in males and 4.6 mg/kg/day in females (LOELs) in a 2–year rat dietary study. The NOELs for males and females were 0.9 mg/kg/day and 1.1 mg/kg/day, respectively. Based on the study, an oral RfD of 0.009 mg/kg/day was derived. Increased liver weights were observed in pregnant rats in a teratology study. The maternal LOEL was 100 mg/kg/day and the NOEL was 30 mg/kg/day. No teratogenic NOEL could be established. In a 2-generation rat reproduction study, increased liver weights and increased incidence of eosinophilic changes in the liver were observed in the offspring at 5 mg/kg/day (LOEL). The NOEL was 1.25 mg/kg/day.

EPA believes that there is sufficient evidence for listing quizalofop-ethyl on

EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available reproductive and hepatic toxicity data for this chemical.

221. *Resmethrin ([5-(phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate])* (CAS No. 010453-86-8) (FIFRA AI) (Ref. 3). Oral administration of 30 mg/kg/day (LOEL) in capsules for 6 months produced increases in liver weights in female dogs. The NOEL was 10 mg/kg/day. In a 2–year rat study, dietary administration of 125 mg/kg/day produced increases in liver weight and pathological lesions. The NOEL was 25 mg/kg/day.

In a one-generation reproduction rat study, administration of 25 mg/kg/day (LOEL) in the diet produced an increase in dead pups and lower pup weight among survivors. No NOEL could be established. In a 3-generation reproduction rat study, dietary administration of 25 mg/kg/day (LOEL) produced an increase in pups cast dead and lower pup weight among survivors. No NOEL could be established. Based on the NOEL of the study, an oral RfD of 0.03 mg/kg/day was derived.

Signs of neurotoxicity, including piloerection, ataxia, sensory changes in peripheral nerves, changes in locomotor activity, salivation, tremors, and convulsions were observed in rats, dogs, mice, and rabbits given acute oral, intravenous or intraperitoneal injections greater than or equal to 160 mg/kg. In a 3–month rat inhalation study, 0.1 mg/L (LOEL) produced behavioral effects and 1 mg/L produced decreased locomotor activity, tremors, and other behavioral changes. No NOEL could be established.

EPA believes that there is sufficient evidence for listing resmethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic, reproductive, and neurological toxicity data for this chemical.

Aquatic acute toxicity values for resmethrin include a rainbow trout 96–hour LC_{50} of 0.275 ppb (89 percent a.i.), a bluegill sunfish 96–hour LC_{50} of 0.750 ppb (89 percent a.i.), a lake trout 96–hour LC_{50} of 1.7 ppb (84.5 percent a.i.), and a fathead minnow 96–hour LC_{50} of 3.0 ppb. EPA believes that there is sufficient evidence for listing resmethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

222. *Sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one)* (CAS No. 074051-80-2) (FIFRA AI) (Ref. 3). Mild anemia (the LOEL was 17.5 mg/kg/day; the NOEL was 8.9 mg/kg/day) was observed in male dogs fed sethoxydim for 1–year. Based on the NOEL, EPA derived an oral RfD of 0.09 mg/kg/day. Swollen liver cells (the LOEL was 117 mg/kg/day; the NOEL was 45 mg/kg/day) were seen in mice fed sethoxydim for 14 weeks. Pathological effects in the liver (the LOEL was 45 mg/kg/day; the NOEL was 15 mg/kg/day) were noted in rats fed sethoxydim for 14 weeks. Nonneoplastic liver lesions (the LOEL was 54 mg/kg/day; the NOEL was 18 mg/kg/day) were observed in mice fed sethoxydim for 2 years. Decreased phenosulfophthalein (PSP) clearance (the NOEL was greater than 3 mg/kg/day; the LOEL not determined) was noted in dogs given sethoxydim in the diet for 26 weeks. Decreased PSP clearance (the LOEL was 20 mg/kg/day; the NOEL was 2 mg/kg/day) was also noted in a 6–month feeding study in dogs. EPA believes that there is sufficient evidence for listing sethoxydim on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological, hepatic, and renal toxicity data.

223. *Simazine* (CAS No. 000122-34-9) (FIFRA SR; SDWA) (Ref. 8). Simazine is a triazine-type herbicide. Chronic exposure of sheep to low doses (approximately 1.4 to 6 mg/kg/day) of simazine caused fatty and granular degeneration in the liver, and increased SGOT and alkaline phosphatase. Neuronophagia, diffuse kidney degeneration, diffuse glial proliferation and degeneration of ganglion cells in the cerebrum and medulla were also reported in these animals. Dogs that received 1,500 ppm (37.5 mg/kg/day) simazine in a 2–year feeding study also had slight increases in serum alkaline phosphatase and SGOT, indicative of liver damage.

Sheep that received 1.4 mg/kg/day simazine for 37 to 111 days had necrotic changes in the germinal epithelium of the testis and disturbances in spermatogenesis.

EPA believes that there is sufficient evidence for listing simazine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hepatic, renal, neurological, and reproductive toxicity of this chemical.

224. *Sodium azide* (CAS No. 026628-22-8) (CERCLA; EPCRA EHS; RCRA P) (Ref. 8). Although not used clinically, sodium azide is a direct acting vasodilator. A reduction in blood pressure was noted in hypertensive patients orally exposed to sodium azide during an investigation of the substance in treating cancer. Reductions in blood pressure were also reported in animals following acute exposure. The minimal hypotensive dose in humans has been estimated to be approximately 0.2 to 0.4 µg/kg (0.0002 to 0.0004 mg/kg). EPA believes that there is sufficient evidence for listing sodium azide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the ability of this substance to lower blood pressure.

225. *Sodium chlorite* (CAS No. 007758-19-2) (FIFRA AI) (Ref. 3). A decrease in erythrocyte half-life (the LOEL was 100 ppm or 7.3 mg/kg/day; the NOEL was 50 ppm or 3.65 mg/kg/day) was observed in cats administered sodium chlorite in the drinking water for 90 days. Increase in glucose-6-phosphatase dehydrogenase activity, mean corpuscular volume (MCV), osmotic fragility, and acanthocytes were observed in mice administered 100 ppm (19 mg/kg/day) in the drinking water for 30 days. In another 30–day drinking water study, increased glucose-6-phosphatase dehydrogenase activity, MCV, and osmotic fragility were noted in mice administered 100 ppm (19 mg/kg/day). The NOEL was 1.9 mg/kg/day. The results of in vitro studies show that sodium chlorite can result in oxidative damage to erythrocytes. EPA believes that there is sufficient evidence for listing sodium chlorite on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological toxicity data.

226. *Sodium dicamba (3,6-Dichloro-2-methoxybenzoic acid, sodium salt)* (CAS No. 001982-69-0) (FIFRA AI) (Ref. 3). No toxicity data are available for sodium dicamba. However, data are available on dicamba as discussed below. In solution, sodium dicamba will dissociate into sodium ion and the dicamba anion. Decreased fetal body weights and increased postimplantation loss were observed in the offspring of rabbits receiving 10 mg/kg/day on days 6 through 18 of gestation. The LOEL was 10 mg/kg/day and NOEL was 3 mg/kg/day. Based on the NOEL, EPA derived an oral RfD value of 0.03 mg/kg/day. In a separate study, disorders of oxidative phosphorylation and focal necrosis in the heart were observed in newborn rats following transplacental exposure to dicamba. In a developmental toxicity study, an increase in skeletal malformations was seen in the offspring of rats orally administered 64 mg/kg/day on days 6 through 19 of gestation. EPA believes that there is sufficient evidence for listing sodium dicamba on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for dicamba.

227. *Sodium dimethyldithiocarbamate* (CAS No. 000128-04-1) (FIFRA AI) (Ref. 3). By analogy to potassium dimethyldithiocarbamate, sodium dimethyldithiocarbamate can reasonably be anticipated to cause fetotoxicity, postimplantation loss and malformations. Data on potassium dimethyldithiocarbamate follows. New Zealand white rabbits given 38 mg/kg/day by gavage on days 6 to 18 of gestation exhibited malalignment of sternebrae, total postimplantation loss, and fetal weight decrement. Also at this dose level, various possible malformations including adactyly, gastroschisis, short tail, anal atresia, spina bifida, atelectasis, costal cartilage anomaly, vertebral anomaly with/without rib, caudal vertebrea anomaly, and severe sternebrae malalignment in 6 of 52 fetuses from 5 of 11 litters. At the 77 mg/kg/day dose level, there was severe fetal/embryo lethality. The NOEL was 12.8 mg/kg/day. EPA believes that there is sufficient evidence for listing sodium dimethyldithiocarbamate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for the analogue potassium dimethyldithiocarbamate.

228. *Sodium fluoroacetate* (CAS. No. 000062-74-8) (CERCLA; EPCRA EHS; FIFRA SR; RCRA APP8; RCRA P) (Ref. 8). In a 13–week oral study in rats, gavage administration of sodium fluoroacetate (0.02 mg/kg/day) resulted in decreased testis weight and altered spermatogenesis in males (the NOAEL was 0.05 mg/kg/day). In addition, increased heart weight was noted in females and males administered 0.20 mg/kg/day of sodium fluoroacetate. The increase in heart weight, however, was only accompanied by subacute, minimal inflammation (not dose-related). Also, fluorocitrate levels were significantly increased after 4 weeks in males administered 0.50 mg/kg/day and after 13 weeks in both male and female rats administered 0.20 or 0.50 mg/kg/day. The testicular and cardiac effects were reported to be consistent with those noted in the literature.

A case study reported a deliberate ingestion of an unspecified dose of sodium fluroacetate by a healthy female. The woman experienced nausea, vomiting, and abdominal pain 30 minutes after ingestion, with subsequent seizures occurring 60 minutes after the initial onset of symptoms. Neurological examination after 2 weeks revealed severe cerebellar dysfunction. By 18 months, memory disturbances and depressive behavior persisted. Inhalation exposure to unspecified levels of sodium fluoroacetate caused salivation, loss of speech, violent convulsions, and coma in a male worker. The patient ultimately recovered. Neurological effects have also been reported in rats in a 13–week oral study. Four of 20 female rats treated with 0.50 mg/kg/day (the highest dose tested) exhibited convulsions at day 79, with no recurrences for the remainder of the study. An estimated lethal dose of sodium fluoroacetate in humans ranges from 5 to 10 mg/kg.

EPA believes that there is sufficient evidence for listing sodium fluoroacetate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the neurologic, reproductive, and myocardial toxicity data for this chemical.

Measured oral LD_{50} values of fluoroacetate in the house sparrow, redwinged blackbird, starling and golden eagle are 3.0, 4.22, 2.37, and 1.25 to 5 mg/kg, respectively. In addition, measured acute toxicity data for mammalian wildlife include an oral LD_{50} of 0.22 to 0.44 mg/kg for mule deer, an oral LD_{50} of 1.41 mg/kg for male ferrets, and an oral LD_{50} of 0.5 to 1.0 mg/kg for bears. EPA believes that there is sufficient evidence for listing sodium fluoroacetate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

229. *Sodium hypochlorite* (CAS No. 007681-52-9) (CERCLA) (Ref. 8). Aquatic acute toxicity data for sodium hypochlorite include a 96–hour measured LC_{50} of 100 ppb for bluegill and a 96–hour measured LC_{50} of 80 ppb for fathead minnow. In addition, the 96–hour measured LC_{50} values for non-standard test species range from 32 ppb for coho salmon to 82 ppb for Pacific sand lance. EPA believes that there is sufficient evidence for listing sodium hypochlorite on EPCRA section 313(d)(2)(C) based on the available ecotoxicity data for this chemical.

230. *Sodium nitrite* (CAS No. 007632-00-0) (CERCLA) (Ref. 8). Sodium nitrite causes conversion (oxidation) of hemoglobin to methemoglobin. Methemoglobin cannot combine reversibly with oxygen and its formation can cause anemic hypoxia which may lead to intense cyanosis. Infants are particularly susceptible to this effect because of their higher stomach pH, immature enzyme systems, the reduced capacity of newborn erythrocytes to reduce methemoglobin to hemoglobin, and the increased rate of nitrite-induced oxidation of fetal hemoglobin to methemoglobin (approximately twice the rate of adult hemoglobin oxidation). Coma and methemoglobinemia/carboxyhemoglobinemia were reported in a human that received sodium nitrite (71 mg/kg) orally. In animal studies, methemoglobinemia was reported in dogs that received an intravenous dose of 30 mg/kg sodium nitrite and in rats administered a 10 mg/kg dose of sodium nitrite subcutaneously.

Fetotoxicity (fetal death) was reported following oral exposure of pregnant rats to sodium nitrite (30 mg/kg/day) during gestation days 1 through 22. In mice exposed orally to 80 mg/kg/day during gestation days 6 to 15 there was increased preimplantation loss and fetal death, and in mice exposed to a lower dose (20 mg/kg/day) during gestation days 1 to 14, abnormalities of the blood or lymphatic system were reported in offspring. In offspring of rats orally exposed to 26 to 256 mg/kg/day during pregnancy (gestation days 1 through 22) and/or during lactation (20 to 21 days after birth), effects on growth including biochemical and/or metabolic changes were noted.

EPA believes that there is sufficient evidence for listing sodium nitrite on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic hematological and developmental toxicity data for this chemical.

231. *Sodium pentachlorophenate* (CAS No. 000131-52-2) (FIFRA AI) (Ref. 3). Pentachlorophenol has been classified by EPA as a Group B2 compound, i.e., a probable human carcinogen. This was based on occurrence of increased combined incidence of hemangiosarcomas, liver tumors, and pheochromocytomas in female mice. EPA believes that there is sufficient evidence for listing sodium pentachlorophenate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for its parent compound, pentachlorophenol.

Aquatic acute toxicity values for sodium pentachlorophenate include a rainbow trout 96–hour LC_{50} of 55 ppb, a bluegill 96–hour LC_{50} of 44 ppb, a fathead minnow 96–hour LC_{50} of 20 ppb, and a shrimp 96–hour LC_{50} of 84 ppb. EPA believes that there is sufficient evidence for listing sodium pentachlorophenate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

232. *Sodium o-phenylphenoxide* (CAS No. 000132-27-4) (CERCLA; IARC) (Ref. 8). Sodium o-phenylphenoxide has been classified by IARC as a Group 2B compound; i.e., the substance is possibly carcinogenic in humans. EPA believes that there is sufficient evidence

for listing sodium o-phenylphenoxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

233. *Sodium 2-pyridinethiol-1-oxide* (CAS No. 015922-78-8) (FIFRA AI) (Ref. 3). New Zealand white rabbits were tested with test material dermally on days 6 to 18 of gestation. At 0.5 mg/kg/day, pups exhibited missing or defective vertebrae, ribs and sternebrae. No NOEL was established. EPA believes that there is sufficient evidence for listing sodium 2-pyridinethiol-1-oxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

234. *Strychnine and salts* (CERCLA; EPCRA EHS; FIFRA SR; RCRA APP8; RCRA P) (Ref. 8). Strychnine salts will dissociate in aqueous solutions to yield soluble strychnine. Strychnine, an alkaloid, can cause violent convulsions in humans. Other effects include agitation, hypertonicity of muscles, and painful muscle spasms. Renal failure and respiratory paralysis generally ensues, from severe or prolonged convulsions. A potentially lethal oral dose in a small child is 5 to 10 mg. The lethal oral dose for an adult may be as low as 30 mg. Similar effects have also been reported in animals exposed at lethal doses ranging from 0.25 to 2.35 mg/kg via oral and parenteral routes of exposure. EPA's exposure analysis indicates that strychnine and strychnine salts concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing strychnine and salts as a category on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

EPCRA section 313 requires threshold determinations for chemical categories to be based on the total of all chemicals in the category manufactured, processed, or otherwise used. For example, a facility that manufactures three members of a chemical category would count the total amount of all three chemicals manufactured towards the manufacturing threshold for that category. When filing reports for chemical categories, the releases are determined in the same manner as the thresholds. One report if filed for the category and all releases are reported on this form.

235. *Sulfur dioxide* (CAS No. 007446-09-5) (CERCLA; EPCRA EHS) (Ref. 8). Acid precipitation occurs in large regions of the Eastern United States and Canada, Europe, and Japan. This widespread occurrence of acid precipitation and dry deposition results in large part from man-made emissions of oxides of sulfur (e.g., sulfur dioxide) and oxides of nitrogen. These substances are transformed in the atmosphere into sulfuric acid and nitric acid, transported over great distances and deposited on vegetation, soils, surface waters, and materials. These substances are transferred from the atmosphere into ecosystems by the absorption of gases, the impaction and gravitational settling of fine aerosols and coarse particles and, precipitation.

Acids contained in polluted snow are released as contaminated meltwater. The resulting release of pollutants can cause major or rapid changes in the acidity of streams and lake waters. Interference with normal reproduction in fish populations is induced by acidity of lake and stream waters. Reproduction of frogs and salamanders is also inhibited by atmospheric acidification of surface waters.

Atmospheric deposition of sulfuric acid and nitric acid can cause serious damage to crops and forests. Biological effects include induction of necrotic lesions, loss of nutrients due to leaching from foliar organs, accelerated erosion of waxes and leaf surfaces, and interference with normal reproductive processes. Acidification decreases the rate of many soil processes such as nitrogen fixation and the breakdown of organic matter.

EPA believes that there is sufficient evidence for listing sulfur dioxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

Limited data on long-term human exposure to sulfuric acid with respect to occupational settings are available. Recent studies suggest that sulfuric acid aerosols at levels as low as 0.02 to 0.04 mg/m^3 may cause significant effects on lung function in humans. Effects noted include increased risk of chronic bronchitis in smokers and reduced tracheobronchial clearance rate. Other studies suggest that sulfuric acid at concentrations as low as 0.04 mg/m^3 may act synergistically with copollutants such as ozone, NO_2, and metal particulates in causing decreased pulmonary diffusing capacity and bronchial hypersensitivity. These effects are presumably attributable to the acidic and oxidative properties of sulfuric acid, and are therefore pH and concentration dependent. EPA believes that there is sufficient evidence for listing sulfur dioxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for sulfuric acid, the hydrolysis product of sulfur dioxide.

Sulfur dioxide is regulated under Title I of the CAA (Provisions for Attainment and Maintenance of National Ambient Air Quality Standards) and Title IV of the CAA (Acid Deposition Control). In addition to this proposal to add sulfur dioxide to EPCRA section 313, in Units IV.B.36. and 179, EPA is proposing to add two other chemicals, carbon monoxide and nitrogen dioxide, that are regulated under Title I of the CAA. Extensive data, which are highly technical, are collected on these chemicals as required by the CAA. EPA requests comment on the following: (1) Is the information collected under the CAA sufficient for public right-to-know purposes; and (2) suggestions on how the data collected on these chemicals pursuant to CAA Titles I and IV could be used to meet the purposes of EPCRA section 313.

236. *Sulfur trioxide* (CAS No. 007446-11-9) (EPCRA EHS) (Ref. 8). IARC has classified sulfur trioxide in Group 1, i.e., the chemical is carcinogenic to humans based on sufficient evidence of carcinogenicity in humans. EPA believes that there is sufficient evidence for listing sulfur trioxide on EPCRA section 313 pursuant to section 313(d)(2)(B) based on the carcinogenicity data for this chemical.

Acid precipitation occurs in large regions of the Eastern United States and Canada, Europe, and Japan. This widespread occurrence of acid precipitation and dry deposition results in large part from man-made emissions of oxides of sulfur (e.g., sulfur trioxide) and oxides of nitrogen. These substances are transformed in the atmosphere into sulfuric acid and nitric acid, transported over great distances and deposited on vegetation, soils, surface water, and materials. These substances are transferred from the atmosphere into ecosystems by the absorption of gases, the impaction and gravitational settling of fine aerosols and coarse particles and, precipitation.

Acids contained in polluted snow are released as contaminated meltwater. The resulting release of pollutants can cause major or rapid changes in the acidity of streams and lake waters. Interference with normal reproduction in fish populations is induced by acidity of lake and stream waters. Reproduction of frogs and salamanders is also inhibited by atmospheric acidification of surface waters.

Atmospheric deposition of sulfuric acid and nitric acid can cause serious damage to crops and forests. Biological effects include induction of necrotic lesions, loss of nutrients due to leaching from foliar organs, accelerated erosion of waxes and leaf surfaces, and interference with normal reproductive processes. Acidification decreases the rate of many soil processes such as nitrogen fixation and the breakdown of organic matter.

EPA believes that there is sufficient evidence for listing sulfur trioxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

Limited data on long-term human exposure to sulfuric acid with respect to occupational settings are available. Recent studies suggest that sulfuric acid aerosols at levels as low as 0.02 to 0.04 mg/m^3 may cause significant effects on lung function in humans. Effects noted include increased risk of chronic bronchitis in smokers and reduced tracheobronchial clearance rate. Other studies suggest that sulfuric acid at concentrations as low as 0.04 mg/m^3 may act synergistically with copollutants such as ozone, NO_2, and metal particulates in causing decreased pulmonary diffusing capacity and bronchial hypersensitivity. These effects are presumably attributable to the acidic and oxidative properties of sulfuric acid, and are therefore pH and concentration dependent. EPA believes that there is sufficient evidence for listing sulfur trioxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic toxicity data for sulfuric acid, the hydrolysis product of sulfur trioxide.

237. *Sulfuryl fluoride (Vikane)* (CAS No. 002699-79-8) (FIFRA AI) (Ref. 3). The primary effects of sulfuryl fluoride in humans are respiratory irritation and central nervous system depression, followed by excitation and possibly convulsions. Rabbits exposed via inhalation (6 hours/day, 5 days/week, for 2 weeks) to sulfuryl fluoride showed hyperactivity, convulsions and vacuolation of the cerebrum at 600 ppm (2.5 mg/L). Renal lesions were present in all rats exposed by inhalation (6 hours/day, 5 days/week, for 2 weeks) to 600 ppm (2.5 mg/L) sulfuryl fluoride. Minimal renal changes were noted in rats exposed to 300 ppm (1252 mg/L), whereas no effects occurred at 100 ppm (4.2 mg/L). Convulsions at near lethal concentrations were reported in rabbits, mice, and rats. In a 30-day inhalation study, loss of control, tremors of the hind quarters, and histopathological changes in the lung, liver, and kidney were reported in rabbits exposed to 400 ppm (1.6 mg/L) for 7 hours/day, 5 days/week for 5 weeks. The NOEL was 200 ppm (0.83 mg/L). Cerebral vacuolation and/or malacia and inflammation of nasal tissues were observed in rabbits exposed by inhalation to 100 or 300 ppm (0.4 or 1.25 mg/L) for 13 weeks. The NOEL was 30 ppm (0.125 mg/L). Rats exposed by inhalation to 100 to 600 ppm (0.4 to 0.25 mg/L) sulfuryl fluoride for 13 weeks developed mottled teeth (indicative of fluoride toxicity), renal and respiratory effects, and cerebral vacuolation. EPA believes that there is sufficient evidence for listing sulfuryl fluoride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological, renal, and respiratory toxicity data for this chemical.

238. *Sulprofos (O-Ethyl O-[4-(methylthio)phenyl] phosphorodithioic acid S-propyl ester)* (CAS No. 035400-43-2) (FIFRA AI) (Ref. 3). The acute dermal rabbit LD_{50} is between 745 mg/kg and 994 mg/kg. Ataxia, tremors, and diarrhea were observed. In a 28-day dietary study, administration of 1 mg/kg/day produced decreased red blood cell and brain cholinesterase activity. The NOEL was 0.1 mg/kg. Dietary administration of 15 mg/kg/day for 3 months produced hyperactivity in female rats. The NOEL was 5 mg/kg/day. In the same study, 5 mg/kg/day produced red blood cell and brain cholinesterase inhibition in both sexes. The cholinesterase NOEL was 1.5 mg/kg/day. Red blood cell and brain cholinesterase inhibition, diarrhea, vomiting, and some hind limb paralysis were seen in dogs orally administered 5 mg/kg/day (LOEL) for 3 months. The NOEL was 0.5 mg/kg/day. In a 22-month dietary mouse study, plasma and red blood cell cholinesterase were inhibited at 3.25 mg/kg/day. The NOEL was 0.325 mg/kg/day. Plasma, red blood cell, and brain cholinesterase inhibition were seen at a dietary administration of 2.5 mg/kg/day (LOEL) in a 2-year dog study. The NOEL was 0.25 mg/kg/day. Based on this study, an oral RfD of 0.003 mg/kg/day was derived. Dietary administration of 3 mg/kg/day (LOEL) produced plasma and red blood cell cholinesterase depression in a 2-year rat study. The NOEL was 0.3 mg/kg/day.

Increased unossified sternebrae were observed in the offspring of rats given 10 mg/kg/day (LOEL) by gavage during days 6 to 15 of gestation. No NOEL was established.

EPA believes that there is sufficient evidence for listing sulprofos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological and developmental toxicity data for this chemical.

The aquatic acute values for sulprofos include bluegill 96-hour LC_{50} value of 1.03 ppm and 11 ppm (technical product). The channel catfish bioconcentration factor for whole fish is 704 to 1006. EPA believes that there is sufficient evidence for listing sulprofos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data and the potential for bioconcentration.

239. *Tebuthiuron (N-[5-(1,1-Dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea)* (CAS No. 034014-18-1) (FIFRA AI) (Ref. 3). Administration of 25 mg/kg/day (LOEL) on days 6 through 18 of gestation produced reduced body weights in offspring of rabbits. The NOEL was 10 mg/kg/day. In a 3-month rat study, dietary administration of 125 mg/kg/day (LOEL) produced growth suppression and pancreatic lesions. The NOEL was 50 mg/kg/day. In a 2-generation rat reproduction study, depressed body weight gain was observed in the female parental generation at 14 mg/kg/day. The NOEL was 7 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.07 mg/kg/day was derived. In a 3-generation rat reproduction study, decreased body weight was observed in the offspring of animals administered 20 mg/kg/day (LOEL). No NOEL was established. Dietary administration of 40 mg/kg/day to rats for 2 years produced growth suppression. The NOEL was 20 mg/kg/day. EPA believes that there is sufficient evidence for listing tebuthiuron on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

240. *Tefluthrin* (CAS No. 079538-32-2) (FIFRA AI) (Ref. 3). Delayed ossification was seen in the offspring of rats administered 5 mg/kg/day (LOEL) orally on days 7 through 16 of gestation. The NOEL was 3 mg/kg/day.

In a 3-month rat study, dietary administration of 10 mg/kg/day produced plasma, red blood cell, and brain cholinesterase inhibition. The NOEL was 5 mg/kg/day. In a 6-month dog study, dietary administration of 10 mg/kg/day (LOEL) produced plasma cholinesterase inhibition. The NOEL was 1 mg/kg/day.

In a 21-day rat dietary study, administration of 20 mg/kg/day (LOEL for females) produced decreased platelet counts, increased white blood cell, lymphocyte, and neutrophil counts in males and females. The NOEL for females was 5 mg/kg/day. Increased absolute and relative liver weights were

observed at 5 mg/kg/day in males, thus no NOEL could be established for males. Dietary administration of 10 mg/kg/day (LOEL) for 3 months to rats produced increased absolute liver weights, decreased bilirubin levels, and hepatocellular hypertrophy. The NOEL was 5 mg/kg/day. In a 6–month dog study, dietary administration of 10 mg/kg/day (LOEL) produced hepatotoxicity (effects not reported). The NOEL was 1 mg/kg/day. In a 2–year mouse study, dietary administration of 13.5 mg/kg/day produced liver necrosis. The NOEL was 3.4 mg/kg/day.

EPA believes that there is sufficient evidence for listing tefluthrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental, neurological, hepatic, and hematological toxicity data for this chemical.

Aquatic acute toxicity values for tefluthrin include a rainbow trout 96–hour LC_{50} of 0.06 ppb, a bluegill 96–hour LC_{50} of 0.13 ppb, a sheepshead minnow 96–hour LC_{50} of 0.13 ppb, a daphnid 48–hour EC_{50} of 0.07 ppb, and a mysid 96–hour EC_{50} of 0.053 ppb. EPA believes that there is sufficient evidence for listing teflurin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

241. *Temephos* (CAS No. 003383-96-8) (FIFRA AI) (Ref. 3). Temephos is a cholinesterase inhibitor in many mammalian species. The LOELs at which the cholinesterase inhibition was observed ranged from 0.3 to 10 mg/kg/day. However, human subjects that ingested 256 mg/day for 5 days or 64 mg/day for 4 weeks showed no clinical signs or effects on plasma or red blood cell cholinesterase activities. Dietary exposure of rats to 350 mg/kg/day for 90 days resulted in cholinesterase inhibition only; no clinical signs were reported. Rabbits and guinea pigs tolerated 10 mg/kg/day for extended periods without clinical effects, and dogs tolerated 3 to 4 mg/kg/day, the highest dose tested. EPA believes that there is sufficient evidence for listing temephos on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data.

242. *Terbacil (5-chloro-3-(1,1-dimethylethyl)-6-methyl- 2,4-(1H,3H)-pyrimidinedione)* (CAS No. 005902-51-2) (FIFRA AI) (Ref. 3). Decreases in the number of implantations and live fetuses, were observed in rats administered 62.5 mg/kg/day (LOEL) orally for days 6 to 15. The NOEL was 12.5 mg/kg/day. Significantly reduced body weights were observed in the offspring of rabbits orally administered 600 mg/kg/day (LOEL) orally on days 6 to 18 of gestation. The NOEL was 200 mg/kg/day.

In a 2–week rat dietary study, administration of 1,000 mg/kg/day produced increased absolute and relative liver weights. In a 3–month rat dietary study, administration of 25 mg/kg/day (LOEL) produced increased liver weights and vacuolization and hypertophy of hepatocytes. The NOEL was 5 mg/kg/day. In a 1-year dog study, dietary administration of 48 mg/kg/day to males and 12 (LOEL) and 48 mg/kg/day to females produced increased alkaline phosphatase and alanine transaminase levels. The NOEL was 3 mg/kg/day. In a 2–year dog study, dietary administration of 6.25 mg/kg/day (LOEL) produced slight increases in liver weights, elevated alkaline phosphatase levels, and increased thyroid-to-body-weight ratios. The NOEL was 1.25 mg/kg/day. Based on the NOEL, an oral RfD of 0.013 mg/kg/day was established. Hypertrophy of centrilobular hepatocytes was observed in male mice administered 162.5 mg/kg/day (LOEL) in the diet. The NOEL was 6.5 mg/kg/day.

EPA believes that there is sufficient evidence for listing terbacil on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and developmental toxicity data for this chemical.

243. *Tetracycline hydrochloride* (CAS No. 000064-75-5) (CAL) (Ref. 8). Tetracycline hydrochloride is widely used as an antibiotic for the treatment of many common infections. The average oral adult dose for most infections is 1 to 2 grams per day in equally divided doses. The most frequent adverse reactions to orally administered tetracycline hydrochloride are gastrointestinal effects including nausea, vomiting, diarrhea, bulky loose stools, and abdominal discomfort. Photosensitivity, manifested as an exaggerated sunburn reaction on sun-exposed areas of the body has occurred following oral therapy with tetracycline hydrochloride. Photosensitivity reactions of this type generally develop within a few minutes to several hours after sun exposure and usually persist 1 to 2 days after discontinuance of tetracycline hydrochloride.

Manufacturers of tetracycline hydrochloride state that this substance should not be used in women during the last half of pregnancy or in children younger than 8 years of age unless other appropriate drugs are ineffective or contraindicated. The American Academy of Pediatrics recommends that tetracycline hydrochloride be used only in children who are 9 years of age or older, except under unusual circumstances. Use of tetracycline hydrochloride in pregnant women or infants has resulted in retardation of skeletal development and bone growth in the fetus or child. Because tetracycline hydrochloride localizes in the dentin and enamel of developing teeth, use of this substance during tooth development may cause enamel hypoplasia and permanent yellow-gray to brown discoloration of the teeth. Use of tetracycline hydrochloride may result in discoloration of the deciduous teeth of children if the substance is used during pregnancy or in children up to 4 to 6 months of age. These effects are most common following long-term use of tetracycline hydrochloride but have occured following repeated short-term use. Premature infants treated with tetracycline have demonstrated a 40 percent depression of bone growth. This effect is readily reversible if exposure to the substance is short.

