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Electronic Bulletin Board

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 27664]

The High Density Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: As part of the Clinton Administration's initiative to help revitalize the airline industry, the Department of Transportation (the Office of the Secretary and the FAA) is reviewing the 25 year old High Density Traffic Airports Rule (HDR), a regulation that limits hourly takeoffs and landings (slots) at the following airports: New York's LaGuardia and Kennedy; Chicago's O'Hare; and Washington, D.C.'s National. The review will be a thorough examination of the slot rule to assess airline capacity, competition, fares, and service patterns at the four airports. It will also evaluate the rule's economic, operational and environmental impacts, including the way domestic and international slots are allocated, and will consider alternative traffic management techniques. On April 1, 1994, the FAA published a request for comments to gather information on the effectiveness and viability of the HDR and any potential alternatives to the rule (59 FR 15332; Docket No. 27664). The comment period closed on May 27, 1994, and approximately 100 comments have been received. These public meetings will report study progress and give the public another opportunity to comment on the HDR. If the results of the review suggest changes to the HDR, those changes would be proposed through the regulatory process, pursuant to the Administrative Procedure Act. Changes affecting the number of instrument flight rule takeoffs and landings authorized for air carriers for Washington National Airport would require a legislative change since they are imposed by statute.

DATES: The public meetings will be held as follows: Washington, DC—Wednesday, October 19, 1994; New York—Friday, October 21, 1994; Chicago—Thursday, November 17, 1994. The meetings will be held from 12 p.m.–4 p.m. and 6 p.m.–8 p.m. Persons not able to attend a meeting are invited to provide written comments, which must be received on or before November 23, 1994.

ADDRESSES: The exact locations of the public meetings will be published in a separate **Federal Register** notice. Persons unable to attend the meeting may mail their comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket (AGC–200), Docket No. 27664, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Cindy Herman, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7627; fax (202) 267–5075.

Questions concerning the subject matter of the meeting should be directed to Mr. Larry Barry, APO–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3305.

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Requests from persons who wish to present oral statements at the Washington, DC or New York public meetings should be received by the FAA no later than October 3, 1994. Requests from persons who wish to present oral statements at the Chicago public meeting should be received by the FAA no later than November 1, 1994. Such request should be submitted to Cindy Herman, as listed above in the section titled "FOR FURTHER INFORMATION CONTACT" and should include at which meeting oral statements will be presented, a written summary of oral remarks to be presented, and the estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting. Requests to present oral statements may be made on the day of the public meetings during the registration period, although time constraints may not permit the accommodation of such requests. The DOT will prepare an agenda of speakers that will be available at the meeting. The names of those individuals whose requests to present oral statements are received after the date specified above may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Background

The HDR (14 CFR part 93, Subpart K) was adopted in 1969 as a temporary measure to reduce delays at five congested airports: JFK International, LaGuardia, Newark International, O'Hare International, and Washington National. Total hourly limits on the number of operations, or operating "slots", were imposed at each airport during certain hours of the day. For each airport, the hourly total was divided into three operator categories: air carrier, commuter (originally air taxi), and "other", which consists primarily of general aviation and charters. The limits were based on the Engineering Performance Standards (EPS), which are a method for determining the Instrument Flight Rules (IFR) operating capacity of an airport.

All limitations for Newark Airport were removed from the HDR in the early 1970's. The limits were made permanent at the four other airports in 1973, and have remained in effect in some form since 1969. Between 1981 and 1984, the HDR was superseded by the Interim Operations Plan adopted in response to the air traffic controllers' strike (SFAR 44). All SFAR 44 limitations were lifted, and the HDR limitations reinstated, by the "Interim Final Rule" issued in March 1984 (49 FR 8237, March 6, 1984). At Washington National Airport, slots are further limited by statute.

The hour and category limits in the HDR are enforced by a regulatory requirement to have an Air Traffic Control reservation for a takeoff or landing at a high density airport during restricted hours. Air carrier and

commuter reservations are considered slots, which are continuing reservations at the same time each day. "Other" category reservations are allocated on an ad hoc basis for individual operations, using a first-come first-served reservation system. Reservations are available up to 48 hours in advance of the time of operation by calling a voice-activated computer system maintained by the FAA Air Traffic System Command Center.

The Study

The review now being conducted by the DOT will include the specific issues for public comment listed below. The requirements of each of the four airports will be reviewed separately but each airport's relation to the national air traffic system will be considered. Any changes to the HDR will be subject to the separate process required by the Administrative Procedure Act. In the case of Washington National, a change to the HDR would also require a statutory change.

Specific Issues for Public Comment

There are several specific issues on which the DOT seeks comment at the public meeting. These key issues are intended to help focus public comments on areas which will be useful to the DOT in completing its review of the HDR. The comments at the meetings need not be limited to these issues, and the DOT invites comments on any other aspect of the HDR.

(1) The economic, environmental, competitive, and operational aspects of the HDR at the four airports.

(2) The projected air traffic environment

(3) The process for allocating domestic and international slots

(4) Access for small communities at HDR airports

(5) Potential alternatives to the current regulatory scheme at the HDR airports

Meeting Procedures

The following procedures are established to facilitate the meetings:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are scheduled to present statements or who register on the day of the meeting (between 10:45 a.m. and 11:45 a.m.) subject to availability of space in the meeting rooms. The meetings may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meetings.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(3) The DOT will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the DOT reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(4) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

(5) Representatives of the DOT will preside over the meeting. A panel of DOT and FAA personnel involved in this issue will be present.

(6) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the DOT representatives during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. Additional transcript purchase information will be available at the meeting.

(7) The DOT will review and consider all material presented by participants at the meeting. Position papers or material presenting views or arguments related to the HDR may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The DOT requests that persons participating in the meeting provide five copies of all materials to be presented for distribution to the DOT representatives; other copies may be provided to the audience at the discretion of the participant.

(8) Statements made by DOT representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a DOT representative is not intended to be, and should not be construed as, a position of the DOT.

(9) The meetings are designed to solicit public views and more complete information on the HDR and issues discussed in this notice. Therefore, the meeting will be conducted in an informal and non adversarial manner. No individual will be subject to cross-examination by any other participant; however, DOT representatives may ask questions to clarify a statement and to ensure a complete and accurate record.

(Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1501; 49 U.S.C. 106(g)).

Issued in Washington, DC, on September 14, 1994.

Dale E. McDaniel,

Deputy Assistant Administrator for Policy, Planning & International Aviation.

[FR Doc. 94–23258 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 27887; Amdt. No. 385]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, October 13, 1994.

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 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and that is free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or

circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedures before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment 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 95

Airspace, Navigation (Air).

Issued in Washington, DC, on September 2, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption for the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC:

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354, and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM EN ROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 385 Effective Date, October 13, 1994]

From	To	MEA
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Hartford, CT VORTAC *4000—MRA **2500—MOCA	*Graym, MA FIX	**3000
Graym, MA FIX *2500—MOCA	Boston, MA VORTAC	*3000
§95.6003 VOR Federal Airway 3 is Amended To Read In Part		
Key West, FL VORTAC *15000—MCA Bipin Fix, W Bnd.	*Bipin, FL Fix	15000
Bipin, FL FIX *1400—MOCA	Sommy, FL FIX	*2000
§95.6035 VOR Federal Airway 35 is Amended To Read in Part		
Key West, FL VORTAC *15000—MCA Bipin FIX, W Bnd.	Bipin, FL FIX W Bnd	15000
Bipin, FL FIX *1400—MOCA	Sommy, FL FIX	*2000
Sommy, FL FIX *1300—MOCA	Drown, FL FIX	*5000
§95.6056 VOR Federal Airway 56 is Amended To Read in Part		
Macon, GA VORTAC *3000—MRA **2200—MOCA	*Misty, GA FIX	**6000
§95.6116 VOR Federal Airway 116 is Amended To Read in Part		
Nepts, MI FIX	Keeler, MI VORTAC	2400
Keeler, MI VORTAC	Kalamazoo, MI VOR/DME	2600
Kalamazoo, MI VOR/DME	Jackson, MI VOR/DME	2700
§95.6172 VOR Federal Airway 172 is Amended To Read in Part		
Polo, IL VORTAC	Dupage, IL VOR/DME	2600
§95.6177 VOR Federal Airway 177 is Amended To Read in Part		
Joliet, IL VORTAC	Janesville, WI VORTAC	2600

From	To	MEA	MAA
§95.7151 Jet Route No. 151 is Amended to Read In Part			
Rapid City, SD VORTAC	Billings, MT VORTAC	#22000	45000

#MEA is established with a gap in navigation signal coverage.

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
V–116 is Amended by Adding			
Kalamazoo, MI VOR/DME	Jackson, MI VOR/DME	36	Kalamazoo
V–508 is Amended by Adding			
Sparrevohn, AK VOR/DME	Aniak, AK Ndb	68	Sparrevohn

§ 95.8005 JET ROUTES CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
J–48 is Amended to Read in Part			
Casanova, VA VORTAC	Montebello, VA VOR/DME	58	Casanova

[FR Doc. 94–23255 Filed 9–19–94; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27900; Amdt. No. 1622]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are 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, Navigation (Air).

Issued in Washington, DC, on September 9, 1994.

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); 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, 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 December 8, 1994*

Carlsbad, CA, McClellan-Palomar, ILS RWY 24, Amdt 7
Denison, IA, Denison Muni, NDB OR GPS RWY 30, Amdt 4
Coffeyville, KS, Coffeyville Muni, VOR/DME RNAV RWY 35, Amdt 3
Coffeyville, KS, Coffeyville Muni, VOR/DME OR GPS–A, Amdt 6
Lexington, KY, Blue Grass, VOR OR GPS–A, Amdt 8
Lexington, KY, Blue Grass, NDB RWY 4, Amdt 19
Lexington, KY, Blue Grass, ILS RWY 4, Amdt 14
Lexington, KY, Blue Grass, ILS RWY 22, Amdt 15
Lexington, KY, Blue Grass, RADAR–1, Amdt 9
Caldwell, NJ, Essex County, NDB OR GPS–A, Amdt 5
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 10, Amdt 5
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 28, Amdt 2
Ithaca, NY, Tompkins County, VOR OR GPS RWY 14, Amdt 12

** * * Effective November 10, 1994*

Wichita, KS, Colonel James Jabara, VOR/DME RNAV OR GPS RWY 18, Amdt 2
Gaithersburg, MD, Montgomery County Airpark, VOR/DME RNAV RWY 14, Amdt 4
Boyne Falls, MI, Boyne Mountain, NDB–C, Orig
Middletown, NY, Randall, NDB RWY 26, Orig, CANCELLED
Johnstown, PA, Johnston-Cambria County, ILS RWY 33, Amdt 3
Williamsport, PA, Williamsport-Lycoming County, VOR/DME RNV–A, Orig.

** * * Effective October 13, 1994*

Ankeny, IA, Ankeny Regional, NDB RWY 36, Orig
Port Huron, MI, St Clair County Intl, VOR/DME–A, Amdt 7
Port Huron, MI, St Clair County Intl, NDB RWY 4, Amdt 2
Port Huron, MI, St Clair County Intl, ILS RWY 4, Amdt 2
Port Huron, MI, St Clair County Intl, VOR/DME RNAV RWY 22, Amdt 2
Georgetown, OH, Brown County VOR/DME–A Orig
Georgetown, OH, Brown County, NDB RWY 35, Amdt 3, CANCELLED
Painesville, OH, Casement, NDB–B, Amdt 8
Willoughby, OH, Willoughby Lost Nation Muni, VOR–B, Orig
Willoughby, OH, Willoughby Lost Nation Muni, NDB or GPS RWY 9, Amdt 9
Willoughby, OH, Willoughby Lost Nation Muni, NDB or GPS RWY 27, Amdt 12

[FR Doc. 94–23256 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27901; Amdt. No. 1623]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, 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 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

the airport, its location, the procedure identification and the amendment number.

The Rule

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

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days. Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPs. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are 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; (2) is not a "significant rule" rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC, on September 9, 1994.

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); 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, 97.35 [Amended]

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

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
08/25/94	NE	Norfolk	Norfolk/Karl Stefan Memorial.	FDC 4/4843	VOR OR GPS RWY 13, AMDT 6.
08/25/94	NE	Norfolk	Norfolk Karl Stefan Memorial.	FDC 4/4845	VOR OR GPS RWY 31, AMDT 6.
08/26/94	NE	Norfolk	Norfolk/Karl Stefan Memorial.	FDC 4/4869	VOR OR GPS RWY 19, AMDT 6.
08/31/94	AK	Galena	Galena	FDC 4/4964	VOR RWY 25, AMDT 9C.
08/31/94	FL	Miami	Opa Locka	FDC 4/4973	ILS RWY 9L, AMDT 2.
08/31/94	LA	Many	Hart	FDC 4/4959	NDB RWY 12 AMDT 4.
08/31/94	WI	Merrill	Merrill Muni	FDC 4/4965	NDB RWY 16 AMDT 6.
08/31/94	WI	Merrill	Merrill Muni	FDC 4/4966	NDB OR GPS RWY 7 AMDT 2.

[FR Doc. 94–23257 Filed 9–19–94; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 208

[Docket No. R–94–1691; FR–3521–C–04]

RIN 2502–AG16

Electronic Transmission of Required Data for Certification and Recertification and Subsidy Billing Procedures for Multifamily Subsidized Projects: Notice of Correction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: On August 24, 1994, the Department published a final rule that added provisions to regulations that require electronic transmission to HUD of certain tenant data by owners of certain subsidized multifamily projects and by the public agencies that administer the assistance contracts for HUD. The purpose of this document is to correct the listing of one telephone number in the preamble of that rule.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. 20410, telephone (202) 708–3944. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The telephone number listed in the preamble to the final rule for obtaining information about PC SprintMail software from the TRACS Central Facility was incorrect. This document corrects that telephone number.

Accordingly, in FR Doc. 94–20656, a final rule published in the **Federal Register** on August 24, 1994 (59 FR 43472), the telephone number listed under the heading "*The PC SprintMail Electronic Information Packet*", found in column one on page 43473 is corrected to read 1–800–767–7588.

Dated: September 14, 1994.

Brenda W. Gladden,

Acting Assistant General Counsel for Regulations.

[FR Doc. 94–23179 Filed 9–19–94; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Louisiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with additional requirements, a proposed amendment to the Louisiana regulatory program (hereinafter referred to as the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposed revisions to the Louisiana Surface Mining Regulations (LSMR) pertaining to revegetation success standards for tree and shrub stocking on lands with a postmining land use of forestry. The amendment specifies revegetation success standards for final bond release on reclaimed lands developed for forestry.

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. General background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Louisiana program can be found in the October 10, 1980, **Federal Register** (45 FR 67340). Subsequent actions concerning Louisiana's program and program amendments can be found at 30 CFR 918.15 and 918.16.

II. Proposed Amendment

By letter dated May 3, 1994, Louisiana submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. LA–348). Louisiana submitted the proposed amendment at its own initiative. The provision of its regulatory program that Louisiana proposed to revise was LSMR 53123.B.4.a, standards for success of revegetation at final bond release on reclaimed lands developed for forestry.

In the May 26, 1994, **Federal Register** (59 FR 27252), OSM announced receipt of the proposed amendment, provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. 348.02). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 27, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of LSMR 53123.B.4.a, revegetation success standards for tree and shrub stocking on lands with a postmining land use of forestry. OSM notified Louisiana of the concerns by letter dated July 11, 1994 (administrative record No. LA–348.10).

In a letter dated August 16, 1994, Louisiana responded that (1) it would not, at this time, submit revisions in response to OSM's July 11, 1994, issue letter, and (2) OSM should proceed with the publishing of the final rule **Federal Register** notice (administrative record No. LA–348.11).