Intraperitoneal injection of 85 mg/kg/day on days 14 to 18 of gestation has resulted in abortion and extra embryonic structures in rat offspring. Subcutaneous injection of 48 mg/kg/day on days 16 through 20 of gestation and intramuscular injection of 40 mg/kg/day to rats on days 10 through 15 of gestation resulted in embryo/fetotoxicity. Exposure to 50 mg/kg/day on days 7 to 15 of pregnancy resulted in postimplantation loss and fetotoxicity in rats. Exposure to 85 mg/kg/day on days 7 to 15 of pregnancy resulted in abortion in rats. Fetotoxicity was observed in mice receiving 86 mg/kg/day of tetracycline hydrochloride on days 8 to 13 of gestation.

EPA believes that there is sufficient evidence for listing tetracycline hydrochloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data and other chronic toxicity data for this chemical.

244. *Tetramethrin (2,2-Dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylic acid (1,3,4,5,6,7-hexahydro-1,3-dioxo-2-H-isoindol-2-yl)methyl ester* (CAS No. 007696-12-0) (FIFRA AI) (Ref. 3). Depression, salivation, ataxia, lethargy, and convulsions were observed in acute rat studies in which the oral LD_{50} values were greater than or equal to 4,400 mg/kg. Tremors, excitement, and increased urine volume were observed in an acute dermal rat study in which the LD_{50} was greater than 2,500 mg/kg. Tremors, ataxia, dyspnea, gastointestinal hypermotility, and diarrhea were observed in rats and mice administered tetramethrin subcutaneously or

intraperitonealy. The LD_{50} was greater than 500 mg/kg. In a 6–month dog dietary study, administration of 62.5 mg/kg/day produced nervouseness and tremors. The NOEL was 31.25 mg/kg/day.

EPA believes that there is sufficient evidence for listing tetramethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

Aquatic acute toxicity values for tetramethrin include a bluegill 96–hour LC_{50} of 21 ppb (mixed isomers, technical product) and 69 ppb. EPA believes that there is sufficient evidence for listing tetramethrin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

245. *Tetrasodium ethylenediaminetetraacetate* (CAS No. 000064-02-8) (FIFRA AI) (Ref. 3). Increased occurrence of 13th rudimentary ribs was observed in the offspring of rats orally administered 5 mg/kg/day (LOEL). No NOEL was established and the dosing duration was not reported. EPA believes that there is sufficient evidence for listing tetrasodium ethylenediaminetetraacetate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

246. *Thiabendazole (2-(4-Thiazolyl)-1H-benzimidazole)* (CAS No. 000148-79-8) (FIFRA AI) (Ref. 3). Oral administration of 600 mg/kg/day (LOEL) to rats on days 6 through 15 of gestation produced cleft palate and open eyes. Musculoskeletal abnormalities were observed in the offspring of mice orally administered 240 mg/kg on day 9 of gestation. Musculoskeletal abnormalities were also observed in the offspring of rats orally administered 296 mg/kg/day on days 8 through 15 of gestation. Decreased litter size, and skin abnormalities were observed in the offspring of rats orally administered 667 mg/kg/day on days 8 through 15 of gestation. Oral administration of 1,300 mg/kg/day produced musculoskeletal abnormalities and fetal death in the offspring of mice. Oral administration of 2,400 mg/kg/day on day 11 of gestation produced craniofacial abnormalities in the offspring of mice. EPA believes there is sufficient evidence for listing thiabendazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

Aquatic acute toxicity values for thiabendazole include a rainbow trout 96–hour LC_{50} of 560 ppb, a daphnid 48–hour EC_{50} of 0.31 ppb, and a mysid 96–hour LC_{50} of 340 ppb. EPA believes that there is sufficient evidence for listing thiabendazole on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

247. *Thiabendazole, hypophosphite salt (2-(4-thiazolyl) benzimidazole, hypophosphite salt)* (CAS No. 028558-32-9) (FIFRA AI) (Ref. 3). Few toxicity data are available on thiabendazole, hypophosphite salt. However, data are available on the parent compound, thiabendazole, as discussed below.

Oral administration of 600 mg/kg/day (LOEL) to rats on days 6 through 15 of gestation produced cleft palate and open eyes. Musculoskeletal abnormalities were observed in the offspring of mice orally administered 240 mg/kg on day 9 of gestation. Musculoskeletal abnormalities were also observed in the offspring of rats orally administered 296 mg/kg/day on days 8 through 15 of gestation. Decreased litter size and skin abnormalities were observed in the offspring of rats orally administered 667 mg/kg/day on days 8 through 15 of gestation. Oral administration of 1,300 mg/kg/day produced musculoskeletal abnormalities and fetal death in the offspring of mice. Oral administration of 2,400 mg/kg/day on day 11 of gestation produced craniofacial abnormalities in the offspring of mice. EPA believes that there is sufficient evidence for listing thiabendazole hypophosphite salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

No laboratory data are available for thiabendazole hypophosphite salt. Ecotoxicity data are available for the parent compound thiabendazole. Aquatic acute toxicity values for thiabendazole include a rainbow trout 96–hour LC_{50} of 560 ppb, a daphnid 48–hour EC_{50} of 0.31 ppb, and a mysid 96–hour LC_{50} of 340 ppb. EPA believes that there is sufficient evidence for listing thiabendazole hypophosphite salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data for this chemical.

248. *Thiobencarb (carbamic acid, diethylthio-, s-(p-chlorobenzyl))* (CAS No. 028249-77-6) (FIFRA AI) (Ref. 3). Measured aquatic acute toxicity values for thiobencarb include a chinook salmon 96–hour LC_{50} of 760 ppb, a striped bass 96–hour LC_{50} of 760 ppb, a rainbow trout 96–hour LC_{50} of 790 ppb, and a green algae 72–hour EC_{50} of 30 ppb (population reduction). EPA believes that there is sufficient evidence for listing thiobencarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

249. *Thiodicarb* (CAS No. 059669-26-0) (FIFRA AI) (Ref. 3). Thiodicarb is a cholinesterase inhibitor in mammalian species. In addition, hematological effects have been observed in various species. Tremors and pinpoint pupils (the NOEL was less than 0.043 mg/L) were noted in rats exposed by inhalation to thiodicarb for 9 days. Macrocytic anemia (the LOEL was 2 g/kg; the NOEL was 1 g/kg) was observed in a 21–day dermal study in rabbits. In another 21–day dermal study, decreased red blood cell counts and decreased hemoglobin levels (the LOEL was 4 g/kg/day; the NOEL was 1 g/kg/day) were reported. Decreased plasma and red blood cell cholinesterase activities (the LOEL was 30 mg/kg/day; the NOEL was 10 mg/kg/day) were observed in rats fed thiodicarb for 28 days. Decreased red blood cell cholinesterase activity and decreased hemoglobin levels (the LOEL was 10 mg/kg/day; the NOEL was 3 mg/kg/day) were seen in a 13–week feeding study in rats. Inhibition of plasma and red blood cell cholinesterase activities (the LOEL was 45 mg/kg/day; the NOEL was 15 mg/kg/day) was noted in dogs fed thiodicarb for 6 months. Significant hematological and clinical chemistry values were also seen at 45 mg/kg/day (the NOEL was 15 mg/kg/day). Reductions in red blood cell cholinesterase activity (the LOEL was 12.8 mg/kg/day; the NOEL was 4.5 mg/kg/day) were also seen in a 1-year feeding study in dogs. In addition, decreased red blood cell and decreased hemoglobin and hematocrit levels, and increased relative spleen and liver weights (the LOEL was 38.3 mg/kg/day; the NOEL was 12.8 mg/kg/day) were reported. EPA believes that there is sufficient evidence for listing thiodicarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological and hematological toxicity data.

Aquatic acute toxicity values for thiodicarb include a bluegill 96–hour LC_{50} of 1.47 ppm , a rainbow trout 96–hour LC_{50} of 2.65 ppm, a sheepshead minnow 96–hour LC_{50} of 530 ppb, a daphnid 48–hour EC_{50} of 27 ppb, a mysid 96–hour LC_{50} of 29.3 ppb, an eastern oyster 96–hour LC_{50} of 1.0 ppb, and an algae 96–hour EC_{50} of 450 ppb. EPA believes that there is sufficient evidence for listing thiodicarb on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

250. *Thiophanate ethyl ([1,2-phenylenebis (iminocarbonothioyl)]*

biscarbamic acid diethyl ester) (CAS No. 023564-06-9) (FIFRA AI) (Ref. 3). In a 6–month dog study, dietary administration of 500 mg/kg/day (LOEL) produced thyroid changes. The NOEL was 50 mg/kg/day. Thyroid follicular hypertrophy was observed at 50 mg/kg/day (LOEL) in a rat 2–year dietary study. The NOEL was 10 mg/kg/day. EPA believes that there is sufficient evidence for listing thiophanate ethyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available thyroid toxicity data for this chemical.

251. *Thiophanate-methyl* (CAS No. 023564-05-8) (FIFRA SR) (Ref. 8). Decreased spermatogenesis was observed in male rats fed 32 mg/kg/day thiophanate-methyl. The NOEL was 8 mg/kg/day. Other effects noted at the 32 mg/kg/day dose level included decreased body weight and histological evidence of hyperthyroidism.

In a 3-generation reproductive study in rats, reduced litter weights were seen at a daily dietary dose of 32 mg/kg thiophanate-methyl. The NOEL was 8 mg/kg/day. A decrease in the number of implantations was observed in mice administered a limit dose of 1,000 mg/kg/day.

EPA believes that there is sufficient evidence for listing thiophanate-methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the reproductive toxicity data for this chemical.

252. *Thiosemicarbazide* (CAS No. 000079-19-6) (CERCLA; EPCRA EHS; RCRA APP8; RCRA P) (Ref. 8). The oral LD_{50}s for thiosemicarbazide in rats and dogs are 9.16 and 10 mg/kg, respectively. The LDLo in the mouse is 94 mg/kg. Cats orally administered thiosemicarbazide experienced convulsions, salivation, and vomiting; the LD_{50} was 20 mg/kg. Intraperitoneal injection of 2.5 mg/kg of thiosemicarbazide produced restlessness, running fits, and convulsions in rabbits. EPA's exposure analysis indicates that thiosemicarbazide concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing thiosemicarbazide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

253. *Triadimefon (1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone)* (CAS No. 043121-43-3) (FIFRA AI) (Ref. 3). Decreased hematocrit, red blood cell count, and hemoglobin volume were observed in dogs orally administered 60 mg/kg/day (LOEL) for 13 weeks. No NOEL was established. In a 2–year dietary rat study, decreased hemoglobin and erythrocyte counts were observed at 25 mg/kg/day (LOEL). The NOEL was 2.5 mg/kg/day. Based on the NOEL of the study, an oral RfD of 0.03 mg/kg/day was derived. Dietary administration of 25 mg/kg/day (LOEL) for 2 years to dogs produced increased serum alkaline phosphatase and N-demethylase activity and increased liver weight. The NOEL was 2.5 mg/kg/day. Increased erythrocyte count, thrombocyte count, hemoglobin, and hematocrit levels in females and increased serum alkaline phosphatase, serum glutamic-pyruvic transaminase, serum glutamic-oxaloacetic transaminase, liver weights, and hyperplastic nodules in both sexes were observed at 234 mg/kg/day in a 2–year mouse dietary study. The NOEL was 6.5 mg/kg/day and the LOEL was 39 mg/kg/day. In another 2–year mouse dietary study, administration of 234 mg/kg/day produced hepatocellular adenomas. Doses of 39 mg/kg/day in males (LOEL) and 6.5 mg/kg/day in females (LOEL) produced nonneoplastic and preneoplastic changes in the liver, increased liver weights with correlating effects on serum enzymes, and hepatocellular hypertrophy. The NOEL in males was 6.5 mg/kg/day and no NOEL in females could be established.

Cleft palates were observed in the offspring of rats orally administered 75 mg/kg/day (LOEL). The NOEL was 30 mg/kg/day. Increased incidence of abnormal ribs, extra ribs, and distended urinary bladders were observed in the offspring of rats orally administered 90 mg/kg/day (LOEL). The NOEL was 30 mg/kg/day. Increases in fetal resorptions were observed in rabbits given 100 mg/kg/day by gavage (LOEL). The NOEL was 30 mg/kg/day. Increased incidences of incomplete ossification of pelvic pubes and phalanges, and irregular spinous processes were observed in the offspring of rabbits orally administered 50 mg/kg/day (LOEL) on days 6 through 18 of gestation. The NOEL was 20 mg/kg/day.

In a 3-generation rat reproduction study, decreased fertility and decreased litter size were observed at 90 mg/kg/day (LOEL). The NOEL was 15 mg/kg/day. In a 2-generation reproduction study in rats, decreased pup weights, decreased litter size, and decreased pup viability were observed at 90 mg/kg/day (LOEL). The NOEL was 2.5 mg/kg/day.

EPA believes that there is sufficient evidence for listing triadimefon on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic, hematological, developmental, and reproductive toxicity data for this chemical.

254. *Triallate* (CAS No. 002303-17-5) (FIFRA SR) (Ref. 8). Triallate, a dithiocarbamate insecticide, is a cholinesterase inhibitor. When triallate was administered to rats at a dose of 147.1 mg/kg/day orally and to cats at a dose of 0.028 mg/L/day (via aerosol) for 2 months, the animals developed fatal morphological changes in neurons of the cerebral cortex, subcortical area, cerebellum, and spinal cord. Doses of 30 mg/kg/day caused head bobbing and circling in pregnant rats. The NOEL was 7.5 mg/kg/day. The LOEL and NOEL for liver effects in a 2–year study in dogs fed diets containing triallate were 4.25 mg/kg/day and 1.28 mg/kg/day, respectively. At 4.25 mg/kg/day an increase in hemosiderin deposition and serum alkaline phosphatase was observed in both sexes, and an increase in liver weight was observed in females. Based on the NOEL, an oral RfD of 0.013 mg/kg/day was derived. In a hamster chronic feeding study, decreased triglycerides were seen in males at the LOEL of 30 mg/kg/day. The NOEL was 5 mg/kg/day. Ninety-day feeding studies in rats (10 mg/kg/day) and dogs (5 mg/kg/day) showed no treatment related adverse effects except for increased liver-to-body-weight ratios in the dogs. EPA believes that there is sufficient evidence for listing triallate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurological and hepatic toxicity data for this chemical.

255. *Tribenuron methyl (2-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)-methylamino)carbonyl)amino)sulfonyl)-, methyl ester)* (CAS No. 101200-48-0) (FIFRA AI) (Ref. 3). In a 1-year feeding study in dogs, elevated serum bilirubin and aspartate aminotransferase (AST) levels and increased urinary volume were reported in males receiving 8.16 mg/kg/day (LOEL). The NOEL for males was 0.79 mg/kg/day. The LOEL for females was 52.02 mg/kg/day (the highest dose tested) and was based on increased serum creatinine and transient increases in AST, globulin, and serum bilirubin. These females had an 18.2 percent decrease in body weight gain. The NOEL for females was 8.18 mg/kg/day. The highest dose in males (51.46 mg/kg/day) caused increases in serum creatinine and a 20 percent decrease in body weight gain. The oral RfD, derived from the NOEL for males, was 0.008 mg/kg/day. In a 90–day feeding study, decreased absolute and relative liver and kidney weights, serum glucose, globulin and cholesterol levels

were observed in rats at 87.5 mg/kg/day (LOEL). The NOEL was 5 mg/kg/day. EPA believes that there is sufficient evidence for listing tribenuron methyl on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hepatic and renal toxicity data for this chemical.

256. *Tributyltin fluoride* (CAS No. 001983-10-4) (FIFRA AI) (Ref. 3). Aquatic acute toxicity values for tributyltin fluoride include a bleak fish 96–hour LC_{50} of 2.3 ppb, an algae 72–hour EC_{50} of 9.3 ppb, and a Harpacticoid copepod 96–hour LC_{50} of 0.8 ppb. EPA believes that there is sufficient evidence for listing tributyltin fluoride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the available environmental toxicity data.

257. *Tributyltin methacrylate* (CAS No. 002155-70-6) (FIFRA AI) (Ref. 3). Pregnant rats were given tributyltin methacrylate by gavage on days 6 to 19 of gestation. Mean fetal weight and maternal body weight gain were decreased at 18 mg/kg/day. Fetal resorptions were also significantly increased. The fetotoxic NOEL for this study was 9 mg/kg/day. EPA believes that there is sufficient evidence for listing tributyltin methacrylate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available developmental toxicity data for this chemical.

258. *S,S,S-Tributyltrithiophosphate (DEF)* (CAS No. 000078-48-8) (FIFRA AI) (Ref. 8). S,S,S-Tributyltrithiophosphate (DEF) is a cholinesterase inhibitor. Both immediate and delayed neurotoxic effects have been reported in humans following exposure to DEF. The exposure levels at which these effects occurred, however, were not reported. In a 3–month hen feeding study, the NOEL for neurotoxic effects was 0.1 mg/kg/day and the LOEL was 0.5 mg/kg/day. At 0.5 mg/kg day, hens showed delayed neurotoxicity, ataxia, and equivocal changes in the spinal cord and peripheral nerves. Based on the NOEL, EPA has derived an oral RfD of 0.00003 mg/kg/day for this chemical. In a 12–week dog feeding study, animals showed over sensitivity to stimuli at 0.62 mg/kg/day; the NOEL was 0.12 mg/kg/day. In the same study, the LOEL for cholinesterase inhibition was 0.12 mg/kg/day and a NOEL was not established. Brain cholinesterase inhibition was observed in a chronic rat feeding study at 1.25 mg/kg/day. The NOEL was 0.25 mg/kg/day. EPA believes that there is sufficient evidence for listing S,S,S-tributyltrithiophosphate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the chronic neurotoxicity data for this chemical.

Measured acute aquatic toxicity data for S,S,S–tributyltrithiophosphate include a rainbow trout 96–hour LC_{50} of 660 ppb (0.660 ppm) and a bluegill 96–hour LC_{50} of 620 ppb (0.620 ppm). The measured log K_{ow} is 5.7. EPA believes that there is sufficient evidence for listing S,S,S-tributyltrithiophosphate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical and its potential for bioaccumulation.

259. *Trichloroacetyl chloride* (CAS No. 000076-02-8) (EPCRA EHS) (Ref. 8). Trichloroacetyl chloride is highly toxic in humans by the oral and inhalation routes of exposure. Numerous cases of strong irritation of the eyes, skin, and respiratory tract and fever, nausea, and vomiting following exposure to trichloroacetyl chloride have been reported. The acute inhalation LC_{50} values for mice and rats are 0.445 mg/L and 0.475 mg/L, respectively, indicating that trichloroacetyl chloride is highly toxic by inhalation in these species. EPA's exposure analysis indicates that trichloroacetyl chloride concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing trichloroacetyl chloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

260. *Trichloroethylsilane* (CAS No. 000115-21-9) (EPCRA EHS) (Ref. 8). Chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. Trichloroethylsilane causes severe burns and the vapor is harmful to humans. The mouse 2–hour inhalation LC_{50} value is 0.30 mg/L. EPA's exposure analysis indicates that trichloroethylsilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing trichloroethylsilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

261. *Trichlorophenylsilane* (CAS No. 000098-13-5) (EPCRA EHS) (Ref. 8). Chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. Trichlorophenylsilane causes severe burns and the vapor is harmful to humans (concentration not specified). The 2–hour mouse inhalation LC_{50} value is 0.33 mg/L. EPA's exposure analysis indicates that trichlorophenylsilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing trichlorophenylsilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

262. *1,2,3-Trichloropropane* (CAS No. 000096-18-4) (RCRA APP8) (Ref. 8). Results of a subchronic oral toxicity study in rats and mice reveal that the primary target organs for 1,2,3-trichloropropane are the liver and kidney. Renal and hepatic necrosis were observed in rats administered 1,2,3-trichloropropane by gavage for 17 weeks. The LOAEL was 16 mg/kg/day and the NOAEL was 8 mg/kg/day for hepatic effects. The LOAEL was 32 mg/kg/day and the NOAEL was 16 mg/kg/day for renal effects. Hepatic necrosis in mice occurred at 125 mg/kg/day. The NOAEL was 63 mg/kg/day. Less severe renal necrotic changes were seen at 250 mg/kg/day. The NOAEL was 125 mg/kg/day. The renal and hepatic lesions were accompanied by increases in organ weights and alterations in serum enzymes that were indicative of hepatic and renal toxicity. At lower dose levels (the LOAEL was 16 mg/kg/day), nonregenerative anemia (decreased hematocrit, hemoglobin, and erythrocyte count) was observed in rats. The NOAEL was 8 mg/kg/day. Nonregenerative anemia is considered to be one of the most sensitive effects of 1,2,3-trichloropropane.

The respiratory tract is a principal target of inhaled 1,2,3-trichloropropane in humans and animals. Irritation of the eyes and throat has been reported in humans acutely exposed (15 minutes) to 100 ppm (0.602 mg/L) of 1,2,3-trichloropropane via inhalation. Irritative effects on the olfactory epithelium have been observed in rats exposed by inhalation to 3 ppm (the LOAEL was 0.018 mg/L; the NOAEL was 0.006 mg/L) of 1,2,3-trichloropropane for 11 days. Histological effects have also been seen in the nasal cavity (the LOEL was 125 mg/kg/day; the NOAEL was 63 mg/kg/

day) in rats and in the bronchiolar epithelium (the LOEL was 63 mg/kg/day; the NOAEL was 32 mg/kg/day) in mice that were exposed to 1,2,3-trichloropropane by oral intubation for 17 weeks.

EPA believes that there is sufficient evidence for listing 1,2,3-trichloropropane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the hematological, respiratory, hepatic, and renal toxicity data for this chemical.

263. *Triclopyr triethylammonium salt* (CAS No. 057213-69-1) (FIFRA AI) (Ref. 3). Degeneration of proximal tubules (the LOEL was 20 mg/kg/day; the NOEL was 5 mg/kg/day) was noted in male and female rats fed triclopyr for 3 months. A LOEL of 2.5 mg/kg/day, based on phenosulfophthalein (PSP) excretion, was reported in dogs fed triclopyr for 6 months. A similar effect was also noted at the LOEL of 5 mg/kg/day, determined in dogs fed triclopyr for 8 months. The NOEL was greater than 5 mg/kg/day. Significant increases in absolute and relative kidney weights were observed in rats fed 36 mg/kg/day for 2 years. The NOEL was 12 mg/kg/day. In a pharmacokinetic study, reduced PSP excretion was seen in dogs administered 5 mg/kg/day, whereas no effect on PSP excretion was seen in monkeys administered 20 mg/kg/day. No details on the route and length of exposure were provided. EPA believes that there is sufficient evidence for listing triclopyr triethylammonium salt on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available renal toxicity data.

264. *Triethylamine* (CAS No. 000121-44-8) (CAA HAP) (Ref. 7). Triethylamine is an acute irritant which causes eye and nasal irritation and pulmonary toxicity in mice and rats and is an acute eye toxicant in man.

In a survey of workers exposed to triethylamine, none of the workers reported effects at 5 ppm. Slight to mild effects were noted at concentrations between 5 and 10 ppm and above 10 ppm workers reported visual disturbances which included halo vision and irritation of the eyes, nose, and throat. In a separate report, eye irritation and visual disturbances consisting of foggy vision, blue haze or halo vision (halo around lights) was reported in 19 workers exposed to triethylamine. Exact exposure levels were not determined. The TWA in the work place of those individuals who complained of "blue haze" was 11 mg/m^3 with a range of 4 to 24 mg/m^3. The American Council of Government and Industrial Hygienists (ACGIH) has set a threshold limit value-time weighted average (TLV-TWA) of 10 ppm and a threshold limit value-short-term exposure limit (TLV-STEL) of 15 ppm based upon inhalation toxicity in guinea pigs and rats and skin irritation and eye injury in rabbits.

EPA's exposure analysis indicates that triethylamine concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing triethylamine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

265. *Triforine (N,N'-{1,4-piperazinediylbis(2,2,2-trichloroethylidene)} bisformamide)* (CAS No. 026644-46-2) (FIFRA AI) (Ref. 3). In a 2–year feeding study in rats, anemia was reported. The LOEL, based on this effect, was 3,125 ppm (156 mg/kg/day) and the NOEL was 625 ppm (31.25 mg/kg/day). Siderosis of Kupffer cells and bone marrow cells was reported in dogs exposed to triforine in their diet for 2 years. The LOEL in this study was 1,000 ppm (25 mg/kg/day) and the NOEL was 100 ppm (2.5 mg/kg/day). Effects on red blood cells, hematocrit or hemoglobin were also noted in dogs or rats in several 13–week feeding studies. For example, dogs exposed to a 20.6 percent a.i. formulation of the compound for 13 weeks at dose levels that included 600 ppm (the LOEL, equivalent to 15 mg/kg/day or 3.1 mg a.i./kg/day) and 100 ppm (the NOEL, equivalent to 2.5 mg/kg/day or 0.5 mg a.i./kg/day) had siderosis in the liver, spleen, and bone marrow.

A decrease in mean relative weight of offspring was observed in rabbits exposed to 25 mg/kg triforine (the fetotoxicity LOEL). The fetotoxicity NOEL was 5 mg/kg. The LOEL and NOEL for maternal toxicity in this developmental toxicity study were also 25 mg/kg and 5 mg/kg, respectively, and were based on reduced food intake and body weight loss. Fetotoxicity (decreased number of fetuses and increased resorptions) was also reported in the offspring of rats fed 1,600 mg/kg (the fetotoxicity LOEL) for an unspecified duration. The fetotoxicity NOEL was 800 mg/kg.

EPA believes that there is sufficient evidence for listing triforine on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available hematological and developmental toxicity data for this chemical.

266. *Trimethylchlorosilane* (CAS No. 000075-77-4) (EPCRA EHS) (Ref. 8). Chlorinated silanes are very corrosive to the skin and mucous membranes and liberate hydrochloric acid in the presence of water. Trimethylchlorosilane causes severe burns and the vapor is harmful to humans. The mouse inhalation LCLo value is 0.10 mg/L. EPA's exposure analysis indicates that trimethylchlorosilane concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA believes that there is sufficient evidence for listing trimethylchlorosilane on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(A) based on the available acute toxicity and exposure data for this chemical.

267. *2,3,5-Trimethylphenyl methylcarbamate* (CAS No. 002655-15-4) (FIFRA AI) (Ref. 3). Cholinesterase inhibition was reported in a series of studies for this carbamate pesticide. In dogs that received 2,000 ppm (50 mg/kg/day) 2,3,5-trimethylphenyl methylcarbamate in their diet for 14 days, there was inhibition of plasma and red blood cell cholinesterases and also weight loss. Brain cholinesterase was slightly decreased in rats in a 2–year feeding study at 200 ppm (10 mg/kg/day). At 800 ppm (40 mg/kg/day), there were fatty changes in the liver which disappeared after 7.5 months. EPA believes that there is sufficient evidence for listing 2,3,5-trimethylphenyl methylcarbamate on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available neurological toxicity data for this chemical.

268. *Triphenyltin chloride* (CAS No. 000639-58-7) (EPCRA EHS) (Ref. 8). Oral exposure of male rats to 380 mg/kg triphenyltin chloride over 19 days caused adverse effects on the testes, epididymis, sperm duct, prostate gland, seminal vesicle, Cowper's gland, and accessory glands. EPA believes that there is sufficient evidence for listing triphenyltin chloride on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the reproductive toxicity data for this chemical.

Measured aquatic acute toxicity data for triphenyltin chloride include a 48–hour LC_{50} for carp of 55 ppb and a 72–hour EC_{50} (growth) for marine green algae of 0.92 ppb. In addition, the measured aquatic toxicity information indicates a freshwater green algae 8–day EC_{50} (growth) of 2 ppb. EPA believes that there is sufficient evidence for listing triphenyltin chloride on EPCRA section 313 pursuant to EPCRA section

313(d)(2)(C) based on the environmental toxicity data for this chemical.

269. *Triphenyltin hydroxide* (CAS No. 000076-87-9) (FIFRA SR) (Ref. 8). Triphenyltin hydroxide has been classified by EPA as a Group B2 compound, i.e., a probable carcinogen. This was based on the significant increases in fetal pituitary gland adenomas in female Wistar rats and Leydig cell tumors in male Wistar rats fed 1 or 4 mg/kg/day triphenyltin hydroxide for 2 years. There were significant increases of hepatocellular adenomas and combined hepatocellular (adenoma and/or carcinoma) tumars in male and female NMRI mice fed 0.65, 2.6, or 10.4 mg/kg/day for 80 weeks.

In a developmental toxicity study in rats, oral doses of 15 mg/kg of triphenyltin hydroxide during gestation days 1 to 7 prevented implantation. When administered from day 8 and onwards, the compound was fetolethal.

EPA believes that there is sufficient evidence for listing triphenyltin hydroxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the carcinogenicity data and the developmental toxicity data for this chemical.

Measured aquatic acute toxicity data for triphenyltin hydroxide include a fathead minnow 96–hour LC_{50} of 5.4 ppb, a bluegill 96–hour LC_{50} of 23 ppb, a rainbow trout 96–hour LC_{50} of 15 ppb, and a marine green algae 72–hour LC_{50} of 13.9 ppb. EPA believes that there is sufficient evidence for listing triphenyltin hydroxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(C) based on the environmental toxicity data for this chemical.

270. *Vanadium pentoxide* (CAS No. 001314-62-1) (CERCLA; EPCRA EHS; RCRA APP8) (Ref. 8). Eighteen workers exposed to vanadium pentoxide dusts at concentration in excess of 0.5 mg/m^3 (0.0005 mg/L) for a period of up to 2 weeks developed respiratory symptoms that persisted for nearly 2 weeks after removal from exposure. Inhalation of unspecified levels of vanadium pentoxide for 1 to 5 years produced asthma in 3 of 20 workers. Mice and rats exposed to 1 to 3 mg/m^3 (0.001 to 0.003 mg/L) vanadium pentoxide 6 hours/day for 3 months developed histopathologic changes in their lungs and had a decrease in growth rate. EPA believes that there is sufficient evidence for listing vanadium pentoxide on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available chronic respiratory toxicity data for this chemical.

271. *Vinclozolin (3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione)* (CAS No. 050471-44-8) (FIFRA AI) (Ref. 3). The results of a 3–month feeding study in Wistar rats administered 4,500 ppm (225 mg/kg/day; the only dose tested) indicate that vinclozolin interacts with numerous steroid hormones in male and female animals. A broad spectrum of steroid hormones were affected in these animals, including increases in adrenocorticotropic hormone, lutenizing hormone, follicle stimulating hormone, testosterone, corticosterone, aldosterone, and dehydroepiandrosterone and slight decreases in estradiol levels in males. Female rats had elevated adrenocorticotropic hormone and luteinizing levels and depressed corticosterone and aldosterone levels, while follicle stimulating hormone, testosterone, dehydroepiandrosterone and estradiol levels were comparable to controls. After a 2–month recovery period postdosing, all male hormone levels were normal except for a slight elevation in FSH, and all female hormone levels were normal except for a slight elevation in estradiol. The endocrine changes also were reported in developmental, subchronic, and chronic toxicity studies.

A broad spectrum of organ changes occurred in dogs exposed to vinclozolin in a 1-year feeding study. Males administered 4.8 mg/kg/day (the LOEL for males) had increases in testes weights, increased bilirubin, and prostate atrophy. The NOEL in males was 2.4 mg/kg/day. Females in this study had increased adrenal weights, lipid accumulation in the adrenal glands, and marginally increased hemosiderin in the liver at 5.1 mg/kg/day (the LOEL for females). The NOEL for females was 2.5 mg/kg/day. At higher doses (47 mg/kg/day in males and 53 mg/kg/day in females), there were increases in weights of the liver, spleen, testes, adrenal, and thyroid. Other effects included increased diffuse hyperplasia of the Leydig cells, lipid accumulation in the adrenal cortex, and increased platelets in males, and in females, slight increases in mean corpuscular volume and mean corpuscular hemoglobin concentration. The oral RfD for this compound, 0.025 mg/kg/day, was based on the findings of a 6–month feeding study with beagle dogs, in which adrenal weights (absolute and relative) were significantly increased at 7.5 mg/kg/day (the LOEL). The NOEL was 2.5 mg/kg/day. Both males and females exposed to higher doses (600 and 2,000 ppm, or 15 and 50 mg/kg/day) had histological changes in the adrenal glands, including vacuolation of the zona fasciculata. In addition to effects on the adrenal gland, males exposed to the LOEL dose and higher had decreased absolute kidney weights, and at 600 ppm, fat droplets in the distal tubule were observed.