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with additional requirements, that the proposed program amendment submitted by Louisiana on May 3, 1994, is no less effective than the requirements of the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

1. *LSMR 53123.B.4.a, Standards for Success of Revegetation at Final Bond Release on Reclaimed Lands Developed for Forestry.*

a. *Revegetation success standards for tree stocking and ground cover.* Louisiana proposed to revise LSMR 53123.B.4.a to require that prior to final bond release there shall be 450 well-distributed free-to-grow live pine trees per acre of the same age or 250 well-distributed live hardwood trees per acre of the same age, and that countable stems shall be a minimum of 3 years old. At proposed LSMR 53123.B.4.a, Louisiana defined "well-distributed" to mean uniform stockings levels over an entire planting site, and "free-to-grow" to mean pine seedlings or saplings without significant hardwood competition, competing vegetation shades the pine's crown on less than 30 percent of the crown's circumference, and the pines are judged to have better

than a 90 percent chance of capturing a place in the crown canopy.

LSMR 53123.B.4.a, which OSM previously approved (October 28, 1992; 57 FR 48726; administrative record No. LA–350), requires that vegetative ground cover shall not be less than 70 percent (administrative record Nos. LA–321 and LA–350). Louisiana's existing LSMR 53117.A.4, applicable to revegetation on land reclaimed for any land use, requires that a vegetative cover be established that is capable of stabilizing the soil surface from erosion. Therefore, the requirement for 70 percent ground cover on land developed for forestry is a minimum standard that must be increased if it is insufficient to control erosion.

Louisiana stated at proposed LSMR 53123.B.4.a that the tree stocking and ground cover standards were developed after consultation with and approval by the Louisiana Department of Agriculture and Forestry. Louisiana submitted to OSM a letter, dated December 27, 1993, from the Louisiana Office of Forestry, Department of Agriculture and Forestry (administrative record No. LA–348.01). In it, the Office of Forestry concurred with the technical success standards for areas developed for forestry proposed at LSMR 53123.B.4.a.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) require that minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a programwide or a permit-specific basis.

Because Louisiana proposed, at LSMR 53123.B.4.a, to specify the minimum stocking and planting arrangements, and submitted approval by the State agency responsible for the administration of forestry, Louisiana has proposed programwide standards for all reclaimed land with a designated postmining land use of forestry.

The Director finds that proposed LSMR 53123.B.4.a is no less effective than the requirements of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i), and approves it.

b. *Utility of trees for the approved postmining land use and tree health.* Louisiana proposed at LSMR 53123.B.4.a to delete the requirements that the trees that will be used in determining the success of stocking and the adequacy of the plant arrangement shall (1) have utility for the approved postmining land use and (2) be healthy.

The Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require (in part) that trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall (1) have utility for the approved postmining land use and (2) be healthy.

Because Louisiana has deleted the State counterparts to the Federal requirements, the Director finds that proposed LSMR 53123.B.4.a is less effective than the requirements of the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). The Director requires that Louisiana revise LSMR 53123.B.4.a to include these requirements.

c. *Length of time trees have been established.* Louisiana proposed at LSMR 53123.B.4.a to delete the requirement that, at the time of final bond release, at least 80 percent of the trees and shrubs shall have been in place for 60 percent of the 5-year responsibility period. Louisiana proposed to require that (1) there shall be 450 well-distributed free-to-grow live pine trees per acre of the same age or 250 well-distributed live hardwood trees per acre of the same age and (2) countable stems shall be a minimum of 3 years old.

The Federal regulations at 30 CFR 816.116(b0(3)(ii) and 817.116(b)(3)(ii) require in part that, at the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility ("80/60 requirement").

OSM interprets proposed LSMR 53123.B.4.a to require that 100 percent (i.e., all countable stems) of the trees must be in place for a minimum of 60 percent of the responsibility period (i.e., 3 of the 5-year minimum period of responsibility). Under this interpretation, proposed LSMR 53123.B.4.a is no less effective than the "80/60 requirement" in the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). However, before OSM can make this determination, Louisiana must clarify that this is its intent. Therefore, the Director requires that Louisiana either (1) clarify, by policy statement, that proposed LSMR 53123.B.4.a requires that 100 percent (i.e., all countable stems) of the trees must be in place for a minimum of 60 percent of the responsibility period (i.e., 3 of the 5-year minimum period of responsibility), or (2) revise proposed LSMR 53123.B.4.a to add the requirement that at least 80 percent of the trees and shrubs used to determine success of revegetation shall have been in place for 60 percent of the applicable minimum period of responsibility.

IV. Summary and Disposition of Comments

Following are summaries of all substantive oral and written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Louisiana program (administrative record No. LA–348.03).

The U.S. Army Corps of Engineers responded on June 10, 1994, that the proposed revisions were satisfactory (administrative record No. La–348.04).

The U.S. Bureau of Mines responded on June 14, 1994, that it had no comments (administrative record No. LA–348.05).

The U.S. Forest Service responded on June 15, 1994, that, after consulting the forest administrators in Louisiana, it had no comments (administrative record No. LA–348.06).

The U.S. Soil Conservation Service (SCS) responded on June 20, 1994, that (1) it concurred with the number of trees required for successful revegetation of mined forest land, (2) it recommended a ground cover of at least 75 percent to prevent unacceptable levels of soil erosion, and (3) all gullies should be repaired and revegetated prior to final bond release (administrative record No. 348.08).

With respect to the SCS comment concurring with the number of trees required to demonstrate revegetation success, as discussed in finding No. 1.a, the Director is approving the standard for the tree stocking rate proposed by Louisiana at LSMR 53123.B.4.a.

With respect to the SCS comment concerning a recommended ground cover of 75 percent, as discussed in finding No. 1.a, Louisiana's requirement at LSMR 53123.B.4.a for 70 percent ground cover was previously approved by OSM and is a minimum standard. The Federal regulations of 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii) require, for areas to be developed for forestry, that vegetative ground cover shall not be less than that required to achieve the approved postmining land use. Louisiana, at LSMR 531117.A.4 (which is applicable to revegetation on

land reclaimed for any land use), requires that a vegetative cover be established that is capable for stabilizing the soil surface from erosion.

LSMR 53117.A.4 is substantively identical to the requirements of the Federal regulations at 30 CFR 816.111(a)(4) and 817.111(a)(4). In addition, Louisiana requires at LSMR 53121.A that suitable mulch and other soil stabilizing practices shall be used on all regraded and topsoiled areas to control erosion, promote germination of seeds, or increase the moisture content of the soil. LSMR 53121.A is no less effective than the requirements of the Federal regulations at 30 CFR 816.114 and 817.114. Louisiana's standard for ground cover at LSMR 53123.B.4.a, in conjunction with the requirements at LSMR 53117.A.4 and 53121.A, is consistent with and no less effective in meeting SMCRA's requirements than the Federal regulations at 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii). Therefore, the Director is not requiring that Louisiana revise the standard for ground cover on areas to be developed for forestry at LSMR 53123.B.4.a in response to this comment.

With respect to the SCS comment that gullies should be repaired and revegetated prior to final bond release, Louisiana's program at LSMR 53115 requires that (1) when rills and gullies deeper than 9 inches form in areas that have been regarded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted according to the requirements of LSMR 53117 through 53123, and (2) rills or gullies of lesser size be stabilized and the area reseeded or replanted if the rills or gullies are disruptive to the approved postmining land use or may result in additional erosion and sedimentation. Therefore, because Louisiana's approved program addresses the repair and revegetation of gullies, the Director is not requiring that Louisiana revise LSMR 53123.B.4.a in response to this comment.

The U.S. Fish and Wildlife Service responded on June 21, 1994, that it had no objection to the proposed amendment (administrative record No. 348.07).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Louisiana proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. LA–348.03). It responded on July 8, 1994, that it had no comments (administrative record No. LA–348.09).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit the written comments of SHPO and ACHP with respect to those provisions of the proposed program amendment that relate to historic properties.

None of the revisions that Louisiana proposed to make in its amendment pertain to historic properties. Therefore, OSM did not request SHPO and ACHP comments.

V. Director's Decision

Based on the above findings, the Director approves with additional requirements Louisiana's proposed amendment as submitted on May 3, 1994.

With the requirement that Louisiana further revise its rules, the Director approves, as discussed in finding Nos. 1.a through 1.c, LSMR 53123.B.4.a, concerning standards of success for revegetation on lands developed for forestry.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 918.16 that, within 60 days of the publication of this final rule, Louisiana must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Louisiana's established administrative or legislative procedures.

The Federal regulations at 30 CFR Part 918, codifying decisions concerning the Louisiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 14, 1994.

Russell F. Price,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 918—LOUISIANA

1. The authority citation for Part 918 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 918.15 is amended by revising the section heading and adding paragraph (d) to read as follows:

§ 918.15 Approval of amendments to the Louisiana regulatory program.

* * * * *

(d) Revisions to LSMR 53123.B.4.a, revegetation success standards for forestry, as submitted to OSM on May 3, 1994, are approved effective September 20, 1994.

3. Section 918.16 is revised to read as follows:

§ 918.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), Louisiana is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Louisiana's established administrative or legislative procedures.

(a) By November 21, 1994, Louisiana shall revise LSMR 53123.B.4.a or otherwise modify its program, to require that trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall (1) have utility for the approved postmining land use and (2) be healthy.

(b) By November 21, 1994, Louisiana shall revise LSMR 53123.B.4.a or otherwise modify its program, to either (1) clarify, by policy statement, that proposed LSMR 53123.B.4.a requires that 100 percent (i.e., all countable stems) of the trees must be in place for a minimum of 60 percent of the responsibility period, or (2) add the requirement that at least 80 percent of the trees and shrubs used to determine success of revegetation shall have been in place for 60 percent of the applicable minimum period of responsibility.

[FR Doc. 94-23247 Filed 9-19-94; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 46-3-6506; FRL-5066-7]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on January 12, 1994. The revision concerns a rule from the Santa Barbara County Air Pollution Control District (SBCAPCD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from oil refinery leaks. Thus, EPA is finalizing the approval of this revision into the California SIP 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.

EFFECTIVE DATE: This final rule is effective on October 20, 1994.

ADDRESSES: Copies of the rule revision and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours.

Copies of the submitted rule revision are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket 6102, 401 "M" Street, SW., Washington, DC 20460.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B-23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1197.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1994 in 59 FR 1698, EPA proposed to approve the following rule into the California SIP: SBCAPCD's Rule 331, Fugitive Emissions Inspection and Maintenance. Rule 331 was adopted by SBCAPCD on December 10, 1991. This rule was submitted by the California Air Resources Board (CARB) to EPA on June 19, 1992. This rule was submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background of the above rule and nonattainment area is provided in the NPRM cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rule meets the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 1698 and in the technical support document (TSD) available at EPA's Region IX office (TSD dated June 7, 1993).

Response to Public Comments

A 30-day public comment period was provided in 59 FR 1698. No formal comments were received.

EPA Action

EPA is finalizing action to approve the above rule for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and part D of the CAA. This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of VOCs in

accordance with the requirements of the CAA.

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

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 Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary 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 section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review not does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: August 29, 1994.

John Wise,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (188)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(188) * * *

(i) * * *

(A) * * *

(*2*) Rule 331, adopted on December 10, 1991.

* * * * *

[FR Doc. 94–23158 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 63

[AD–FRL–5073–9]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: This action corrects errors and clarifies regulatory text of the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks," which was issued as a final rule on April 22, 1994 and June 6, 1994. This rule is commonly known as the Hazardous Organic NESHAP or the HON.

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Janet S. Meyer, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5254.

SUPPLEMENTARY INFORMATION: On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the Environmental Protection Agency (EPA) promulgated in the **Federal Register** national emission standards for hazardous air pollutants (NESHAP) for the synthetic organic chemical manufacturing industry, and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. This document contains corrections to typographical and cross-referencing errors in subparts F, H, and I of the final regulations. A few editorial corrections are also being made to clarify the intent of certain provisions in these subparts.

Paragraph (e) of § 63.103 of subpart F is being revised to clarify that the source owner or operator is required to only document the basis for the determination that the provisions of the HON do not apply, and not to keep ongoing records. Tables 1 and 2 of subpart F are revised to correct typographical errors in spelling of several chemical names or the chemical abstracts services (CAS) numbers. Thiocarbanilide is being removed from table 1 of subpart F because this chemical is listed elsewhere in table 1 as diphenyl thiourea.

A few editorial changes are being made to several sections in subpart H to clarify the intent of the provisions. Section 63.163(f) is being revised to remove a requirement to inspect sealless pumps for indications of liquids dripping from the pump seal. Since this inspection will not serve the purpose of detecting failures of these pumps, the requirement to perform these inspections is being removed. The provisions of § 63.180(b)(2) are being clarified by adding a sentence explaining that inert gases are not to be considered in evaluation of instrument response factor.

A number of corrections are being made to subpart I to improve consistency in terminology and to clarify the provisions. This document corrects subpart I to use the term "pharmaceutical production process" in § 63.190(b)(5) and in the definitions section. The definition of "pharmaceutical production process" is being clarified to reflect the intent of the regulatory negotiation committee. Editorial corrections are being made to § 63.190(e) and § 63.192(e) to correct a drafting error in usage of the term "source." Several errors in cross referencing subpart A of part 63 and

other cross referencing errors are being corrected.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and Recordkeeping requirements.

Dated: September 12, 1994.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 63, subparts F, H, and I of the Code of Federal Regulations are corrected as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act (42 U.S.C. 7401, *et seq.*, as amended by Pub. L. 101–549, 104 Stat. 2399).

Subpart F—National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

2. Section 63.103 is amended by revising the first sentence of paragraph (e) to read as follows:

§ 63.103 General compliance, reporting, and recordkeeping provisions.

* * * * *

(e) The basis for the determination that a chemical manufacturing unit does not use as a reactant or manufacture as a product any organic hazardous air pollutant shall be documented. * * *

* * * * *

Table 1 of Subpart F—[Amended]

3. Table 1 of subpart F is amended by removing the entry for thiocarbanilide and its associated CAS number and group number, and by removing the terms "Butyrolacetone," "Dimethylaniline (N,N)" and "Dodecandedioic acid", in the first column, and inserting the terms "Butyrolactone," "Dimethylaniline (N,N')" and "Dodecanedioic acid" in their place, respectively.

Table 2 of Subpart F—[Amended]

4. Table 2 of subpart F is amended by revising the CAS number of hexane to read "110543."

Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

5. Section 63.160 is amended by revising paragraph (a) to read as follows:

§ 63.160 Applicability and designation of source.

(a) The provisions of this subpart apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or systems required by this subpart that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR part 63 that references this subpart.

* * * * *

6. Section 63.161 is amended by revising the definitions of "closed-vent system" and "hard-piping" to read as follows:

§ 63.161 Definitions.

* * * * *

Closed-vent system means a system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back into a process.

* * * *

Hard-piping means pipe or tubing that is manufactured and properly installed using good engineering judgement and standards, such as ANSI B31–3.

* * * * *

7. Section 63.162 is amended by revising paragraphs (b)(1) and (f)(3) to read as follows:

§ 63.162 Standards: General.

* * * * *

(b)(1) An owner or operator may request a determination of alternative means of emission limitation to the requirements of §§ 63.163 through 63.170, and §§ 63.172 through 63.174 of this subpart as provided in § 63.177.

* * * * *

(f) * * *

(3) The identification on equipment, except on a valve or connector, may be removed after it has been repaired. The identification on a valve or connector may be removed after it has been monitored as specified in § 63.168(f)(3), § 63.174(e), or § 63.175(e)(7)(i)(D), and no leak has been detected during the followup monitoring.

8. Section 63.163 is amended by revising paragraph (f) to read as follows:

§ 63.163 Standards: Pumps in light liquid service.

* * * * *

(f) Any pump that is designed with no externally actuated shaft penetrating the pump housing is exempt from the requirements of paragraphs (a) through (c) of this section.

* * * * *

9. Section 63.164 is amended by revising paragraph (c) to read as follows:

§ 63.164 Standards: Compressors.

* * * * *

(c) The barrier fluid shall not be in light liquid service.

* * * * *

10. Section 63.165 is amended by redesignating paragraphs (d) and (e) as paragraphs (d)(1) and (d)(2), respectively, and revising them to read as follows:

§ 63.165 Standards: Pressure relief devices in gas/vapor service.

* * * * *

(d)(1) Any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of paragraphs (a) and (b) of this section, provided the owner or operator complies with the requirements in paragraph (d)(2) of this section.