Pseudohermaphroditism (a decrease in anal-genital distance) occurred in male offspring of rats administered doses of 50 mg/kg (the LOEL) and higher by gavage. The developmental NOEL was 15 mg/kg. The same effect was noted in the offspring of rats that received dermal applications of 180 mg/kg/day (LOEL; the developmental NOEL was 60 mg/kg/day) during gestation, and also in a 2-generation reproduction study in rats (the LOEL was 86 mg/kg/day, the NOEL was 25 mg/kg/day). Other developmental effects observed in the latter study included developmental delays, reduced male and female pup weight, increased stillbirths and increased pup mortality throughout lactation.

EPA believes that there is sufficient evidence for listing vinclozolin on EPCRA section 313 pursuant to EPCRA section 313(d)(2)(B) based on the available endocrine, adrenal, renal, hepatic, and developmental toxicity data.

V. Rationale for Listing

EPA is proposing to add the chemical substances identified in Unit IV.B. of this preamble because EPA believes that these chemicals meet the statutory criteria for listing under section 313(d)(2) of EPCRA. The bases for these determinations and the specific toxic effects are summarized in Unit IV.B. of this preamble and set forth in more detail in the rulemaking record.

EPA intends to evaluate public comment on this proposed rule and issue a final rule by November 30, 1994. Reporting for the chemicals identified in the final rule would be required for activities during the 1995 calendar year. Such reports would have to be submitted to EPA and States by July 1, 1996.

VI. Rulemaking Record

The record supporting this proposed rule is contained in docket number OPPTS–400082. Nonconfidential documents, including an index of the docket, are available to the public in the TSCA Nonconfidential Information Center (NCIC), also known as the TSCA Public Docket Office from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. E–G102, 401 M St., SW., Washington, DC 20460.

Any person who submits comments claimed as CBI must mark the

comments as "confidential," "CBI," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any person submitting comments claimed to be confidential must prepare and submit a nonconfidential public version of the comments in triplicate that EPA can place in the public file.

VII. Request for Public Comment

EPA requests comment on any aspect of this proposal. EPA requests specific comment as detailed in the following paragraphs.

EPA requests comment on the sufficiency of the evidence for each of the chemicals proposed for addition in Unit IV.B. of this preamble. In addition, EPA requests comment on any issues that may be specific to any of the individual chemicals or chemical categories.

EPA requests comment on whether it would be appropriate to list persistent bioaccumulative toxic chemicals that are manufactured, processed, or otherwise used below the current reporting thresholds on EPCRA section 313. If EPA were to add this type of chemical to EPCRA section 313, what modifications to EPCRA section 313, such as lowering the reporting thresholds and modifying the *de minimis* in mixture exemptions, would be required to insure that release and transfer information would be collected?

In Units IV.B.132., IV.B.144., and IV.B.158., of this preamble, EPA is proposing to add individually three diisocyanates: hexamethylene-1,6-diisocyante; isophorone diisocyanate; and 1,1-methylene bis(4-isocyanatocyclohexane). EPA requests comment on its alternative proposal in Unit IV.B.132. of this preamble to create a diisocyanates category rather than adding diisocyanates individually to EPCRA section 313. EPA also requests comment on what diisocyanates, other than those listed in IV.B.132. of this preamble, should be included in such a category.

EPA requests comment on its proposed definition of man-made mineral fibers, given in Unit IV.B.149. of this preamble, and any other options for defining a fibers category.

In Unit IV.B.166. and 172. of this preamble, EPA is proposing to add two ethylene bisdithiocarbamates (EBDCs): metiram; and nabam. An additional two EBDCs, zineb and maneb, are currently listed on the EPCRA section 313 list of toxic chemicals. The category of EBDCs has recently been added to EPCRA section 313 (December 1, 1993; 58 FR 63500). EPA requests comment on the following: (1) Should the individual EBDCs, metiram and nabam, be added individually to EPCRA section 313 even though they are members of the EBDC category, which is listed on EPCRA section 313; and (2) should the individual listings for two EBDCs, zineb and maneb, be deleted and added as members of the newly created EBDC category?

EPA requests comment on whether polycyclic aromatic compounds (PACs) should be added as a delineated category consisting of the PACs listed in Unit IV.B.207. of this preamble or as a category with the definition given in Unit IV.B.207. of this preamble.

EPA requests comment on its approach in considering exposure as a part of its evaluation of certain chemicals under sections 313(d)(2)(A) and (C).

In Units IV.B.36, 179., and 235. of this preamble, EPA is proposing to add three chemicals (sulfur dioxide, nitrogen dioxide, and carbon monoxide) that are regulated by Title I of the CAA (Provisions for Attainment and Maintenance of National Ambient Air Quality Standards). In addition, sulfur dioxide is regulated under Title IV of the CAA (Acid Deposition Control). Extensive data, which are highly technical, are collected on these chemicals as required by the CAA. EPA requests comment on the following: (1) Is the information collected under the CAA sufficient for public right-to-know purposes; and (2) suggestions on how the data collected on these chemicals pursuant to CAA Titles I and IV could be used to meet the purposes of EPCRA section 313.

Comments should be submitted to the address listed under the ADDRESSES unit. All comments must be received on or before April 12, 1994.

VIII. Public Meeting

EPA will hold a 1–day public meeting to discuss the issues presented above. The tentative agenda for this public meeting will include a discussion of the issues presented in Unit VII. of this preamable.

Scheduling of oral statements will be on a first come first served basis by calling the telephone number listed under FOR FURTHER INFORMATION CONTACT. All statements will be made part of the public record and will be considered in the development of the final rule.

IX. References

(1) U.S. Congress, House of Representatives. "Conference Report No. 962," 99th Cong., 2nd Session. 294 (1986).

(2) USEPA/OHEA. *Risk Assessment Guidelines for Carcinogen Risk.* U.S. Environmental Protection Agency, Cincinnati, OH. (1987).

(3) USEPA/OPP. *Support Document for the Addition of Chemicals from Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) Active Ingredients to EPCRA Section 313.* U. S. Environmental Protection Agency, Washington, DC (1993).

(4) USEPA/OPPT. *Issue Paper Prepared for the Public Meeting on Expansion of the Toxic Release Inventory.* U. S. Environmental Protection Agency, Washington, DC (1993).

(5) USEPA/OPPT. *Physical Properties and Environmental Fate of Some TRI Expansion Chemicals.* U. S. Environmental Protection Agency, Washington, DC (1993).

(6) USEPA/OPPT. *Revised Draft Hazard Assessment Guidelines for Listing Chemicals on the Toxic Release Inventory.* U. S. Environmental Protection Agency, Washington, DC (1992).

(7) USEPA/OPPT. *Support Document for the Addition of Chemicals from Section 112(b) of the Clean Air Act Amendments and Chlorinated Paraffins to EPCRA Section 313.* U. S. Environmental Protection Agency, Washington, D.C. (1993).

(8) USEPA/OPPT. *Support Document for the Health and Ecological Toxicity Review of TRI Expansion Chemicals.* U. S. Environmental Protection Agency, Washington, DC (1993).

X. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action likely to result in a rule (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise

interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this proposed rule is a "significant regulatory action." As such, this action was submitted to OMB for review, and any comments or changes made in response to OMB suggestions or recommendations have been documented in the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each Federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." The analysis supporting this proposed rule estimated the maximum cost that a small business might incur, and calculated the cost impact percentage (reporting costs divided by average value of shipments) for each employee size, class, and SIC code.

Reporting costs are estimated at less than one percent of the average value of shipments per report in the first year, and less than one-half of one percent of the value of shipments per report in subsequent years. The precise impacts depend on how many reports an individual small business submits. However, experience with current reporters indicates that small businesses generally submit fewer reports per facility than larger ones. Most of the reports are anticipated to be submitted from industries with the lowest impacts. Because of this, no segment of the manufacturing sector is likely to suffer significant adverse effects due to this rule, Therefore, EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The collection of information and other requirements under section 313 of EPCRA and section 6607 of the PPA are covered under OMB approval number 2070–0093, which was issued on May 14, 1992. While this approval normally would have expired on November 30, 1992, it remains in effect pursuant to the 1993 Department of Veteran Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, Pub. L. 102–389, signed October 6, 1992, which states that:

> Notwithstanding the Paperwork Reduction Act of 1980 or any requirements thereunder the Environmental Protection Agency Toxic Chemical Release Inventory Form R and Instructions, revised 1991 version issued May 19, 1992, and related requirements (OMB No. 2070–0093), shall be effective for reporting under section 6607 of the Pollution Prevention Act of 1990 (Public Law 101508) and section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) until such time as revisions are promulgated pursuant to law.

This proposed rule adds chemicals to the list of toxic chemicals subject to reporting under section 313 of EPCRA and section 6607 of the PPA and does not change the elements of the TRI reporting form, its instructions, or related requirements. Accordingly, the Form R and Instructions and related requirements remain in effect, as provided by Pub. L. 102-389.

The industry reporting burden for collecting this information is estimated to average 53 hours per respondent annually, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The actual burden to a specific facility may deviate from this estimate depending on the complexity of the facility's operations and the profile of the release.

Send comments regarding this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, 2131, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on this collection of information.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals

Dated: January 6, 1994.

Carol M. Browner,

Administrator.

Therefore it is proposed that 40 CFR part 372 be amended to read as follows:

Part 372—[AMENDED]

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

2. In § 372.65 by adding chemicals to paragraph (a) alphabetically, to paragraph (b) by CAS no. sequence, and to paragraph (c) by alphabetically adding four categories to read as follows:

§ 372.65 Chemicals and chemical categories to which the part applies.

* * * * *

(a) * * *

Chemical Name	CAS No.	Effective Date
Abamectin [Avermectin B1]	71751-41-2	1/1/95
Acephate (Acetylphosphoramidothioic acid O,S-dimethyl ester)	30560-19-1	1/1/95
* * * * * * *		
Acifluorfen, sodium salt [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-benzoic acid, sodium salt]	62476-59-9	1/1/95
* * * * * * *		
Alachlor	15972-60-8	1/1/95
Aldicarb	116-06-3	1/1/95
* * * * * * *		
d-trans-Allethrin [d-trans-Chrysanthemic acid of d-allethrone]	28057-48-9	1/1/95
Allylamine	107-11-9	1/1/95
* * * * * * *		
Aluminum phosphide	20859-73-8	1/1/95
Ametryn (N-Ethyl-N'-(1-methylethyl)-6-(methylthio)-1,3,5,-triazine-2,4-diamine)	834-12-8	1/1/95
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Amitraz	33089-61-1	1/1/95

Chemical Name	CAS No.	Effective Date
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Anilazine [4,6-dichloro-N-(2-chlorophenyl)-1,3,5-triazin-2-amine]	101-05-3	1/1/95
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Atrazine (6-Chloro-N-ethyl-N'-(1-methylethyl)-1,3,5,-triazine-2,4-diamine)	1912-24-9	1/1/95
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Bendiocarb [2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate]	22781-23-3	1/1/95
Benfluralin (N-Butyl-N-ethyl-2,6-dinitro-4-(trifluoromethyl)benzenamine)	1861-40-1	1/1/95
Benomyl	17804-35-2	1/1/95
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o-Benzyl-p-chlorophenol	120-32-1	1/1/95
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Bifenthrin	82657-04-3	1/1/95
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Bis(tributylin) oxide	56-35-9	1/1/95
Boron trichloride	10294-34-5	1/1/95
Boron trifluoride	7637-07-2	1/1/95
Bromacil (5-Bromo-6-methyl-3-(1-methylpropyl)-2,4-(1H,3H)-pyrimidinedione)	314-40-9	1/1/95
Bromacil, lithium salt [2,4-(1H,3H)-Pyrimidinedione, 5-bromo-6-methyl-3-(1-methylpropyl), lithium salt]	53404-19-6	1/1/95
Bromine	7726-95-6	1/1/95
1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile	35691-65-7	1/1/95
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2-Bromo-2-nitropropane-1,3-diol (Bronopol)	52-51-7	1/1/95
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Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile)	1689-84-5	1/1/95
Bromoxynil octanoate (Octanoic acid, 2,6-dibromo-4-cyanophenyl ester)	1689-99-2	1/1/95
Brucine	357-57-3	1/1/95
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Butylate (Bis-2-methylpropyl)carbamothioic acid S-ethyl ester)	2008-41-5	1/1/95
Butylated hydroxyanisole	25013-16-5	1/1/95
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C.I. Acid Red 114	6459-94-5	1/1/95
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C.I. Direct Blue 218	28407-37-6	1/1/95
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Calcium hypochlorite	7778-54-3	1/1/95
Caprolactam	105-60-2	1/1/95
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Carbofuran	1563-66-2	1/1/95
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Carbon monoxide	630-08-0	1/1/95
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Carboxin (5,6-Dihydro-2-methyl-N-phenyl-1,4-oxathiin-3-carboxamide)	5234-68-4	1/1/95
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Chinomethionat [6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one]	2439-01-2	1/1/95
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Chlorendic acid	115-28-6	1/1/95
Chlorimuron ethyl [Ethyl-2-[[[(4-chloro-6-methoxyprimidin-2-yl)-carbonyl]-amino]sulfonyl]benzoate]	90982-32-4	1/1/95
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1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	4080-31-3	1/1/95
p-Chloroaniline	106-47-8	1/1/95
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5-Chloro-2-(2,4-dichlorophenoxy)phenol	3380-34-5	1/1/95
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3-Chloro-2-methyl-1-propene	563-47-3	1/1/95
p-Chlorophenyl isocyanate	104-12-1	1/1/95
Chloropicrin	76-06-2	1/1/95
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3-Chloropropionitrile	542-76-7	1/1/95
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p-Chloro-o-toluidine	95-69-2	1/1/95

Chemical Name	CAS No.	Effective Date
2-Chloro-1,1,1-trifluoro-ethane (HCFC-133a)	75-88-7	1/1/95
Chlorotrifluoromethane (CFC-13)	75-72-9	1/1/95
3-Chloro-1,1,1-trifluoro-propane (HCFC-253fb)	460-35-5	1/1/95
Chlorpyrifos methyl [O,O-dimethyl-O-(3,5,6-trichloro-2-pyridyl)phosphorothioate	5598-13-0	1/1/95
Chlorsulfuron [2-chloro-N-[[4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]benzenesulfonamide]	64902-72-3	1/1/95
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Clomazone [2-[(2-Chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone]	81777-89-1	1/1/95
Crotonaldehyde	4170-30-3	1/1/95
Cyanazine	21725-46-2	1/1/95
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Cycloate	1134-23-2	1/1/95
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Cyclohexanol	108-93-0	1/1/95
Cyfluthrin [3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, cyano(4-fluoro-3-phenoxyphenyl)methyl ester]	68359-37-5	1/1/95
Cyhalothrin [3-(2-Chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylic acid cyano(3-phenoxyphenyl)methyl ester]	68085-85-8	1/1/95
Cyromazine [N-Cyclopropyl-1,3,5-triazine-2,4,6-triamine]	66215-27-8	1/1/95
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Dazomet(Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione)	533-74-4	1/1/95
Dazomet, sodium salt [Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione, ion(1-), sodium]	53404-60-7	1/1/95
2,4,-DB	94-82-6	1/1/95
2,4-D butoxyethyl ester	1929-73-3	1/1/95
2,4-D butyl ester	94-80-4	1/1/95
2,4-D chlorocrotyl ester	2971-38-2	1/1/95
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Desmedipham	13684-56-5	1/1/95
2,4-D 2-ethylhexyl ester	1928-43-4	1/1/95
2,4-D 2-ethyl-4-methylpentyl ester	53404-37-8	1/1/95
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Diazinon	333-41-5	1/1/95
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2,2-Dibromo-3-nitrilopropionamide	10222-01-2	1/1/95
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Dicamba (3,6-Dichloro-2-methyoxybenzoic acid)	1918-00-9	1/1/95
Dichloran [2,6-Dichloro-4-nitroaniline]	99-30-9	1/1/95
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3,3'-Dichlorobenzidine dihydrochloride	612-83-9	1/1/95
3,3'-Dichlorobenzidine sulfate	64969-34-2	1/1/95
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trans-1,4-Dichloro-2-butene	110-57-6	1/1/95
1,2-Dichloro-1,1-difluoroethane (HCFC-132b)	1649-08-7	1/1/95
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Dichlorofluoromethane (HCFC-21)	75-43-4	1/1/95
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Dichloromethylphenylsilane	149-74-6	1/1/95
Dichloropentafluoropropane	127564-92-5	1/1/95
1,1-dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc)	13474-88-9	1/1/95
1,1-dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb)	111512-56-2	1/1/95
1,2-dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb)	422-44-6	1/1/95
1,2-dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da)	431-86-7	1/1/95
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	507-55-1	1/1/95
1,3-dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea)	136013-79-1	1/1/95
2,2-dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa)	128903-21-9	1/1/95
2,3-dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba)	422-48-0	1/1/95
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	422-56-0	1/1/95
Dichlorophene [2,2'-Methylene-bis(4-chlorophenol)]	97-23-4	1/1/95
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trans-1,3-Dichloropropene	10061-02-6	1/1/95
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Diclofop methyl [2-[4-(2,4-Dichlorophenoxy)phenoxy]propanoic acid, methyl ester]	51338-27-3	1/1/95
* * * * * * *		
Dicyclopentadiene	77-73-6	1/1/95
* * * * * * *		
Diethatyl ethyl	38727-55-8	1/1/95

Chemical Name	CAS No.	Effective Date
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Diflubenzuron	35367-38-5	1/1/95
Diglycidyl resorcinol ether	101-90-6	1/1/95
Dimethipin [2,3,-Dihydro-5,6-dimethyl-1,4-dithiin-1,1,4,4-tetraoxide]	55290-64-7	1/1/95
Dimethoate	60-51-5	1/1/95
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3,3'-Dimethoxybenzidine dihydrochloride (o-Dianisidine dihydrochloride)	20325-40-0	1/1/95
3,3'-Dimethoxybenzidine hydrochloride (o-Dianisidine hydrochloride)	111984-09-9	1/1/95
Dimethylamine	124-40-3	1/1/95
Dimethylamine dicamba	2300-66-5	1/1/95
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3,3'-Dimethylbenzidine dihydrochloride (o-Tolidine dihydrochloride)	612-82-8	1/1/95
3,3'-Dimethylbenzidine dihydrofluoride (o-Tolidine dihydrofluoride)	41766-75-0	1/1/95
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Dimethyl chlorothiophosphate	2524-03-0	1/1/95
Dimethyldichlorosilane	75-78-5	1/1/95
N,N-Dimethylformamide	68-12-2	1/1/95
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2,6-Dimethylphenol	576-26-1	1/1/95
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Dinocap	39300-45-3	1/1/95
Dinoseb	88-85-7	1/1/95
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Diphenamid	957-51-7	1/1/95
Diphenylamine	122-39-4	1/1/95
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Dipotassium endothall [7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid, dipotassium salt]	2164-07-0	1/1/95
Dipropyl isocinchomeronate	136-45-8	1/1/95
Disodium cyanodithioimidocarbonate	138-93-2	1/1/95
2,4-D isopropyl ester	94-11-1	1/1/95
2,4-Dithiobiuret	541-53-7	1/1/95
Dithiopyr [2-(Difluoromethyl)-4-(2-methylpropyl)-6-(trifluoromethyl)-3,5-pyridinedicarbothioic acid S,S-dimethyl ester]	97886-45-8	1/1/95
Diuron	330-54-1	1/1/95
2,4-D 2-octyl ester	1917-97-1	1/1/95
Dodine [Dodecylguanidine monoacetate]	2439-10-3	1/1/95
2,4,-DP	120-36-5	1/1/95
2,4-D propylene glycol butyl ether ester	1320-18-9	1/1/95
2,4-D sodium salt	2702-72-9	1/1/95
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Ethoprop [Phosphorodithioic acid O-ethyl S,S-dipropyl ester]	13194-48-4	1/1/95
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Ethyl dipropylthiocarbamate [EPTC]	759-94-4	1/1/95
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Famphur	52-85-7	1/1/95
Fenarimol [.alpha.-(2-Chlorophenyl)-.alpha.-4-chlorophenyl)-5-pyrimidinemethanol]	60168-88-9	1/1/95
Fenbutatin oxide (Hexakis(2-methyl-2-phenyl-propyl)distannoxane)	13356-08-6	1/1/95
Fenoxaprop ethyl [2-(4-((6-Chloro-2-benzoxazolylen)oxy)phenoxy)propanoic acid,ethyl ester]	66441-23-4	1/1/95
Fenoxycarb [2-(4-Phenoxyphenoxy)ethyl]carbamic acid ethyl ester]	72490-01-8	1/1/95
Fenpropathrin [2,2,3,3-Tetramethylcyclopropane carboxylic acid cyano(3-phenoxy-phenyl)methyl ester]	39515-41-8	1/1/95
Fenthion [O,O-Dimethyl O-[3-methyl-4-(methylthio)phenyl]ester, phosphorothioic acid]	55-38-9	1/1/95
Fenvalerate [4-Chloro-alpha-(1-methylethyl)benzeneacetic acid cyano(3-phenoxyphenyl)methyl ester]	51630-58-1	1/1/95
Ferbam [Tris(dimethylcarbamo-dithioato-S,S')iron]	14484-64-1	1/1/95
Fluazifop-butyl [2-[4-[[5-(Trifluoromethyl)-2-pyridinyl]oxy]-phenoxy]propanoic acid, butyl ester]	69806-50-4	1/1/95
Flumetralin [2-Chloro-N-(2,6-dinitro-4-(trifluoromethyl)phenyl)-N-ethyl-6-fluorobenzenemethanamine]	62924-70-3	1/1/95
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Fluorine	7782-41-4	1/1/95
Fluorouracil (5-Fluorouracil)	51-21-8	1/1/95
Fluvalinate [N-[2-Chloro-4-(trifluoromethyl)phenyl]-DL-valine(+)-cyano (3-phenoxyphenyl)methyl ester]	69409-94-5	1/1/95
Folpet	133-07-3	1/1/95
Fomesafen [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-N-methylsulfonyl)-2-nitrobenzamide]	72178-02-0	1/1/95
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alpha-Hexachlorocyclohexane	319-84-6	1/1/95
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Hexamethylene-1,6-diisocyanate	822-60-0	1/1/95
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n-Hexane	110-54-3	1/1/95
Hexazinone	51235-04-2	1/1/95

Chemical Name	CAS No.	Effective Date
Hydramethylnon [Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl)phenyl]ethenyl]-2-propenylidene]hydrazone]	67485-29-4	1/1/95
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Imazalil [1-[2-(2,4-Dichlorophenyl)-2-(2-propenyloxy)ethyl]-1H-imidazole]	35554-44-0	1/1/95
3-Iodo-2-propynyl butylcarbamate	55406-53-6	1/1/95
Iprodione [3-(3,5-Dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide]	36734-19-7	1/1/95
Iron pentacarbonyl	13463-40-6	1/1/95
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Isodrin	465-73-6	1/1/95
Isofenphos [2-[[Ethoxyl[(1-methylethyl)amino]phosphinothioyl]oxy]benzoic acid 1-methylethyl ester]	25311-71-1	1/1/95
Isophorone	78-59-1	1/1/95
Isophorone diisocyanate	4098-71-9	1/1/95
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Lactofen [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-2-ethoxy-1- methyl-2-oxoethyl ester]	77501-63-4	1/1/95
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Linuron	330-55-2	1/1/95
Lithium carbonate	554-13-2	1/1/95
Malathion	121-75-5	1/1/95
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Mecoprop	93-65-2	1/1/95
2-Mercaptobenzothiazole (MBT)	149-30-4	1/1/95
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Merphos	150-50-5	1/1/95
Metham sodium (Sodium methyldithiocarbamate)	137-42-8	1/1/95
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Methazole [2-(3,4-Dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione]	20354-26-1	1/1/95
Methiocarb	2032-65-7	1/1/95
Methoxone (4-Chloro-2-methylphenoxy) acetic acid (MCPA))	94-74-6	1/1/95
Methoxone-sodium salt ((4-chloro-2-methylphenoxy) acetate sodium salt)	3653-48-3	1/1/95
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1,1'-Methylene bis(4-isocyanatocyclohexane)	5124-30-1	1/1/95
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Methylene bis(thiocyanate)	6317-18-6	1/1/95
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Methyl isothiocyanate [Isothiocyanatomethane]	556-61-6	1/1/95
2-Methyllactonitrile	75-86-5	1/1/95
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N-Methylolacrylamide	924-42-5	1/1/95
Methyl parathion	298-00-0	1/1/95
N-Methyl-2-pyrrolidone	872-50-4	1/1/95
Methyltrichlorosilane	75-79-6	1/1/95
Metiram	9006-42-2	1/1/95
Metribuzin	21087-64-5	1/1/95
Mevinphos	7786-34-7	1/1/95
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Molinate (1H-Azepine-1-carbothioic acid, hexahydro-S-ethyl ester)	2212-67-1	1/1/95
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Monuron	150-68-5	1/1/95
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Myclobutanil [.alpha.-Butyl-.alpha.-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile]	88671-89-0	1/1/95
Nabam	142-59-6	1/1/95
Naled	300-76-5	1/1/95
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Nitrapyrin (2-Chloro-6-(trichloromethyl) pyridine)	1929-82-4	1/1/95
Nitrate ion	14797-55-8	1/1/95
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Nitric oxide	10102-43-9	1/1/95
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p-Nitroaniline	100-01-6	1/1/95
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Nitrogen dioxide	10102-44-0	1/1/95
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Norflurazon [4-Chloro-5-(methylamino)-2-[3-(trifluoromethyl)phenyl]-3(2H)-pyridazinone]	27314-13-2	1/1/95

Chemical Name	CAS No.	Effective Date
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Oryzalin [4-(Dipropylamino)-3,5-dinitrobenzenesulfonamide]	19044-88-3	1/1/95
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Oxydemeton methyl [S-(2-(ethylsulfinyl)ethyl) o,o-dimethyl ester phosphorothioic acid]	301-12-2	1/1/95
Oxydiazon [3-[2,4-Dichloro-5-(1-methylethoxy)phenyl]-5-(1,1-dimethylethyl)-1,3,4-oxadiazol-2(3H)-one]	19666-30-9	1/1/95
Oxyfluorfen	42874-03-3	1/1/95
Ozone	10028-15-6	1/1/95
Paraquat dichloride	1910-42-5	1/1/95
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Pebulate [Butylethylcarbamothioic acid S-propyl ester]	1114-71-2	1/1/95
Pendimethalin [N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine]	40487-42-1	1/1/95
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Pentobarbital sodium	57-33-0	1/1/95
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Perchloromethyl mercaptan	594-42-3	1/1/95
Permethrin [3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, (3-phenoxyphenyl)methyl ester]	52645-53-1	1/1/95
Phenanthrene	85-01-8	1/1/95
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Phenothrin [2,2-Dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylic acid (3-phenoxyphenyl)methyl ester]	26002-80-2	1/1/95
1,2-Phenylenediamine	95-54-5	1/1/95
1,3-Phenylenediamine	108-45-2	1/1/95
1,2-Phenylenediamine dihydrochloride	615-28-1	1/1/95
1,4-Phenylenediamine dihydrochloride	624-18-0	1/1/95
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Phenytoin	57-41-0	1/1/95
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Phosphine	7803-51-2	1/1/95
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Phosphorous oxychloride	10025-87-3	1/1/95
Phosphorous pentachloride	10026-13-8	1/1/95
Phosphorous pentasulfide	1314-80-3	1/1/95
Phosphorous pentoxide	1314-56-3	1/1/95
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Picloram	1918-02-1	1/1/95
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Piperonyl butoxide	51-03-6	1/1/95
Pirimiphos methyl [O-(2-(Diethylamino)-6-methyl-4-pyrimidinyl)-O,O-dimethylphosphorothioate]	29232-93-7	1/1/95
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Potassium bromate	7758-01-2	1/1/95
Potassium dimethyldithiocarbamate	128-03-0	1/1/95
Potassium N-methyldithiocarbamate	137-41-7	1/1/95
Primisulfuron [Methyl 2-[[[[[4,6-bis(difluoromethoxy)-2-pyrimidinyl]- amino]carbonyl]amino]sulfonyl]benzoate]	86209-51-0	1/1/95
Profenofos [O-(4-Bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate]	41198-08-7	1/1/95
Prometryn [N,N'-Bis(1-methylethyl)-6-methylthio-1,3,5-triazine-2,4- diamine]	7287-19-6	1/1/95
Propachlor [2-Chloro-N-(1-methylethyl)-N-phenylacetamide]	1918-16-7	1/1/95
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Propanil [N-(3,4-Dichlorophenyl)propanamide]	709-98-8	1/1/95
Propargite	2312-35-8	1/1/95
Propargyl alcohol	107-19-7	1/1/95
Propetamphos [3-[[(Ethylamino)methoxyphosphinothioyl]oxy]-2-butenoic acid, 1-methylethyl ester]	31218-83-4	1/1/95
Propiconazole [1-[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]- methyl-1H-1,2,4,-triazole]	60207-90-1	1/1/95
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Quizalofop-ethyl [2-[4-[(6-Chloro-2-quinoxalinyl)oxy]phenoxy]propanoic acid ethyl ester]	76578-14-8	1/1/95
Resmethrin [[5-(Phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate]]	10453-86-8	1/1/95
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Sethoxydim [2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one]	74051-80-2	1/1/95
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Simazine	122-34-9	1/1/95
Sodium azide	26628-22-8	1/1/95
Sodium chlorite	7758-19-2	1/1/95
Sodium dicamba [3,6-Dichloro-2-methoxybenzoic acid, sodium salt]	1982-69-0	1/1/95
Sodium dimethyldithiocarbamate	128-04-1	1/1/95
Sodium fluoroacetate	62-74-8	1/1/95