(2) After each pressure release, a rupture disk shall be installed upstream of the pressure relief device as soon as practicable, but no later than 5 calendar days after each pressure release, except as provided in § 63.171 of this subpart.

11. Section 63.168 is amended by revising paragraph (e)(1) and by revising paragraph (h)(2) to read as follows:

§ 63.168 Standards: Valves in gas/vapor service and in light liquid service.

* * * * *

(e)(1) Percent leaking valves at a process unit shall be determined by the following equation:

$$\%V_L=(V_L/(V_T+V_C))\times 100$$

where:

$\%V_L$=Percent leaking valves.

V_L=Number of valves found leaking excluding nonrepairables as provided in paragraph (e)(3)(i) of this section.

V_T=Total valves monitored, in a monitoring period excluding valves monitored as required by (f)(3) of this section.

V_C=Optional credit for removed valves=0.67 × net number (i.e., total removed – total added) of valves in organic HAP service removed from process unit after the date set forth in § 63.100(k) of subpart F for existing process units, and after the date of initial start-up for new sources. If credits are not taken, then V_C=0.

* * * * *

(h) * * *

(2) The owner or operator of the valve has a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable.

* * * * *

12. Section 63.169 is amended by revising paragraphs (a), (c)(3), and (d) to read as follows:

§ 63.169 Standards: Pumps, valves, connectors, and agitators in heavy liquid service; instrumentation systems; and pressure relief devices in liquid service.

(a) Pumps, valves, connectors, and agitators in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and instrumentation systems shall be monitored within 5 calendar days by the method specified in § 63.180(b) of this subpart if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method. If a potential leak is repaired as required in paragraphs (c) and (d) of this section, it is not necessary to monitor the system for leaks by the method specified in § 63.180(b) of this subpart.

* * * * *

(c) * * *

(3) For equipment identified in paragraph (a) of this section that is not monitored by the method specified in § 63.180(b) of this subpart, repaired shall mean that the visual, audible, olfactory, or other indications of a leak have been eliminated; that no bubbles are observed at potential leak sites during a leak check using soap solution; or that the system will hold a test pressure.

(d) First attempts at repair include, but are not limited to, the practices described under §§ 63.163(c)(2) and 63.168(g) of this subpart, for pumps and valves, respectively.

13. Section 63.171 is amended by revising paragraph (e) to read as follows:

§ 63.171 Standards: Delay of repair.

* * * * *

(e) Delay of repair beyond a process unit shutdown will be allowed for a valve if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the second process unit shutdown will not be allowed unless the third process unit shutdown occurs sooner than 6 months after the first process unit shutdown.

14. Section 63.172 is amended by revising paragraphs (b) and (k)(2) to read as follows:

§ 63.172 Standards: Closed-vent systems and control devices.

* * * * *

(b) Vapor recovery systems (e.g., condensers and adsorbers) shall be designed and operated to recover the organic HAP emissions or VOC emissions vented to them with an efficiency of 95 percent or greater.

* * * * *

(k) * * *

(2) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times, but not more frequently than annually.

* * * * *

15. Section 63.174 is amended by revising paragraphs (b)(1), (b)(2), (b)(3)(i); the first sentence of (b)(3)(ii); paragraph (f)(2); and the first sentence of paragraph (h)(1) introductory text to read as follows:

§ 63.174 Standards: Connectors in gas/vapor service and in light liquid service.

* * * * *

(b) * * *

(1) For each group of existing process units within an existing source, by no later than 12 months after the compliance date, the owner or operator shall monitor all connectors, except as provided in paragraphs (f) through (h) of this section.

(2) For new sources, within the first 12 months after initial start-up or by no later than 12 months after the date of promulgation of a specific subpart that references this subpart, whichever is later, the owner or operator shall monitor all connectors, except as provided in paragraphs (f) through (h) of this section.

(3) * * *

(i) Once per year (i.e., 12-month period), if the percent leaking connectors in the process unit was 0.5 percent or greater during the last required annual or biennial monitoring period.

(ii) Once every 2 years, if the percent leaking connectors was less than 0.5 percent during the last required monitoring period. * * *

* * * * *

(f) * * *

(2) The owner or operator has a written plan that requires monitoring of the connector as frequently as practicable during safe to monitor periods, but not more frequently than the periodic schedule otherwise applicable.

* * * * *

(h)(1) Any connector that is inaccessible or is glass or glass-lined, is exempt from the monitoring requirements of paragraphs (a) and (c) of this section and from the recordkeeping and reporting requirements of § 63.181 and § 63.182 of this subpart. * * *

* * * * *

16. Section 63.180 is amended by adding two sentences to the end of paragraph (b)(2) and by revising paragraph (c) introductory text to read as follows:

§ 63.180 Test methods and procedures.

* * * * *

(b) * * *

(2) * * *. For process streams that contain nitrogen, water, air, or other inerts which are not organic HAP's or VOC's, the average stream response factor may be calculated on an inert-free basis. The response factor may be determined at any concentration for which monitoring for leaks will be conducted.

* * * * *

(c) When equipment is monitored for compliance as required in §§ 63.164(i), 63.165(a), and 63.172(f) of this subpart or when equipment subject to a leak definition of 500 ppm is monitored for leaks, the monitoring shall comply with the following requirements:

* * * * *

17. Section 63.181 is amended by adding a sentence to the end of paragraph (b)(1)(i) and by revising paragraph (d)(5)(i) to read as follows:

§ 63.181 Recordkeeping requirements.

* * * * *

(b) * * *

(1)(i) * * *. With respect to connectors, the list shall be complete no later than the completion of the initial survey required by § 63.174 (b)(1) or (b)(2) of this subpart.

* * * * *

(d) * * *

(5) * * *

(i) The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. The written procedures may be included as part of the startup/shutdown/malfunction plan, required by § 63.6(e)(3), for the source or may be part of a separate document that is maintained at the plant site. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

* * * * *

18. Section 63.182 is amended by revising paragraphs (a)(6)(ii), (c) introductory text, and (c)(4) to read as follows:

§ 63.182 Reporting requirements.

(a) * * *

(6) * * *

(ii) A request for an extension of compliance must include the data described in § 63.6(i)(6)(i) of subpart A of this part.

* * * * *

(c) Each owner or operator of a source subject to this subpart shall submit a Notification of Compliance Status within 90 days after the compliance dates specified in the subpart in 40 CFR part 63 that references this subpart, except as provided in paragraph (c)(4) of this section.

* * * * *

(4) For existing sources subject to subpart F of this part, the Notification of Compliance Status shall be submitted for the group of process units with the earliest compliance date specified in § 63.100(k) of subpart F of this part, by no later than 90 days after the compliance date for that group. The Notification of Compliance Status for each subsequent group shall be submitted as part of the first periodic report that is due not less than 90 days after the compliance date for that group.

* * * * *

Subpart I—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks

19. Section 63.190 is amended by revising paragraphs (b)(5), (c), and (e) introductory text; and by removing and reserving paragraph (b)(6)(i) to read as follows:

§ 63.190 Applicability and designation of source.

* * * * *

(b) * * *

(5) Pharmaceutical production processes using carbon tetrachloride or methylene chloride (carbon tetrachloride and methylene chloride emissions only).

(6) * * *

(i) Reserved.

* * * * *

(c) The owner or operator of a process listed in paragraph (b) of this section that does not have the designated organic hazardous air pollutants present in the process shall comply only with the requirements of § 63.192(k) of this subpart. To comply with this subpart, such processes shall not be required to comply with the provisions of subpart A of this part.

* * * * *

(e) The owner or operator of a process subject to this subpart is required to comply with the provisions of subpart H of this part on or before the dates specified in paragraphs (e)(1) or (e)(2) of this section, unless the owner or operator eliminates the use or production of all HAP's that cause the process to be subject to this rule no later than 18 months after April 22, 1994.

* * * * *

20. Section 63.191 is amended by revising paragraph (a) and by revising the definition of "Pharmaceutical production" in paragraph (b) to read as follows:

§ 63.191 Definitions.

(a) The following terms as used in subparts I and H of this part shall have the meaning given them in subpart A of this part: Act, Administrator, approved permit program, commenced, compliance date, construction, effective date, EPA, equivalent emission limitation, existing source, Federally enforceable, hazardous air pollutant, lesser quantity, major source, malfunction, new source, owner or operator, performance evaluation, performance test, permit program, permitting authority, reconstruction, relevant standard, responsible official, run, standard conditions, State, and stationary source.

(b) * * *

Pharmaceutical production process means a process that synthesizes pharmaceutical intermediate or final products using carbon tetrachloride or methylene chloride as a reactant or process solvent. Pharmaceutical production process does not mean process operations involving formulation activities such as tablet coating or spray coating of drug particles.

* * * * *

21. Section 63.192 is amended by revising paragraphs (b)(4) through (b)(8), (e), (i)(1), (i)(2) and (k) to read as follows:

§ 63.192 Standard.

* * * * *

(b) * * *

(4) The prohibited activities and circumvention provisions of § 63.4 (a)(1), (a)(2), (a)(3), (a)(5), and (b);

(5) The construction and reconstruction provisions of § 63.5(a), (b)(1), (b)(3), (d) (except the review is limited to the equipment subject to the provisions of subpart H), (e), and (f);

(6) The compliance with standards and maintenance requirements of § 63.6(a), (b)(3), (c)(5), (e), (i)(1), (i)(2), (i)(4)(i)(A), (i)(6)(i), (i)(8) through (i)(10), (i)(12) through (i)(14), (i)(16), and (j);

(7) With respect to flares, the performance testing requirements of § 63.7(a)(3), (d), (e)(1), (e)(2), (e)(4), and (h);

(8) The notification requirements of § 63.9 (a)(1), (a)(3), (a)(4), (b)(1)(i), (b)(4), (b)(5) (except, use the schedule specified in subpart H), (c), (d), and (i);

* * * * *

(e) If an owner or operator of a process plans to eliminate the use or production of all HAP's that cause the process to be subject to the provisions of subparts I and H of this part no later than 18 months after April 22, 1994, the owner or operator shall submit to the Administrator a brief description of the change, identify the HAP's eliminated, and the expected date of cessation of operation of the current process, by no later than January 23, 1995.

* * * * *

(i) * * *

(1) If EPA has approved a State operating permit program under 40 CFR part 70, the permit shall be obtained from the State authority.

(2) If the State operating permit program has not been approved, the source shall apply to the EPA regional office pursuant to 40 CFR part 71.

* * * * *

(k) The basis for the determination that a process does not use as a reactant or manufacture as a product the designated organic hazardous air pollutant shall be documented. Examples of information that could document this include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

[FR Doc. 94–23113 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5074–1]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the C&J disposal site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the C&J Disposal site from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of

the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that all appropriate Hazardous Substance Response Trust Fund (Fund) -financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of New York have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Jack O'Dell, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, room 29-102, New York, NY 10278, (212) 264-1263.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is:

C&J Disposal site, Eaton, New York

The closing date for comments on the notice of intent to delete was August 20, 1994. EPA received no verbal or written comments.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede EPA efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and record-keeping requirements, Superfund, Water pollution control, and Water supply.

Dated: September 2, 1994.

William J. Muszynski, P.E.,

Deputy Regional Administrator.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601-9657; 33 U.S.C. 1321 (c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.: p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.: p. 193.

Appendix B to Part 300—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the C & J Disposal Leasing Co. Dump site, New York.

[FR Doc. 94-23239 Filed 9-19-94; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7083

[AK-932-4210-06; AA-6684]

Withdrawal of Public Land for Nikolski Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 11,366 acres of public land located within the Alaska Maritime National Wildlife Refuge, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to Section 22 of the Alaska Native Claims Settlement Act. This action also reserves the land for selection by the Chaluka Corporation, the village corporation for Nikolski. This withdrawal is for a period of 120 days; however, any land selected shall remain withdrawn by the order until conveyed. Any land described herein that is not selected by the corporation will remain withdrawn as part of the Alaska Maritime National Wildlife Refuge, pursuant to the Alaska National Interest Lands Conservation Act, and will be subject to the terms and conditions of any other withdrawal of record.

EFFECTIVE DATE: September 20, 1994.

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

By virtue of the authority vested in the Secretary of the Interior by Section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land located within the Alaska Maritime National Wildlife Refuge, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and is hereby reserved for selection under Section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1988), by the Chaluka Corporation, the village corporation for Nikolski:

Seward Meridian

T. 81 S., R. 133 W., (Unsurveyed)
Secs. 11 to 14, inclusive;
Secs. 23 to 27, inclusive;
Secs. 34, and 35.
T. 82 S., R. 133 W., (Unsurveyed)
Sec. 3, Parcel A, as shown on Protraction Diagram No. S32-1 dated June 30, 1972;
Secs. 4, 8, 9, and 10;
Secs. 16 to 21, inclusive;
Secs. 29, and 30;
Sec. 31, Parcel A, as shown on Protraction Diagram No. S32-1 dated June 30, 1972.

The area described contains approximately 11,366 acres.

2. Prior to conveyance of any of the land withdrawn by this order, the land shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

3. This order constitutes final withdrawal action by the Secretary of the Interior under Section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make land available for selection by the Chaluka Corporation, to fulfill the entitlement of the village for Nikolski under Section 12 and Section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988).

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any land selected shall remain withdrawn pursuant to this order until conveyed. Any land described in this order not selected by the corporation shall remain withdrawn as part of the Alaska Maritime National Wildlife Refuge, pursuant to Sections 303(1) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988); and will be subject to the terms and conditions of any other withdrawal of record.

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to Section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988) and this action is exempted from the National Environmental Policy Act of 1969, 83 Stat. 852, by Section 910 of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1638 (1988).

Dated: September 9, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94-23225 Filed 9-19-94; 8:45 am]

BILLING CODE 4310-JA-P

Proposed Rules

Federal Register
Vol. 59, No. 181
Tuesday, September 20, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF06

Technical Specifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations pertaining to technical specifications for nuclear power reactors. The proposed rule would codify criteria for determining the content of technical specifications. These criteria were developed in recognition of the overly broad use of technical specifications to impose requirements, diverting both NRC and licensee attention from the more important requirements in these documents to the extent that it has resulted in an adverse but unquantifiable impact on safety. Each licensee covered by these regulations may voluntarily use the criteria as a basis to propose the relocation of existing technical specifications that do not meet any of the criteria from the facility license to licensee-controlled documents. The voluntary conversion of current technical specifications in this manner is expected to produce an improvement in the safety of nuclear power plants through a reduction in unnecessary plant transients and more efficient use of NRC and industry resources.

DATES: Comment period expires December 5, 1994. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

Copies of comments received may be examined and copied for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher I. Grimes, Chief, Technical Specifications Branch, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 504–1161.

SUPPLEMENTARY INFORMATION:

Background

Section 182a. of the Atomic Energy Act of 1954 (Act), as amended (42 U.S.C. 2232), mandates the inclusion of technical specifications in licenses for the operation of production and utilization facilities. The Act requires that technical specifications include information concerning the amount, kind, and source of special nuclear material, the place of use, and the specific characteristics of the facility. That section also states that technical specifications shall contain information the Commission requires through regulation to enable it to find that the utilization of special nuclear material will be in accord with the common defense and security and will provide adequate protection of public health and safety. Finally, that section requires technical specifications to be made a part of any license issued.

The Commission promulgated § 50.36, "Technical Specifications," which implements Section 182a. of the Atomic Energy Act on December 17, 1968 (33 FR 18610). This rule delineates requirements for determining the contents of technical specifications. Technical specifications set forth the specific characteristics of the facility and the conditions for its operation that are required to provide adequate protection of the health and safety of the public. Specifically, § 50.36 requires the following:

> Each license authorizing operation of a production or utilization facility of a type described in § 50.21 or § 50.22 will include technical specifications. The technical specifications will be derived from the analyses and evaluation included in the safety analysis report, and amendments thereto, submitted pursuant to § 50.34. The Commission may include such additional technical specifications as the Commission finds appropriate.