Chemical Name	CAS No.	Effective Date
Sodium hypochlorite	7681-52-9	1/1/95
Sodium nitrite	7632-00-0	1/1/95
Sodium pentachlorophenate	131-52-2	
Sodium o-phenylphenoxide	132-27-4	1/1/95
Sodium 2-pyridinethiol-1-oxide	15922-78-8	1/1/95
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Sulfur dioxide	7446-09-5	1/1/95
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Sulfur trioxide	7446-11-9	1/1/95
Sulfuryl fluoride [Vikane]	2699-79-8	1/1/95
Sulprofos [O-Ethyl O-[4-(methylthio)phenyl]phosphorodithioic acid S-propyl ester]	35400-43-2	1/1/95
Tebuthiuron [N-[5-(1,1-Dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea]	34014-18-1	1/1/95
Tefluthrin	79538-32-2	1/1/95
Temephos	3383-96-8	1/1/95
Terbacil [5-Chloro-3-(1,1-dimethylethyl)-6-methyl-2,4(1H,3H)-pyrimidinedione]	5902-51-2	1/1/95
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1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a)	354-11-0	1/1/95
1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121)	354-14-3	1/1/95
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Tetracycline hydrochloride	64-75-5	1/1/95
Tetramethrin [2,2-Dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylic acid (1,3,4,5,6,7-hexahydro-1,3-dioxo-2H-isoindol-2-yl)methyl ester]	7696-12-0	1/1/95
Tetrasodium ethylenediaminetetraacetate	64-02-8	1/1/95
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Thiabendazole [2-(4-Thiazolyl)-1H-benzimidazole]	148-79-8	1/1/95
Thiabendazole, hypophosphite salt [2-(4-Thiazolyl)benzimidazole, hypophosphite salt]	28558-32-9	1/1/95
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Thiobencarb [Carbamic acid, diethylthio-, s-(p-chlorobenzyl)]	28249-77-6	1/1/95
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Thiodicarb	59669-26-0	1/1/95
Thiophanate ethyl [[1,2-Phenylenebis(iminocarbonothioyl)]biscarbamic acid diethyl ester]	23564-06-9	1/1/95
Thiophanate-methyl	23564-05-8	1/1/95
Thiosemicarbazide	79-19-6	1/1/95
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Triadimefon [1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone]	43121-43-3	1/1/95
Triallate	2303-17-5	1/1/95
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Tribenuron methyl [2-(((((4-Methoxy-6-methyl-1,3,5-triazin-2-yl)- methylamino)carbonyl)amino)sulfonyl)-, methyl ester]	101200-48-0	1/1/95
Tributyltin fluoride	1983-10-4	1/1/95
Tributyltin methacrylate	2155-70-6	1/1/95
S,S,S-Tributyltrithiophosphate (DEF)	78-48-8	1/1/95
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Trichloroacetyl chloride	76-02-8	1/1/95
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Trichloroethylsilane	115-21-9	1/1/95
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Trichlorophenylsilane	98-13-5	
1,2,3-Trichloropropane	96-18-4	1/1/95
Triclopyr, triethylammonium salt	57213-69-1	1/1/95
Triethylamine	121-44-8	1/1/95
Triforine [N,N'-[1,4-Piperazinediyl-bis(2,2,2-trichloroethylidene)] bisformamide]	26644-46-2	1/1/95
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Trimethylchlorosilane	75-77-4	1/1/95
2,3,5-Trimethylphenyl methylcarbamate	2655-15-4	1/1/95
Triphenyltin chloride	639-58-7	1/1/95
Triphenyltin hydroxide	76-87-9	1/1/95
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Vanadium pentoxide	1314-62-1	1/1/95
Vinclozolin [3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4- oxazolidinedione]	50471-44-8	1/1/95
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CAS No.	Chemical Name	Effective Date
	* * * * * * *	
51-03-6	Piperonyl butoxide	1/1/95
51-21-8	Fluorouracil (5-Fluorouracil)	1/1/95
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52-51-7	2-Bromo-2-nitropropane-1,3-diol (Bronopol)	1/1/95
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52-85-7	Famphur	1/1/95
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55-38-9	Fenthion [O,O-Dimethyl O-[3-methyl-4-(methylthio)phenyl] ester, phosphorothioic acid]	1/1/95
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56-35-9	Bis(tributyltin) oxide	1/1/95
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57-33-0	Pentobarbital sodium	1/1/95
57-41-0	Phenytoin	1/1/95
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60-51-5	Dimethoate	1/1/95
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62-74-8	Sodium fluoroacetate	1/1/95
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64-02-8	Tetrasodium ethylenediaminetetraacetate	1/1/95
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64-75-5	Tetracycline hydrochloride	1/1/95
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68-12-2	N,N-Dimethylformamide	1/1/95
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75-43-4	Dichlorofluoromethane (HCFC-21)	1/1/95
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75-72-9	Chlorotrifluoromethane (CFC-13)	1/1/95
75-77-4	Trimethylchlorosilane	1/1/95
75-78-5	Dimethyldichlorosilane	1/1/95
75-79-6	Methyltrichlorosilane	1/1/95
75-86-5	2-Methyllactonitrile	1/1/95
75-88-7	2-Chloro-1,1,1-trifluoroethane (HCFC-133a)	1/1/95
76-02-8	Trichloroacetyl chloride	1/1/95
76-06-2	Chloropicrin	1/1/95
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76-87-9	Triphenyltin hydroxide	1/1/95
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77-73-6	Dicyclopentadiene	1/1/95
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78-48-8	S,S,S-Tributyltrithiophosphate (DEF)	1/1/95
78-59-1	Isophorone	1/1/95
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79-19-6	Thiosemicarbazide	1/1/95
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85-01-8	Phenanthrene	1/1/95
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88-85-7	Dinoseb	1/1/95
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93-65-2	Mecoprop	1/1/95
94-11-1	2,4-D isopropyl ester	1/1/95
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94-74-6	Methoxone (4-Chloro-2-methylphenoxy) acetic acid (MCPA)	1/1/95
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94-80-4	2,4-D butyl ester	1/1/95
94-82-6	2,4-DB	1/1/95
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95-54-5	1,2-Phenylenediamine	1/1/95

CAS No.	Chemical Name	Effective Date
	* * * * * * *	
95-69-2	p-Chloro-o-toluidine	1/1/95
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96-18-4	1,2,3-Trichloropropane	1/1/95
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97-23-4	Dichlorophene [2,2'-Methylene-bis(4-chlorophenol)]	1/1/95
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98-13-5	Trichlorophenylsilane	1/1/95
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99-30-9	Dichloran [2,6-Dichloro-4-nitroaniline]	1/1/95
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100-01-6	p-Nitroaniline	1/1/95
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101-05-3	Anilazine [4,6-dichloro-N-(2-chlorophenyl)-1,3,5-triazin-2-amine]	1/1/95
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101-90-6	Diglycidyl resorcinol ether	1/1/95
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104-12-1	p-Chlorophenyl isocyanate	1/1/95
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105-60-2	Caprolactam	1/1/95
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106-47-8	p-Chloroaniline	1/1/95
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107-11-9	Allylamine	1/1/95
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107-19-7	Propargyl alcohol	1/1/95
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108-45-2	1,3-Phenylenediamine	1/1/95
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108-93-0	Cyclohexanol	1/1/95
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110-54-3	n-Hexane	1/1/95
110-57-6	trans-1,4-Dichloro-2-butene	1/1/95
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115-21-9	Trichloroethylsilane	1/1/95
115-28-6	Chlorendic acid	1/1/95
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116-06-3	Aldicarb	1/1/95
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120-32-1	o-Benzyl-p-chlorophenol	1/1/95
120-36-5	2,4-DP	1/1/95
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121-44-8	Triethylamine	1/1/95
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121-75-5	Malathion	1/1/95
122-34-9	Simazine	1/1/95
122-39-4	Diphenylamine	1/1/95
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124-40-3	Dimethylamine	1/1/95
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128-03-0	Potassium dimethyldithiocarbamate	1/1/95
128-04-1	Sodium dimethyldithiocarbamate	1/1/95
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131-52-2	Sodium pentachlorophenate	1/1/95
132-27-4	Sodium o-phenylphenoxide	1/1/95
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133-07-3	Folpet	1/1/95

CAS No.	Chemical Name	Effective Date
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136-45-8	Dipropyl isocinchomeronate	1/1/95
137-41-7	Potassium n-methyldithiocarbamate	1/1/95
137-42-8	Metham Sodium	1/1/95
138-93-2	Disodium cyanodithioimidocarbonate	1/1/95
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142-59-6	Nabam	1/1/95
148-79-8	Thiabendazole [2-(4-Thiazolyl)-1H-benzimidazole]	1/1/95
149-30-4	2-Mercaptobenzothiazole	1/1/95
149-74-6	Dichloromethylphenylsilane	1/1/95
150-50-5	Merphos	1/1/95
150-68-5	Monuron	1/1/95
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298-00-0	Methyl parathion	1/1/95
300-76-5	Naled	1/1/95
301-12-2	Oxydemeton methyl [s-(2-(Ethylsulfinyl)ethyl)o,o-dimethyl ester phosphorothioic acid]	1/1/95
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314-40-9	Bromacil (5-Bromo-6-methyl-3-(1-methylpropyl)-2,4-(1H,3H)-pyrimidinedione)	1/1/95
319-84-6	alpha-Hexachlorocyclohexane	1/1/95
330-54-1	Diuron	1/1/95
330-55-2	Linuron	1/1/95
333-41-5	Diazinon	1/1/95
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354-11-0	1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a)	1/1/95
354-14-3	1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121)	1/1/95
357-57-3	Brucine	1/1/95
422-44-6	1,2-dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb)	1/1/95
422-48-0	2,3-dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba)	1/1/95
422-56-0	3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	1/1/95
431-86-7	1,2-dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da)	1/1/95
460-35-5	3-chloro-1,1,1-trifluoropropane (HCFC-253fb)	1/1/95
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465-73-6	Isodrin	1/1/95
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507-55-1	1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	1/1/95
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533-74-4	Dazomet (Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione)	1/1/95
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541-53-7	2,4-Dithiobiuret	1/1/95
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542-76-7	3-Chloropropionitrile	1/1/95
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554-13-2	Lithium carbonate	1/1/95
556-61-6	Methyl isothiocyanate [Isothiocyanatomethane]	1/1/95
563-47-3	3-Chloro-2-methyl-1-propene	1/1/95
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576-26-1	2,6-Dimethylphenol	1/1/95
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594-42-3	Perchloromethyl mercaptan	1/1/95
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612-82-8	3,3'-Dimethylbenzidine dihydrochloride (o-Tolidine dihydrochloride)	1/1/95
612-83-9	3,3'-Dichlorobenzidine dihydrochloride	1/1/95
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615-28-1	1,2-Phenylenediamine dihydrochloride	1/1/95
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624-18-0	1,4-Phenylenediamine dihydrochloride	1/1/95
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630-08-0	Carbon monoxide	1/1/95
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639-58-7	Triphenyltin chloride	1/1/95
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709-98-8	Propanil [N-(3,4-Dichlorophenyl)propanamide]	1/1/95
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759-94-4	Ethyl dipropylthiocarbamate (EPTC)	1/1/95

CAS No.	Chemical Name	Effective Date
822-60-0	Hexamethylene-1,6-diisocyanate	1/1/95
834-12-8	Ametryn (N-Ethyl-N'-(1-methylethyl)-6-(methylthio)-1,3,5,-triazine-2,4-diamine)	1/1/95
872-50-4	N-Methyl-2-pyrrolidone	1/1/95
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924-42-5	N-Methylolacrylamide	1/1/95
957-51-7	Diphenamid	1/1/95
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1114-71-2	Pebulate [Butylethylcarbamo-thioic acid S-propyl ester]	1/1/95
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1134-23-2	Cycloate	1/1/95
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1314-56-3	Phosphorous pentoxide	1/1/95
1314-62-1	Vanadium pentoxide	1/1/95
1314-80-3	Phosphorous pentasulfide	1/1/95
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1320-18-9	2,4-D propylene glycol butyl ether ester	1/1/95
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1563-66-2	Carbofuran	1/1/95
1649-08-7	1,2-dichloro-1,1-difluoroethane (HCFC-132b)	1/1/95
1689-84-5	Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile)	1/1/95
1689-99-2	Bromoxynil octanoate (Octanoic acid, 2,6-dibromo-4-cyanophenyl ester)	1/1/95
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1861-40-1	Benfluralin(N-Butyl-N-ethyl-2,6-dinitro-4-(trifluoromethyl)benzenamine)	1/1/95
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1910-42-5	Paraquat dichloride	1/1/95
1912-24-9	Atrazine (6-Chloro-N-ethyl-N'-(1-methylethyl)-1,3,5,-triazine-2,4-diamine)	1/1/95
1917-97-1	2,4-D 2-octyl ester	1/1/95
1918-00-9	Dicamba (3,6-Dichloro-2-methyoxybenzoic acid)	1/1/95
1918-02-1	Picloram	1/1/95
1918-16-7	Propachlor [2-Chloro-N-(1-methylethyl)-N-phenylacetamide]	1/1/95
1928-43-4	2,4-D 2-ethylhexyl ester	1/1/95
1929-73-3	2,4-D butoxyethyl ester	1/1/95
1929-82-4	Nitrapyrin (2-Chloro-6-(trichloromethyl)pyridine)	1/1/95
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1982-69-0	Sodium dicamba [3,6-Dichloro-2-methoxybenzoic acid, sodium salt]	1/1/95
1983-10-4	Tributyltin fluoride	1/1/95
2008-41-5	Butylate (Bis-2-methylpropyl) carbamothioic acid S-ethyl ester)	1/1/95
2032-65-7	Methiocarb	1/1/95
2155-70-6	Tributyltin methacrylate	1/1/95
2164-07-0	Dipotassium endothall [7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid, dipotassium salt]	1/1/95
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2212-67-1	Molinate (1H-Azepine-1-carbothioic acid, hexahydro-S-ethyl ester)	1/1/95
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2300-66-5	Dimethylamine dicamba	1/1/95
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2303-17-5	Triallate	1/1/95
2312-35-8	Propargite	1/1/95
2439-01-2	Chinomethionat [6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one]	1/1/95
2439-10-3	Dodine [Dodecylguanidine monoacetate]	1/1/95
2524-03-0	Dimethyl chlorothiophosphate	1/1/95
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2655-15-4	2,3,5-Trimethylphenyl methylcarbamate	1/1/95
2699-79-8	Sulfuryl Fluoride [Vikane]	1/1/95
2702-72-9	2,4-D sodium salt	1/1/95
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2971-38-2	2,4-D chlorocrotyl ester	1/1/95
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3380-34-5	5-Chloro-2-(2,4-dichlorophenoxy)phenol	1/1/95
3383-96-8	Temephos	1/1/95
3653-48-3	Methoxone - sodium salt (4-Chloro-2-methylphenoxy acetate sodium salt)	1/1/95
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4080-31-3	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	1/1/95
4098-71-9	Isophorone diisocyanate	1/1/95
4170-30-3	Crotonaldehyde	1/1/95
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5124-30-1	1,1'-Methylene bis(4-isocyanatocyclohexane)	1/1/95

CAS No.	Chemical Name	Effective Date
5234-68-4	Carboxin (5,6-Dihydro-2-methyl-N-phenyl-1,4-oxathiin-3-carboxamide)	1/1/95
5598-13-0	Chlorpyrifos methyl [O,O-dimethyl-O-(3,5,6-trichloro-2-pyridyl)phosphorothioate]	1/1/95
5902-51-2	Terbacil [5-Chloro-3-(1,1-dimethylethyl)-6-methyl-2,4-(1H,3H)-pyrimidinedione]	1/1/95
6317-18-6	Methylene bis(thiocyanate)	1/1/95
6459-94-5	C.I. Acid Red 114	1/1/95
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7287-19-6	Prometryn [N,N'-Bis(1-methylethyl)-6-methylthio-1,3,5-triazine-2,4-diamine]	1/1/95
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7446-09-5	Sulfur dioxide	1/1/95
7446-11-9	Sulfur trioxide	1/1/95
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7632-00-0	Sodium nitrite	1/1/95
7637-07-2	Boron trifluoride	1/1/95
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7681-52-9	Sodium hypochlorite	1/1/95
7696-12-0	Tetramethrin [2,2-Dimethyl-3-(2-methyl-1-propenyl)cyclopropane-carboxylic acid (1,3,4,5,6,7-hexahydro-1,3-dioxo-2H-isoindol-2-yl)methyl ester]	1/1/95
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7726-95-6	Bromine	1/1/95
7758-01-2	Potassium bromate	1/1/95
7758-19-2	Sodium chlorite	1/1/95
7778-54-3	Calcium hypochlorite	1/1/95
7782-41-4	Fluorine	1/1/95
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7786-34-7	Mevinphos	1/1/95
7803-51-2	Phosphine	1/1/95
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9006-42-2	Metiram	1/1/95
10025-87-3	Phosphorous oxychloride	1/1/95
10026-13-8	Phosphorous pentachloride	1/1/95
10028-15-6	Ozone	1/1/95
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10061-02-6	trans-1,3-Dichloropropene	1/1/95
10222-01-2	2,2-Dibromo-3-nitrilopropionamide	1/1/95
10102-43-9	Nitric oxide	1/1/95
10102-44-0	Nitrogen dioxide	1/1/95
10294-34-5	Boron trichloride	1/1/95
10453-86-8	Resmethrin [[5-(Phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate]]	1/1/95
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13194-48-4	Ethoprop [Phosphorodithioic acid O-ethyl S,S-dipropyl ester]	1/1/95
13356-08-6	Fenbutatin oxide (hexakis(2-methyl-2-phenylpropyl)distannoxane)	1/1/95
13463-40-6	Iron pentacarbonyl	1/1/95
13474-88-9	1,1-Dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc)	1/1/95
13684-56-5	Desmedipham	1/1/95
14484-64-1	Ferbam [Tris(dimethylcarbamo-dithioato-S,S')iron]	1/1/95
14797-55-8	Nitrate ion	1/1/95
15922-78-8	Sodium 2-pyridinethiol-1-oxide	1/1/95
15972-60-8	Alachlor	1/1/95
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17804-35-2	Benomyl	1/1/95
19044-88-3	Oryzalin [4-(Dipropylamino)-3,5-dinitrobenzene-sulfonamide]	1/1/95
19666-30-9	Oxydiazon [3-[2,4-Dichloro-5-(1-methylethoxy)phenyl]-5-(1,1-dimethylethyl)-1,3,4-oxadiazol-2(3H)-one]	1/1/95
20325-40-0	3,3'-Dimethoxybenzidine dihydrochloride (Dianisidine dihydrochloride)	1/1/95
20354-26-1	Methazole [2-(3,4-Dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione]	1/1/95
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20859-73-8	Aluminum phosphide	1/1/95
21087-64-9	Metribuzin	1/1/95
21725-46-2	Cyanazine	1/1/95
22781-23-3	Bendiocarb [2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate]	1/1/95
23564-05-8	Thiophanate methyl	1/1/95
23564-06-9	Thiophanate ethyl [[1,2-Phenylenebis(iminocarbonothioyl)]biscarbamic acid diethyl ester]	1/1/95
25013-16-5	Butylated hydroxyanisole	1/1/95
25311-71-1	Isofenphos [2-[[Ethoxyl[(1-methylethyl)amino]phosphinothioyl]oxy]benzoic acid 1-methylethyl ester]	1/1/95
26002-80-2	Phenothrin [2,2-Dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylic acid (3-phenoxyphenyl)methyl ester]	1/1/95
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26628-22-8	Sodium azide	1/1/95
26644-46-2	Triforine [N,N'-[1,4-Piperazinediylbis(2,2,2-trichloroethylidene)] bisformamide]	1/1/95
27314-13-2	Norflurazon [4-Chloro-5-(methylamino)-2-[3-(trifluoromethyl)phenyl]- 3(2H)-pyridazinone]	1/1/95

CAS No.	Chemical Name	Effective Date
28057-48-9	d-trans-Allethrin [d-trans-Chrysanthemic acid of d-allethrone]	1/1/95
28249-77-6	Thiobencarb [Carbamic acid, diethylthio-, s-(p-chlorobenzyl)]	1/1/95
28407-37-6	C.I. Direct Blue 218	1/1/95
28558-32-9	Thiabendazole, hypophosphite salt [2-(4-Thiazolyl)benzimidazole, hypophosphite salt]	1/1/95
29232-93-7	Pirimiphos methyl [O-(2-(Diethylamino)-6-methyl-4-pyrimidinyl)-O,O-dimethyl phosphorothioate]	1/1/95
30560-19-1	Acephate (Acetylphosphoramidothioic acid O,S-dimethyl ester)	1/1/95
31218-83-4	Propetamphos [3-[[(Ethylamino)methoxyphosphino-thioyl]oxy]-2-butenoic acid, 1-methylethyl ester]	1/1/95
33089-61-1	Amitraz	1/1/95
34014-18-1	Terbuthiuron [N-[5-(1,1-Dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'- dimethylurea]	1/1/95
35367-38-5	Diflubenzuron	1/1/95
35400-43-2	Sulprofos [O-Ethyl O-[4-(methylthio)phenyl]phosphorodithioic acid S-propyl ester]	1/1/95
35554-44-0	Imazalil [1-[2-(2,4-Dichlorophenyl)-2-(2-propenyloxy)ethyl]-1H-imidazole]	1/1/95
35691-65-7	1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile	1/1/95
36734-19-7	Iprodione [3-(3,5-Dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidine-carboxamide]	1/1/95
38727-55-8	Diethatyl ethyl	1/1/95
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39300-45-3	Dinocap	1/1/95
39515-41-8	Fenpropathrin [2,2,3,3-Tetramethylcyclopropane carboxylic acid cyano(3-phenoxyphenyl)methyl ester]	1/1/95
40487-42-1	Pendimethalin [N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzen-amine]	1/1/95
41198-08-7	Profenofos [O-(4-Bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate]	1/1/95
41766-75-0	3,3'-Dimethylbenzidine dihydrofluoride (ortho-Tolidine dihydrofluoride)	1/1/95
42874-03-3	Oxyfluorfen	1/1/95
43121-43-3	Triadimefon [1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone]	1/1/95
50471-44-8	Vinclozolin [3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4- oxazolidinedione]	1/1/95
51235-04-2	Hexazinone	1/1/95
51338-27-3	Diclofop methyl [2-[4-(2,4-Dichlorophenoxy)phenoxy]propanoic acid, methyl ester]	1/1/95
51630-58-1	Fenvalerate	1/1/95
52645-53-1	Permethrin [3-(2,2-Dichloroethenyl)-2,2-dimethylcyclopropanecarboxylic acid, (3-phenoxyphenyl)methyl ester]	1/1/95
53404-19-6	Bromacil, lithium salt [2,4-(1H,3H)-Pyrimidinedione, 5-bromo-6-methyl-3- (1-methylpropyl), lithium salt]	1/1/95
53404-37-8	2,4-D 2-ethyl-4-methylpentyl ester	1/1/95
53404-60-7	Dazomet, sodium salt [Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione, ion(1-), sodium]	1/1/95
55290-64-7	Dimethipin [2,3,-Dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide]	1/1/95
55406-53-6	3-Iodo-2-propynyl butylcarbamate	1/1/95
57213-69-1	Triclopyr, triethylammonium salt	1/1/95
59669-26-0	Thiodicarb	1/1/95
60168-88-9	Fenarimol [.alpha.-(2-Chlorophenyl)-.alpha.-4-chlorophenyl)-5-pyrimidine- methanol]	1/1/95
60207-90-1	Propiconazole [1-[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]-methyl-1H-1,2,4,-triazole]	1/1/95
62476-59-9	Acifluorfen, sodium salt [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-benzoic acid, sodium salt]	1/1/95
62924-70-3	Flumetralin [2-Chloro-N-(2,6-dinitro-4-(trifluoromethyl)-phenyl)-N-ethyl-6-fluorobenzenemethanamine]	1/1/95
64902-72-3	Chlorsulfuron [2-chloro-N-[[4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino] carbonyl]benzenesulfonamide]	1/1/95
64969-34-2	3,3'-Dichlorobenzidine.sulfate	1/1/95
66215-27-8	Cyromazine [N-Cyclopropyl-1,3,5-triazine-2,4,6-triamine]	1/1/95
66441-23-4	Fenoxaprop ethyl [2-(4-((6-Chloro-2-benzoxazolylen)oxy)phenoxy) propanoic acid, ethyl ester]	1/1/95
67485-29-4	Hydramethylnon [Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone[3-[4- (trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl)phenyl]ethenyl]-2- propenylidene]hydrazone]	1/1/95
68085-85-8	Cyhalothrin [3-(2-Chloro-3,3,3-trifluoro-1-propenyl)-2,2- dimethylcyclopropanecarboxylic acid cyano(3-phenoxyphenyl)methyl ester]	1/1/95
68359-37-5	Cyfluthrin [3-(2,2-Dichloro-ethenyl)-2,2-dimethylcyclo-propanecarboxylic acid, cyano(4-fluoro-3-phenoxyphenyl)methyl ester]	1/1/95
69409-94-5	Fluvalinate [N-[2-Chloro-4-(trifluoromethyl)phenyl]-DL-valine(+)-cyano(3-phenoxyphenyl)methylester]	1/1/95
69806-50-4	Fluazifop-butyl [2-[4-[[5-(Trifluoromethyl)-2-pyridinyl]oxy]-phenoxy]propanoic acid, butyl ester]	1/1/95
71751-41-2	Abamectin [Avermectin B1]	1/1/95
72178-02-0	Fomesafen [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-N-methylsulfonyl)-2- nitrobenzamide]	1/1/95
72490-01-8	Fenoxycarb [2-(4-Phenoxyphenoxy)ethyl]carbamic acid ethyl ester]	1/1/95
74051-80-2	Sethoxydim [2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one]	1/1/95
76578-14-8	Quizalofop-ethyl [2-[4-[(6-Chloro-2-quinoxalinyl)oxy]phenoxy] propanoic acid ethyl ester]	1/1/95
77501-63-4	Lactofen [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitro-2-ethoxy-1-methyl-2-oxoethyl ester]	1/1/95
79538-32-2	Tefluthrin	
81777-89-1	Clomazone [2-[(2-Chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone]	1/1/95
82657-04-3	Bifenthrin	1/1/95
86209-51-0	Primisulfuron [Methyl 2-[[[[[4,6-bis(difluoromethoxy)-2-pyrimidinyl]- amino]carbonyl]amino]sulfonyl]benzoate]	1/1/95
88671-89-0	Myclobutanil [.alpha.-Butyl-.alpha.-(4-chlorophenyl)-1H-1,2,4-triazole- 1-propanenitrile]	1/1/95
90982-32-4	Chlorimuron ethyl [Ethyl-2-[[[(4-chloro-6-methoxyprimidin-2-yl)-carbonyl]-amino]sulfonyl]benzoate]	1/1/95
97886-45-8	Dithiopyr [2-(Difluoromethyl)-4-(2-methylpropyl)-6-(trifluoro-methyl)-3,5-pyridinedicarbothioic acid S,S-di-methyl ester]	1/1/95
101200-48-0	Tribenuron methyl [2-(((((4-Methoxy-6-methyl-1,3,5-triazin-2-yl)- methylamino)carbonyl)amino)sulfonyl)-, methyl ester]	1/1/95
111512-56-2	1,1-dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb)	1/1/95
111984-09-9	3,3'-Dimethoxybenzidine hydrochloride (Dianisidine dihydrochloride)	1/1/95
127564-92-5	Dichloropentafluoropropane	1/1/95
128903-21-9	2,2-Dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa)	1/1/95
136013-79-1	1,3-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea)	1/1/95

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Category Name	Effective Date
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Chlorinated paraffins: Includes those chemicals defined by the following formula: $C_xH_{2x-y+2}Cl_y$ where x = 10 to 30 and y = 3 to 26	1/1/95
* * * * * * *	
Man-made mineral fibers: Includes glass microfibers, glass wool fibers, rock wool fibers, slag wool fibers, and refractory ceramic fibers that have a diameter less than 3.5 micrometers and an aspect ratio greater than 3.	1/1/95
* * * * * * *	
Nicotine and salts	1/1/95
* * * * * * *	
Polycyclic Aromatic Compounds (PACs): (This category includes only those chemicals listed below)	1/1/95
00056-55-3 Benz(a)anthracene	
00218-01-9 Benzo(a)phenanthrene	
00050-32-8 Benzo(a)pyrene	
00205-99-2 Benzo(b)fluoranthene	
00205-82-3 Benzo(j)fluoranthene	
00207-08-9 Benzo(k)fluoranthene	
00189-55-9 Benzo(rst)pentaphene	
00086-74-8 Carbazole	
27208-37-3 Cyclopenta(cd)pyrene	
00226-36-8 Dibenz(a,h)acridine	
00224-42-0 Dibenz(a,j)acridine	
00215-58-7 Dibenz(a,c)anthracene	
00224-41-9 Dibenz(a,j)anthracene	
00053-70-3 Dibenzo(a,h)anthracene	
05385-75-1 Dibenzo(a,e)fluoranthene	
00192-65-4 Dibenzo(a,e)pyrene	
00189-64-0 Dibenzo(a,h)pyrene	
00191-30-0 Dibenzo(a,l)pyrene	
00194-59-2 7H-Dibenzo(c,g)carbazole	
00057-97-6 7,12-Dimethylbenz(a)anthracene	
00193-39-5 Indeno[1,2,3-cd]pyrene	
03351-32-4 2-Methylchrysene	
03351-31-3 3-Methylchrysene	
03351-30-2 4-Methylchrysene	
03697-24-3 5-Methylchrysene	
01705-85-7 6-Methylchrysene	
33543-31-6 2-Methylfluoranthene	
05522-43-0 1-Nitropyrene	
* * * * * * *	
Strychnine and salts	1/1/95
* * * * * * *	

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Part V

Federal Trade Commission

16 CFR Part 500

Regulations Under Section 4 of the Fair Packaging and Labeling Act; Final Rule

FEDERAL TRADE COMMISSION

16 CFR Part 500

Regulations Under Section 4 of the Fair Packaging and Labeling Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the "Commission" or "FTC") amends its regulations issued under section 4 of the Fair Packaging and Labeling Act (FPLA) to require the use of the units of both the customary inch/pound measurement system and the metric measurement system in the net quantity statement for certain consumer commodities. This action is being taken to implement 1992 amendments to the FPLA, which require such dual measurement system disclosure.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Robert E. Easton, Special Assistant—Enforcement, Federal Trade Commission, Washington, DC 20580, (202) 326–3029 or Bret S. Smart, Consumer Protection Specialist, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Introduction

In 1967, Congress enacted the Fair Packaging and Labeling Act (15 U.S.C. 1451 *et seq.*) (FPLA). Congress declared that packages and their labels should be marked to enable consumers to obtain accurate information as to the quantity of the contents and to facilitate value comparisons.

To effectuate its policy of providing consumers accurate quantity information on commodity labels, Congress in the FPLA set out general disclosure requirements and delegated to various agencies, including the FTC, the duty of promulgating regulations. The FTC in 1968 published regulations that provided detailed guidance to industry on what to include in statements of identity of products; in the identification of manufacturers, packers, or distributors; and in declarations of net quantities (33 FR 4718, March 19, 1968; 16 CFR part 500).

The 1967 FPLA specified that the quantity disclosures be made in the customary American inch/pound system of measurement. The FTC's implementing regulations thus required use of the inch/pound system of measurement. The FTC regulations, however, also permitted the use of the metric system of measurement as an additional net quantity disclosure (16 CFR 500.21).

In 1992, Congress amended the FPLA to require that the quantity disclosure on labels of consumer commodities be in both the SI metric system and the customary inch/pound system of measurement. This amendment is consistent with the overall policy that the metric system is the preferred system of weights and measures for commerce in the United States (Omnibus Trade and Competitiveness Act, Public Law 100–418, 15 U.S.C. 205b). Because of the metric amendments to the FPLA, the FTC has conducted this rulemaking to amend its regulations to reflect the requirement for dual disclosure.

This rulemaking has been conducted pursuant to the Commission Rules prescribing special procedures for the promulgation and amendment of FPLA regulations. (16 CFR part 1, subpart C.) Pursuant to these procedures, interested parties were afforded the opportunity to participate in the proceeding through the submission of written data, views, or arguments. On August 17, 1993, the Commission published a Notice of Proposed Rulemaking (NPR) in the **Federal Register** that sought comment on the proposed dual disclosure amendments to the Commission's FPLA regulations.[1] The Commission also sought comments on its consideration of certain statutory and regulatory requirements relating to this rulemaking, such as the National Environmental Policy Act of 1969 (42 U.S.C. 4321). In the NPR, the Commission tentatively concluded that the proposed amendments were not "major" rule amendments within the meaning of that statute; were not rules requiring the "collection of information" within the meaning of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*); and were in compliance with the metric usage requirements of the Metric Conversion Act (15 U.S.C. 205b). Further, as part of its ongoing regulatory review of existing and proposed regulations, the Commission sought comment about the overall costs and benefits of the regulations promulgated under the FPLA. Lastly, the Commission, based upon information currently available, stated its belief that it is unlikely that the proposed amendments would have a significant economic impact on a substantial number of small firms. However, given the uncertainty on the question, the Commission published an initial regulatory analysis under the Regulatory Flexibility Act (5 U.S.C. 603–604) and requested public comment on the potential costs of the amendments.

The Commission received 20 timely written comments, which are summarized in part III of this notice. The amendments that the Commission is adopting today are also discussed in part III. The text of the amendments appears at the end of this notice.