Technical specifications cannot be changed by licensees without prior NRC approval. However, since 1969, there has been a trend toward including in technical specifications not only those requirements derived from the analyses and evaluation included in the safety analysis report but also essentially all other Commission requirements governing the operation of nuclear power reactors. This extensive use of technical specifications was due in part to a lack of well-defined criteria (in either the body of the rule or in some other regulatory document) for what should be included in technical specifications. This use has contributed to the volume of technical specifications and to the several-fold increase in the number of license amendment applications to effect changes to the technical specifications since 1969. It has diverted both NRC staff and licensee attention from the more important requirements in these documents to the extent that it has resulted in an adverse but unquantifiable impact on safety.

On March 30, 1982 (47 FR 13369), the NRC published in the **Federal Register** a proposed amendment to part 50. The proposed rule would have revised § 50.36, "Technical Specifications," to establish a new system of specifications divided into two general categories. Only those specifications contained in the first general category as technical specifications would have become part of the operating license and would have required prior NRC approval for any changes. Those specifications contained in the second general category would have become supplemental specifications and would not have required prior NRC approval for most changes. The NRC review of the first general category of specifications would have been the same as that currently performed for technical specification changes, which are amendments to the operating license. For the second category, supplemental specifications, the licensee would have been allowed to make changes within specified conditions without prior NRC approval. The NRC would have reviewed these changes when they were made and would have done so in a manner similar to that currently used for reviewing

design changes, tests, and experiments performed under the provisions of § 50.59. Because of difficulties with defining the criteria for dividing the technical specifications into the two categories of the proposed rule and because of other higher priority licensing work, the proposed amendment was deferred.

In the early 1980s, the nuclear industry and the NRC staff began studying whether the existing system of establishing technical specification requirements for nuclear power plants needed improvement. During this time frame, an NRC task group known as the Technical Specifications Improvement Project (TSIP) and a Subcommittee of the Atomic Industrial Forum's (AIF) Committee on Reactor Licensing and Safety performed two studies of this issue.[1] The overall conclusion of these studies was that many improvements in the scope and content of technical specifications were needed and that a joint NRC and industry program should be initiated to implement these improvements. Both groups made specific recommendations which are summarized as follows:

(1) The NRC should adopt the criteria for defining the scope of technical specifications proposed in the AIF and TSIP reports. Those criteria should then be used by the NRC and each of the nuclear steam supply system vendor owners groups to completely rewrite and streamline the existing Standard Technical Specifications (STS). This process would result in the transfer of many requirements from control by technical specification requirements to control by other mechanisms [e.g., the final safety analysis report (FSAR), operating procedures, quality assurance (QA) plan] that would not require a license amendment or prior NRC approval when changes were needed. The new STS should include greater emphasis on human factors principles in order to make the text of the STS clearer and easier to understand. The new STS should also provide improvements to the bases section of technical specifications, which gives the purpose for each requirement in the specification.

(2) A parallel program of short-term improvements in both the scope and substance of the existing technical specifications should be initiated in addition to developing new STS as stated in Recommendation (1).

On February 6, 1987 (52 FR 3788), the NRC published in the **Federal Register** for public comment an Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors containing proposed criteria in response to Recommendation (1). These criteria were generally derived from the criteria proposed in the AIF and TSIP reports and were modified slightly on the basis of discussions between the NRC staff and the industry. The public comment period for the interim policy statement expired on March 23, 1987.

The criteria were developed with the intention that they would apply to limiting conditions for operation (LCOs). The NRC staff believed that the safety limits needed to remain as is in the technical specifications because of their more direct link to protection of the physical barriers that guard against the uncontrolled release of radioactivity. At the time the criteria were developed, the industry did not wish to address administrative controls and design features in the effort to improve the STS. Later, however, both the industry and the NRC staff realized that it would be beneficial to include upgraded administrative controls and design features in the improved STS, and these were handled separately from the application of the criteria to the LCOs.

The NRC has developed a program for short-term improvements as described in Recommendation (2). These are known as "line-item" improvements and are generic improvements developed and promulgated by the NRC staff for voluntary adoption by licensees.

Subsequently, improved vendor-specific STS were developed and issued by the NRC in September 1992. The improved STS were published as the following NRC reports:

- NUREG–1430, "Standard Technical Specifications, Babcock and Wilcox Plants"
- NUREG–1431, "Standard Technical Specifications, Westinghouse Plants"
- NUREG–1432, "Standard Technical Specifications, Combustion Engineering Plants"
- NUREG–1433, "Standard Technical Specifications, General Electric Plants, BWR/4"
- NUREG–1434, "Standard Technical Specifications, General Electric Plants, BWR/6"

Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, by calling (202) 275–2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5825 Port Royal Road, Springfield, VA 22161.

These improved STS were the result of extensive technical meetings and discussions among the NRC staff, industry owners groups, vendors, and the Nuclear Management and Resources Council (NUMARC).

Finally, on July 22, 1993 (58 FR 39132), the Commission published a Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors, which incorporated experience and lessons learned since publication of the interim policy statement. The interim policy statement identified three criteria to be used to define which of the current technical specification requirements should be retained or included in technical specifications and which LCOs could be relocated to licensee-controlled documents, as follows:

Criterion 1: Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary.

Criterion 2: A process variable, design feature, or operating restriction that is an initial condition of a design basis accident or transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

Criterion 3: A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

The interim policy statement also stated that, in addition to structures, systems, and components captured by the three criteria, it was the Commission's policy that licensees retain in the technical specifications LCOs for a specified list of systems that operating experience and probabalistic safety assessment had generally shown to be important to public health and safety. In the final policy statement, the Commission retained this thought as a fourth criterion to capture those requirements that operating experience or probabilistic safety assessment show to be significant to public health and safety. The final policy statement also addressed comments received on the interim policy statement and described the Commission's intent with regard to use of the criteria and their codification through rulemaking.

The Commission believes that amending § 50.36 to include the four

[1] SECY–86–10, "Recommendations for Improving Technical Specifications," dated January 13, 1986, contains both "Recommendations for Improving Technical Specifications," NRC Technical Specifications Improvement Project, September 30, 1985, and "Technical Specifications Improvements," AIF Subcommittee on Technical Specifications Improvements, October 1, 1985.

criteria contained in the final policy statement could codify a viable, potentially safety-enhancing and cost-saving method for technical specification improvement. The Commission encourages licensees to use the improved STS as the basis for plant-specific technical specifications. As stated in the final policy statement, the Commission will place the highest priority on requests based on the criteria for individual license amendments that are used to evaluate all of the LCOs for an individual plant to determine which LCOs should be included in the technical specifications. Related surveillance requirements and actions would be retained for each LCO that remains in the technical specifications. Each LCO, action, and surveillance requirement should have supporting bases.

In addition, the Commission will also entertain requests to adopt portions of the improved STS, even if the licensee does not adopt all STS improvements. These portions will include all related requirements and will normally be developed as line-item improvements by the NRC staff. The Commission encourages all licensees who submit technical specification related submittals based on these criteria to emphasize human factors principles.

LCOs that do not meet any of the criteria, and their associated actions and surveillance requirements, may be proposed for relocation from the technical specifications to licensee-controlled documents, such as the FSAR. The criteria may be applied to either standard or custom technical specifications. The Commission will also consider the criteria in evaluating future generic requirements for inclusion in technical specifications.

During individual technical specification conversions, a backfit analysis will be performed in cases of nonvoluntary addition of new requirements from the improved STS to individual plant technical specifications, unless the staff-suggested additional changes are needed to make the changes requested by the licensee acceptable from the standpoint of adequate protection or compliance with NRC regulations, in which case the request may be denied without the additional items.

The Commission requests comments on the criteria being proposed for inclusion in § 50.36 and, particularly, on Criterion 4 and what guidelines the Commission should use in defining "significant to public health and safety."

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission regulations in Subpart A of Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and would not degrade the environment in any way. Therefore, the Commission concludes that there will be no significant impact on the environment from this proposed rule. This discussion constitutes the environmental assessment and finding of no significant impact for this proposed rule; a separate assessment has not been prepared.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Regulatory Analysis

The Commission has determined that a regulatory analysis is not required for this proposed rule. The Commission believes the intent of the regulatory analysis has been met through the extensive consideration given to the development of the Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors and the improved STS, both of which involved an opportunity for public comment. The criteria being added to § 50.36 are identical to those contained in the final policy statement and have been used by the NRC and the nuclear power industry to define the content of technical specifications since September 1992. The criteria will continue to be used even if this proposed rule is not adopted. The proposed rule does not impose any requirements but, rather, allows nuclear power reactor licensees to voluntarily use the criteria to relocate existing technical specifications that do not meet any of the criteria to licensee-controlled documents. The NRC staff also uses these criteria to determine whether technical specifications are appropriate to provide continued regulatory control over new requirements or positions that have been justified consistent with the backfit rule.

The Commission considered the need for and consequences of this proposed action when it made the decision to not only publish the criteria in the final policy statement but also to codify the criteria through rulemaking. Appropriate alternative approaches to this action have been identified and analyzed over the life of the Technical Specifications Improvement Program, beginning with an earlier attempt to define the content of technical specifications through rulemaking. As described in the background discussion, the Commission published a proposed amendment to § 50.36 (47 FR 13369) on March 30, 1982. However, because of difficulties with defining criteria for technical specifications and because of other higher priority licensing work, the rule change was deferred. In February 1987, the Commission published an interim policy statement on Technical Specification Improvements and in July 1993, published the final policy statement. During review of the final policy statement, the Commission concluded that the four criteria should be codified in a rule. Thus, alternative approaches to regulatory objectives have been identified and analyzed, and the Commission has decided that there is no clearly preferable alternative to codifying the four criteria in a rule. With regard to evaluation of values and impacts of alternatives, the Commission believes there is no difference in the values or impacts of implementing the criteria through use of the final policy statement or through a rule, except that the criteria are more readily available to future users in a rule than in a policy statement.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 [5 U.S.C. 605(b)], the Commission certifies that, if promulgated, this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" as given in the Regulatory Flexibility Act or the Small Business Size Standards in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule, § 50.109, does not apply to this proposed rule and, therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in § 50.109(a)(1).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons given in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23. 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58–50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.36, paragraphs (c) (2) and (3) are revised to read as follows:

§ 50.36 Technical specifications.

* * * * *

(c) * * *

(2) *Limiting conditions for operation.*

(i) Limiting conditions for operation are the lowest functional capability or performance levels of equipment required for safe operation of the facility. When a limiting condition for operation of a nuclear reactor is not met, the licensee shall shut down the reactor or follow any remedial action permitted by the technical specifications until the condition can be met. When a limiting condition for operation of any process step in the system of a fuel reprocessing plant is not met, the licensee shall shut down that part of the operation or follow any remedial action permitted by the technical specifications until the condition can be met. In the case of a nuclear reactor not licensed under § 50.21(b) or § 50.22 of this part or fuel reprocessing plant, the licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the nuclear reactor or the fuel reprocessing plant. In the case of nuclear power reactors licensed under § 50.21(b) or § 50.22, the licensee shall notify the Commission if required by § 50.72 and shall submit a Licensee Event Report to the Commission as required by § 50.73. In this case, licensees shall retain records associated with preparation of a Licensee Event Report for a period of three years following issuance of the report. For events which do not require a Licensee Event Report, the licensee shall retain each record as required by the technical specifications.

(ii) A technical specification limiting condition for operation of a nuclear reactor must be established for each item meeting one or more of the following criteria:

(A) *Criterion 1.* Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary.

(B) *Criterion 2.* A process variable, design feature, or operating restriction that is an initial condition of a design basis accident or transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

(C) *Criterion 3.* A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

(D) *Criterion 4.* A structure, system, or component which operating experience or probabilistic safety assessment has shown to be significant to public health and safety.

(iii) A licensee is not required to modify technical specifications that are included in any license issued before [THE EFFECTIVE DATE OF THE FINAL RULE] to satisfy the criteria in paragraph (c)(2)(ii) of this section. However, for technical specification amendments a licensee proposes after [THE EFFECTIVE DATE OF THE FINAL RULE], the criteria in paragraph (c)(2)(ii) of this section provide an acceptable scope for limiting conditions for operation.

(3) *Surveillance requirements.* Surveillance requirements are requirements relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met.

* * * * *

Dated at Rockville, Maryland, this 14th day of September, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–23202 Filed 9–19–94; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 259

[Release No. 35–26124; File No. S7–27–94]

RIN 3235–AG05

Annual Reports by Mutual and Subsidiary Service Companies Under the Public Utility Holding Company Act of 1935

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Proposed amendments to form and request for comment.

SUMMARY: The Commission is requesting public comment upon proposed amendments to Form U–13–60, the annual report filed by service company subsidiaries of registered holding companies under the Public Utility Holding Company Act of 1935 ("Act"). The proposed amendments would clarify the requirements for these reports and improve the disclosure of financial, accounting and operational information.

DATES: Comments must be submitted on or before November 21, 1994.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6–9, Washington, D.C. 20549. Comment letters should refer to File No. S7–27–94. All comment letters received will be made available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Brian P. Spires, Attorney, (202) 942–0557, Joanne C. Rutkowski, Assistant Director, (202) 942–0545, Robert P. Wason, Chief Financial Analyst, (202) 942–0543, or David E. Marsh, Accountant, (202) 942–0558, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is requesting comment on proposed amendments to Form U–13–60 [17 CFR Part 259] under the Act [15 U.S.C. 79 *et seq.*]. The Annual Report for Mutual and Subsidiary Service Companies on Form U–13–60 was adopted December 29, 1939 and last revised on February 22, 1980 (Holding Co. Act Release No. 21447).

I. Introduction

Service company subsidiaries of registered holding companies serve the needs of associate companies by providing managerial, administrative, technical and other services. Section 13(b) of the Act requires that contracts by which service companies perform services or construction work for, or sell goods to, associate companies must be performed at cost, fairly and equitably allocated among such companies.[1]

Commission rules set forth accounting and reporting requirements with respect to these intrasystem transactions. Under rule 93, the accounts and records of a service company subsidiary of a registered holding company must be consistent with the accounts required by the Uniform System of Accounts for Mutual and Subsidiary Service Companies ("Uniform System of Accounts").[2] Rule 94 requires the filing of an annual report on Form U–13–60 by every service company.[3]

On November 4, 1992, the Commission, as part of its efforts to update and streamline regulation under the Act, proposed certain amendments to Form U–13–60.[4] The proposed amendment was intended to provide the service companies with the flexibility to use accounts from the Uniform System of Accounts of the Federal Energy Regulatory Commission ("FERC System of Accounts") in preparing the Form U–13–60.[5]

The Commission received six comment letters addressing the proposed form amendment.[6] Several commenters noted with approval the purpose of the amendment to provide additional flexibility. The commenters observed that because the Uniform System of Accounts does not always contain accounts needed to classify properly charges incurred, the service companies are obliged to use accounts from the FERC System of Accounts or classify certain categories of costs improperly.[7] One commenter stated that, at present, service companies are effectively required to maintain two sets of books, one using the Uniform System of Accounts, the other using the FERC System of Accounts.[8] The commenter stated that the proposed amendments would greatly simplify the accounting system and permit service companies to classify costs more accurately.

Other commenters, however, were concerned as to how the Commission's proposal would harmonize the FERC System of Accounts with the Commission's Uniform System of Accounts. These commenters asked that the Commission clarify its proposal. In view of these comments, the Commission is today resubmitting the proposal for public comment.

In response to these comments and upon further consideration, the Commission has modified its proposal. Initially, the Commission had requested comments on the need to amend the Uniform System of Accounts to reflect the proposed changes to Form U–13–60. On balance, however, it does not appear necessary to amend the Commission's Uniform System of Accounts in the event that Form U–13–60 is amended. The Commission's Uniform System of Accounts follows the FERC System of Accounts, with modifications, and contemplates that accounts and financial statements of service companies will comply with that system.[9] As the commenters suggest, the proposed amendments to Form U–13–60 will effectively incorporate in the Uniform System of Accounts additional accounts corresponding to the FERC System of Accounts.[10]

The Commission has modified its proposal to add several new schedules to Form U–13–60 and to modify the existing schedules by adding new accounts and other requirements. The amendments are intended to result in more detailed disclosure of certain categories of information, and to ensure generally that accounting for services rendered to a system utility is consistent with the accounting for such expenses on the utility's balance sheet and income statement. In addition, the amendments will reduce some regulatory burdens by creating or modifying dollar thresholds for reporting purposes and by simplifying the reporting requirements.[11]

The various accounts proposed to be added to Form U–13–60 correspond, in each instance, to accounts under the FERC System of Accounts.

A. Instructions for Use of Form U–13–60

The Commission proposes to amend the instructions to provide that use of the new accounts is mandatory. The Commission has considered whether the use of the new accounts should be discretionary or mandatory. On the one hand, the mandatory use of these accounts could entail additional expense for some companies.[12] On the other hand, a requirement of mandatory use would help to ensure fuller identification of charges to facilitate accounting by the associate companies and regulatory examination. The Commission believes that the goal of

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[1] "Service company" is not a defined term under the Act. Rather, a service company is a subsidiary company of a registered holding company that the Commission has found, pursuant to rule 88, to be "so organized and conducted . . . as to meet the requirements of section 13(b) of the Act with respect to reasonable assurance of efficient and economical performance of services or construction or sale of goods for the benefit of associate companies, at cost fairly and equitable allocated among them (or as permitted by [rule] 90)." Under rule 90, these transactions are generally conducted at cost. Rule 92, however, applies a lower-of-cost-or market standard to transfers of seller-produced goods.

[2] The Uniform System of Accounts [17 CFR 256] was adopted May 12, 1936 and amended February 2, 1979 (Holding Co. Act Release No. 20910). *See also* 17 CFR 250.93, 250.94.

[3] *See* Holding Co. Act Release No. 1858 (Dec. 29, 1939) (adopting Form U–13–60); Holding Co. Act Release No. 21447 (Feb. 22, 1980) (amendment).

[4] *See* Holding Co. Act Release No. 25668, 57 FR 54025 (Nov. 16, 1992).

[5] The FERC System of Accounts prescribes a system of accounting for electric-utility companies under the Federal Power Act and natural gas companies under the Natural Gas Act.

The Commission's Uniform System of Accounts prescribes a system of accounting specifically for service companies in order to, among other things, track reimbursable costs and charges to customers and account for compensation for use of capital.

[6] The six commenters were five registered holding companies, American Electric Power Company ("AEP"), The Columbia Gas System, Inc. ("Columbia"), Consolidated Natural Gas Company ("CNG"), Northeast Utilities ("Northeast"), and New England Electric System ("NEES"), and one service company subsidiary of a registered holding company, EUA Service Corporation ("EUA").

[7] *See, e.g.*, EUA.

[8] *See* NEES at 2–3.

[9] Specifically, § 256.01–7(g) provides:

The Uniform System of Accounts promulgated by the Federal Energy Regulatory Commission, as amended from time to time, and the interpretations thereof adopted from time to time by the Federal Energy Regulatory Commission, . . . shall be complied with unless expressly inconsistent with the requirements of this system.

17 CFR 256.01–7(g).

[10] *See* CNG, EUA and NEES.

[11] The amendments will also make certain changes in format to facilitate Commission review, and various other minor conforming revisions.

[12] It would, however, conform to the current accounting practice of others.

improved disclosure should prevail, but invites particular comment on this aspect of the proposed amendments.

In addition, the amended instructions would require service company charges to be presented in the accompanying schedules on an "as billed" basis.[13] At present, the costs of a transaction may be classified differently on the financial statements of its associate company customers. For example, salary expenses associated with the construction of a transmission line may be classified as expenses on the income statement of the service company but as capital items on the balance sheet of the associate company. Consistent treatment of these items should aid ratemakers and others in identifying service company charges on the financial statements of associate public-utility companies. The Commission requests comment, in particular, on the need for a phase-in period of up to three years for this requirement.

B. Schedule II, Service Company Property

The Commission proposes to add a new Account 101.1—Property Under Capital Leases to this schedule.[14] Capitalized lease assets are not currently reported in Form U–13–60. The amendment is necessary to provide disclosure concerning this significant category of service company property. There would be a corresponding amendment to Schedule I, the balance sheet.[15]

C. Schedule IV, Investments

Currently, Schedule IV contains three accounts: Account 123—Investment in Associate Companies; Account 124—Other Investments; and Account 136—Temporary Cash Investments. The Commission proposes to add a new Account 128—Other Special Funds. Account 128 would include investments that have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. The proposed amendment would provide detail, currently lacking, with respect to these investments.

[13] "As billed" refers to the treatment of an item on the financial statements of an associate company customer.

[14] A capital lease is defined in Paragraphs 6(a) and 7 of the Statement of Financial Accounting Standards No. 13, Accounting for Leases, as a lease meeting one of four specified criteria concerning economic indicia of ownership. The criteria include length of lease term, present value of lease payments, and provision for transfer or purchase of the underlying asset at the lease term.

[15] A capital lease generally is recorded on a company's balance sheet both as an asset and as a corresponding liability.

D. Schedule V, Accounts Receivable

Schedule V requires the reporting of accounts receivable from associate companies in Account 146—Accounts Receivable From Associate Companies. The Commission is proposing to amend the instructions to Schedule V to require identification of associate company receivables that have been outstanding for 60–90 days and for more than 90 days from the due date. Companies that do not pay in a timely manner are effectively subsidized by the other system companies that do timely pay. The Commission believes that the proposed amendment will encourage service companies to adopt administrative controls to ensure that receivables are collected within ninety days.

The Commission has proposed a $25,000 threshold for reporting under this account but requests comment on whether a higher threshold, such as a $50,000 limit, as suggested by AEP, would be more appropriate.

In addition, the Commission is proposing to amend Schedule V to add a new Account 143 that would require the reporting of accounts receivable from nonassociate companies, to provide more complete information in this area.

E. Schedule XIV, Statement of Income

This schedule, currently under Schedule XV, requires the reporting of the income and expenses of the service company. Because the schedule does not contain any balance sheet accounts, a service company cannot necessarily report an item in a manner consistent with its treatment on the books of the associate company customer. As a result, commenters have noted that service companies are effectively required to maintain two sets of books, one for purposes of Form U–13–60 and the Uniform System of Accounts, and another to comply with the FERC System of Accounts.[16] The Commission is concerned that the current system results in unnecessary expense and duplication of effort for system companies.

Accordingly, the Commission proposes to include two categories of expenses, one relating to the income statement and the other relating to the balance sheet. A number of new accounts would be added to the present income statement accounts. Specifically, the amendment would add new Accounts 500–557—Power Production, Accounts 560–598—Transmission & Distribution Expenses, Accounts 901–905—Customer Accounts, and Accounts 906–917—Customer Service & Information. New accounts would also be added in Accounts 927—935—Other Administrative and General Expenses, Accounts 403—407—Depreciation and Amortization, Accounts 409—411.4—Income Taxes, Accounts 426.1—426.5—Other Deductions, and Accounts 427—431—Interest Expense. In addition, the amended schedule would include the following balance sheet accounts: Account 107—Construction Work in Progress, Accounts 108–115—Accumulated Provision for Depreciation, Account 163—Store Expenses Undistributed, Account 174—Miscellaneous Current & Accrued Assets, Account 183—Preliminary Engineering, Account 186—Miscellaneous Deferred Debits, Account 188—Research & Development, and an unnumbered account for other balance sheet expenses. The Commission also proposes to add a new income account, Account 419—Interest Income.

[16] *See supra* note 8 and accompanying text.

F. Schedule XV, Analysis of Charges-Direct vs. Indirect

Under the current schedule, service companies must report the amount of charges to associate and nonassociate companies, and categorize the charges as either direct (*i.e.*, a charge for a specific service provided to a customer) or indirect (*i.e.*, an allocated charge for an overhead expense of the service company). The Commission proposes to amend the schedule to require consistent treatment of a charge on the books of the service company and its associate company customers, to eliminate unnecessary expense and duplication of effort in system company accounting.

G. Schedule XX, Other Administrative & General Expenses

Account 930.1—General Advertising Expenses and Account 930.2—Miscellaneous General Expenses are currently reported in separate unnumbered schedules. The Commission has found that separate reporting for these items is unnecessary since historically the amounts involved have been immaterial. The Commission proposes to combine the existing schedules in a new Schedule XX which would require a detailed description of these expenses and other service company billings corresponding to

Accounts 927–935 of the FERC System of Accounts.[17]

H. Schedule XXII, Other Deductions

The Commission proposes to combine the requirements of Account 426.1—Donations, and Account 426.5—Other Deductions, and add Account 426.2—Life Insurance, Account 426.3—Penalties, and Account 426.4—Expenditures for Certain Civic, Political and Related Activities in a new Schedule XXII.

The new schedule would require more detailed reporting in Account 426.5 to the extent that the annual aggregate amount of other deductions exceeded $25,000. The Commission believes that $25,000 is an appropriate threshold but requests comment on the need for a higher or lower threshold.

In addition, the Commission proposes to modify the reporting requirement for Account 408—Taxes, Other than Income Taxes. Based on its experience in this area, the Commission believes it is appropriate to eliminate the requirement of detailed reporting. Instead, the account will appear as a single line item on proposed Schedule XIV, the income statement.

I. Schedule XXIII, Miscellaneous Income or Loss

Schedule XV, the current income statement, requires the reporting of income or loss other than from services rendered to associate and nonassociate companies in Account 421—Miscellaneous Income or Loss. Although significant amounts of income and loss have been reported in this account, service companies at present are not required to disclose the source of the income or the cause of the loss. To obtain such information, the Commission proposes to create a new Schedule XXIII that will require a detailed description of the items contained in Account 421.

J. Schedule XXIV, Interest Expense

Interest expense is reported on present Schedule XV in Account 427—Interest on Long-Term Debt, Account 430—Interest on Debt to Associate Companies, and Account 431—Other Interest Expense, and on Schedule I, the balance sheet, in Account 237—Interest Accrued. The Commission proposes to create a new Schedule XXIV that would differentiate between long and short term debt interest expense, and require more detailed information concerning the debt and debt holders. The new schedule will enable the Commission to monitor the overall cost of capital of the service companies.

K. Schedule XXV, Notes to Financial Statements

The notes to financial statements and notes to statement of income are furnished in current Schedules XIV and XVIII, respectively. The Commission believes it is more appropriate for the notes to appear in a single schedule, and so proposes to create a new Schedule XXV for this purpose.

L. Schedule XVIII, Outside Services Employed

The Commission also proposes to amend this schedule to require separate itemizations of legal, auditing and other services.

M. Other Matters

The Commission proposes to amend certain schedules to include a footnote that the amounts referenced in these schedules include charges to both income statement and balance sheet accounts. The footnotes would cross-reference the expenses related to the income statement of new Schedule XIV for a more particular breakdown of these expense items.[18]

Finally, certain schedules would be renumbered, and the format of some items slightly changed.

II. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed amended Form will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

III. Costs and Benefits

The proposed amendments to Form U–13–60 would enable the seventeen service company subsidiaries of registered holding companies to prepare income statements and balance sheets that properly reflect the accounting of the billings to their utility customers. The enhanced ability to properly classify billings should ease the record keeping burdens presently incurred by the service companies and would permit service companies to classify costs more accurately.

In addition, the proposed amendments would provide the service companies the flexibility to use FERC Accounts as appropriate given the nature of the services provided their customers. The Commission anticipates that these benefits will reduce the accounting costs of a service company by $10,000 to $20,000 per year.

IV. Paperwork Reduction Act

The proposed amended Form U–13–60 is subject to the Paperwork Reduction Act and will be submitted to the Office of Management and Budget.

V. Statutory Authority

The Commission is proposing amendments to Form U–13–60 pursuant to sections 14, 15, and 20(a) [15 U.S.C. 79n, 79o, 79t(a)] of the Act. The authority citation for the action precedes the text.

List of Subjects in 17 CFR Part 259

Utilities.

Text of Proposed Form Amendment

For the reasons set out in the preamble, the Commission is proposing to amend chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 259 continues to read as follows:

Authority: 15 U.S.C. 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t.

Subpart D—Forms for Periodic Accounting Reports

Note: Form U–13–60 does not and the amendments will not appear in the Code of Federal Regulations.

* * * * *

2. Form U–13–60 (referenced in § 259.313) is amended by adding instruction 12 to Instructions For Use Of Form U–13–60 to read as follows:

FORM U–13–60

* * * * *

Instructions for Use of Form U–13–60

* * * * *

12. *Account Numbers*—The accompanying schedules shall be prepared reflecting the Commission's Uniform System of Accounts, as modified. The service company shall present the schedules on an "as billed" basis and so designate. The accompanying schedules include certain accounts which may not be applicable, depending on the presentation basis designated.

* * * * *

[17] See 18 CFR 101, 201; 17 CFR 256 (the FERC System of Accounts and the Uniform System of Accounts, respectively).

[18] *See, e.g.*, Schedule XVII (Departmental Analysis of Salaries), Schedule XVIII (Outside Services Employed), Schedule XIX (Employee Pensions and Benefits), and Schedule XXI (Rents).

3. Form U–13–60 (referenced in § 259.313) is amended by revising the "Listing of Schedules and Analysis of Accounts" to read as follows:

FORM U–13–60

* * * * *

LISTING OF SCHEDULES

Description of schedules	Schedule No.	Page No.
COMPARATIVE BALANCE SHEET	Schedule I	
Service company property	Schedule II	
Accumulated provision for depreciation and amortization of service company property	Schedule III	
Investments	Schedule IV	
Accounts receivable	Schedule V	
Fuel stock expenses undistributed	Schedule VI	
Stores expense undistributed	Schedule VII	
Miscellaneous current and accrued assets	Schedule VIII	
Miscellaneous deferred debits	Schedule IX	
Research, development, or demonstration expenditures	Schedule X	
Proprietary capital	Schedule XI	
Long-term debt	Schedule XII	
Current and accrued liabilities	Schedule XIII	
COMPARATIVE INCOME STATEMENT	Schedule XIV	
Analysis of billing—associate companies	Schedule 457	
Analysis of billing—nonassociate companies	Schedule 458	
Analysis of charges for service—associate and nonassociate companies	Schedule XV	
Schedule of expense distribution by department or service function	Schedule XVI	
Departmental analysis of salaries	Schedule XVIII	
Outside services employed	Schedule XVIII	
Employee pensions and benefits	Schedule XIX	
Other Administrative & General expenses	Schedule XX	
Rents	Schedule XXI	
Other Deductions	Schedule XXII	
Miscellaneous Income or Loss	Schedule XXIII	
Interest Expense	Schedule XXIV	
Notes to Financial Statements	Schedule XXV	

LISTING OF INSTRUCTIONAL FILING REQUIREMENTS

Description of reports or statements	Page No.
Organization Chart Methods of Allocation	
Annual Statement of Compensation for Use of Capital Billed	

* * * * *

4. Schedule I, Comparative Balance Sheet, of Form U–13–60 (referenced in § 259.313) is amended by revising the heading; by adding "101.1 Property Under Capital Leases (Schedule II)" under the heading "SERVICE COMPANY PROPERTY"; by adding "128 Other Special Funds (Schedule IV)" under the heading "INVESTMENTS"; by revising "141 Notes receivable" and "143 Accounts receivable" under the heading "CURRENT AND ACCRUED ASSETS" to read "141 Notes receivable from associate companies" and "143 Accounts receivable (Schedule V)"; by adding "243 Obligations under capital lease—current" under the heading "CURRENT AND ACCRUED LIABILITIES"; revising the heading "DEFERRED CREDITS" to read "DEFERRED CREDITS & OTHER NON-CURRENT LIABILITIES"; and adding under the heading "227 Obligations under capital lease—noncurrent" and "228.3 Accumulated provision for pension and benefits," to read as follows:

FORM U–13–60

* * * * *

Schedule I—Comparative Balance Sheet

Give balance sheet of Company as of December 31 of the current and prior year

* * * * *

Service Company Property

* * * * *

101. 1 Property Under Capital Leases (Schedule II)

* * * * *

Investments

* * * * *

128 Other Special Funds (Schedule IV)

* * * * *

Current and Accrued Assets

* * * * *

141 Notes receivable from associate companies

143 Accounts receivable (Schedule V)

* * * * *

Current and Accrued Liabilities

* * * * *

243 Obligations under capital lease—current

* * * * * *

Deferred Credits & Other Non-Current Liabilities

227 Obligations under capital lease—non-current

228.3 Accumulated provision for pension and benefits

* * * * *

5. Schedule II, Service Company Property, of Form U–13–60 (referenced in § 259.313) is amended by revising the heading; adding "Account 101.1—Property Under Capital Leases [4]" under "SUB-TOTAL"; and redesignating note [4] as note [5], to read as follows:

FORM U–13–60

* * * * *

Annual Report of

For the Year Ended December 31, 199X

(In Thousands of Dollars)

Schedule II

Service Company Property

* * * * *

Account

* * * * *

Sub-Total

101.1 Property Under Capital Leases [4]
107 Construction Work In Progress [5]

* * * * *

[4] Describe Property Under Capital Leases.
[5] Describe Construction Work in Progress.