II. Background

A. The Fair Packaging and Labeling Act

The Fair Packaging and Labeling Act is designed to prevent the use of unfair or deceptive methods of packaging and labeling of consumer commodities. The FPLA states that it shall be unlawful for persons to sell or distribute commodities whose labels do not conform "to the provisions of this Act and of regulations promulgated under the authority of this Act." (15 U.S.C. 1452.) The main requirements of the FPLA are that the label on a package disclose the identity of the commodity; the name and place of business of the manufacturer, packer, or distributor of the commodity; and the net quantity of contents in terms of weight, measure, or numerical count. (15 U.S.C. 1453.)

1. Shared Enforcement and Implementation Authority

In the FPLA, Congress has established a system of divided authority for implementation and enforcement. The authority to promulgate and enforce regulations with regard to foods, drugs, devices, or cosmetics is vested in the United States Food and Drug Administration. (15 U.S.C. 1453(a), 15 U.S.C. 1456(a).) With respect to any other consumer commodity, authority is vested in the FTC (15 U.S.C. 1454(a), 15 U.S.C. 1456(b)). With regard to imports of consumer commodities into the United States, the Secretary of the Treasury enforces FPLA. (15 U.S.C. 1456(c).) Additionally, several other agencies have adopted parallel disclosure schemes on their own initiative.[2]

[1] 58 FR 43726.

[2] In developing the proposed amendments that were published in the NPR, the Commission's staff consulted with the staffs of other relevant agencies to harmonize requirements. The amendments the Commission adopts today are consistent with the proposed metric amendments to food labeling rules contained in a Notice of Proposed Rulemaking issued by the FDA on May 21, 1993 (58 FR 29719). As of the date of this FTC Statement of Basis and Purpose, the FDA has issued no final rules for any of the products it regulates under the FPLA.

2. Consumer Commodities

The FPLA defines consumer commodities as being any food, drug, device, or cosmetic and any other article, product or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.[3]

The FPLA grants the FTC authority to exempt commodities it regulates under the Act.[4] Acting under this authority, the FTC has exempted the following products from certain FPLA requirements—camera film; Christmas tree ornaments; replacement bags for vacuum cleaners; chamois; paper table covers; certain cellulose sponges; candles; and solder. (16 CFR part 501.)

In a similar vein, the FTC has interpreted the meaning of "consumer commodity" as used in FPLA as not including 52 commodities or classes of commodities. These include such items as antifreeze and automotive accessories, garden tools and hardware, toys, typewriter ribbons, and woodenware. (16 CFR part 503.)

3. Procedures for Promulgating Regulations Under FPLA

The FPLA sets out the procedures to be followed by the FTC in promulgating regulations. The FPLA states that regulations promulgated by the Commission under section 4 or section 5 shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) ("FDC Act").[5]

The FTC has implemented this statutory requirement to use the rulemaking procedures of section 371 of the FDC Act by adopting 16 CFR part 1 subpart C, which sets forth the procedures for the promulgation of rules under authority other than section 18(a)(1)(B) of the FTC Act.

Subpart C provides that the effective date of any regulations issued under the FPLA shall not be prior to 30 days after publication in the **Federal Register**.

[3] 15 U.S.C. 1459(a).

[4] 15 U.S.C. 1454(c).

[5] 15 U.S.C. 1455(b).

B. Original FTC Regulations Issued Under the FPLA

In 1968, the FTC issued the original regulations implementing the FPLA. (33 FR 4718, March 19, 1968.) There are twenty-seven regulations, of which twenty-two relate to the net quantity of contents declaration. Several of the regulations relate to the measurement system to be used in the net quantity declaration. For example, § 500.8 prescribes the units of weight and measures to be used; §§ 500.9 through 500.14 set out how weight, fluid measure, length, width, area, and cubic measure should be expressed; and § 500.16 states how fractions should be treated.

Each of the original regulations mandating measurement disclosure requires the use of customary inch/pound units. This is because Section 4 of the original FPLA (15 U.S.C. 1453) states that required net quantity disclosure be in pounds, inches, feet, yards, pints, quarts, gallons, etc.

One of the FTC regulations issued under the FPLA allows the optional use of metric units in addition to the mandated inch/pound units. Section 500.21 (16 CFR 500.21) states:

> A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental net quantity statement and an accurate statement of the net quantity of contents in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels. Standard metric abbreviations may be used.

Thus, under the original regulations, manufacturers, packers, and distributors of consumer commodities subject to FTC regulations were required to make net quantity of contents disclosure using inch/pound units but had the option of making additional disclosure in metric units.

C. The 1992 Metric Amendments to the FPLA

In 1992, the FPLA was amended to require that the International System of Units ("SI metric system") as well as the customary inch/pound system of measure be used in the label declaration of net quantity of contents of consumer commodities. (Pub. L. 102–329, August 3, 1992.) It is these statutory changes which the FTC is implementing in adopting the regulations set out in this notice.

The 1992 substantive amendments to the FPLA relate to metric. The basic change that the amendments make is that all labels for consumer commodities printed after February 14, 1994, must state the net quantity of contents in both the customary inch/pound system of measure and the SI metric system. Apart from the changes made to section 4 (15 U.S.C. 1453), section 5 (15 U.S.C. 1454), and section 13 (15 U.S.C. 1461), the FPLA remains the same. Specifically, the statutory amendments are as follows.

Section 4 of FPLA requires that a consumer commodity bear a label which specifies the identity of the commodity, the name and place of business of the manufacturer, packer, or distributor, and the net quantity of contents. The amendments to Section 4 require that the contents label be in both the customary inch/pound and metric systems of measurement.

Subsection (a)(2) has been amended to mandate the disclosure of contents in terms of mass as well as weight. The original FPLA only required weight, a unit of the customary system of measure. Mass (measured in kilograms and multiples and submultiples) is the metric term for the quantity of matter in an object.

Subsection (a)(2) specifies that the metric disclosure shall use the "SI metric system." The "SI" system is the International System of Units (Le Systeme International d'Unites) as interpreted or modified for use in the United States by the Secretary of Commerce. (55 FR 52242, Dec. 20, 1990.) There are several government publications giving guidance on use of the SI.[6]

Subsection (a)(3)(A)(ii) states that decimal fractions of the pound and decimal fractions of the SI metric system units shall be carried out to no more than three places on random packages, which are packages with varying weight or mass from a lot of the same consumer commodity. The original FPLA required that decimal fractions of the pound be carried out to no more than two places.

Subsection (a)(6) states that content labels containing SI metric disclosure are not required for foods that are packaged at the retail store level. This amendment affects FDA, rather than FTC, regulations.

Section 13 of the amended FPLA states that the effective date for the changes to sections 4 and 5 is February 14, 1994. However, it also provides that, "The amendments * * * have no effect

[6] See, "The International System of Units (SI)," NIST Special Publication 330, U.S. Department of Commerce, August, 1991; "Guide for the Use of the International System of Units," NIST Special Publication 811, U.S. Department of Commerce, September, 1991; and "Preferred Metric Units for General Use by the Federal Government," Federal Standards 376B (Preprint Copy), General Services Administration, January 27, 1993.

on the sale or distribution of products whose labels have been printed before such effective date." Thus, companies with labels on hand that were printed before the effective date may continue to use the supply until exhausted.

D. Identification of Comments Received

Below is an alphabetical list of the comments submitted in response to the NPR. The list includes the document number assigned to the comment on the public record and a general description of the commenter (for those comments that included a description or where the commenter is a publicly recognized company).[7]

1. Amway Corporation ("Am")—14. Amway sells products subject to the Commission's FPLA regulations.
2. Mr. Jeffrey S. Berke ("Berk")—1.
3. Mr. J. D. Buchanan ("Buch")—11. Mr. Buchanan is a Canadian resident who had responsibility for metric conversion in Canada.
4. Borden, Inc. ("Bord")—9 and 20. Borden sells products subject to the Commission's FPLA regulations.
5. Cramer Products, Inc. ("Cram")—18. Cramer is a small, employee-owned manufacturer of products for athletics and physical education.
6. First Brands Corporation ("Frst")—15. First sells products subject to the Commission's FPLA regulations.
7. Maryland State Department of Agriculture, Weights and Measures Section ("Md Ag")—5.
8. Mr. Eugene A. Mechtly ("Mech")—7.
9. Michigan State Department of Agriculture ("Mich Ag")—6.
10. Micro Motion, Inc. ("Micr")—4.
11. Congresswoman Jan Meyers ("Cong. Meyers")—17. Congresswoman Meyers is the Ranking Minority Member of the House Committee on Small Business.
12. The National Conference on Weights and Measures ("NCWM")—19. NCWM is a voluntary standards-writing body whose members are State and local weights and measures officials, as well as Federal Government, business, industry, and consumer representatives.
13. The National Institute of Standards and Technology—Metric Program ("NIST")—12. NIST, a unit of the Department of Commerce, has responsibility for guiding the Federal Government's conversion to usage of the metric system of measurement.
14. Pier 1 Imports ("Pier")—2. Pier sells products subject to the Commission's regulations issued under FPLA.
15. The Procter & Gamble Company ("PG")—10. PG sells products subject to the Commission's regulations issued under FPLA.
16. Mr. Louis F. Sokol ("Soko")—8.
17. Mr. Larry Stempnik ("Stem")—13.
18. Standards and Metric Practices Subcommittee of the Metric Operating Committee of the Interagency Council on Metric Policy ("SMPS")—16. SMPS was responsible for writing Federal Standard 376B, "Preferred Metric Units for General Use by the Federal Government."
19. Mr. John H. Woelflein ("Woel")—3. Mr. Woelflein is a member of the U.S. Metric Association, Inc., the National Conference on Weights and Measures, and the New Hampshire Metric Advisory Council.

E. Comment Suggestions Beyond Commission's Authority Under FPLA

Two comments suggested that the Commission amend the regulations issued under the FPLA in ways that are beyond the Commission's authority and that would conflict with the 1992 metric amendments to the FPLA. Specifically, NCWM suggested that packages that are "rational" metric sizes, e.g., 250 mL, 500 mL, 1,2,3, and 4 liter, not be required to have inch/pound content declarations;[8] and Mr. Berke questioned the value of having metric equivalents on consumer packages and objected to the mandatory use of metric labeling.[9]

As discussed above,[10] the 1992 amendments to section 4(a)(2) of the FPLA provide that the net quantity of contents shall be stated "using the most appropriate units of *both* the customary inch/pound system *** and, *** the SI metric system" (*emphasis supplied*). Thus, Congress has required by statute that both customary inch/pound and SI metric units are to be used for content disclosure. The Commission cannot issue regulations that contravene the statutory requirement.

III. Discussion of Rule Amendments Being Adopted

Each amendment the Commission is adopting today is identified below. The substantive revisions are described in detail. Minor, self-explanatory changes are merely noted. Comments about a proposed amendment are discussed with that amendment. If none of the comments addressed a proposed amendment, the Commission adopts the amendment without discussion.

A. Section 500.2 Terms Defined

The Commission is making both significant and minor technical changes to this section. The Commission amends subsection (a) to include a reference to the 1992 statute amending FPLA and subsection (c) to reflect that the Administrator of the Environmental Protection Agency rather than the Secretary of Agriculture enforces the Federal Insecticide, Fungicide and Rodenticide Act. Subsection (d) deletes references to repealed statutes. In addition, throughout these proposed amendments, a few non-substantive, technical changes have been made. In subsection (h), as in other proposed amendments, the metric equivalent for an existing inch/pound reference is added. The use of both systems in the regulations is called for by the FPLA and is consistent with the requirements of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100, 15 U.S.C. 205b).

Subsection (j) is new and defines the term "SI metric," a term used throughout the proposed amendments to the regulations. The definition is derived from official Federal Government publications relating to metric terminology.[11] The definition makes reference to the statutory authority granted to the Secretary of Commerce to interpret and modify the International System of Units (SI) for the United States.

Two comments addressed the use of the term "SI metric" in the regulations. NIST wrote that it is confusing and redundant: a) to use the term "SI metric" system because it implies that there are metric systems other than the International System of Units (SI), and b) to use "SI metric" to modify a metric unit name.[12] (An example of the latter would be the reference to "SI metric kilograms" in § 500.8(d) of the new rules). NIST recommended using either "SI" or "metric." NCWM recommended that "you consider eliminating use of the terms 'SI metric' in association with the metric units * * * because the terms stand by themselves as metric units."[13]

The Commission has decided not to accept these suggestions. The substantive 1992 amendments to section

[7] All public comments are filed in the Commission's Rulemaking Record P938902. In this notice, comments are cited by an identification of the commenter, the comment number assigned by the Secretary of the Commission, and the relevant page number(s), e.g., "NCWM, 19, 3."

[8] NCWM, 19, 5.

[9] Berk, 1, 1–2.

[10] Section II 3 C, *supra*.

[11] "Preferred Metric Units for General Use by the Federal Government," Federal Standard 376B, General Services Administration, January 27, 1993; "Guide for the Use of the International System of Units," NIST Special Publication 811, U.S. Department of Commerce, September, 1991; and "The International System of Units (SI)," NIST Special Publication 330, U.S. Department of Commerce, August 1991.

[12] NIST, 12, 1.

[13] NCWM, 19, 4.

4 of the FPLA repeatedly make reference to "the SI metric system," and the Commission in its amendments is merely adopting the statutory language. While the comments offer other acceptable means of expressing metric terms, the Commission believes its amendments must be consistent with the statutory language. The rules do not require that labels use the term "SI metric" or any other name for the measurement system. The rules only require the disclosure of the contents using the units of the SI metric system and the customary inch/pound system.

Subsection (k) is new and defines the term "customary inch/pound," which is used in the 1992 metric amendments to section 4(a)(2) of FPLA (15 U.S.C. 1453) and throughout the proposed amendments to the regulations. One comment addressed this matter. NIST wrote: "the term 'customary inch/pound' should not be used as a compound adjective (e.g., customary inch/pound system or customary inch/pound statement). Both terms are independent descriptors for the collection of measurement units we currently use in the United States and their use together is confusing." [14] The Commission has decided not to accept this suggestion. Congress in amending the FPLA in 1992 used the term "the customary inch/pound system of measure." The Commission intends to be consistent with the statutory terminology.

Subsection (l) is new and defines the term " 'e' mark." This is a certification mark used in the European Community (EC) to establish that the package is appropriately filled in accordance with EC standards. The term is defined because the amendments to section 500.6 (Net Quantity of Contents) allow the term to be used in addition to the mandated content quantity disclosure. Failure to allow the use of the mark could be an impediment to American companies selling in the EC.

B. Section 500.6 Net Quantity of Contents Declaration, Location

This section relates to the technical requirements to be followed in the presentation of the declaration of contents. There are several amendments to subsection (b). First, the words "or mass" are added after the word "weight." This addition is made necessary by the metric amendments to section 4(a)(2) of the FPLA, which state that the quantity of contents shall be "in terms of weight or mass, measure or numerical count." [15] The same addition is made in each of the regulations that refer to weight so that they uniformly read "weight or mass."

An example of an improper metric qualifier, i.e., "giant liter," has been added to the existing examples of improper inch/pound qualifiers. This example should aid in the preparation of labels. Further, the amendment includes a parenthetical metric size descriptor in addition to the existing inch/pound size reference.

The amendment to this section allows the use of the "e" mark as part of the statement of the net quantity of contents. Without the change, the "e" mark could be considered an improper qualifier and its use violative of the regulations.

The Commission received two comments relating to the use of the "e" mark. The Michigan State Department of Agriculture commented that the use of the "e" mark as part of the statement of quantity of contents is appropriate.[16] NCWM commented on the placement of the "e" mark.[17] The amendment proposed by the Commission reads:

When used, the "e" mark shall be at least 3 millimeters (0.118 inches) in height and shall appear immediately after the metric portion of the net quantity of contents statement.

NCWM suggests the following alternative:

When used, the "e" mark shall be at least 3 millimeters in height and shall be placed in the same field of vision as the quantity of contents statement.

NCWM states that the reason for its suggested change is consistency with the law in the European Community and to avoid having the FTC impose specific placement requirements on the "e" mark.

The Commission agrees that the Commission rules should be flexible enough to allow companies to meet both the Commission requirements and other reasonable variations, and that specific placement requirements prevent flexibility. However, the Commission is not persuaded that use of the phrase "in the same field of vision" is appropriate. While this terminology may be a term of art in the European Community, it is doubtful that many American companies, especially small businesses, would understand its meaning. Accordingly, the amendments refrain from using the phrase "in the same field of vision" and avoid requiring a precise placement of the "e" mark, although they permit the use of the "e" mark as part of the statement of the net quantity of contents. The Commission has amended the subject sentence in Subsection (b) to read:

When used, the "e" mark shall be at least 3 millimeters (approx. 1/8 inch) in height.[18]

C. Section 500.7 Net Quantity of Contents, Method of Expression

The only change to this section is the addition of "or mass" each time the term "weight" is used.

D. Section 500.8 Units of Weight or Mass and Measure

This section specifies the measurement units which must be used in making the content disclosure statements. The amendments to this section implement the 1992 metric amendments to FPLA by specifying the SI metric units which must be used in dual declaration statements. Neither the amendments to the FPLA nor the Commission's regulations require that the measurement systems be used in a particular order.[19] Thus, manufacturers have discretion to put SI metric units first or customary inch/pound units first as they so choose.

The examples of disclosures set out in this section and others are intended to assist manufacturers and distributors in designing labels which comply with the amendments to the regulations. The examples are not mandatory and set out different options. For instance, in the only reference to fractions of measurement units, the amendments to the FPLA state that decimal fractions of pounds and metric mass units may be "carried out to not more than three decimal places." (15 U.S.C. 1453) This is a change from the original FPLA, which restricted decimal fractions to two places. The examples in the Commission's amended regulations use different decimal places to show that the manufacturer or distributor can choose which to use. As another instance of options presented to manufacturers or distributors, some of

[14] NIST, 12, 1.

[15] The emphasized words were added by the 1992 amendments.

[16] Mich Ag, 6, 1.

[17] NCWM, 19, 1.

[18] NIST commented that the use of an inch declaration to three decimal places (the .118 inches used in the proposed amendment) was "superfluous." NIST, 12, 3. The Commission adopts NIST's suggestion to use "approx. 1/8 in." in the sentence.

[19] Section 4(a)(2) of the 1992 amendments to the FPLA states that the quantity of contents shall be stated using units "* * * of both the customary inch/pound system * * * and * * * the SI metric system." While the inch/pound system precedes the term SI metric in this phrase, there is little reason to infer a Congressional intent that this also be the order in which quantities are disclosed. The amended rules therefore leave this choice to manufacturers and distributors.

the examples used in the amended regulations state the SI metric measurement first while others put customary inch/pound units first.

The high degree of precision used in the examples contained in the proposed amendments generated thirteen comments.[20] But for one,[21] the comments uniformly stated that the examples use too precise measurements for commercial purposes. The comments suggest that in most instances three digits, including both whole number and decimals, should be used while in certain situations two digits should be allowed. As a result of the comments, the Commission has changed the examples throughout the regulations to use three and two digits as suggested and has added an amendment to § 500.19 (see part III.O. below) embodying such usage.[22]

The only description of measurement precision in the 1992 amendments to the FPLA is in section 4(a)(3)(A), which states that for certain packages decimal fractions may be carried out to no more than three places. Based upon this statutory language, the illustrative examples used in the proposed amendments contained up to three decimal places. Sometimes this resulted in examples using as many as six total digits, including whole numbers and decimal places. The comments generally stated that such precision implies a greater measuring accuracy than is likely to be possible.[23] The comment from Mr. John Buchanan is illustrative:

> I suggest that the regulatory requirement for net quantity be limited to three significant digits, which would still be consistent with the FPLA specification but would lead to less cluttered labels, greater truth in labeling by removing the spurious accuracy, and a more rapid conception of the metric system by consumers. * * * Conversions such as 1 lb. (453.59 g) look very intimidating to the average citizen. Some of the implied accuracies are bordering on the ludicrous, for example, in 500.27 you are suggesting that the linear dimensions of facial tissue can be measured to one-hundredth of a millimetre, which is less than the diameter of a single fiber! Or, in 500.16, where the capacity of a 6 fl. oz. cup is expressed to an accuracy of one-hundredth of a millilitre—far less than one drop.[24]

Based upon its consideration of the comments, the Commission has changed the examples used in the final amendments. The changes require the use of three digits for the quantity declaration (e.g., "453g (1 lb)" (§ 500.9(a)) except where the quantity is below 100 grams, milliliters, centimeters, square centimeters or cubic centimeters where the quantity declaration can be shown in two figures (e.g. "17 in. x 4 in. x 20 in. (43 x 10 x 50 cm)" (500.16(a)(1)(ii)). These changes bring the amended regulations into conformity with the Uniform Packaging and Labeling Regulation adopted by the National Conference on Weights and Measures and the packaging and labeling regulations of the Canadian Legal Metrology Branch.[25]

Aside from the above changes, subsection (a) requires the use of grams, milligrams, and kilograms as well as pounds and ounces in weight or mass declarations. Examples of dual declarations are included.

Subsection (b) requires the use of liters and milliliters as well as gallons, quarts, and pints in fluid measure disclosure. The term "Celsius" replaces "Centigrade" because Centigrade is obsolete for temperature measurement.

Subsection (c) states that meters, centimeters, and millimeters must be used as well as inches in linear measure.

Subsection (d) requires that area measurement use square meters, square decimeters, square centimeters, and square millimeters as well as square yards, square feet, and square inches.

Subsection (e) states that dry measure statements shall use liters and milliliters as well as bushels, pecks, dry quarts, and pints.

Subsection (f) requires, in cubic measure disclosures, the use of cubic meters, cubic centimeters, and, cubic centimeters as well as cubic yards, cubic feet, and cubic inches.

E. Section 500.9 Units of Weight and Mass, How Expressed

The Commission amends this section to include the requirement for the use of mass as well as weight and continues to describe the appropriate customary inch/pound units to be used on packages of various weights.

Subsection (a) includes the "net mass" disclosure and has several metric examples added. The amended subsection allows the term "net mass" as an alternative to "net weight" in stating the net quantity of contents.

The comments state that the requirement to use the terms "net weight" or "net mass" is unnecessary and "* * * creates clutter on a label that is much better left with free space.* * *"[26] Declaring contents without "net weight" or "net mass" is "already the successful practice in Canada" and has been adopted by the National Conference on Weights and Measures.[27] Further, the proposed Food and Drug Administration regulations for metric labeling of food products under the FPLA also make the use of "net weight" or "net mass" optional.

Based upon the reasoning contained in the ten comments on this issue,[28] the Commission has determined to make optional the use of the terms "net weight" and "net mass." Thus, under the amendment, a manufacturer or distributor need only state the weight or mass of the contents without using the qualifying terms "net weight" or "net mass" (*e.g.* "453g (1 lb)." However, the amendment to subsection (a) makes it clear that even where the terms are not used, the quantity of contents declaration shall always declare the net quantity of contents.[29]

Subsection (b)(2) reflects the amendment to the FPLA which deletes the former avoirdupois (the system of weight based upon the pound of 16 ounces) requirement that packages weighing one pound or more but less than four pounds disclose both the total number of ounces and the number of pounds, with any remainder in ounces or common or decimal fractions of the pound. Thus, under the old law, if a package weighed 3 and one-half pounds it would properly be labeled "56 oz. (3 lbs. 8 oz.)." The new law requires only the expression of pounds and remainder of ounces, so that in the prior example "3 lbs. 8 oz." would be sufficient. For weights greater than 1 pound but less than 4 pounds manufacturers will have the option to include an additional statement of weight in ounces "immediately adjacent" to the required expression in pounds, as subsection (b)(2) has been amended to allow this discretionary second expression of weight. Subsection (b)(1) retains the requirement that disclosure be given exclusively in ounces for packages containing less than one pound.

Proposed subsection (b)(3) as it appeared in the NPR retained the

[20] Buch, 11, 1; Md Ag, 15, 1; Mech, 7, 2; Mich Ag, 6, 2; Micr, 4, 2; Cong. Myers, 17, 3; NCWM, 19, 2; NIST, 12, 1; Pier, 2, 1; Soko, 8, 1; Stem, 13, 2; SMPS, 16, 1; and Woel, 3, 2.

[21] Micro Motion, Inc. (Micr, 4, 2) objected to the imposition of a maximum number of digits that could be used.

[22] Thus, § 500.19(b) states "(Examples: '1 lb (453 g)' not '1 lb (453.592 g)' or 'Net Wt. 2 oz (56 g)' or 'Net Wt. 2 oz (56.6 g)' not 'Net Wt. 2 oz (56.69 g)'.)"

[23] See, NIST, 12, 1.

[24] Buch, 11, 2.

[25] NCWM, 19, 2.

[26] Mich Ag, 6, 2.

[27] Mech, 7, 1.

[28] Am, 14, 1; Bord, 9, 1; Md Ag, 5, 1; Mech, 7, 1; Mich Ag, 6, 2; Micr, 4, 1; NCWM, 19, 2; Pier, 2, 1; Soko, 8, 1; and Woel, 3, 1.

[29] Section 500.6(a) also requires that the label on a consumer commodity bear the declaration of the net quantity of contents. The Commission felt it appropriate to restate the point at § 500.9(a) to avoid any confusion.

current requirement that for weights of 4 pounds or more disclosure be given exclusively in whole pounds, with any remainder in ounces or fractions of the pound. The Commission received two comments on this issue, each of which argued that the use of ounces be permitted as an optional additional disclosure on products weighing 4 pounds or more. Procter & Gamble wrote:

> We believe manufacturers should be allowed to voluntarily include net contents in units of ounces or fluid ounces for products containing more than four pounds or more than one gallon. This provision would again promote fair value comparisons between the largest 1 or 2 sizes of a consumer product such as laundry detergent with the smaller sizes of the same brand or alternate brands. Comparison between two sizes such as 50 oz (3 lb 2 oz) and 85 oz (5.31 lb) is accomplished much more easily by comparing ounces. Comparison between two sizes such as 48 fl oz (1 quart 1 pint) and 144 fl oz (1 gallon 1 pint) similarly is accomplished much more easily by comparing fluid ounces. We see important consumer benefits and no risks in extending voluntary use of ounces or fluid ounces to larger sizes.[30]

The National Conference on Weights and Measures similarly urges the Commission to allow the voluntary use of ounces and fluid ounces to larger size packages. NCWM states:

> The (Laws and Regulations) Committee believes that allowing manufacturers to voluntarily include dual-quantity declarations would (1) reduce the cost of implementing the metric amendments; (2) facilitate value comparison by consumers; (3) minimize change for some manufacturers; (4) not increase label clutter.[31]

The Commission is persuaded that permitting the voluntary use of ounces on packages of four pounds or more is in the public interest and has so amended subsection b(3). The Commission believes that allowing the use of ounces on large size packages will facilitate price comparisons without any negative consequences.

Subsection (c) states that for random packages, i.e., packages with varying weights from a lot of the same commodity, the decimal fractions of the pound should not be carried out to more than three places. Further, this subsection is changed to reflect the amendment to FPLA that random packages, unlike other packages, are not required to, but may, include a metric statement of mass.

[30] PG, 10, 2.

[31] NCWM, 19, 4.

F. Section 500.10 Units of Fluid Measure, How Expressed

This section continues to describe how the inch/pound fluid measure statement must be expressed. Under the amended FPLA, there is no requirement that the disclosure in fluid ounces be made when the amount is greater than a pint. Accordingly, subsection (b)(2) deletes the prior requirement that both the total number of fluid ounces and the largest whole unit (quarts, quarts and pints, or pints) plus remainder be used for items of at least 1 pint but less than 1 gallon. For quantities of at least 1 pint but less than 1 gallon, manufacturers will have the option to include an additional statement of net quantity in fluid ounces "immediately adjacent" to the required expression of largest whole unit, as proposed subsection (b)(2) allows this discretionary second expression of fluid measure. Subsection (b)(1) retains the requirement that disclosure be given exclusively in fluid ounces for quantities less than one pint.

Proposed subsection (b)(3) as it appeared in the NPR retained the requirement for quantities of one gallon or more that disclosure be given exclusively in largest whole unit, with any remainder in terms of fluid ounces or fractions of the pint or quart. The Commission received two comments on this subsection arguing in favor of permitting the optional use of fluid ounces for products above one gallon.[32] For the reasons discussed in part III.E. above, the Commission has determined that it is in the public interest to permit the voluntary additional disclosure of fluid ounces for products above one gallon. Subsection (b)(3) has been amended to reflect the Commission's determination.

G. Section 500.11 Measurement of Commodity Length, How Expressed

This section describes how to express linear measure in terms of yards, feet, and inches. The amendments reflect the determination by Congress not to continue to require the disclosure of the total number of inches for items one foot or more in length. For those items one foot or more in length, disclosure should be made in the largest whole unit with the remainder in inches or common or decimal fractions of the foot or yard.

H. Section 500.12 Measurement of Commodities by Length and Width, How Expressed

This section describes how to express the net quantity for bidimensional commodities which are measured by length and width, such as roll type goods like foils and tapes. The amendments add metric parentheticals to the inch/pound statements and examples.

[32] NCWM, 19, 4; and PG, 10, 2.

The Commission amends subsection (a)(1) by deleting the requirement that length and width be expressed in "linear inches and fractions thereof." This requirement is inconsistent with amendments to subsection 500.8(c), which provide that "statements of linear measure shall be in terms of both yards, feet, and inches and SI metric meters, centimeters, or millimeters." Consequently, the Commission amends subsection (a)(1) to read that length and width are to be expressed "in linear measure" and that the "customary inch/pound statement is to be expressed in inches and fractions thereof."

Subsection (a)(2) has been made consistent with amended subsection 500.8(d), which provides that "statements of measure of area shall be in terms of both square yards, square feet, and square inches and SI metric square meters, square centimeters, and square millimeters." The Commission amends the subsection (a)(2) requirement that disclosure "be expressed in terms of square inches, followed in parentheses by the length and width in the largest whole unit (yard or foot)," to read that net quantity is to "be expressed in terms of area, followed by length and width" and that the "customary inch/pound statement of area is to be expressed in square inches with length and width expressed in the largest whole unit (yard or foot)."

For the same reasons described above, the Commission modifies two other existing subsections in § 500.12. Subsection (a)(3) is rewritten to reconcile it with amendments to the disclosure provisions of subsection 500.8(d), and subsection (b) is amended to reconcile it with the linear measure disclosure provisions of subsection 500.8(c).

I. Section 500.13 Measurement of Commodities by Area Measure Only, How Expressed

This section describes how to express the net quantity in the inch/pound system for commodities that are measured in area only. The amendments add metric parentheticals to the inch/pound statements. The amendments reflect the determination by Congress not to continue to require the disclosure of square inches for areas one square foot or greater.

J. Section 500.14 Statements of Cubic Measure and Dry Measure

The amendment to this section deletes a superfluous reference to dual declarations of net quantity of contents.

K. Section 500.15 Units of Count, More Than One Ply

The amendment to this section includes metric in the example.

L. Section 500.16 Measurement of Container Type Commodities, How Expressed

Formerly § 500.15a, the Commission renumbers this section and adds metric parentheticals to the inch/pound statements and examples.

Further, subsections 500.16(b)(1) and (b)(2) are brought into conformity with other sections of the amendments by specifying the customary inch/pound units of liquid and dry measurement which should be used.

M. Section 500.17 Fractions

Formerly § 500.16, the Commission renumbers this section and adds the requirement that SI metric declarations contain only decimal fractions. This prohibition against using common fractions with metric units is consistent with staff interpretations dating from 1984 and with proper metric usage. In accordance with the amendments to FPLA, the amendment to this section states that decimal fractions shall not be carried out to more than three decimal places, rather than the previous two decimal places.