6. Schedule IV, Investments, of Form U–13–60 (referenced in § 259.313) is amended by revising the instructions, by adding "ACCOUNT 128—OTHER SPECIAL FUNDS" and by adding "TOTAL" under each account, to read as follows:

FORM U–13–60

* * * * *

Schedule IV—Investments

Instructions: Complete the following schedule concerning investments.

For Account 123, "Investment in Associate Companies," describe investments in associate companies.

Under Account 124, "Other Investments" and Account 128, "Other Special Funds" state each investment separately, with description, including, the name of issuing company, number of shares or principal amount, etc.

Under Account 136, "Temporary Cash Investments," list each investment separately.

* * * * *

Account 123—Investment in Associate Companies
Total
Account 124—Other Investments
Total
Account 128—Other Special Funds
Total
Account 136—Temporary Cash Investments
Total

7. Schedule V, Accounts Receivable From Associate Companies, of Form U–13–60 (referenced in § 259.313) is revised to read as follows:

FORM U–13–60

* * * * *

Annual Report of

For the Year Ended December 31, 199X

(In Thousands of Dollars)

Schedule V—Accounts Receivable

Instructions: Complete the following schedule listing total accounts receivable and aging of amounts outstanding over 90 days from the due date and list separately those amounts over $25,000.

	Balance at beginning of year	Balance at close of year
Description		
Account 143—Accounts Receivable		

ACCOUNTS RECEIVABLE OUTSTANDING OVER 90 DAYS

Entity	Amount
Total	

Instructions: Complete the following schedule listing accounts receivable from each associate company. Where the service company has provided accommodation or convenience payments for associate companies, a separate listing of total payments for each associate company by subaccount should be provided. Provide an aging of all amounts outstanding 60–90 days and over 90 days from the due date in the space provided below.

	Balance at beginning of year	Balance at close of year
Description Account 146—Accounts Receivable From Associate Companies		
Total		

Analysis of convenience or accommodation payments	Total payments
Total payments	

AGING OF ACCOUNTS RECEIVABLE

Entity	Days outstanding		
	60–90	Over 90	Total
Total			

8. Schedule XIII, Current and Accrued Liabilities, of Form U–13–60 (referenced in § 259.313) is amended by revising the instructions to read as follows:

FORM U–13–60

* * * * *

Schedule XIII—Current and Accrued Liabilities

* * * * *

Instructions: Provide balance of notes and accounts payable to each associate company and provide a summary of short-term debt. Describe and provide the amount of miscellaneous current and accrued liabilities. Items less than $10,000 may be grouped, showing the number of items in each group.

* * * * *

9. Schedule XIV, Notes to Financial Statements, of Form U–13–60 (referenced in § 259.313) is removed and Schedule XV, Statement of Income, is redesignated as Schedule XIV; Schedule XVI, Analysis of Charges for Service—Associate and Nonassociate Companies, is redesignated as Schedule XV; and Schedule XVII, Expense Distribution by Department or Service Function, is redesignated as Schedule XVI. Newly redesignated Schedule XIV is revised to read as follows (the separate reporting of Account 457 "Analysis of Billing—Associate Companies" and Account 458 "Analysis of Billing—Nonassociate Companies" is unchanged):

FORM U–13–60

* * * * *

Annual Report of

For the Year Ended December 31, 199X

(In Thousands of Dollars)

Schedule XIV—Statement of Income

Instructions: Provide Income Statement of the Company for the year ended December 31, for the current year and the prior year. Indicate whether the amounts shown have been "billed to" the account ranges listed on the financial statements of associate companies.

Account Reference Current Prior

Range	Description	Column	Year	Year
	Income.			
457	Services Rendered to Associate Companies			
458	Services Rendered to Nonassociated Companies			
421	Miscellaneous Income or Loss			
419	Interest Income	XXIII		
	Total Income			
	EXPENSES–Income Statement:			
500–557	Power Production			
560–598	Transmission & Distribution Expenses			
901–905	Customer Accounts			
906–917	Customer Service & Information			
920	Administrative & General Salaries			
921	Office Supplies & Expenses			
922	Administrative Expenses Transferred—Credit			
923	Outside Services Employed			
924	Property Insurance	XVIII		
925	Injuries & Damages			
926	Employee Pension & Benefits			
927–935	Other Administrative & General Expenses	XIX		
403–407	Depreciation & Amortization	XX		
408	Taxes, Other Than Income			
409–411.4	Income Taxes			
426.1–426.5	Other Deductions			
427–431	Interest Expense	XXII XXIV		
	Total Expenses—Income Statement			
	EXPENSES—Balance Sheet:			
107	Construction Work in Progress			
108–115	Accumulated Provision for Depreciation			
163	Stores Expenses Undistributed			
174	Miscellaneous Current & Accrued Assets			
183	Preliminary Engineering			
186	Miscellaneous Deferred Debits			
188	Research & Development			
	Other			
	Total Expenses—Balance Sheet			
	NET INCOME OR (LOSS)			

* * * * *

10. Newly designated Schedule XV of Form U–13–60 (referenced in § 259.313) is amended by revising the heading, adding a new instruction, revising the heading "Description of Items" to read "Description of Expenses," and revising the accounts below the description, to read as follows:

FORM U–13–60

* * * * *

Schedule XV—Analysis of Charges—Direct vs. Indirect

Instruction: Provide a breakdown of "Direct Costs" vs. "Indirect Costs" for charges appearing on the Income Statement for the current year. Indicate whether amounts shown have been "billed to" the account ranges listed.

* * * * *

Account range	Description of expenses		
	EXPENSES—Income Statement:		
500–557	Power Production		
560–598	Transmission & Distribution Expenses		
901–905	Customer Accounts		
906–917	Customer Service & Information		
920	Administrative & General Salaries		

Account range	Description of expenses		
921	Office Supplies & Expenses		
922	Administrative Expenses Transferred-Credit		
923	Outside Services Employed		
924	Property Insurance		
925	Injuries & Damages		
926	Employee Pension & Benefits		
927–935	Other Administrative & General Expenses		
403–407	Depreciation & Amortization		
408	Taxes, Other Than Income		
409–411.4	Income Taxes		
426.1–426.5	Other Deductions		
427–431	Interest Expense		
	Total Expenses—Income Statement		
	EXPENSES—Balance Sheet:		
107	Construction Work in Progress		
108–115	Accumulated Provision for Depreciation		
163	Stores Expenses Undistributed		
174	Miscellaneous Current & Accrued Assets		
183	Preliminary Engineering		
186	Miscellaneous Deferred Debits		
188	Research & Development		
188	Other		
	Total Expenses Balance Sheet.		

Net Expenses

11. Newly designated Schedule XVI of Form U–13–60 (referenced in § 259.313) is amended by revising the instruction, revising the heading "Description of items" to read "Description of Expenses", and revising the accounts below the description, to read as follows:

FORM U–13–60

* * * * *

Schedule XVI—Expense Distribution by Department or Service Function

Instructions: Provide distribution of expenses by department for the year ended December 31, for the current year and the prior year. Indicate whether amounts shown have been "billed to" the financial statements of associate companies. (See Instructions 01–3 General Structure of Accounting System: Uniform System of Accounts.)

Account range	Description of expenses
	Expenses—Income Statement.
500–557	Power Production.
560–598	Transmission & Distribution Expenses.
901–905	Customer Accounts.
906–917	Customer Service & Information.
920	Administrative & General Salaries.
921	Office Supplies & Expenses.
922	Administrative Expenses Transferred—Credit.
923	Outside Services Employed.
924	Property Insurance.
925	Injuries & Damages.
926	Employee Pension & Benefits.
927–935	Other Administrative & General Expenses.
403–407	Depreciation & Amortization.
408	Taxes, Other Than Income.
409–411.4	Income Taxes.
426.1–426.5	Other Deductions.
427–431	Interest Expense.
	Total Expenses Income Statement.
	Expenses—Balance Sheet:
107	Construction Work in Progress.
108–115	Accumulated Provision for Depreciation.
163	Stores Expenses Undistributed.
174	Miscellaneous Current & Accrued Assets.
183	Preliminary Engineering.
186	Miscellaneous Deferred Debits.
188	Research & Development.
	Other.
	Total Expenses Balance Sheet.
	Total expenses.

12. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 920—Departmental Analysis of Salaries as Schedule XVII, Departmental Analysis of Salaries (currently, Account 920 is separately reported in newly designated Schedule XVI), and by adding a note at the bottom of the Schedule to read as follows:

FORM U–13–60

* * * * *

Schedule XVII—Departmental Analysis of Salaries

Note.—These amounts include charges to all accounts (i.e. Income Statement and Balance Sheet accounts). Therefore the total salaries expense is included on various lines in Schedule XIV if the income statement is presented on an "as billed" basis.

13. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 923—Outside Services Employed as Schedule XVIII, Outside Services Employed (currently, Account 923 is separately reported in newly designated Schedule XVI), and by adding a new heading entitled "Nature of Service" and a note, to read as follows:

FORM U–13–60

* * * * *

Schedule XVIII—Outside Services Employed

* * * * *

From whom purchased	Nature of service	Relationship "A"—Assoc. "NA"—Nonassoc.	Amount
	Auditing Services:		
	Total Auditing Services		
	Legal Services:		
	Total Legal Services		
	Other Outside Services:		
	Total Other Services		
	Total Outside Services		

NOTE.—These amounts include charges to all accounts (i.e. Income Statement and Balance Sheet accounts). Therefore the total outside services expense is included on various lines in Schedule XIV if income statement is presented on an "as billed" basis.

14. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 926—Employee Pensions and Benefits as Schedule XIX—Employee Pensions and Benefits, to read as follows (Currently, Account 926 is separately reported in newly designated Schedule XVI):

* * * * *

Schedule XIX—Employee Pensions and Benefits

* * * * *

15. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 930.1—General Advertising Expenses and Account 930.2—Miscellaneous General Expenses as Schedule XX, Other Administrative & General Expenses, to read as follows (currently, Account 930.1 and Account 930.2 are separately reported in newly designated Schedule XVI):

FORM U–13–60

* * * * *

Schedule XX—Other Administrative & General Expenses

Instructions: Provide a detail listing of the amounts included in Account Range 927–935, "Other Administrative & General Expenses", classifying each amount by account as defined in the account definition for each of the accounts within the account range.

Account Description Amount
Total

* * * * *

16. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 931—Rents as Schedule XXI—Rents (currently, Account 931 is separately reported in newly designated Schedule XVI) and by adding a note, to read as follows:

FORM U–13–60

* * * * *

Schedule XXI—Rents

* * * * *

Note.—These amounts include charges to all accounts (i.e. Income Statement and Balance Sheet accounts). Therefore the total rent expense is included on various lines in Schedule XIV if the income statement is presented on an "as billed" basis.

* * * * *

17. Account 408—Taxes Other Than Income Taxes of Form U–13–60 (referenced in § 259.313) is removed (currently, Account 408 is separately reported in newly designated Schedule XVI).

18. Form U–13–60 (referenced in § 259.313) is amended by redesignating Account 426.1—Donations and Account 426.5—Other Deductions as Schedule XXII, Other Deductions, to read as follows (currently, Account 426.1 and Account 426.5 are separately reported in newly designated Schedule XVI):

FORM U–13–60

* * * * *

Schedule XXII—Other Deductions

INSTRUCTIONS: Provide a listing of the amounts included in Account Range 426.1–426.5, "Other Deductions" by account. Provide a detailed listing to account 426.5 if the total account balance exceeds $25,000.

Account Description Amount
Total $

Account 426.5 Detail:
Description Amount
Total

19. Form U–13–60 (referenced in § 259.313) is amended by removing Schedule XVIII, Notes to Statement of Income, and adding new Schedules XXIII, Miscellaneous Income or Loss, Schedule XXIV, Interest Expense, and Schedule XXV, Notes to Financial Statements, to read as follows:

FORM U–13–60

* * * * *

Schedule XXIII—Miscellaneous Income or Loss

Instructions: Provide a detailed listing of the amounts included in Account 421, "Miscellaneous Income or Loss".

Description Amount
Total $

Schedule XXIV—Interest Expense

INSTRUCTIONS: Provide a detail of interest expense by note and associate company as reported on Schedules XII and XIII. Segregate by Long-Term Debt (including current maturities) and Short-Term Debt.

	Current year	Prior year
Interest on Long-Term Debt Debt (Incl. Current Maturities):		
Total		
Interest on Short-Term Debt:		
Total		
Total Interest Expense		

Schedule XXV—Notes To Financial Statements

Instructions: The space below is provided for important notes regarding the balance sheet and income statement, or any account thereof. Furnish particulars as to any significant items incurred during the year or existing at the end of the year. Notes relating to financial statements shown elsewhere in this report may be indicated here by reference.

By the Commission.

September 13, 1994.

Margaret H. McFarland,

Deputy Secretary.

Note. This attachment to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Certification

I, Arthur Levitt, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed amendment to Form U–13–60 under the Public Utility Holding Company Act of 1935, as amended [15 U.S.C. 79 *et seq.*], concerning the annual report filed by service company subsidiaries of registered holding companies will not, if promulgated, have a significant impact on a substantial number of small businesses. The reason for this certification is that it does not appear that any small businesses would be affected by the proposed form amendment.

Dated: September 12, 1994.

Arthur Levitt,

Chairman.

[FR Doc. 94–23164 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Regulatory Program

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

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

SUMMARY: OSM is announcing receipt of a second request regarding required amendments to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming is requesting OSM to extend the required amendments' time frames at 30 CFR 950.16 (bb) through (gg), that concern shrub density reclamation standards.

This document set forth the times and locations that the Wyoming Program and the proposed extension request to that program are available for public inspection and the comment period during which interested persons may submit written comments on the proposed extension request

DATES: Written comments must be received by 4:00 p.m., m.d.t. October 5, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett at the address listed below.

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

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement; 100 East "B" Street, Rm. 2128; Casper, Wyoming 82601–1918. Telephone: (307) 261–5776.

Dennis Hemmer, Director, Wyoming Department of Environmental Quality; Herschler Bldg., Fourth Floor West; 122 West 25th Street; Cheyenne, Wyoming 82002. Telephone: (307) 777–7758.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett; Telephone (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15, and 950.16.

II. Discussion of Proposed Extension

On February 28, 1994, Wyoming DEQ requested an extension of the time frames at 30 CFR 950.16 (bb) through (gg) to enter into a negotiated rule making process (Administrative Record No. WY–26–1). OSM announced the receipt of this request in the March 21, 1994, **Federal Register** (59 FR 13286), and sought public comment on whether the proposed extension request satisfied the applicable program approval criteria of 30 CFR 732.15.

Wyoming DEQ has now completed the negotiated rule making process, only to be notified by the State Attorney General's office that the proposed rule is in conflict with two sections of existing statutes [W.S. 35–11–402(b) and (c)] and

that conflict prohibits DEQ from promulgating the rules until the statutes are changed.