N. Section 500.18 SI Metric Prefixes

This is a new section and presents the metric prefixes to be used on labels. Unlike scientific metric prefix charts which have prefixes for huge amounts, e.g. "exa-" for units with eighteen trailing digits (1,000,000,000,000,000,000) and for minuscule amounts, e.g. "atto-" for units with eighteen preceding digits (.000 000 000 000 000 000 1), the chart is restricted to prefixes usable in the size range of consumer commodities. The chart contained in the proposed regulation referred to "kilo-", "hecto-", "deca-", "deci-", "centi-", and "milli-". However, based on comments received, the Commission is adding the prefix "micro-" and its appropriate symbol, the Greek letter "mu" (μ) and deleting the "hecto-." As stated by one commenter, the micrometer "* * * is used for thickness of plastic and other material thicknesses * * *."[33] Since the Commission's FPLA regulations govern products such as garbage bags, foil and other household wrapping products the Commission has determined that it is appropriate to add the prefix for the SI metric unit used to describe their thickness. The comments stated that the prefix "hecto" was not used on consumer products.[34]

O. Section 500.19 Conversion of SI Metric Quantities to Inch/Pound and Inch/Pound Quantities to SI metric Quantities

This is a new section. Subsection (a) sets out the conversion factors for converting from metric to inch/pound and from inch/pound to metric quantities. The chart facilitates compliance with the 1992 amendments to the FPLA requiring dual inch/pound and metric disclosure by giving manufacturers the technical information they need to convert one measurement system to the other. The factors used in this chart are consistent with those published in the "Guide for the Use of the International System of Units," NIST Special Publication 811, Department of Commerce, September, 1991, and "Preferred Metric Units For General Use by the Federal Government," Federal Standard 376B, General Services Administration, January 27, 1993. Because many of the products governed by the Commission's regulations issued under the FPLA are measured in the customary inch/pound unit "mil" (1/1000 of an inch), the Commission has added a factor for converting mils into the SI metric unit micrometer.

Subsection (b), relating to the number of digits to be used in making the required content disclosures, was not in the proposed regulation but has been added as the result of the comments received. As discussed in section III.D. above, the issue of the degree of precision needed in making the disclosures generated 12 comments[35], 11 of which argued for avoiding unneeded degrees of accuracy. Based on the logic contained in the comments, the Commission has determined that for most declarations of content the use of three significant digits will suffice to give consumers adequate information. In certain situations, i.e., where the quantity involved is below 100 grams, milliliters, centimeters, square centimeters or cubic centimeters, the manufacturer or distributor has the option of using two digits. The prescribed use of three and two digits is consistent with the Uniform Packaging and Labeling Act adopted by the National Conference on Weights and Measures and the packaging and labeling regulations of the Canadian Legal Metrology Branch.[36]

P. Section 500.20 Conspicuousness

Formerly § 500.17, the Commission renumbers this section.

Q. Section 500.21 Type Size in Relationship to the Area of the Principal Display Panel

Formerly § 500.18, the Commission renumbers this section and amends it to add metric parentheticals. Subsection (g) is new and relates to the size requirements of the "'e' mark."[37]

Four comments raised the issue of letter and print size requirements when the metric symbols, especially the "mL" symbol, are used.[38] The comments express concern that the requirement for lower case type for metric symbols may increase the height requirements for net content declarations in instances where other provisions in § 500.21 impose minimum type sizes on lower case letters.[39] As a result, the commenters believe that the size of the area taken up by the net contents declaration would increase. To alleviate this result, the commenters propose amendments to § 500.21.

First Brands Corporation suggests that "* * * the minimum height requirement for the 'm' in the abbreviation 'mL' for milliliter be no less than one-half of the minimum height standards prescribed in * * *" other parts of § 500.21.[40]

The NCWM offers the following proposal for consideration:

> Add a new paragraph to § 500.21—(h) When upper and lower case, or all lowercase letters are used in SI (metric) symbols, it is the uppercase "L," lowercase "d," or their equivalent in the print or type used that shall meet the minimum height requirement. Other letters and exponents must be presented in the same type style and in proportion to the type size used. However, no letter shall be less than 1.6mm (1/16 inch) in height.[41]

Mr. Stempnik suggests that the following sentence be added:

> The height of the SI declaration shall be equal or greater than the inch pound declaration height.[42]

Borden suggests that "when upper and lower case letters are used, it is the

[33] Stem, 13, 3.

[34] NCWN, 19, 5; and NIST, 12, 4.

[35] See footnote 20, supra.

[36] NCWM, 19, 2.

[37] See the discussion of the "e" mark at part III.A. and part III.B. above.

[38] Bord, 9, 3; Frst, 15, 1; NCWM, 19, 3; and Stem, 13, 6.

[39] Section 500.21 imposes various requirements regarding type size in relation to the area of the principal display panel.

[40] Firs, 15, 2.

[41] NCWM, 19, 3.

[42] Stem, 13, 6.

upper case letter 'o' or its equivalent that shall meet the minimum height standards."[43]

Based upon the comments, the Commission believes that it is necessary to address the issue of type size changes resulting from the metric amendments to the FPLA. The Commission adopts the proposal made by the National Conference on Weights and Measures because it presents a standard which is precise, yet not complex or burdensome for industry to follow. Establishing minimum height and size requirements for type and print of letters should assure adequate disclosure to consumers without burdening industry by necessitating an increase in the minimum height for the content declaration. Therefore, the Commission amends section 500.21 by adding a subpart (h) setting out these requirements.

R. Section 500.22 Abbreviations

Formerly § 500.19, the Commission renumbers this section.

S. Section 500.23 Expression of Net Quantity of Contents in SI Metric Units

This is a new section. Subsection (a) sets out the "rule of 1000" which states that, with exceptions, metric disclosure should be in units ranging in value from 1 to 1000. Thus, the declaration would be "750 mL" rather than "0.75L." The "rule of 1000" has been used by industry and FTC staff since 1984 and has the effect of simplifying and unifying label disclosure.

Subsection (b) sets out the symbols to be used for SI metric units. These symbols are consistent with those preferred for government usage.[44]

Based on the eight comments received,[45] the Commission has added the lowercase "l" as an alternative to the uppercase "L" as the symbol for the SI metric liter and milliliter. The comments point out that while the uppercase "L" is the preferred symbol, there is no international agreement on requiring only the uppercase "L." Indeed, international law may require permitting the use of the lowercase "l." As Mr. John H. Woelflein commented:

> Because the BIPM SI brochure as well as ISO 1000 give the symbol for liter as "l,L", the US is obligated as a Meter Convention signatory to permit the use of either symbol. Otherwise, imported products which use the lower case "l" could be excluded by Customs authorities. Of course, the capital "L" is preferred for USA use.[46]

Further, companies that export products often prefer to use the lowercase "l" "as being more acceptable in some countries."[47]

Section 500.24 Supplemental Statements
Section 500.25 Net Quantity, Average Quantity, Permitted Variations
Section 500.26 Representations of Servings, Uses, Applications
Section 500.27 Multiunit Packages
Section 500.28 Variety Packages
Section 500.29 Combination Packages.

The amendments to these six sections renumber them, add metric examples and parentheticals, and make reference to "mass" as well as weight where appropriate. In the amendment to § 500.26 the reference to the National Bureau of Standards has been changed to read "National Institute of Standards and Technology."

IV. Other Statutory and Regulatory Considerations

In promulgating the amendments to the FPLA regulations, the Commission has considered certain statutory and regulatory requirements. These requirements arise under the National Environmental Policy Act of 1969 (42 U.S.C. 4321); the Paperwork Reduction Act (44 U.S.C. 3501); the Metric Conversion Act (15 U.S.C. 205b); the Commission's Regulatory Review Program; and the Regulatory Flexibility Act (5 U.S.C. 603).

A. National Environmental Policy Act

Under the Commission's rules (16 CFR subpart I, section 1.81 *et seq.*) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321), no "major" rule amendment "significantly affecting the quality of the human environment" will be proposed unless an environmental assessment or impact statement has been prepared (16 CFR 1.82). For the following reasons, it is not appropriate to have an environmental assessment or statement for the amendments to regulations issued implementing the metric amendments to FPLA.

First, the amendments do not "significantly affect the quality of the human environment" because they do not independently create significant new duties. Moreover, any environmental consequences that may come from metric measurement translation and disclosure are not the result of the amendments to the regulations, but instead are consequences of the amendments to FPLA by Congress. Second, the environmental effects, if any, of the amendments are so uncertain that any environmental analysis would be based on speculation. (See, 16 CFR 1.83(a).) Third, under section 13 of the amended FPLA, labels printed prior to February 14, 1994 may continue to be used until the supply is exhausted. Thus, companies will not have to discard unused labels into the waste stream and, by so doing, cause damage to the environment. Therefore, the amendments to the FPLA regulations are unlikely to cause any significant impact on the environment.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Commission, before promulgating a rule that requires the "collection of information," must obtain approval from the Office of Management and Budget. The amendments only require that certain information be disclosed to consumers. In 1990, the Supreme Court ruled that the authority of the Office of Management and Budget to approve "collection of information" by Federal agencies does not include authority to review agency rules requiring companies to disclose information to third parties. *Dole* v. *Steelworkers*, 494 U.S. 26, 35 (1990). Under this case, the metric labeling requirements would not be considered collection of information. Thus, the Commission need not seek approval from the Office of Management and Budget.

C. The Metric Conversion Act

Section 205b of the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, expresses Congressional policy regarding measurement systems. This Act states that the metric measurement system is the preferred system of weights and measures in the United States. It also requires federal agencies to use the metric system of measurement in all procurement, grants, and other business-related activities (which include rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

The amendments adopted today by the Commission fully comply with the requirements of the Metric Conversion Act. Each of the amended regulations providing for quantity disclosure requires a statement of net quantity of contents in metric units as well as in customary inch/pound units. The

[43] Bord, 9, 3.

[44] "Guide for the Use of the International System of Units," NIST Special Publication 811, U.S. Department of Commerce, September, 1991; and "Preferrred Metric Units for General Use by the Federal Government," Federal Standards 376B (Preprint Copy), General Services Administration, January 27, 1993.

[45] Md Ag, 5, 1; Mech, 7, 2; Mich Ag, 6, 2; Micr, 4, 1; NCWM, 19, 3; Pier, 2, 1; Soko, 8, 2; and Woel, 3, 2.

[46] Woel, 3, 2.

[47] Soko, 8, 2.

amendments add metric examples and parenthetical metric equivalents to the existing regulations. Further, the amendments explicitly present conversion factors from inch/pound to metric and vice versa and fully describe metric units and prefixes.

D. The Commission's Regulatory Review Program

As part of the Commission's ten-year regulatory-review plan for existing rules and guides, the Commission specifically sought comments in the NPR on the costs and benefits of the existing and amended regulations under the FPLA and their regulatory and economic impact. There were two comments that related to the economic impact on small business of the metric amendments.[48] There were no comments relating to the economic impact of the regulations on larger businesses.

Cramer Products stated a concern not with the intent or scope of the regulations, but with the proposed timetable for compliance. Cramer contends that there would be an average cost of $200 to change the labels for each of the 500 products it sells for a total of $100,000.[49] To alleviate these costs, Cramer proposes changing the effective date from February 14, 1994 to February 14, 1996. This extension of time would "allow companies like Cramer to more gradually phase-in the changes, spreading the cost and personnel requirements over the next 2 years."[50]

Congresswoman Meyers, while not supplying any compliance cost data, also stated a concern that small businesses be given adequate time within which to come into compliance. While acknowledging that the amendments to the FPLA allow any supply of labels printed before February 14, 1994 to be used until exhausted, she states "the fact remains that most small businesses don't have the resources to stockpile labels like big enterprises do."[51]

A decision by the Commission to adopt a later effective date for its rules would not grant significant relief to small businesses. By terms of the FPLA statute, all businesses must conform to the new dual disclosure requirements therein by February 14, 1994, whatever the effective date of the Commission's implementing rules. Thus, businesses would have to incur the cost of label changes in any event once their existing supply runs out.

The Commission shares the commenters' concern that there be no undue hardship on businesses that are required to make the transition to the dual disclosures specified in these rules. However, the comments do not provide factual data quantifying such costs sufficient for the Commission to conclude that there is a significant economic impact on small businesses as a class.[52]

Furthermore, while section 5(b) of the FPLA permits the Commission to grant exemptions from statutory requirements where it is demonstrated that compliance with the new requirements of section 4 is impracticable or not necessary for adequate protection of consumers, such exemptions are intended to be granted only in exceptional circumstances. (138 Congressional Record H5345 (daily ed. June 29, 1992).) The rulemaking record in this matter does not allow the Commission to conclude that exceptional circumstances exist for small firms that would make compliance with the requirements of the amendments adopted today impracticable or unnecessary adequately to protect consumers.

As discussed in Part II above, the amended regulations issued today as well as the unamended regulations which continue in effect are mandated by the FPLA. While there are costs associated with compliance, the Commission has designed the regulations to minimize the economic burden on businesses, both large and small.[53]

E. Regulatory Flexibility Act

This Statement of Basis and Purpose contains a final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 603–604. A final regulatory flexibility analysis must be conducted unless the head of the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." (5 U.S.C. 605(b).) Based upon information in the public record, the Commission believes that it is unlikely that the amendments being adopted today will have a significant economic impact on a substantial number of small firms. However, given the existing uncertainty on this question, the Commission has decided to publish this final regulatory analysis.

The Commission complied with the requirements of section 603 of the Regulatory Flexibility Act by including in the Notice of Proposed Rulemaking (58 FR 43726, August 17, 1993) certain information for the initial regulatory flexibility analysis. Specifically, the Commission explained that the reasons for the amendments and their objective are to implement the explicit directives of Congress in the FPLA. Similarly, the Commission stated that the legal basis is provided by the FPLA. (5 U.S.C. 603(b)(1)-(2).) Further, the Commission explained that there are no recordkeeping or reporting requirements in the amendments, and that the compliance requirements are essentially measurement and labeling tasks described. (5 U.S.C. 603(b)(4).) The Commission stated that there also are no relevant Federal rules which may duplicate, overlap, or conflict with the proposed rules, inasmuch as the Commission, the FDA, and other agencies with authority to implement the FPLA are given exclusive jurisdiction over various classes of consumer commodities. (5 U.S.C. 603(b)(5).) The Commission specifically requested comments on whether the amendments may have a significant impact on small business.

The Commission received one comment specifically responding to the request for information on the Regulatory Flexibility Act[54] and two comments that otherwise included certain economic material relating to small business costs of compliance.[55]

Mr. Stempnik responded to the regulatory flexibility questions by stating:

Exclusions should be only what is required by the revised FPLA and no more. * * * I do not support exemptions because labels are changed frequently for marketing reasons and companies can stockpile unlimited quantities of old labels before the deadline and

[48] Cram, 18, 1; and Cong. Meyers, 17, 2.

[49] Cramer does not explain the basis for its cost estimates.

[50] Cram, 18, 1.

[51] Cong. Meyers, 17, 2.

[52] However, in an effort "to allow ample time for industry to become aware of the metric labeling requirements, and to reduce the burden on industry and thus the cost of updating package labels," the Commission has determined not to take law enforcement actions against non-complying companies until November 8, 1994. See Part V., Enforcement Policy.

[53] For instance, the regulations contain numerous examples of disclosures intended to assist manufacturers and distributors in designing labels. (See Part III.D., above.) Further, the regulations set out the measurement terms which should be used in making the quantity disclosures and contain a table which demonstrates how to convert from customary inch/pound units to SI metric units and vice versa. (See, Part III.M. and N.) Additionally, to reduce compliance costs, to reduce label clutter and to assist consumer understanding, the Commission in the amendments adopted today has reduced the degree of precision needed in making the SI metric content disclosure to three significant digits in most cases and two digits in others. (See Part III.N.)

[54] Stem, 13, 3.

[55] Cram, 18, 1; and Cong. Meyers.

continue to use them until they are used up.[56]

Cramer Products commented, without substantiating information, that there would be an average cost per product of $200 to change its labels to bring them into compliance, and Congresswoman Meyers was concerned that the deadline for compliance of February 14, 1994 would cause harm to small business.[57]

The amended regulations that the Commission adopts today cover every company in the economy that produces consumer commodities other than those commodities falling within the authority of other agencies or otherwise exempted from the statute's coverage. Based on the information now available on the public record, it is not feasible for the Commission to estimate the number of entities within this class of industry that also are small companies within the meaning of the Regulatory Flexibility Act. (5 U.S.C. 601(3).) Nevertheless, the information in hand suggests that the overall economic impact of the metric amendments to the regulations issued under FPLA may not be significant. In essence, all the amendments require is that companies make simple mathematical conversions from the inch/pound measurement system into the metric measurement system and include the metric equivalents on already mandated label disclosure of contents of consumer commodities.[58] The FPLA states that non-complying labels printed prior to February 14, 1994 may continue to be used until the supply is exhausted.

Similarly, the direct costs imposed on consumers as a result of the amendments appear to be minimal since consumers will still obtain disclosures in the customary inch/pound system. There are, however, likely to be some indirect costs associated with the amendments as firms incur costs associated with complying with the amendments. There are basically three types of costs that firms incur as a result of labeling regulations. These costs are inventory disposal costs, administrative costs, and printing costs. Inventory disposal costs consist of the value of inventory that must be disposed of in order to comply with the proposed regulation. These costs will be zero since the amendments do not apply to labels that were printed before the effective date of the regulation.

Administrative costs represent the additional costs incurred at an administrative level in order to comply with the regulation. Administrative costs include determining which products fall within the scope of the regulation; establishing a corporate position on the policy; devising a compliance strategy; and overseeing the compliance strategy. These costs are likely to be relatively low for the proposed change to the FPLA. Most products that are already covered by the FPLA will be subject to the amendments adopted today and the amendments appear to clearly state what products would be excluded. In addition, firms would not need to undertake potentially costly analytic or market testing to comply with the changes. Thus, it appears that administrative costs per firm would be low.

Printing costs consist of the additional printing costs incurred due to the changes in the regulations adopted today. These costs will vary among firms depending on various factors including, but not necessarily limited to the following: (1) How frequently the firm typically changes its label; (2) the average inventory of labels; and (3) the printing process utilized by the firm. For example, if the firm updates its labels on a yearly basis, it may delay its normal label update to coincide with changes it will have to make in response to the changes in the FPLA. If so, the additional printing costs caused by the change would be minimal. If, however, the firm normally updates its labels only once every ten years and if it has recently updated its labels, then its costs will be higher.

Incremental printing costs will also depend, to some extent, on the average inventory. The greater the time period between reordering labels, the more likely it is that the label change due to the regulation can be planned to coincide with a planned label change, all else being equal. The type of printing process utilized by the firm also affects the incremental printing costs. While firms may be able to simply engrave the new information on existing plates if flexography or lithography printing methods are used and space permits, new cylinders would be required if gravure printing is utilized.

Given the relative simplicity of the label change required by the proposed amendment, the fact that many firms already disclose information in metric, and the fact that many firms are likely to have been aware since late 1992 that the amendments were scheduled to take effect on February 14, 1994, printing costs per firm associated with the amendments are likely to be low. Thus, the amendments adopted today, may not have a significant impact on a substantial number of small entities.[59]

Section 604 of the Regulatory Flexibility Act sets out three subjects which must be addressed in the final regulatory flexibility analysis. Section 605 of the Act (Avoidance of duplicative or unnecessary analysis) states that the analysis required by section 604 may be done in conjunction with other analysis.

A succinct statement of the need for and the objectives of the rule are set out in Part II above. (5 U.S.C. 604(a)(1).) A summary of the issues raised by the public comment in response to the initial regulatory flexibility analysis and the Commission's assessment thereof are discussed above in this section and in Part IV.D., regarding the Commission's Regulatory Review Program. (5 U.S.C. 604(a)(2).)

There are no significant alternatives to the amended regulations adopted today which will accomplish the stated objectives of the applicable statutes and which minimize any significant economic impact on small entities. (5 U.S.C. 604(a)(3).) For example, it would be difficult to devise different or simplified labeling requirements for small entities that would still implement dual disclosure requirements and yet avoid the principal cost to such businesses, *i.e.*, redesigning labels. For the same reason, the use of general performance standards rather than explicit requirements likely would not result in substantial cost savings. Moreover, the FPLA is quite specific in directing the use of particular modes of disclosure in most instances. Further, as discussed in Part III.D. regarding the Commission's Regulatory Review Program, the amendments adopted today have been designed to minimize the economic impact on small business.

In addition, the Commission has taken further action to reduce any costs of transition for firms which may have been unaware of the pending metric disclosure requirements of the amended FPLA. As discussed in section V. *infra*, the Commission, in order to harmonize with state enforcement policy adopted by NCWM, has stated it will avoid taking law enforcement action under the

[56] Stem, 13, 3.

[57] These comments are discussed in connection with Part IV.D. The Commission's Regulatory Review Program, above.

[58] Further, whatever economic impact on small business, if any, that may come from metric measurement translation and disclosure is not the result of the proposed amendments to the regulations but is the consequence of the amendments to FPLA by Congress.

[59] The FDA, based on studies it conducted to determine the economic impact of its nutritional labeling rules, stated that the metric amendments to its food labeling rules "* * * may have a significant economic impact on small businesses * * *" in the food industry (58 FR 29719, May 21, 1993). The FTC does not have equivalent economic information on the myriad industries covered by the FTC regulations issued under the FPLA, although it sought such economic information in the NPR.

new metric amendments to the FPLA rules until November 8, 1994.

V. Enforcement Policy Statement

The effective date of these regulations is February 14, 1994. In crafting the FPLA statute, Congress acknowledged the need for businesses to have time within which to learn about the existence of the requirements to use metric measurement and to come into compliance. Section 13 of the FPLA states that the metric amendments "shall have no effect on the sale or distribution of products whose labels have been printed before" February 14, 1994. (15 U.S.C. 1451(13).)

The Commission expects that the states, as in the past, will adopt uniform state laws that mirror the Commission's new FPLA metric requirements. The National Conference on Weights and Measures,[60] which represents state enforcers of such laws, already has adopted an enforcement policy designed to avoid undue hardship to those firms who may have been unaware of the pending metric requirements. In its "Resolution on Enforcement of SI Metric Labeling Requirements," NCWM has stated that it is advisable "to allow ample time for industry to become aware of the metric labeling requirements, and to reduce the burden on industry and thus reduce the cost of updating of package labels."[61] To achieve these goals, the National Conference has resolved to enforce its metric labeling requirements until November 8, 1994 by sending to non-complying businesses letters which state "not only the area of noncompliance, but also the correct way to be in compliance."[62]

Commission law enforcement actions during this period against non-complying firms could undercut the objectives stated in the NCWM resolution. While states enforce independent laws, these laws for the most part mirror the Commission's FPLA rules. Thus, fear of enforcement by the Commission of the federal version of the new state metric requirements could lead some firms immediately to incur costs of re-labeling, despite assurances of no state law enforcement actions. In the interest of promoting harmonization with state enforcement, the Commission therefore has determined to avoid taking law enforcement actions against companies not in compliance with the metric amendments to the final FPLA regulations until November 8, 1994.[63]

List of Subjects in 16 CFR Part 500

Fair Packaging and Labeling Act, Labeling, Packaging and containers, Trade practices.

For the reasons set out in the preamble, Title 16 of the Code of Federal Regulations is amended by revising part 500 to read as follows:

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Sec.

500.1 Scope of the regulations of this part.
500.2 Terms defined.
500.3 Prohibited acts, coverage, general labeling requirements, exemption procedures.
500.4 Statement of identity.
500.5 Name and place of business of manufacturer, packer or distributor.
500.6 Net quantity of contents declaration, location.
500.7 Net quantity of contents, method of expression.
500.8 Units of weight or mass and measure.
500.9 Units of weight or mass, how expressed.
500.10 Units of fluid measure, how expressed.
500.11 Measurement of commodity length, how expressed.
500.12 Measurement of commodities by length and width, how expressed.
500.13 Measurement of commodities by area measure only, how expressed.
500.14 Statements of cubic measure and dry measure.
500.15 Units of count, more than one ply.
500.16 Measurement of container type commodities, how expressed.
500.17 Fractions.
500.18 SI metric prefixes.
500.19 Conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to SI metric quantities.
500.20 Conspicuousness.
500.21 Type size in relationship to the area of the principal display panel.
500.22 Abbreviations.
500.23 Expression of net quantity of contents in SI Metric units.
500.24 Supplemental statements.
500.25 Net quantity, average quantity, permitted variations.
500.26 Representations of servings, uses, applications.
500.27 Multiunit packages.
500.28 Variety packages.
500.29 Combination packages.

Authority: 15 U.S.C. 1453, 1454, 1455.

§ 500.1 Scope of the regulations of this part.

The regulations in this part establish requirements for labeling of consumer commodities as hereinafter defined with respect to identity of the commodity; the name and place of business of the manufacturer, packer, or distributor; the net quantity of contents; and net quantity of servings, uses, or applications represented to be present.

§ 500.2 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The term *Act* means the "Fair Packaging and Labeling Act" (Pub. L. 89–755, approved Nov. 3, 1966; 80 Stat. 1296 *et seq.*; 15 U.S.C. 1451 *et seq.*, as amended by Public Law 102–329, August 3, 1992).

(b) The term *regulation* or *regulations* means regulations promulgated by the Commission pursuant to sections 4, 5, and 6 of the Act (15 U.S.C. 1453, 1454, 1455).

(c) The term *consumer commodity* or *commodity* means any article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. For purposes of the regulations in this part the term *consumer commodity* does not include any food, drug, device or cosmetic as defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); any meat or meat product, poultry or poultry product, or tobacco or tobacco product; any commodity subject to packaging or labeling requirements imposed by the Administrator of the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*); any commodity subject to the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Virus-Serum-Toxin Act (21 U.S.C. 151–157); any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*); any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551–1610).

(d) The term *package* means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that commodity to retail purchasers. For

[60] The National Conference on Weights and Measures is a voluntary standards-writing body whose members are State and local weights and measures officials and which has Federal Government, business, industry and consumer representatives. NCWM, 19, 1.

[61] *Id.* at 6.

[62] *Id.*

[63] Further, the delay of enforcement gives companies time to learn about these amendments without subjecting them to the burden of litigation. All other aspects of the Commission's regulations issued under the FPLA will not be affected by the postponement of enforcement of the SI metric amendments.

purposes of the regulations in this part the term *package* does not include shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof unless used in retail display; shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231–233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234–236); or transparent wrappers or containers which do not bear written, printed, or graphic matter obscuring any part of the label information required by this part.

(e) The term *label* means any written, printed, or graphic matter affixed to or appearing upon any consumer commodity or affixed to or appearing upon a package containing any consumer commodity; except that:

(1) An inspector's tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this part, and

(2) For the purposes of the regulations in this part the term *label* does not include written, printed, or graphic matter affixed to or appearing upon commodities, or affixed to or appearing upon containers or wrappers for commodities sold or distributed to industrial or institutional users.

(f) The term *person* includes any firm, corporation or associations.

(g) The term *commerce* means:

(1) Commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and

(2) Commerce within the District of Columbia or within any territory or possession of the United States, not organized with a legislature, but shall not include exports to foreign countries.

(h) The term *principal display panel* means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel must be large enough to accommodate all the mandatory label information required to be placed thereon by this part without obscuring designs, vignettes, or crowding. This definition does not preclude utilization of alternate principal display panels on a label of a package, but alternate principal display panels must duplicate the information required to be placed on the principal display panel by this part. This definition does not preclude utilization of the container closure as the surface bearing the principal display panel if that label location is the one most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel of a label appearing on a cylindrical surface is that 40 percent of the circumference which is more likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel of a consumer commodity marketed in a decorative type container, or a container having a capacity of 1/4 ounce (7.4 mL) or less, may be considered to be a tear-away tag or tape affixed to the container and bearing the mandatory label information as required by this part, but the type size of the net quantity of contents statement shall be governed by the dimensions of the container itself. The principal display panel of a consumer commodity marketed on a display card to which the immediate container of the commodity is affixed may be considered to be the display panel of the card, and the type size of the net quantity of contents statement is governed by the dimensions of the display card.

(i) The term *random package* means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(j) The term *SI metric* refers to units belonging to the International System of Units (abbreviated "SI" from the French, *Le Systeme International d'Unites*), as interpreted or modified for use in the United States by the Secretary of Commerce. They include the SI units (together with their multiples and submultiples) as well as other metric units (e.g., the liter) that are accepted for use with the SI units because of their practical importance.

(k) The term *customary inch/pound* refers to units belonging to the system of units used in the United States based on or derived from the ounce, pound, and ton for weight; the inch, foot, yard, and mile for length; the fluid ounce, pint, quart, and gallon for volume; and dry pint, dry quart, peck, and bushel for dry measure.

(l) The term *"e" mark* refers to the symbol "e" used in connection with the quantity declarations on labels of some consumer commodities marketed primarily in the European Community (EC). The "e" mark constitutes a representation by the packer or importer that the package to which it is applied has been filled in accordance with the average system of quantity specified by the EC. The average system is a method of declaring package fill in the EC and other countries of the world, including the United States.

§ 500.3 Prohibited acts, coverage, general labeling requirements, exemption procedures.

(a) No person engaged in the packaging or labeling of any consumer commodity for distribution in commerce, and no person (other than a common carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, shall distribute or cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of the Act and of the regulations in this part.

(b) Persons engaged in business as wholesale or retail distributors of consumer commodities shall be subject to the Act and the regulations in this part to the extent that such persons are engaged in the packaging or labeling of consumer commodities, or prescribe or specify by any means the manner in which such consumer commodities are packaged or labeled.

(c) Each packaged or labeled consumer commodity, unless it has been exempted through proceedings under section 5(b) of the Act (15 U.S.C. 1454(b)), shall, upon being prepared for distribution in commerce or for sale at retail, and before being distributed in commerce or offered for sale at retail, be labeled in accordance with the requirements of the Act and the regulations in this part.

(d) Each packaged or labeled consumer commodity, unless it has been exempted through proceedings under section 5(b) of the Act, shall bear a label specifying the identity of the commodity; the name and place of business of the manufacturer, packer, or distributor; the net quantity of contents; and the net quantity per serving, use or application, where there is a label representation as to the number of servings, uses, or applications obtainable from the commodity.

(e) Regulations will be promulgated by the Commission exempting particular consumer commodities from one or more of the requirements of section 4 of the Act and the regulations

thereunder to the extent and under such conditions as are consistent with the declared policy of the Act whenever the Commission finds that, because of the nature, form, or quantity of the particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable is impracticable or is not necessary for the adequate protection of consumers. Proceedings for the promulgation of such exempting regulations may be commenced by the Commission upon its own initiative or pursuant to petition filed with the Secretary by any interested person or group stating reasonable grounds for the proposed exemption, pursuant to Section 1.15 of this chapter of the Commission's general procedures.

§ 500.4 Statement of identity.

(a) The principal display panel of a consumer commodity shall bear a specification of the identity of the commodity.

(b) Such specification of identity shall comprise a principal feature of the principal display panel, shall be in such type size and so positioned as to render it easily read and understood by the consumer, and shall be in lines generally parallel to the base on which the package or commodity rests as it is designed to be displayed.

(c) Such specification of identity shall be in terms of:

(1) The name now or hereafter specified in or required by any applicable Federal law or regulation; or in the absence thereof,

(2) The common or usual name of the commodity; or in the absence thereof,

(3) The generic name or in other appropriately descriptive terms such as a specification which includes a statement of function.

(d) The specification of identity shall not be false, misleading, or deceptive in any respect. Ingredients or components which are not present in the commodity in a substantial or significantly effective amount may not be mentioned in the specification of identity; except that a component present in a formulation in substantial and effective amounts, but not present in the final product due to conversion or transformation into a different entity (which different entity is present in the final product), may be mentioned in the specification of identity.

§ 500.5 Name and place of business of manufacturer, packer or distributor.

(a) The label of a consumer commodity shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor. Where the consumer commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity; such as "Manufactured for _____," "Distributed by _____," or any other wording that expresses the facts.

(b) The requirement for declaration of the manufacturer, packer, or distributor shall in the case of a corporation be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(c) The statement of the place of business shall include the street address, city, State, and Zip Code; however, the street address may be omitted if it is shown in a current city directory or telephone directory.

(d) If a person manufactures, packs, or distributes a consumer commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where such consumer commodity was manufactured or packed or is to be distributed, unless such statement would be misleading.

(e) Standard abbreviations may be used in complying with the requirements of this section.

§ 500.6 Net quantity of contents declaration, location.

(a) The label of a consumer commodity shall bear a declaration of the net quantity of contents separately and accurately stated on the principal display panel.

(b) The declaration of net quantity shall appear as a distinct item on the principal display panel, shall be separated (by at least a space equal to the height of the lettering used in the declaration) from other printed label information appearing above or below the declaration and, shall not include any term qualifying a unit of weight or mass, measure, or count such as "jumbo quart," "giant liter," "full gallon," "when packed," "minimum," or words of similar import. The declaration of net quantity shall be separated (by at least a space equal to twice the width of the letter "N" of the style of type used in the net quantity statement) from other printed label information appearing to the left or right of the declaration. However, the "e" mark shall not be considered to be a qualifying word or phrase and may be used as part of the statement of the net quantity of contents where warranted. When used, the "e" mark shall be at least 3 millimeters (approximately 1/8 in) in height. The declaration of net quantity of contents shall be placed on the principal display panel within the bottom 30 percent of the area of the label panel in lines generally parallel to the base on which the package or commodity rests as it is designed to be displayed: *Provided,* that:

(1) On consumer commodities having a principal display panel of 5 square inches (32.2 cm^2) or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the declaration of net quantity of contents meets the other requirements of this part, and

(2) The requirements as to separation, location, and type size, specified in this part are waived with respect to variety and combination packages as defined in this part.

§ 500.7 Net quantity of contents, method of expression.

The net quantity of contents shall be expressed in terms of weight or mass, measure, numerical count, or a combination of numerical count and weight or mass, size, or measure so as to give accurate information regarding the net quantity of contents thereof, and thereby facilitate value comparisons by consumers. The net quantity of contents statement shall be in terms of fluid measure if the commodity is liquid, or in terms of weight or mass if the commodity is solid, semi-solid, or viscous, or a mixture of solid and liquid. If there is a firmly established general consumer usage and trade custom of declaring the contents of a liquid by weight or mass, or a solid, semi-solid, or viscous product by fluid measure, numerical count, and/or size, or (as in the case of lawn and plant care products) by cubic measure, it may be used, when such declaration provides sufficient information to facilitate value comparisons by consumers. The declaration may appear in more than one line of print or type.

§ 500.8 Units of weight or mass and measure.

(a) Statements of weight or mass shall be in terms of both avoirdupois pound and ounce and SI metric kilograms, grams, or milligrams. (Examples of avoirdupois/metric declarations: "Net Wt 15 oz (425 g)" or "Net Wt 1½ lbs (680 g)" or " 2.5 oz (70.8 g)"; examples of metric/avoirdupois declarations: "Net Mass 425 g (15 oz)" or "Net Mass 680 g (1½ lbs)" or "100 g e (3.5 oz).")

(b) Statements of fluid measure shall be in terms of both the U.S. gallon of 231 cubic inches and quart, pint, and

fluid ounce subdivisions thereof and SI metric liters or milliliters and shall (except in the case of petroleum products, for which the declaration shall express the volume at 60 °Fahrenheit (15.6 °Celsius)) express the volume at 68 °Fahrenheit (20 °Celsius). (Examples of gallon/metric declarations: "Net 12 fl oz (354 mL)" or "Net Contents 1 gal (3.78 L)" or "8 fl oz (236 mL)"; examples of metric/gallon declarations: "Net 500 mL (1.05 pt)" or "Net Contents 1 L (1.05 qt).")

(c) Statements of linear measure shall be in terms of both yards, feet, and inches and SI metric meters, centimeters, or millimeters.

(d) Statements of measure of area shall be in terms of both square yards, square feet, and square inches and SI metric square meters, square decimeters, square centimeters, or square millimeters.

(e) Statements of dry measure shall be in terms of both the U.S. bushel of 2,150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof and SI metric liters or milliliters.

(f) Statements of cubic measure shall be in terms of both cubic yard, cubic foot, and cubic inch and SI metric cubic meters, cubic decimeters, or cubic centimeters.

§ 500.9 Units of weight or mass, how expressed.

(a) The term "net weight" or "net mass" may be used in stating the net quantity of contents in terms of weight or mass. However, where the term "net weight" or "net mass" is not used, the quantity of contents shall always disclose the net quantity of contents. For example: "453 g (1 lb)" or "Net Wt 1 lb (453 g)" or "Net Mass 453 g (1 lb)".

(b) With the exception of random packages, the statement of net quantity of contents in terms of avoirdupois weight shall be expressed as follows:

(1) If less than 1 pound, in terms of ounces. (Examples: "Net Weight 12 oz. (340 g)" or "Net Mass 340 g (12 oz)".)

(2) If at least 1 pound but less than 4 pounds, in whole pounds, with any remainder in ounces or common or decimal fractions of the pound, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of ounces.

(Examples: "Net Wt. 1 lb. 8 oz. (680 g)" or "Net Wt. 1.5 lb./24 oz. (680 g)" or "24 oz. (1½ lb.) 680 g".)

(3) If 4 pounds or more, in terms of whole pounds, with any remainder in terms of ounces or common or decimal fractions of the pound, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of ounces. (Examples: "Net Weight 5 pounds 4 ounces (2.38 kg)" or "Net Mass 2.38 kg (5 lbs 4 oz)" or "Net Wt. 5¼ lbs. (2.38 kg)" or "Net Mass 2.38 kg (5¼ lbs.)" or "Net Wt. 5.25 lbs. (2.38 kg) or "Net Mass 2.38 kg (5.25 lbs)".)

(c) If the net quantity of contents declaration appears on a random package it may, when the net weight exceeds 1 pound, be expressed in terms of pounds and decimal fractions of the pound carried out to not more than three decimal places. When the net weight does not exceed 1 pound, the declaration on the random package may be in terms of decimal fractions of the pound in lieu of ounces. (Examples: "Net Wt. 0.75 lb." and "Net Weight 1.05 pounds.") Such decimal declaration shall be exempt from the type size and placement requirements of section 4(a) of the Act if the accurate statement of net weight is presented prominently and conspicuously on the principal display panel of the package. The net quantity of contents declaration on a random package is not required to, but may include a statement in terms of the SI metric system carried out to not more than 3 decimal places.

(d) It is sufficient to distinguish avoirdupois ounce from fluid ounce through association of terms. (Examples: "Net Wt. 6 oz." vs. "6 fl. oz." or "Net Contents 6 fl. oz.")

§ 500.10 Units of fluid measure, how expressed.

(a) Use of the terms "net" or "net contents" is optional.

(b) Declaration of net quantity of contents in terms of fluid measure shall be identified as such in each instance and the statement of U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof shall be expressed as follows:

(1) If less than 1 pint, in terms of fluid ounces. (Example: "Net Contents 8 fl. oz. (236 mL)" or "Net Contents 236 mL (8 fl. oz.)".)

(2) If at least 1 pint but less than 1 gallon, in terms of the largest whole unit (quarts, quarts and pints or pints, as appropriate), with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of fluid ounces. (Examples: "1 qt. (946 mL)" or "Net contents 1 qt. 1 pt. 8 oz./56 fl. oz. (1.65 L)", but not in terms of quart and ounce such as "1 quart 24 ounces (1.65 L)".)

(3) If 1 gallon or more, in terms of the largest whole unit (gallons followed by common or decimal fractions of a gallon or by the next smaller whole unit or units viz, quarts and pints) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of fluid ounces.

(Examples: "Net contents 2½ gal. (9.46 L)", "Contents 2.5 gal. (9.46 L)", or "Net contents 2 gallons 2 quarts (9.46 L)" but not as "2 gallons 4 pints (9.46 L)".)

§ 500.11 Measurement of commodity length, how expressed.

Declaration of net quantity in terms of yards, feet, and inches shall be expressed as follows:

(a) If less than 1 foot, in terms of inches and fractions thereof.

(b) If 1 foot or more, in terms of the largest whole unit (a yard or foot) with any remainder in terms of inches or common or decimal fractions of the foot or yard, except that it shall be optional to express the length in the preceding manner followed by a statement of the length in terms of inches.

§ 500.12 Measurement of commodities by length and width, how expressed.

For bidimensional commodities (including roll-type commodities) measured in terms of commodity length and width, the declaration of net quantity of contents shall be expressed in the following manner:

(a) The declaration of net quantity for bidimensional commodities having a width of more than 4 inches (10.1 cm) shall:

(1) When the commodity has an area of less than 1 square foot (929 cm^2) be expressed in terms of length and width in linear measure. The customary inch/pound statement is to be expressed in inches and fractions thereof.

(2) When the commodity has an area of 1 square foot (929 cm^2) or more, but less than 4 square feet (37.1 dm^2), be expressed in terms of area, followed by the length and width. The customary inch/pound statement of area is to be expressed in square inches with length and width expressed in the largest whole unit (yard or foot) with any remainder in inches or common or decimal fractions of the yard or foot except that a dimension of less than 2 feet (60.9 cm) may be stated in inches. Commodities consisting of usable individual units (e.g., paper napkins) while requiring a declaration of unit area need not declare the total area of all such individual units.

(3) When the commodity has an area of 4 square feet (37.1 dm^2) or more, be expressed in terms of area, followed by

the length and width. The customary inch/pound statement of area is to be expressed in square feet with the length and width expressed in the largest whole units (yards or feet) with any remainder in terms of inches or common or decimal fractions of the foot or yard except that a dimension of less than 2 feet (60.96 cm) may be stated in inches.

(4) For any commodity for which the quantity of contents is required by paragraph (a) (2) or (3) of this section to include a declaration of the linear dimensions, the quantity of contents, in addition to being declared in the manner prescribed by the appropriate provisions of this regulation, may also include, after the customary inch/pound statement of the linear dimensions of the largest unit of measurement, a parenthetical declaration of the linear dimensions of said commodity in terms of inches.

(**Example:** "25 sq. ft. (12 in. x 8.33 yd.) (12 in. x 300 in.)
2.32 m² (30.4 cm x 7.62 m)".)

(b) For bidimensional commodities having a width of 4 inches (10.16 cm) or less, the declaration of net quantity shall be expressed in terms of width and length in linear measure. The customary inch/pound statement of width shall be expressed in terms of linear inches and fractions thereof, and length shall be expressed in the largest whole unit (yard or foot) with any remainder in terms of the common or decimal fractions of the yard or foot, except that it shall be optional to express the length in the largest whole unit followed by a statement of length in inches or to express the length in inches followed by a statement of length in the largest whole unit.

(**Example:** "2 inches x 10 yards (5.08 cm x 9.14 m)",
"2 inches x 10 yards (360 inches) 5.08 cm x 9.14 m", or
"2 inches x 360 inches (10 yards) 5.08 cm x 9.14 m".)

§ 500.13 Measurement of commodities by area measure only, how expressed.

For commodities measured in terms of area measure only declaration of net quantity in terms of square yards, square feet, and square inches shall be expressed in the following manner:

(a) If less than 1 square foot (929 cm²), in terms of square inches and fractions thereof.

(b) If at least 1 square foot (929 cm²) but less than 4 square feet (37.1 dm²), in terms of square feet with any remainder in terms of square inches or common or decimal fractions of the square foot.

(c) If 4 square feet (37.1 dm²) or more, in terms of the largest appropriate whole unit (square yards, square yards and square feet, or square feet) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard.

§ 500.14 Statements of cubic measure and dry measure.

Statements of cubic measure and dry measure shall be expressed in terms most appropriate to the providing of accurate information as to the net quantity of contents, and to the facilitating of value comparisons by consumers. When the content declaration on a commodity sold in compressed form is stated in terms of cubic measure there may also be a statement indicating the amount of material from which the final product was compressed. Such statement shall not exceed the actual amount of material that can be recovered.

§ 500.15 Units of count, more than one ply.

If the commodity is in distinct usable units made up of one or more components or ply, the statement of net quantity of contents shall (in addition to complying with the requirements of linear and area measurement declaration for each unit as specified in § 500.12) include the number of ply and the total number of usable units.

(**Example:** "100 2-ply facial tissues, 8½ inches x 10 inches" (21.5 x 25.4 cm).) For the purposes of this section, roll type commodities (e.g. paper towels), irrespective of perforations, shall not be considered to be usable units, and shall be labeled in terms of total area measurement and the number of ply. Such area measurement, however, shall be supplemented by a count statement and the dimensions of a single unit.

§ 500.16 Measurement of container type commodities, how expressed.

Notwithstanding other provisions of this Part 500 of the regulations pertaining to the expression of net quantity of contents by measurement, commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled in accordance with the following paragraphs:

(a) The declaration of net quantity for container commodities shall be expressed as follows:

(1) For bag type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise) Net quantity of contents in terms of feet and inches shall be expressed as follows:

(i) When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot.

(**Example:** "25 bags, 17 in. x 20 in. (43.1 x 50.8 cm)" or "200 bags, 20 in. x 2 ft. 6 in. (50.8 x 76.2 cm)", or "50 bags, 20 in. x 2½ ft. (50.8 x 76.2 cm)".)

(ii) When the unit bag is gussetted, the dimensions will be expressed as width, depth and length in terms of inches except that any dimensions of 2 feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot.

(**Examples:** "25 bags, 17 in. x 4 in. x 20 in. (43 x 10 x 50 cm)", or "200 bags, 20 in. x 12 in. x 2½ ft. (50.8 x 30.4 x 76.2 cm)".)

(2) For other square, oblong, rectangular or similarly shaped containers, in terms of count followed by length, width, and depth except depth need not be listed when less than 2 inches (5.08 cm).

(**Example:** "2 cake pans, 8 in. x 8 in. (20.3 x 20.3 cm)", or "roasting pan, 12 in. x 8 in. x 3 in. (30.4 x 20.3 x 7.62 cm)".)

(3) For circular or other generally round shaped containers, except cups, and the like, in terms of count followed by diameter and depth except depth need not be listed when less than 2 inches (5.08 cm).

(**Example:** "4 pie pans, 8 in. diameter (20.3 cm)" or "2 cake pans, 8 in. diameter x 4 in. (20.3 x 10.1 cm)".)

(b) When the functional use of the container is related by label reference in standard terms of measure to the capability of holding a specific quantity of substance or class of substances such references shall be a part of the net quantity statement and shall specify capacity as follows:

(1) Liquid measure for containers which are intended to be used for liquids, semi-solids, viscous materials or mixtures of solids and liquids. The customary inch/pound statement of capacity shall be stated in terms of the largest whole U.S. gallon of 231 cubic inches, quart, pint, or ounce with any remainder in terms of the common or decimal fraction of that unit.

(**Example:** Freezer Boxes: "4 boxes, 1 qt. capacity, 6 in. x 6 in. x 4 in. (946 mL capacity, 15.2 x 15.2 x 10.1 cm)".)

(2) Dry measure for containers which are intended to be used for solids. The customary inch/pound statement of capacity shall be stated in terms of the largest whole U.S. bushel of 2,150.42

cubic inches, peck, dry quart, or dry pint with any remainder in terms of the common or decimal fraction of that unit.

(**Example:** Leaf Bags: "8 bags, 6 bushel capacity, 4 feet x 5 feet (211 L capacity—1.21 m x 1.52 m)".)

(3) Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent container.

(**Example:** Garbage Can Liners: "10 liners, 2 ft. 6 in. x 3 ft. 1 in., fits up to 30 gallon cans (76.2 x 93.9 cm, fits up to 113 L cans".)

(c) Notwithstanding the above requirements, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit.

(**Example:** "24 cups, 6 fl. oz. capacity (177 mL)".)

(d) For purposes of this section, the use of the terms "capacity," "diameter," and "fluid" is optional.

§ 500.17 Fractions.

(a) SI metric declarations of net quantity of contents of any consumer commodity may contain only decimal fractions. Other declarations of net quantity of contents may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds; except that:

(1) If there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed, and

(2) If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than three places.

(b) If a statement includes small fractions, smaller variations in the actual size or weight of the commodity will be permitted as provided in § 500.25, than in cases where the larger fractions or whole numbers are used.

§ 500.18 SI metric prefixes.

The following chart indicates SI prefixes that may be used on a broad range of consumer commodity labels:

Prefix	Symbol	Multiplying factor[1]
Kilo-	k	x 10^3
Deca-	da	x 10
Deci-	d	x 10^{-1}
Centi-	c	x 10^{-2}
Milli-	m	x 10^{-3}
Micro-	μ	x 10^{-6}

[1] 10^2=100; 10^3=1000; 10^{-1}=0.1; 10^{-2}=0.01.

Thus, 2 kg=2x1000 g=2000 g, and 3 cm=3x0.01 m=0.03 m.

§ 500.19 Conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to SI metric quantities.

(a) For calculating the conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to metric quantities, the factors in the following chart and none others shall be employed:

SI METRIC INCH/POUND CONVERSION FACTORS

Inch/pound	Metric
Length	
1 mil=25.4 micrometers (μm)*.	1 micrometer=0.039370 mil.
1 inch=2.54 cm*	1 millimeter=0.039 370 in.
1 foot=30.48 cm*	1 centimeter=0.393 701 in.
1 yard=0.9144m*	1 meter=3.280 84 ft.
Area	
1 square inch=6.4516 cm^2*.	1 square centimeter=0.155 000 in^2.
1 square foot=929.0304 cm^2*.	1 square decimeter=0.107 639 ft^2.
=9.290 304 dm^2	1 square meter=10.763 9 ft^2.
1 square yard=0.836 127 m^2.	
Volume or Capacity	
1 cubic inch=16.3871 cm^3.	1 cubic centimeter=0.061 023 7 in^3.
1 cubic foot=0.028 316 8 m^3.	1 cubic decimeter=0.035 314 7 ft^3.
=2.83 168 dm^3	1 cubic meter=35.314 7 ft^3. =1.307 95 yd^3.
1 cubic yard=0.764 555 m^3.	
1 fluid ounce=29.573 5 mL.	1 milliliter=0.033 814 0 fluid oz.
1 liquid pint=473.177 mL.	1 liter=1.05669 liquid quart.
=0.473 177 L	1 liter=0.264 172 gallon.
1 liquid quart=946.353 mL.	1 dry pint=550.610 5 mL.
=0.946 353 L	1 dry quart=1.101 221 L.
1 gallon=3.785 41 L	1 dry peck=8.809 768 L.
1 bushel=35.2391 L.	

SI METRIC INCH/POUND CONVERSION FACTORS—Continued

Inch/pound	Metric
Weight or Mass	
1 ounce=28.349 5 g	1 milligram=0.000 035 274 0 oz. =0.015 432 4 grain.
1 pound=453.592 g =0.453 592 kg	1 gram=0.035 274 0 oz. 1 kilogram=2.204 62 lb.

*Exactly.

NOTE: These conversion factors are given to six significant digits to provide such accuracy when necessary.

(b) The SI metric quantity declaration should be shown in three digits except where the quantity is below 100 grams, milliliters, centimeters, square centimeters or cubic centimeters, where it can be shown in two figures. In either case, any final zero appearing to the right of a decimal point need not be shown.

(**Examples:** "1 lb (453 g)" not "1 lb (453.592 g)"; "Net Wt. 2 oz (56 g)" or "Net Wt 2 oz (56.6 g)" not "Net Wt. 2 oz (56.69 g)".)

§ 500.20 Conspicuousness.

The statement of net quantity of contents shall appear in conspicuous and easily legible boldface type or print in distinct contrast (by typography, layout, color, embossing, or molding) to other matter on the package; except that a statement of net quantity blown, embossed, or molded on a glass or plastic surface is permissible when all label information is so formed on the surface.

§ 500.21 Type size in relationship to the area of the principal display panel.

(a) The statement of net quantity of contents shall be in letters and numerals in a type size established in relationship to the area of the principal display panel of the package or commodity and shall be uniform for all packages or commodities of substantially the same size. For this purpose, "area of the principal display panel" means the area of the side or surface that bears the principal display panel, exclusive of tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles and jars. This area shall be:

(1) In the case of a rectangular package or commodity where one entire side properly can be considered to be a principal display panel side, the product of the height times the width of that side;

(2) In the case of a cylindrical or nearly cylindrical container or

commodity, 40 percent of the product of the height of the container or commodity times the circumference; and

(3) In the case of any otherwise shaped container or commodity, 40 percent of the total surface of the container or commodity: *Provided*, however, that where such container or commodity presents an obvious "principal display panel" such as the top of a triangular or oval shaped container, the area shall consist of the entire top surface.

(b) With area of principal display panel defined as above, the type size in relationship to area of that panel shall comply with the following specifications:

(1) Not less than 1/16 inch (1.5 mm) in height on packages the principal display panel of which has an area of 5 square inches or (32.2 cm^2) less.

(2) Not less than 1/8 inch (3.1 mm) in height on packages the principal display panel of which has an area of more than 5 (32.2 cm^2) but not more than 25 square inches (161 cm^2).

(3) Not less than 3/16 inch (4.7 mm) in height on packages the principal display panel of which has an area of more than 25 (161 cm^2) but not more than 100 square inches (6.45 dm^2).

(4) Not less than 1/4 inch (6.35 mm) in height on packages the principal display panel of which has an area of more than 100 square inches (6.45 dm^2), except not less than 1/2 (12.7 mm) inch in height if the area is more than 400 square inches (25.8 dm^2).

(c) Where the statement of net quantity of contents is blown, embossed, or molded on a glass or plastic surface rather than by printing, typing, or coloring, the lettering sizes specified in paragraph (b) of this section shall be increased by 1/16 of an inch (1.5 mm).

(d) Letter heights pertain to upper case or capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the minimum standards.

(e) The ratio of height to width of a letter shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide).

(f) When fractions are used, each component shall meet one-half the minimum height standards.

(g) The type size requirements specified in this section do not apply to the "e" mark. (See § 500.6(b).)

(h) When upper and lower case or all lowercase letters are used in SI metric symbols, it is the uppercase "L," lowercase "d," or their equivalent in the print or type used that shall meet the minimum height requirement. Other letters and exponents must be presented in the same type style and in proportion to the type size used. However, no letter shall be less than 1.6 mm (1/16 inch) in height.

§ 500.22 Abbreviations.

The following abbreviations and none other may be employed in the required net quantity declaration:

Inch—in.
Feet or foot—ft.
Fluid—fl.
Liquid—liq.
Ounce—oz.
Gallon—gal.
Pint—pt.
Pound—lb.
Quart—qt.
Square—sq.
Weight—wt.
Yard—yd.
Avoirdupois—avdp.
Cubic—cu.

Note: Periods and plural forms shall be optional.

§ 500.23 Expression of net quantity of contents in SI Metric units.

(a) The selected multiple or submultiple prefixes for SI metric units shall result in numerical values between 1 and 1000, except that centimeters or millimeters may be used where a length declaration is less than 100 centimeters. For example, "1.96 kg" instead of "1960 g" and "750 mL" instead of "0.75 L".

(b) The following symbols for SI metric units and none others may be employed in the required net quantity declaration:

centimeter—cm
cubic centimeter—cm^3
cubic decimeter—dm^3
meter—m
milligram—mg
liter—L or l
milliliter—mL or ml
square decimeter—dm^2
cubic meter—m^3
kilogram—kg
micrometer—µm
gram—g
millimeter—mm
square meter—m^2
square centimeter—cm^2

Note: Symbols, except for liter, are not capitalized. Periods should not be used after the symbol. Symbols are always written in the singular form.

§ 500.24 Supplemental statements.

Nothing contained in the regulations in this part shall prohibit supplemental statements, at locations other than the principal display panel, describing in non-deceptive terms the net quantity of contents: *Provided* that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight or mass, measure, or count that tends to exaggerate the amount of commodity contained in the package. (Examples of prohibited language are: "Giant Quart," "Jumbo Liter," "Full Gallon," "When Packed," "Minimum," or words of similar import.) Required combination declarations of net quantity of contents (for example, a combination of net weight or mass plus numerical count, numerical count plus dimensions of the commodity, etc.) are not regarded as supplemental net quantity statements and shall be located on the principal display panel. Dilution directions or other similar directions for use are not regarded as supplemental net quantity statements and may be located on the principal display panel. Size characterizations in compliance with standards promulgated under section 5(c)(1) of the Act may appear on the principal display panel.

§ 500.25 Net quantity, average quantity, permitted variations.

(a) The statement of net quantity of contents shall accurately reveal the quantity of the commodity in the container exclusive of wrappers and other material packed therewith: *Provided*, that in the case of a commodity packed in a container designed to deliver the commodity under pressure, the statement shall declare the net quantity of the contents that will be expelled when the instructions for use are followed. The propellant is included in the net quantity statement.

(b) Variations from the stated weight or mass or measure shall be permitted when caused by ordinary and customary exposure, after the commodity is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or mass or measure.

(c) Variations from the stated weight or mass, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages which occur in good packaging practice: *Provided*, that such variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the commodity is below the quantity stated, and no unreasonable shortage in any package will be permitted even though overages in other packages in the same shipment or delivery compensate for such shortage. Variations from stated quantity of contents shall not be unreasonably large.

§ 500.26 Representations of servings, uses, applications.

(a) The label of any packaged consumer commodity which bears a representation as to the number of servings, uses, or applications of such commodity contained in such package shall bear in immediate conjunction therewith, and in letters the same size as those used for such representations, a statement of the net quantity (in terms of weight or mass, measure, or numerical count) of each such serving, use, or application: *Provided*, that such statement may be expressed in terms that differ from terms used in the required statement of net contents (e.g., cupsful, tablespoonful, etc.), when such differing terms describe a constant quantity. Such statement may not be misleading in any particular.

(b) Representations as to the total amount of object or objects to which the commodity may be applied or upon which or in which the commodity may be used, will not be considered to be representations as to servings, uses, or applications, if such amount is expressed in terms of standard units of weight or mass, measure, size, or count.

(c) If there exists a voluntary product standard promulgated pursuant to the procedures found in 15 CFR Part 10, by the Department of Commerce, quantitatively defining the meaning of the terms "serving," "use," or "application" with respect to a particular consumer commodity, then any label representation as to the number of servings, uses, or applications in such packaged consumer commodity shall correspond with such quantitative definition. (Copies of published standards will be available upon request from the National Institute of Standards and Technology, Department of Commerce, Washington, DC 20899.)

§ 500.27 Multiunit packages.

(a) A multiunit package is a package intended for retail sale, containing two or more individual packaged or labeled units of an identical commodity in the same quantity. The declaration of net quantity of contents of a multiunit package shall be expressed as follows:

(1) The number of individual packaged or labeled units;

(2) The quantity of each individual packaged or labeled unit; and

(3) The total quantity of the multiunit package.

Examples: Soap bars: "6 Bars, Net Wt. 3.4 ozs. (96.3 g) each, Total Net Wt. 1 lb. 4.4 oz. (578 g)" Facial Tissues: "10 Packs, each 25 two-ply tissues, 9.7 in. x 8.2 in. (24.6 x 20.8 cm), Total 250 Tissues."

(b) The individual packages or labeled units of a multiunit package, when intended for individual sale separate from the multiunit package, shall be labeled in compliance with the regulations under this part 500 applicable to that package.

(c) A multiunit package containing unlabeled individual packages which are not intended for retail sale separate from the multiunit package may contain, in lieu of the requirements of Paragraph (a) of this section, a declaration of quantity of contents expressing the total quantity of the multiunit package without regard for inner packaging. For such multiunit packages it shall be optional to include a statement of the number of individual packages when such a statement is not otherwise required by the regulations.

Examples: Deodorant Cakes: "5 Cakes, Net Wt. 4 ozs. (113 g) each, Total Net Wt. 1.25 lb. (566 g)" or "5 Cakes, Total Net Wt. 1 lb. 4 ozs. (566 g)";

Soap Packets: "10 Packets, Net Wt. 2 ozs. (56.6 g) each, total Net Wt 1.25 lb. (566 g)" or "Net Wt 1 lb. 4 ozs. (566 g)" or "10 Packets, Total Net Wt. 1 lb. 4 ozs. (566 g)."

§ 500.28 Variety packages.

(a) A variety package is a package intended for retail sale, containing two or more individual packages or units of similar but not identical commodities. Commodities which are generically the same but which differ in weight or mass, measure, volume, appearance or quality are considered similar but not identical. The declaration of net quantity for a variety package will be expressed as follows:

(1) The number of units for each identical commodity followed by the weight or mass, volume, or measure of that commodity: and

(2) The total quantity by weight or mass, volume, measure, and count, as appropriate, of the variety package. The statement of total quantity shall appear as the last item in the declaration of net quantity and shall not be of greater prominence than other terms used.

Examples:

(i) "2 sponges 4½ ins. × 4 ins. ×¾ in. (11.4 cm × 10.1 cm × 1.9 cm); 1 sponge 4½ ins. × 8 ins. ×¾ in. (11.4 cm × 20.3 cm × 1.9 cm); 4 sponges 2½ ins. × 4 ins. ×½ in. (6.3 cm × 10.1 cm × 1.2 cm)

Total: 7 sponges".

(ii) "2 soap bars Net Wt. 3.2 ozs. (90 g) each; 1 soap bar Net Wt. 5.0 ozs. (141 g).

Total: 3 bars Net Wt. 11.4 ozs. (323 g)."

(iii) Liquid Shoe Polish: "1 Brown 3 fl. ozs. (88 mL); 1 Black 3 fl. ozs. (88 mL); 1 White 5 fl. ozs. (147 mL).

Total: 11 fl. ozs. (325 mL)."

(iv) Picnic Ware: "34 spoons; 33 forks; 33 knives.

Total: 100 pieces."

(b) When the individual units in a variety package are either packaged or labeled and are intended for retail sale as individual units, each unit shall be labeled in compliance with the applicable regulations under this Part 500.

§ 500.29 Combination packages.

(a) A combination package is a package intended for retail sale, containing two or more individual packages or units of dissimilar commodities. The declaration of net quantity for a combination package will contain an expression of weight or mass, volume, measure or count or a combination, thereof, as appropriate for each individual package or unit: *Provided*, that the quantity statements for identical packages or units shall be combined.

Examples

(1) Lighter fluid and flints: "2 cans—each 8 fl. ozs. (236 mL); 1 package—8 flints."

(2) Sponges & Cleaner: "2 sponges each 4 in. x 6 in. x 1 in. (10.1 x 15.2 x 2.5 cm); 1 box cleaner—Net Wt. 6 ozs. (170 g)"

(3) Picnic Pack: "20 spoons, 10 knives and 10 forks, 10 2-ply napkins 10 ins. x 10 ins. (25.4 x 25.4 cm) 10 cups—6 fl. ozs. (177 mL)".

(b) When the individual units in a combination package are either packaged or labeled and are intended for retail sale as individual units, each unit shall be in compliance with the applicable regulations under this part 500.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 94–767 Filed 1–11–94; 8:45 am]

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federal register

Wednesday
January 12, 1994

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Availability for Historically Black Colleges and Universities Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-3682; FR-3615-N-01]

Notice of Funding Availability for Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1994 and notice of additional funding and extension of application due date under FY 1993 NOFA.

SUMMARY: This NOFA announces $6.5 million of FY 1994 funding for the Historically Black Colleges and Universities (HBCU) Program plus an additional $2 million of FY 1993 funding. The total amount of FY 1993 and FY 1994 funding, $13 million, is combined into a single competition and the application due date of the FY 1993 NOFA is extended to run concurrently with this FY 1994 NOFA.

DATES: No applications for the FY 1993 and FY 1994 HBCU NOFAs will be accepted after 4:30 pm on February 11, 1994. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A "FAX" will not constitute delivery.

ADDRESSES: For an application kit contact: Sylvester C. Angel, Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., room 7255, Washington, DC 20410-3500. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: (202) 708-3363. The TDD number for the hearing impaired is (202) 708-2565. (This is not a toll-free number.) When requesting an application kit, please refer to document FR-3615, and provide your name, address (including zip code), and telephone number (including area code).

FOR FURTHER INFORMATION CONTACT: Dr. James Turk, Office of Technical Assistance, Department of Housing and Urban Development, 451 7th Street SW., room 7253, Washington, DC 20410. Telephone Number: (202) 708-3176. The TDD number for the hearing impaired is (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) announcing HUD's FY 1993 funding of $4.5 million for the Historically Black Colleges and Universities (HBCU) Program was published on September 17, 1993 (58 FR 48716). A technical correction to the FY 1993 NOFA, which clarified that the application due date was December 1, 1993, was published on October 4, 1993 (58 FR 51647).