In view of this opinion, and on September 1, 1994, the State of Wyoming, Department of Environmental Quality (DEQ) submitted a second request to extend the time frames at 30 CFR 950.16(bb) through (gg), as codified in the January 24, 1994, **Federal Register** (59 FR 3521), in order to allow the State time to introduce new statutory changes to the Wyoming Legislature during the 1995 Legislative Session (Administrative Record No. WY–26–7). Wyoming DEQ has prepared the required modifications to the statutory language for submission to the Wyoming Legislature's Mines and Minerals Committee for sponsorship in a bill to be introduced during the next Legislative Session which begins in January 1995.

Wyoming is requesting an extension to November 1995. The State's request outlines a time line schedule from October 1994 to November 1995. The schedule identifies milestones such as: When the Mines and Minerals Committee received the proposed statutory changes from DEQ; submission of the proposed rule to the Land Quality Advisory Board; introduction to the Legislature for debate; approval by the Governor; required revisions to the rule based on Statutory changes; required 45 days comment period; Environmental Quality Council hearing; and, submittal of a formal State Program amendment to OSM in November 1995.

OSM is now considering Wyoming's request to further extend the time frames and is seeking public comments on whether the proposed extension can and should be granted.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed extension request satisfies the applicable program approval criteria of 30 CFR 732.15. If the extension request is deemed adequate, it will become part of the Wyoming program.

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

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Russell Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 94–23248 Filed 9–19–94, 8:45 am]

BILLING CODE 4310–05–M

LIBRARY OF CONGRESS

36 CFR Part 702

[Docket No. LOC 94–2]

Photographing the Interior and Exterior of Library of Congress Buildings and Other Library Facilities

AGENCY: Library of Congress.

ACTION: Proposed rules.

SUMMARY: The Library of Congress proposes to revise the conditions under which the interior and exterior of Library of Congress buildings may be filmed or photographed by groups such as news organizations and commercial or freelance film crews. This part will require all persons and groups, other than individuals who are photographing the exterior of the Library of Congress buildings for their own personal use, to obtain permission from the Library of Congress' Public Affairs Officer. This rule is being promulgated to protect archival records and donated historical materials maintained in all Library buildings; to enhance the safety of persons who use Library facilities, including researchers, exhibit patrons, and Government employees, and to prevent disruption both of the conduct of official business and of the timely provision of Library services to the general public.

DATES: Comments should be received on or before October 20, 1994.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Mail Code 1050, Washington, DC 20540. If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–601, First and Independence Avenue, S.E., Washington, DC 20540–1050, (202) 707–6316.

FOR FURTHER INFORMATION CONTACT: Johnnie M. Barksdale, Regulations Officer, Office of the General Counsel, Library of Congress, Washington, DC 20540–1050. Telephone No. (202) 707–1593.

SUPPLEMENTARY INFORMATION: Under 2 U.S.C. 136 and 167f, the Librarian of Congress is authorized to make rules and regulations for the government of the Library and may prescribe such regulations as may be deemed necessary for the adequate protection of the Library of Congress buildings and grounds and of persons and property therein, and for the maintenance of suitable order and decorum within the Library of Congress buildings and grounds. The Library of Congress proposes to issue this revised part to define the conditions under which filming and photographing of any Library of Congress building or facility is permissible by groups such as news organizations and commercial or freelance film crews. It also defines the Library's restrictions on access for commercial ventures and limitations on filmmakers and photographers.

List of Subjects in 36 CFR Part 702

Federal buildings and facilities, Libraries.

Proposed Regulation

In consideration of the foregoing the Library of Congress proposes to amend 36 CFR Part 702 as follows:

PART 702—CONDUCT ON LIBRARY PREMISES

1. The authority citation for 36 CFR part 702 is revised to read as follows:

Authority: Sec. 1, 29 Stat. 544, 546; 2 U.S.C. 136 and 167f.

2. Section 702.5 is revised to read as follows:

§ 702.5 Photographing the Interior and Exterior of Library of Congress Buildings and other Library facilities.

(a) *Purpose.*

This part states the Library's policy and conditions under which the interiors and exteriors of Library buildings as well as other Library facilities may be photographed by groups such as news organizations and commercial or freelance film crews.

(b) *Definitions.*

(1) *Photograph* or *photographing* means any method, including photography, filming, videotaping, or any such process of image reproduction.

(2) *Library of Congress buildings* means those buildings on Capitol Hill which constitute the main Library complex as well as other facilities assigned to the Library.

(c) *General policy.*

(1) The Public Affairs Officer, or his/her designee, is authorized to grant permission to photograph Library buildings.

(2) Those wishing to photograph a Library building shall request in writing permission from the Public Affairs Officer at least one week before the proposed photographic activity, except in extraordinary circumstances when the Public Affairs Officer makes an exception. The Public Affairs Officer may grant permission either in writing or by telephone.

(3) In those instances when the Public Affairs Officer has granted permission, he or she shall notify the Protective Services Officer of the proposed activity.

(d) *Conditions and restrictions.*

(1) Photographing shall be permitted only for the purpose of providing background to stories about either the Library or a patron who has made use of the Library's holdings. Press interviews will not be permitted unless either Library or other government employees are being interviewed in connection with official business.

(2) Permission to photograph shall not be granted to persons or groups wishing to promote commercial enterprises or commodities or to persons or groups involved with political, sectarian, or similar activities.

(3) Photographing may not impede the ingress or egress of visitors or staff to any Library building.

(4) Permission to photograph the exterior of a Library building does not constitute approval or sponsorship by the Library of the persons or groups involved, of their activities or views, or of the uses to which the works depicting a Library building are put.

(5) Permission to photograph does not release the persons or groups involved from liability for injuries to persons or property that result from their activities on Library property.

(6) Persons and groups must be accompanied at all times by a member of the Public Affairs Office or Library staff when in any Library building.

(7) Interview with Library staff and researchers shall take place only in areas designated by Public Affairs Office or Library staff.

(8) Approved photography sessions shall normally be limited to two hours.

(9) The policy set out herein does not apply to individuals who are photographing the exterior of Library of Congress buildings for their own personal purposes and do not interfere with ingress or egress of visitors or staff.

Dated: September 14, 1994.

James H. Billington,

The Librarian of Congress.

[FR Doc. 94–23232 Filed 9–19–94; 8:45 am]

BILLING CODE 1410–04–P–M

POSTAL SERVICE

39 CFR Part 111

Revisions to Standards for Palletization

AGENCY: Postal Service.

ACTION: Proposed rule; notice of public meeting.

SUMMARY: In response to requests from postal customers, the Postal Service has decided to hold a public meeting to facilitate the receipt of comments regarding a proposal to implement revised Domestic Mail Manual (DMM) standards prohibiting mailer use of "courtesy" pallets (pallets that do not meet DMM standards).

DATES: September 29, 1994, 9 a.m. to 12 p.m.

MEETING ADDRESS: Sheraton Washington Hotel, Maryland A Room, 2660 Woodley Road at Connecticut Ave., NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268–5166, or Robert Sheehan, (202) 268–4305.

SUPPLEMENTARY INFORMATION: On August 18, 1994, the Postal Service published proposed rule changes in the **Federal Register** (59 FR 42536–42540) to amend Domestic Mail Manual (DMM) standards concerning the preparation of mail on pallets. See also the notice published in the proposed rule section of the **Federal Register** on September 19, 1994. That notice extended the period for comment on this proposal to November 3, 1994.

The proposed revisions are intended to establish consistent preparation standards for all classes of mail that result in the lowest combined costs of handling palletized mail for the Postal Service and its customers as well as to facilitate consistent service for palletized mailings. Numerous customers have indicated that implementation of the provisions prohibiting courtesy pallets would have catastrophic implications for their businesses and have requested an opportunity to present their views and concerns in person regarding the provisions in the proposed rule change pertaining to courtesy pallets.

The Postal Service generally does not hold, nor does it generally find a need for, public meetings concerning

proposed rules. Nevertheless, in this limited instance, the Postal Service has determined to grant the request for a public meeting. Interested parties may, of course, submit written comments in accordance with the instructions in the **Federal Register** notice. Comments submitted at the meeting may be written or oral. Oral comments will be transcribed for future reference and will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8430 at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260–6808. Individuals wishing to present comments are asked to limit their oral presentations to 10 minutes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–23342 Filed 9–16–94; 1:23 pm]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH12–1–6318; A–1–FRL–5074–9]

Clean Air Act Limited Approval/Limited Disapproval and Promulgation of Emission Statement Implementation Plans for New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval/limited disapproval of a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes an emission statement program for stationary sources throughout the State. New Hampshire's submittal includes amendments to Chapter Env-A 900 (Parts 901–903). This action proposes limited approval of New Hampshire's Chapter Env-A 900, "Owner and Operator" for the purpose of strengthening the New Hampshire SIP. In addition, this action proposes limited disapproval of New Hampshire's Chapter Env-A 900 (Parts 901–903) since the regulation fails to meet all requirements of the Clean Air Act (CAA). This action is being taken pursuant to section 110 of the CAA. Public comments are solicited on the requested SIP revisions and on EPA's proposal of a limited approval/limited disapproval.

DATES: Comments received in writing by October 20, 1994 will be considered in the development of USEPA's final rule action.

ADDRESSES: Comments should be mailed to Linda M. Murphy, Director, Air, Pesticides, and Toxics Management Division, JFK Federal Building, Boston, MA 02203.

Copies of the State's submittal and other information are available for inspection during normal business hours, by appointment, at the following location: Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA 02203. In addition, New Hampshire's submittal is available at the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Daria L. Dilaj, U.S. Environmental Protection Agency, Region I, JFK Federal Building (APS), Boston, MA 02203. Phone: (617) 565–3249.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA or "the Act"). EPA has published a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: NOx Supplement to the General Preamble")). EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this Notice entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify part 40 of the CFR to reflect the requirements of the emission statement program.

II. Analysis of State Submission

A. Procedural Background

The Act requires each state to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Section 110(l)(2) of the Act provides that each implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. EPA must at the outset determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991).

The State of New Hampshire held a public hearing on June 18, 1992. Following the public hearing, the plan was adopted by the State on November 13, 1992 and submitted to EPA on December 21, 1992 as a proposed revision to the SIP. The SIP revision was reviewed by EPA and deemed complete on February 19, 1993.

B. Components of Emission Statement Program

There are several key general and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting by the sources and the State. In general, the program must include, at a minimum, provisions for applicability, definitions, compliance, and the specific source requirements detailed below.

1. SIP Revision Submission

EPA requires States to submit their SIP revisions within 2 years of enactment of the Clean Air Act Amendments of 1990 (CAAA) (November 15, 1990). New Hampshire submitted its SIP revision on January 12, 1993.

2. Reporting Requirements for State

In addition to the program elements applying to sources, the SIP should include a provision that requires States to provide EPA the identifying information for the sources covered by the emission statement program, the value for rule effectiveness utilized by the State in its SIP calculations, the source data elements entered into AIRS, and quarterly emission statement status reports. The minimum source identification information should include the AIRS code, the AFS point number (ID), the AFS segment number (ID), and the Source Category Code (SCC) and descriptions for each segment. In addition, States should supply to EPA the current rule effectiveness (RE) factors at the SCC pollutant level, if applicable, and the RE method codes. The emission statement data submittal to AIRS should include

all data obtained from the source and the State. These source-supplied data elements include source identification information (name, physical location, mailing address of the facility, latitude and longitude, and 4-digit Standard Industrial Classification (SIC) code(s)), operating schedule information (percentage annual throughput, days per week on the normal operating schedule, hours per day during the normal operating schedule, and hours per year on the normal operating schedule), process rate data (annual process rate (annual throughput) and peak ozone season daily process rate), control equipment information (current primary and secondary control equipment identification codes and current combined control equipment efficiency (%)), and emissions information (estimated actual VOC and NOx emissions at the segment level (in tons per year for an annual emission rate and pounds per day for a typical ozone season day), estimated emissions method code, calendar year for the emissions, and emission factor (if used)). EPA recommends that the States electronically submit emission statement data into the AIRS database no later than July 1 of each year, commencing in 1993. The quarterly reports should show the total number of facilities that met the State's emission statements program requirements and the number of facilities that failed to meet the requirements. Quarterly reports should be submitted commencing no later than July 1, 1993.

New Hampshire has not committed to submitting emission statement data to EPA by July 1 of each year. EPA will negotiate with New Hampshire to include a submittal date and requirement for quarterly emission statement reports in future 105 grants.

New Hampshire has not required source identification information, operating schedule information, control equipment information, process data information, and annual and typical ozone season day emissions from all potentially subject source categories. New Hampshire only requires source identification information and operating schedule information from surface coating and printing sources under Env-A 901.04(c), gasoline storage and degreasing facilities under Env-A 901.05(b), and fuel combustion and incinerator sources under Env-A 901.06(c)(1) and 901.06(c)(3). Under Env-A 901.04(h), New Hampshire requires all facilities with add-on VOC control equipment to keep records of control equipment information, but not to report this information. Facilities with add-on NOx control equipment are required to record this information under Env-A 901.06(c)(6). New Hampshire only requires process data information from surface coating and printing sources under Env-A 901.04(c)(5) and combustion sources under Env-A 901.06(c)(4). Recordkeeping, but not reporting, is required for gasoline storage sources under Env-A 901.04(e)(1) and degreasing facilities under Env-A 901.04(g)(2). New Hampshire only requires annual and typical ozone season day emissions from surface coating and printing sources under Env-A 901.04(c)(7), and combustion sources under Env-A 901.06(c)(5). This is also required from degreasing sources under Env-A 901.04(g)(4), however, sources are not required to report this information, only to keep records. No emissions reporting requirements were made for VOC/gasoline storage or for other types of sources.

3. Sources Covered

Section 182(a)(3)(B) requires that States with areas designated as nonattainment for ozone require emission statement data from all sources of VOC or NOx in the nonattainment areas. This requirement applies to all classified ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.). Section 184(b)(2) of the Act extends the requirements for major stationary sources in moderate ozone nonattainment areas to sources in the ozone transport region. Section 182(f) extends the requirements for major stationary sources of VOC in ozone transport regions to major sources of NOx. The emission statement requirement covers sources in attainment areas and nonattainment areas which are not classified within the ozone region which emit, or have the potential to emit, 100 tpy or more of NOx or 50 tpy or more of VOC.

New Hampshire is located in the ozone transport region. Emission statement regulations must apply State-wide, and cover all stationary sources which emit or have the potential to emit 50 tpy of VOC or 100 tpy of NOx. In addition, New Hampshire has three classified ozone nonattainment areas and are therefore subject to the more stringent source threshold requirement of section 182(a)(3)(B). The area which includes all of Merrimack County, part of Hillsborough County, and part of Rockingham County, is classified Marginal. The second nonattainment area includes all of Strafford County and part of Rockingham County, and is classified as Serious. Finally, a portion of New Hampshire is in the Boston-Lawrence-Salem Consolidated Metropolitan Statistical Area (CMSA), which is also classified as Serious. This includes a range of cities and towns from Nashua to Exeter in portions of Hillsborough and Rockingham Counties. For these classified ozone nonattainment areas, the States' emission statement regulations must cover all sources which emit VOC or NOx.

For classified ozone nonattainment areas, the States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NOx or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA. New Hampshire does not waive the emission statement requirement for sources emitting less than 25 tons per year of NOx or VOC emissions. New Hampshire requires certain sources that have potential emissions of less than 25 tons per year to supply their data and information required for calendar year 1992 by April 15, 1993. In addition, these sources are required to submit emission statements for every third calendar year, beginning with 1995, by April 15 of the following year. All NOx emitting sources that are required to submit emission statement information under EPA's guidance are covered in New Hampshire's regulation. Under Env-A 901.07, fuel burning devices, as well as miscellaneous sources having theoretical potential NOx emissions of at least 25 tpy, are required to submit information on an annual basis.