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1994, (approved October 28, 1993, Public Law 103-124) (94 App. Act) made $6.5 million available for the HBCU Program in FY 1994. The Department is also making an additional $2 million of FY 1993 HBCU funds eligible for program applicants.

Because of the large number of applications anticipated for funding under the FY 1993 NOFA, and to make the FY 1994 funds available as soon as possible, the Department is combining the FY 1993 and 1994 funds into a single competition under this Notice. All of the applications received for the FY 1993 NOFA will be considered for funding from this combined pool of $13,000,000.

In addition, the Department is extending the application due date to 4:30 p.m. on February 11, 1994, to give additional applicants an opportunity to apply for funding under this program. However, applicants who have already submitted an application may not submit an additional application.

The total of $13,000,000 announced as available in this Notice will be awarded under the same terms set forth in the FY 1993 NOFA, cited above (September 17, 1993, 58 FR 48716).

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301-5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); 24 CFR 570.404).

Dated: December 14, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 94-737 Filed 1-11-94; 8:45 am]

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federal register

Wednesday
January 12, 1994

Part VII

Department of Commerce

National Institute of Standards and Technology

Manufacturing Extension Partnership Program; Notice

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 93110–3310]

Manufacturing Extension Partnership Program

AGENCY: National Institute of Standards and Technology (NIST), Technology Administration, Commerce.

ACTION: Notice. (This information is provided for planning purposes only, and is not a solicitation for proposals)

SUMMARY: This notice describes three projects to be conducted by the National Institute of Standards and Technology (NIST) in FY94, under its Manufacturing Extension Partnership (MEP) program, to provide planning and initial implementation assistance for manufacturing extension programs. These projects correspond to the State Technology Extension Program (STEP) component of MEP, and are intended to help states improve the planning, coordination, and implementation of their technology extension activities. In conjunction with this notice, the MEP program office will conduct workshops and make MEP staff available to describe fully the projects in advance of a formal solicitation for proposals.

The three projects are:

Program Planning: To support the creation of a program plan for a state-wide, coordinated technology extension system to enhance the competitiveness of small and medium-sized manufacturers through the application of technology.

Program Implementation: To support the initial implementation of a comprehensive state-wide industrial extension program or the pilot testing of new program and service concepts to help small and medium-sized manufacturers improve productivity and competitiveness.

Regional Linkages: To support inter-state or multi-state efforts to expand the scope and enhance the effectiveness of technical assistance services available regionally to small and medium-sized manufacturers.

Program Planning projects are open to all states, regardless of state size, industrial density/sparseness, or number of existing industrial assistance programs.

For Program Implementation and Regional Linkages projects, NIST plans to give priority consideration to projects having the best potential to benefit areas with relatively sparse distribution of industry, or low industry density areas that do not lend themselves to large extension centers as a method of service delivery.

DATES: The following schedule is anticipated but is subject to change:

* January 12, 1994—Program announcement published in the **Federal Register**. All potential applicants will have an opportunity for dialogue with NIST MEP staff and questions will be accepted prior to notice requesting proposals.

* January 31, 1994—Informational workshop at NIST to address questions about the MEP program. MEP staff will be available to meet with representatives from individual states.

* February 28, 1994—Notice requesting proposals published in **Federal Register**. Dialogue with MEP staff regarding notice restricted.

* March 31, 1994—Deadline for submission of proposals.

* May 13, 1994—Award announcements.

FOR FURTHER INFORMATION CONTACT: For information regarding this announcement, contact Ms. Gale Morse at (301) 975–3944, or at: Manufacturing Extension Partnership, Polymers Building (Bldg. 224), room B115, National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of the National Institute of Standards and Technology Act (15 U.S.C. 2781), as amended, NIST will provide assistance in FY94 to help states develop manufacturing assistance programs aimed at small- and medium-sized manufacturers and help bring those state programs to a level of performance where they can provide the full range of manufacturing extension services required by their manufacturers. Under the NIST Manufacturing Extension Partnership (MEP), a cooperative effort to link and strengthen the nation's manufacturing extension programs and activities, NIST will make merit-based awards to states to help improve their planning, coordination, and implementation of their technology extension activities. This funding will also be available to multi-state partnerships which seek to expand the scope of technology assistance related services regionally available to small- and medium-sized manufacturers. MEP assumes a broad definition of manufacturing, and recognizes a wide range of technology and concepts, including durable goods production; chemical, biotechnology and other materials processing; chemical, biotechnology and other materials processing; electronic component and system fabrication; and engineering services associated with manufacturing, as lying within the definition of manufacturing.

Funding Available

Approximately, $2,500,000 will be available to support cooperative agreements on a matching funds basis under this program. Funding size will vary according to the project category and scope of work. For example, program planning projects have typically averaged less than $100,000 in past years. Program Planning projects that include pilot testing of the proposed extension plan will be eligible for NIST funding up to $150,000. For Program Implementation projects and Regional Linkage projects, awards will also vary, but NIST funds may not exceed $250,000 per project. States will be able to submit proposals for each of the three project categories.

The cooperative agreements entered into under this program will be available for one year. NIST will have no obligation to provide any additional future funding to applicants selected for funding under these projects. Renewal of an award to increase funding or extend the period of performance will be at the local discretion of NIST.

Projects

Program Planning Projects

Project Objective

The purpose of Program Planning projects will be to create plans for state-wide, coordinated, technology extension programs in order to enhance the competitiveness of small- and medium-sized manufacturers. These projects will plan for the development and coordination of existing and/or newly formed services, such as state industrial assistance programs; workforce training; university-based industrial assistance programs; and management assistance programs; into a unified state-wide program. Plans will include providing access to a wide range of technology and services, such as technology deployment, worker skills development, technology transfer and commercialization, or export and market development.

Applicants may conduct planning activities on a regional basis within a state, when regions are defined by the state. Regions should be clearly defined by the proposing organizations and it must be clear why the program is regionally oriented, versus state-wide, and how the regions will be integrated

into a state-wide plan or interact such that state-wide coverage is achieved.

Applicants may include pilot testing activities as part of their planning process. If pilot testing of the proposed extension plan is included in the project, it should include methods of evaluating the pilot's success in implementing the proposed extension plan. Any proposed pilot activity must be consistent with the program plan developed for the state.

Program Planning Projects Evaluation Criteria

Proposals from applicants will be evaluated and rated on the basis of the following criteria by an impartial competitive review panel. Each proposal should address all five selection criteria and selection criteria 1–3 will be weighted more heavily than criteria 4–5. Selection will be based upon total evaluation score as well as geographic distribution.

1. *Target population (25 points):* Potential applicants should specify a methodology for identifying a population of beneficiary companies (the target population) and their technology assistance-related needs. Factors that will be considered include:

(a) Methodology for defining the size and demographic characteristics of the target population to be served by the program plan.

(b) Methodology for determining the target population's assistance needs, e.g. technology, training, information, quality improvement, management, etc.

(c) Methodology to ensure that the plan is appropriate for addressing identified industry needs.

2. *Resource identification and assessment (20 points):* Applicants should describe the methodology for collecting information about the number, size, technical sophistication, type, and relevance of industrial assistance activities that will be part of the coordination effort. Factors that will be considered include:

(a) Methodology for identifying relevant assistance programs and other sources of expertise outside applicant's organization.

(b) Methodology for assessing relevance and effectiveness of resources in addressing identified industry needs.

3. *Coordination with existing resources (25 points):* Applicants should set forth a plan for interacting or coordinating with appropriate existing and/or newly-formed state and local technology-industrial assistance services, potential industry partners, and appropriate federal services, to develop a coordinated state-wide delivery system. Factors that will be considered include:

(a) Methodology and adequacy of plans for forming effective linkages and partnerships necessary to plan for and provide a coordinated range of services to meet the needs of the target population.

(b) Safeguards to ensure that planned activity does not duplicate existing services or resources.

4. *Management (15 points):* Applicants should specify plans for proper organization, staffing, and management of the planning process. Factors that will be considered include:

(a) Appropriateness and authority of the governing or managing organization to conduct a state-wide (or regional) planning process.

(b) Qualifications of the project team and its leadership to conduct a state-wide (or regional) planning process.

(c) Appropriateness of the organizational approach for carrying out the planning activity.

(d) Evidence of significant involvement and support by the state and by private industry.

5. *Financial plan (15 points):* Applicants should show the relevance and cost effectiveness of the financial plan for meeting the objectives of the project; the firmness and level of the applicant's total financial support for the project; and the plan to maintain the program after the cooperative agreement has expired. Factors that will be considered include:

(a) Cost effectiveness of the budget.

(b) Strength of commitment of proposer's cost share.

(c) Effectiveness of management plans for control of budget.

(d) Appropriateness of matching contribution.

(e) Plan for maintaining the program after the cooperative agreement has expired.

Selection Procedures

The Director of NIST will appoint an impartial evaluation panel to review and evaluate all qualified proposals in accordance with the evaluation criteria and values set forth in this notice. From the qualified proposals a group of finalists will be selected based on this review. This review process should take approximately 30 days. The Director of NIST, or her designee, shall select awardees based on the rank order of total evaluation scores, geographic distribution, and the availability of funds.

Eligibility

Eligible applicants for these projects are state technology extension programs operated by state governments, or on behalf of state governments by private or public non-profit organizations. All states will be eligible, regardless of state size, industrial density/sparseness, or number of existing industrial assistance programs. States that have received previous planning grants remain eligible for additional Program Planning projects. Applicants will be able to propose conducting the planning activities themselves or arranging for some or all of the planning activities to be carried out by a second party. One proposal for Program Planning will be accepted per state.

Financial Information

A matching contribution from each applicant is required. NIST may provide financial support up to 50% of the total budget for the project, however, the federal share may not exceed $150,000. The applicant's share of the budget may include dollar contributions from state, county, industrial or other non-federal sources and in-kind contributions necessary and reasonable for proper accomplishment of project objectives.

Required Letters

A letter will be required from the Governor indicating that the eligible applicant is the lead organization in that state for Program Planning activities, and acknowledging that there is only one proposal from that state for a Program Planning project. Where more than one such otherwise qualified Program Planning proposal per state is submitted, all such proposals from that state may be disqualified.

Program Implementation Projects

Project Objective

The purpose of Program Implementation projects is to support the implementation of comprehensive, state-wide industrial extension programs and/or pilot testing of new program and service concepts, such as pilot outreach centers and other extension activities, to help small and medium-sized manufacturers improve productivity and competitiveness.

For projects that support the implementation of a comprehensive state-wide industrial extension system, activities must build upon existing services and be consistent with comprehensive state plans, if such plans exist. Extension programs should provide access to a range of services, including but not limited to: technical extension, training, management assistance, and quality improvement.

Pilot testing of new services and activities will be permitted on a limited

scale where there is an intent to replicate these services on a larger scale or to move toward full-scale implementation. Accordingly, pilot testing must include evaluation, analysis and documentation, and may include some planning activities as necessary.

NIST plans to give priority consideration to projects having the best potential to benefit areas with relatively sparse distribution of industry, or low density industry areas that do not lend themselves to large extension centers as a method of service delivery.

Program Implementation Projects Evaluation Criteria

Proposals from applicants will be evaluated and rated on the basis of the following criteria by an impartial competitive review panel. Each proposal should address all six selection criteria and selection criteria 1–4 will be weighted more heavily than criteria 5–6. Selection will be based upon total evaluation score as well as geographic distribution.

1. *Target population (20 points):* Potential applicants will be required to identify a population of beneficiary companies (the target population) and their technology-related assistance needs in the proposed service area. Factors that will be considered include:

(a) A clear definition of the target population, its size and demographic characteristics.

(b) Demonstrated understanding of the target population's assistance needs, e.g., technology, training, information, quality improvement, management, etc.

(c) Appropriateness of the size of the target population and the anticipated impact for the proposed expenditure.

2. *Delivery mechanisms (20 points):* Applicants will need to specify the mechanism for delivery of services to the population of beneficiary companies (the target population). Factors that will be considered include:

(a) Appropriateness and effectiveness of proposed delivery mechanism for meeting the identified needs of the target population.

(b) Demonstration of capacity to form effective linkages and partnerships with other appropriate service providers.

(c) Technical quality of the proposed approach, including knowledge and use of best industrial modernization practices.

3. *Coordination with existing resources (20 points):* Applicants will need to describe how they will coordinate with existing or newly formed state or local technology/industrial assistance services, and federal services, to allow for increased economies of scale and to avoid duplication of services in providing assistance to small and medium-sized manufacturers. For a comprehensive, state-wide industrial extension program, the applicant must show the degree to which activities integrate with and enhance existing or newly formed state, local, and appropriate federal technology assistance and industrial modernization activities to present a unified program of assistance. Factors that will be considered include:

(a) Demonstrated understanding of existing organizations and resources relevant for providing technology assistance related services to the target population.

(b) Adequate linkages and partnerships with existing organizations and clear definition of those organizations' roles in the proposed activities.

(c) Proposed activity does not duplicate existing services or resources.

(d) Consistency with comprehensive state plans if such plans exist.

4. *Program evaluation (20 points):* The applicant should specify plans for evaluation of the effectiveness of the proposed program and for ensuring continuous improvement of program activities. Factors that will be considered include:

(a) Thoroughness of evaluation plans, including internal evaluation for management control, external evaluation for assessing outcomes of the activity, and "customer satisfaction" measures of performance.

(b) In the case of pilot projects, the proposer's plan must include documentation, analysis of the results, and must show how the results can be used in program development.

5. *Financial plan (10 points):* Applicants should show the relevance and cost effectiveness of the financial plan for meeting the objectives of the project; the firmness and level of the applicant's total financial support for the project; and a plan to maintain the program after the cooperative agreement has expired. Factors that will be considered include:

(a) Reasonableness of the budget, both in income and expenses.

(b) Strength of commitment of the proposer's cost share.

(c) Effectiveness of management plans for control of budget.

(d) Appropriateness of matching contributions.

(e) Plan for maintaining the program after the cooperative agreement has expired.

6. *Management (10 points):* Applicants should specify plans for proper organization, staffing, and management of the implementation process. Factors that will be considered include:

(a) Appropriateness and authority of the governing or managing organization to conduct the proposed activities.

(b) Qualifications of the project team and its leadership to conduct the proposed activity.

(c) Soundness of staffing plans, including recruitment, selection, training, and continuing professional development.

(d) Appropriateness of the organizational approach for carrying out the proposed activity.

(e) Evidence of significant involvement and support by private industry.

Selection Procedures

The Director of NIST will appoint an impartial evaluation panel to review and evaluate all qualified proposals in accordance with the evaluation criteria and values set forth in this notice. From the qualified proposals a group of finalists will be selected based on this review. This review process should take approximately 30 days. The Director of NIST, or her designee, shall select awardees based on the rank order of total evaluation scores, geographic distribution, and the availability of funds.

Eligibility

Eligible applicants for these projects are state technology extension programs operated by state governments, or on behalf of state governments by private or public non-profit organizations. States that have received previous implementation grants remain eligible for additional Program Implementation projects. Applicants will be able to propose providing services directly or arranging for the provision of some or all of the proposed services by a second party. More than one proposal may be accepted from each state.

Financial Information

A matching contribution from each applicant will be required. NIST may provide financial support up to 50 percent of the total budget for the project; however, the federal share may not exceed $250,000. One half of the applicant's required match (i.e. 25% of the total) must be non-federal cash. Cash may include dollar contributions from state, county, industrial or other non-federal sources. The applicant's share of the budget may include in-kind contributions necessary and reasonable for proper accomplishment of project objectives.

Required Letters

All proposals for Program Implementation projects must contain a letter from the Governor indicating that the applicant is the lead organization in that state for conducting the proposed activities.

Where linkages to other organizations are proposed, applicants are advised to include a letter of support and commitment from the linking organization.

Regional Linkages Projects

Project Objective

The purpose of Regional Linkage projects is to support inter-state or multi-state partnerships that will expand the scope and enhance the effectiveness of technical assistance services regionally available to small and medium-sized manufacturers. Project may be assistance service-led, or industry-led partnerships to provide assistance services that cross institutional and political boundaries. Assistance service-led partnerships, for example, can include shared assistance services that cross state boundaries, or electronic networking. Industry-led partnerships can include linkage activities between original equipment manufacturers (OEMs) and suppliers, creating a multi-state network of suppliers, program planning for multi-state assistance delivery, or other activities that improve the interactions between manufacturers.

Regional Projects Evaluation Criteria

Proposals from applicants will be evaluated and rated on the basis of the following criteria by an impartial competitive review panel. Each proposal should address all six selection criteria and selection criteria 1–4 will be weighted more heavily than criteria 5–6. Selection will be based upon total evaluation score as well as geographical distribution.

1. *Target population (20 points):* Potential applicants will be required to identify a population of beneficiary companies (the target population) and their technology-related assistance needs in the proposed service area. Factors that will be considered include:

(a) A clear definition of the target population, its size and demographic characteristics.

(b) Demonstrated understanding of the target population's assistance needs, eg. technology, training, information, quality improvement, management, etc.

(c) Appropriateness of the size of the target population and the anticipated impact for the proposed expenditures.

2. *Delivery mechanisms (20 points):* Applicants will need to specify the mechanism for delivery of services to the population of beneficiary companies (the target population). Facts that will be considered include:

(a) Appropriateness and effectiveness of proposed delivery mechanism for meeting the identified needs of the target population.

(b) Demonstration of capacity to form effective linkages and partnerships with other appropriate service providers.

(c) Technical quality of the proposed approach, including knowledge and use of best industrial modernization practices.

3. *Coordination with existing resources (20 points):* Applicants will need to describe how they will coordinate with existing or newly-formed technology/industrial assistance services and resources that will allow for increased economies of scale and complementary capabilities, and will avoid duplication of efforts in providing assistance to small and medium-sized manufacturers. It will be important to show how the proposed approach can reach across political or institutional boundaries to provide access to services. Factors that will be considered include:

(a) Demonstrated understanding of existing organizations and resources relevant for providing technology assistance related services to the target population.

(b) Strength of plans to establish and maintain linkages and partnerships with existing organizations (particularly across state boundaries), and a clear definition of those organizations' roles in the proposed activities.

(c) Proposed activity does not duplicate existing services or resources.

(d) Consistency with comprehensive state plans if such plans exist.

4. *Program evaluation (20 points):* The applicant should specify plans for evaluation of the effectiveness of the proposed program and for ensuring continuous improvement of program activities. Factors that will be considered include:

(a) Thoroughness of evaluation plans, including internal evaluation for management control, external evaluation for assessing outcomes of the activity, and "customer satisfaction" measures of performance.

(b) Plans for the documentation, analysis for the results, and how the results can be used in program development.

5. *Financial plan (10 points):* Applicants should show that relevance and cost effectiveness of the financial plan for meeting the objectives of the project; the firmness and level of the applicant's total financial support for the project; and the plan to maintain the program after the cooperative agreement has expired. Factors that will be considered include:

(a) Reasonableness of the budget, both in income and expenses.

(b) Strength of commitment of the proposer's cost share.

(c) Effectiveness of management plans for control of the budget.

(d) Appropriateness of matching contributions.

(e) Plan for maintaining the program after the cooperative agreement has expired.

6. *Management (10 points):* Applicants should specify plans for proper organization, staffing, and management of the implementation process. Factors that will be considered include:

(a) Appropriateness and authority of the governing or managing organization to conduct the proposed inter-state or multi-state activities.

(b) Qualifications of the project team and its leadership to conduct the proposed activity.

(c) Soundness of staffing plans, including recruitment, selection, training, and continuing professional development.

(d) Appropriateness of the organizational approach for carrying out the proposed activity.

(e) Evidence of significant involvement and support by private industry.

Selection Procedures

The Director of NIST will appoint an impartial evaluation panel to review and evaluate all qualified proposals in accordance with the evaluation criteria and values set forth in this notice. From the qualified proposals a group of finalists will be selected based on this review. This review process should take approximately 30 days. The Director of NIST, or her designee, shall select awardees based on the rank order of total evaluation scores, geographic distribution, and the availability of funds.

Eligibility

Eligible applicants for these projects will be state and local governments, representing either themselves or a consortium of states, and appropriate private or public non-profit organizations, operating on behalf of a consortium of states or as a representative of states. Applicants will be able to propose providing services directly or arranging for the provision of any or all of the proposed services by a second party. At least one state

represented in the partnership or consortium must be characterized by relatively sparse distribution of industry or as having lower industrial densities.

Financial Information

A matching contribution from each applicant will be required. NIST may provide financial support up to 50% of the total budget for the project; however, the federal share may not exceed $250,000. The applicant's share of the budget may include dollar contributions from state, county, industrial or other non-federal sources and in-kind contributions necessary and reasonable for proper accomplishment of project objectives.

Additional Requirements

Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Preaward Activities

If applicants incur any cost prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DOC are made.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Primary Applicant Certification

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided.

1. Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. Drug Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. Anti-Lobbying

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transaction at any tier under the award to submit, if applicable, a complete Form CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities;" Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Catalog of Federal Domestic Assistance

The catalog number for the award of State Technology Extension Program funds in the Catalog of Federal Domestic Assistance is 11613.

Executive Order 12372 "Intergovernmental Review of Federal Programs."

Is applicable to the extent permitted by law.

Classification

The Manufacturing Extension Partnership is being carried out under the authority of the Omnibus Trade and Competitiveness Act of 1988, as amended 15 U.S.C. 2781. This notice relating to public property, loans, grants, benefits, or contracts is exempt from all requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553(a)(2)) including notice and opportunity for comment. Therefore, a Regulatory Flexibility Analysis is not required and was not prepared for this notice for purposes of the Regulatory Flexibility Act (5) U.S.C. 603 and 604). The program is not a major Federal action requiring an environmental assessment under the National Environmental Policy Act. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. This notice contains collection of information requirements subject to the Paperwork Reduction Act which have been approved by the Office of Management and Budget (OMB Control Number 0693–0010).

Dated: January 6, 1994.

Samuel Kramer,

Associate Director.

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LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

A cumulative list of Public Laws for the first session of the 103d Congress was published in Part IV of the **Federal Register** on January 3, 1994.

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103d Congress, 2d Session, 1994

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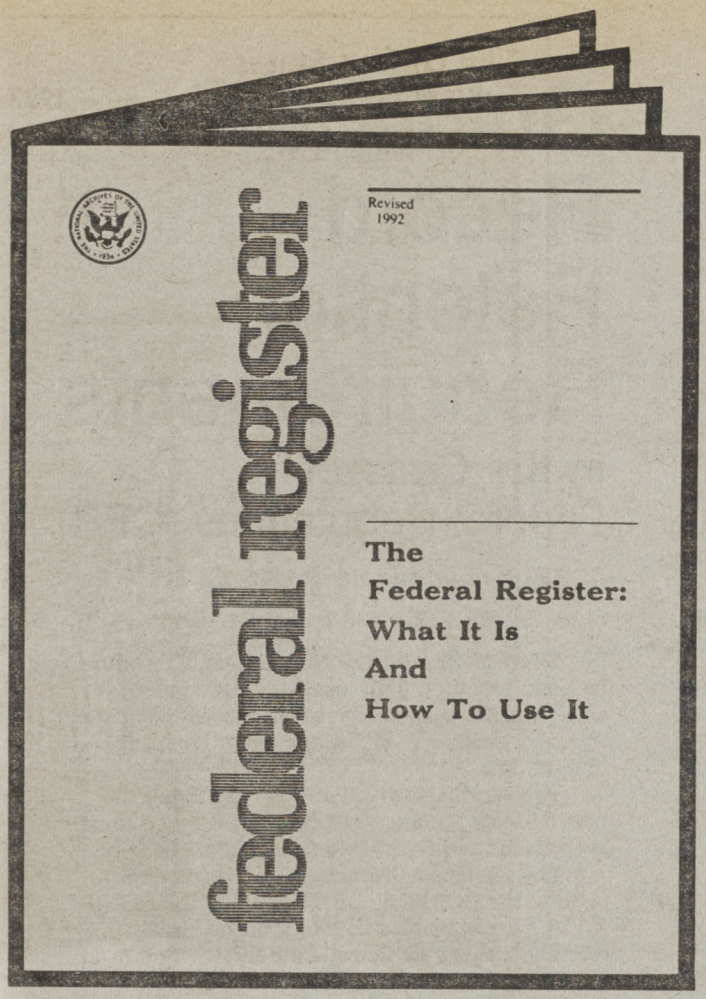

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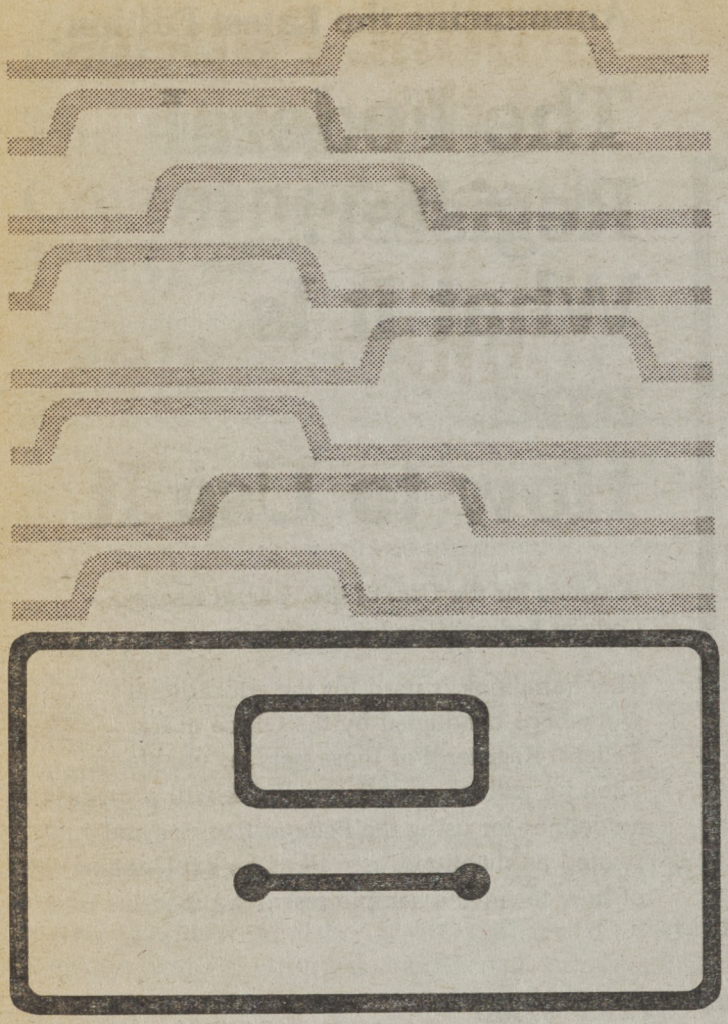

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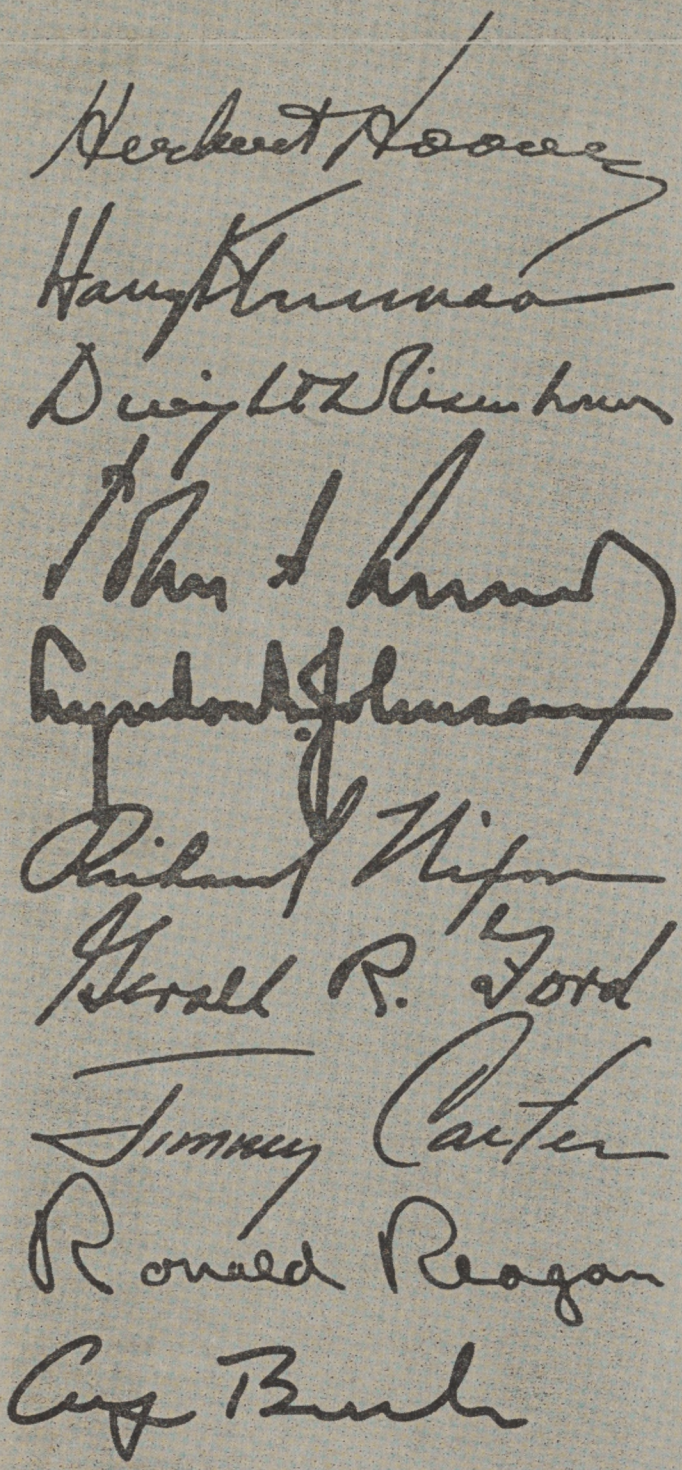

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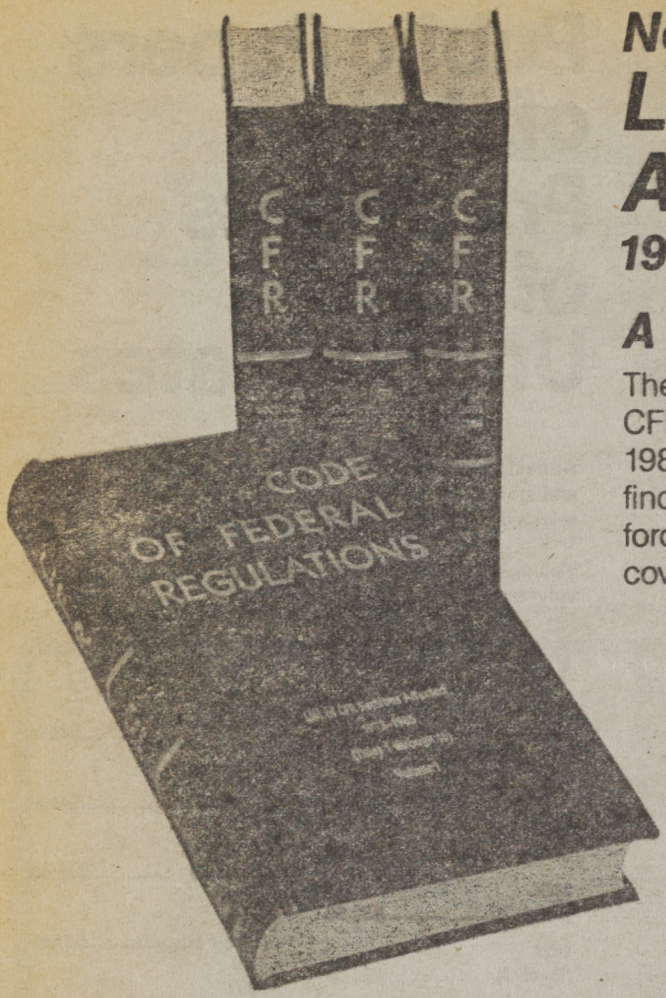

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