However, New Hampshire's regulation does not address all VOC sources recommended in EPA's guidance. Since New Hampshire is located in the ozone transport region, emission statement regulations must apply State-wide and cover all sources which emit or have the potential to emit 50 tpy of VOC. In addition, New Hampshire has three classified ozone nonattainment areas and are therefore subject to the more stringent source threshold requirement of section 182(a)(3)(B). These classified nonattainment areas must require emission statement data from all sources of VOC in the nonattainment areas unless New Hampshire waives, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide VOC

emissions in nonattainment areas. In Env-A 901.05(d), emission statements are required to be submitted for sources which are subject to the recordkeeping requirements of Env-A 901.04 and the applicability criteria of Env-A 1204.03. The applicability criteria of Env-A 1204.03 cover sources subject to EPA's existing control technique guideline (CTG) documents and other miscellaneous sources that have the potential to emit more than 50 tpy of VOC. Env-A 901.04 covers the following sources: Any source required to be permitted under 603.02(g) (surface coating, metal cleaning, or printing); 601.02(b) (VOC storage tanks); 603.02(i) (gasoline terminal loading racks); or any other paragraph of 603.02 which pertains to VOC emitters, with the exception of sources exempted by Env-A 901.03(a)(4). Env-A 901.03(a)(4) excludes from recordkeeping requirements, those sources using No. 1 and No. 2 fuel oils, natural gas, or electrical energy. Under New Hampshire's rules, the requirements for emission statements do not apply to miscellaneous VOC source categories (i.e., non-CTG) unless those sources are covered by Env-A 603.02. Only non-CTG sources that are coating or printing sources subject to 603.02(g) are covered by New Hampshire's emission statement program.

In addition, the applicability criteria of Env-A 1204.03 only cover graphic arts printing, and non-CTG sources with potential VOC emissions greater than 50 tpy. Therefore, if certain non-CTG sources have actual VOC emissions greater than 25 tpy, but potential emissions less than 50 tpy, they would not be covered by New Hampshire's program.

Furthermore, New Hampshire's emission statement rule specifically excludes sources with VOC emissions resulting from combustion of No. 1 and No. 2 fuel oils, or natural gas. As a result, New Hampshire has not required all sources that emit or have the potential to emit more than 50 tpy of VOC to submit emission statements.

Additionally, if either VOC or NOx is emitted at or above the statutory reporting level, the other pollutant must be included in the emission statement, even if it is emitted at levels below the specified cutoffs. New Hampshire did not include this requirement in its rule. New Hampshire's rule was proposed in May 1992 and EPA provided comments in June 1992. However, this requirement was not clearly stated in EPA's emission statement guidance until July 1992. Therefore, New Hampshire was unaware of this requirement at the time the regulation was proposed.

4. Reporting Requirements for Sources

Sources covered by the State emission statement program should submit, at a minimum, the data elements described under section II.B.2 of this document.

The emission statement submitted by the source should contain a certification that the information is accurate to the best knowledge of the individual certifying the statement. EPA recommends that the State program require the submission of the data from the sources no later than April 15 of each year.

Env-A 901.05(d)(1) and 901.07(b)(1) require sources subject to the emission statement requirement to submit data for the calendar year 1992 by April 15, 1993. Furthermore, these sections require that information for each subsequent calendar year be submitted by April 15 of the following year.

New Hampshire does require a certification of data accuracy under Env-A 901.04(b) and 901.06(b), however, this certification is not required to accompany the emission statement forms. In a June 24, 1992 comment letter, EPA commented "the certificate of data accuracy shall state, at a minimum, that the records required by Env-A and maintained at the facility are true and accurate. Also, the certificate of data accuracy must be submitted with each emission statement." New Hampshire's rule only requires that the certification be kept on the premises.

5. Reporting Forms

Although EPA has developed a proposed format for the emission statement reporting process in its guidance document, the Act allows States to develop their own format for emission statement reporting. New Hampshire has not specified a format in which facilities are to submit data.

III. Proposed Action

Because of the above deficiencies, EPA cannot grant approval of New Hampshire's rule under section 110(k)(3) and part D. EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of Chapter Env-A 900 "Owner or Operator Obligations" (Parts 901–903) under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it does not fully meet section 182(a)(3)(B) of part D of the Act. As provided under section 179(a) of the Act, the State will have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of the disapproval before EPA is required to impose one of the two sanctions set forth in section 179(b) of the Act: either highway sanctions or new source review offsets. If the State has not corrected its deficiencies within 6 months after imposition of the first sanction, EPA must impose the second sanction. Any sanction EPA imposes must remain in place until EPA determines that the State has met the 1990 Amendments requirements. Note also that any final rulemaking disapproving the State's submission will trigger the requirement for EPA to impose a Federal implementation plan within two years of disapproval as provided under section 110(c)(1) of the Act.

IV. Request for Public Comments

Public comments are solicited on the requested SIP revision and on EPA's proposal of a limited approval/limited disapproval. Public comments received by October 20, 1994 will be considered in the development of USEPA's final rulemaking action.

V. Administrative Requirements

A. Executive Order (EO) 12866

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 3 SIP revisions, 54 FR 2222, from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

B. Regulatory Flexibility

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 economic 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 section 110 and subchapter I, part D of the Clean Air Act 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, I certify that it does not have a significant impact on small entities. 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).

EPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Oxides of nitrogen, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 6, 1994.

John P. DeVillars,

Acting Regional Administrator, Region I.

[FR Doc. 94–23241 Filed 9–19–94; 8:45 am]

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40 CFR Part 60

[AD–FRL–5068–5]

Standards of Performance for New Stationary Sources: Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The EPA is proposing a new subpart Eb to regulate emissions from new municipal waste combustor (MWC) units for which construction, modification, or reconstruction began after September 20, 1994.

Today's proposal would implement sections 111 and 129 of the Clean Air Act (Act). The proposed rule would apply to new MWC units at facilities with aggregate capacities to combust greater than 35 megagrams per day (Mg/day; a megagram is a metric ton, and one megagram is equal to 2,204 pounds or about 1.1 short tons) of municipal solid waste (MSW) and would require sources to achieve emission limits reflecting the maximum degree of reduction in emissions of air pollutants that the Administrator determines is achievable, taking into consideration the cost of achieving such emission reduction, and any non-air-quality health and environmental impacts and energy requirements. The proposed rule establishes emission limits for MWC acid gases (sulfur dioxide (SO_2) and hydrogen chloride (HCl)), MWC metals (particulate matter (PM), opacity, cadmium (Cd), lead (Pb), and mercury (Hg)), MWC organics (dioxins/furans), nitrogen oxides (NO_x), and MWC fugitive fly ash/bottom ash. The proposed rule would also establish standards for MWC operating practices (carbon monoxide (CO), load, flue gas temperature at the PM control device inlet, and operator training/certification) and siting requirements for new MWC units.

DATES: *Comments.* Comments must be received on or before November 21, 1994.

Public Hearing. A public hearing will be held about 15 days following proposal. See **SUPPLEMENTARY INFORMATION** for additional information regarding the public hearing.

ADDRESSES: *Comments.* Comments on the proposal should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102), ATTN: Docket No. A–90–45, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. See **SUPPLEMENTARY INFORMATION** for additional information regarding submittal of comments.

Background Information. The key background information for the proposal includes: (1) A document entitled "FACT SHEET: New Municipal Waste Combustors—Proposed Subpart Eb NSPS," which succinctly summarizes the proposal, and (2) several technical documents listed under **SUPPLEMENTARY INFORMATION,** including all of the background information documents that supported the proposal and promulgation of the subpart Ca emission guidelines. See **SUPPLEMENTARY INFORMATION** for instructions for obtaining these documents.

Docket. Docket Nos. A–89–08 and A–90–45, containing supporting information used in developing the proposed standards, are located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, Central Mall, 401 M Street, SW., Washington, DC 20460. The docket may also be accessed by calling (202) 260–7548. See **SUPPLEMENTARY INFORMATION** for further information regarding the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Stevenson at (919) 541–5264 or Mr. Fred Porter at (919) 541–5251, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background Information

On December 20, 1989, the EPA proposed new source performance standards (NSPS) for new MWC's in subpart Ea of 40 CFR part 60. The subpart Ea NSPS were promulgated on February 11, 1991 and were developed under authority of paragraph (b) of section 111 of the Act of 1977. The Act of 1990 requires the EPA to review these emission standards and determine if they are fully consistent with the requirements of section 129. The EPA has reviewed the subpart Ea NSPS and has concluded that they are not fully consistent with the requirements of section 129 of the Act of 1990. Therefore, the EPA is proposing a new NSPS in subpart Eb that would fully comply with the requirements of section 129. Municipal waste combustors that begin construction, modification, or reconstruction after September 20, 1994, and that meet all other applicability criteria, would be subject to the proposed subpart Eb. Municipal waste combustors that were constructed, modified, or reconstructed after December 20, 1989 and on or before September 20, 1994, and that meet all other applicability criteria, would remain subject to the subpart Ea NSPS and would not be subject to the proposed subpart Eb NSPS. Those sources subject to subpart Ea would, however, also be subject to the emission guidelines that are being proposed under subpart Cb in a separate notice in today's **Federal Register**. The proposed subpart Cb emission guidelines would be applicable to sources constructed, modified, or reconstructed on or before September 20, 1994.

The **Federal Register** notices for the proposed NSPS and a proposed EPA test method that is associated with the NSPS, and the economic impacts analysis associated with the proposed NSPS are listed below and are available on the EPA's Technology Transfer Network (TTN) electronic bulletin board. Also listed below and available on the EPA's TTN is a FACT SHEET, which succinctly summarizes the proposal and is suggested reading for persons requiring a limited overview of the proposal. The TTN contains 18 electronic bulletin boards, and the items listed below are included in the Clean Air Act Amendments (CAAA) bulletin board and the Emissions Measurement Technical Information Center (EMTIC) bulletin board. The FACT SHEET can also be obtained by calling Ms. Cassie Posey at (919) 541–0069.

MWC Items in the CAAA Electronic Bulletin Board

(1) "FACT SHEET: New Municipal Waste Combustors—Subpart Eb Proposed NSPS."

(2) **Federal Register** notice for this proposal: "Standards of Performance for New Stationary Sources: Municipal Waste Combustors" (this document).

(3) "Economic Impact Analysis for Proposed Emission Standards and Guidelines for Municipal Waste Combustors," EPA–450/3–91–029, March 1994.

MWC Items in the EMTIC Electronic Bulletin Board

1. "Emissions Test Method 29: Determination of Metals Emissions from Stationary Sources (1994 Proposal)," EPA–454/R–94–016, April 1994 (the document includes both the **Federal Register** proposal notice (chapter 1) and the full text of the rationale and regulations for the proposal (chapter 2)).

The TTN is accessible 24 hours per day, 7 days per week, except Monday morning from 8 a.m. to 12 p.m., when the system is updated. The service is free, except for the cost of the phone call. Dial (919) 541–5742 to access the TTN. The TTN is compatible with up to a 14,400 bits-per-second (bps) modem. Further instructions for accessing the TTN can be obtained by calling the help desk at (919) 541–5384.

The background information for today's proposal includes all of the documents that supported the proposal and promulgation of the subpart Ea NSPS (Docket No. A–89–08), as well as information in Docket No. A–90–45. Key background information documents used in developing the subpart Ea NSPS and today's proposed standards are as follows:

(1) "Municipal Waste Combustors—Background Information for Proposed Standards: 111(b) Model Plant Description and Cost Report," EPA–450/3–89–27b, August 1989;

(2) "Municipal Waste Combustors—Background Information for Proposed Standards: Post-Combustion Technology Performance," EPA–450/3–89–27c, August 1989;

(3) "Municipal Waste Combustion Assessment: Combustion Control at Existing Facilities," EPA–600/8–89–057, August 1989;

(4) "Municipal Waste Combustion Assessment, Technical Basis for Good Combustion Practices," EPA–600/8–89–063, August 1989;

(5) "Municipal Waste Combustors—Background Information for Proposed Standards: Control of NO_x Emissions," EPA–450/3–89–27d, August 1989;

(6) "Municipal Waste Combustors—Background Information for Proposed Standards: Cost Procedures," EPA–450/3–89–27a, August 1989; and

(7) "Economic Impact Analysis for Proposed Emission Standards and Guidelines for Municipal Waste Combustors," EPA–450/3–91–029, March 1994.

Docket Nos. A–89–08 and A–90–45 are available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the location specified in the **ADDRESSES** section of this preamble. A reasonable fee may be charged for copying. Additionally, the docket may be accessed by telephone, as specified in the **ADDRESSES** section.

Comments. Today's action is a proposal and comments are requested. The MWC regulations are complex, and the EPA expects to receive numerous comments on this proposal. The EPA has specifically requested comments on items fundamental to the proposal, including but not limited to the MACT floor, MACT performance levels, and materials separation plans. The EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Whenever applicable, full supporting data and detailed analyses should be submitted with all comments to allow the EPA to respond to the comments.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Walter Stevenson, c/o Ms. Melva Toomer, U.S. EPA Confidential Business Manager, 411 W. Chapel Hill Street, Room 944, Durham, North Carolina 27701. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, it may be made available to the public without further notice to the commenter.

Public Hearing. The public hearing will be held to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed standards (see **DATES** for the hearing schedule). The public hearing will be held at Research Triangle Park, North Carolina, and will start at about 9 a.m. Persons wishing to present oral testimony at the public hearing must call Ms. Julia Latta at (919) 541–5578 at least 2 days in advance of the public hearing. Persons interested in attending the hearing should also call Ms. Latta to verify the time, date, and location of the hearing. Persons may call (919) 541–5264 to hear a recorded message that provides current information on the status of the public hearing.

Preamble Outline. The following outline is provided to aid in locating information in this preamble.

I. Introduction
- A. Summary of Regulatory Decisions
- B. New Source Performance Standards—General Goals
- C. Overview of this Preamble

II. Summary of the Proposed Subpart Eb Standards
- A. Source Category to be Regulated
- B. Pollutants to be Regulated
- C. Format for the Proposed Standards
- D. Proposed Standards
- E. Comparison of the 1991 NSPS and Today's Proposed NSPS
- F. Performance Testing and Monitoring Requirements
- G. Reporting and Recordkeeping Requirements

III. Impacts of the Proposed Standards
- A. Incremental Impacts of the Proposed NSPS over the 1991 NSPS
- B. Impacts of the Proposed NSPS Over a Pre-1989 Baseline

IV. Rationale for Proposed Standards for MWC Emissions
- A. Background
- B. Selection of Source Category
- C. Modification or Reconstruction of Existing MWC's
- D. Selection of Designated Pollutants
- E. Selection of Affected Facilities
- F. Selection of Maximum Achievable Control Technology
- G. Selection of Format for the Proposed Standards

H. Performance Test Methods and Monitoring Requirements
I. Reporting and Recordkeeping Requirements
V. Rationale for the Proposed Standards for Siting Requirements
A. Overview
B. Siting Analysis
C. Materials Separation Plan
D. Public Meeting and Reporting Requirements
VI. Rationale for the Proposed Standards for Fugitive Fly Ash/Bottom Ash Emissions
A. Background
B. Fugitive Emission Control Techniques
C. Proposed Fugitive Emissions Standards
VII. Proposed Standards for Air Curtain Incinerators
VIII. Comparison of the Proposal and European Emission Limits
IX. Miscellaneous
X. Administrative Requirements
A. Public Hearing
B. Docket
C. Clean Air Act Procedural Requirements
D. Office of Management and Budget Reviews
E. Regulatory Flexibility Act Compliance

I. Introduction

This section provides an introduction to the proposed rule by: (1) Summarizing the history of the development of NSPS for new MWC's over the past 7 years; (2) summarizing the general goals of the proposed rule that are specified by sections 111(d) and 129 of the Act of 1990; and (3) providing a brief overview of the major issues discussed in this preamble.

A. Summary of Regulatory Decisions

During the early and mid-1980's, several studies were performed to determine whether MWC emissions should be regulated and, if so, under what section of the Act. As set forth in the advance notice of proposed rulemaking (ANPRM) (52 FR 25399, July 7, 1987), the EPA decided to regulate air emissions from MWC's under section 111 of the Act, and based the regulation on best demonstrated technology (BDT), as required by section 111. On December 20, 1989, the EPA proposed NSPS for new MWC's and emission guidelines for existing MWC's (54 FR 52251 and 54 FR 52209, respectively). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted and added section 129 to the Act. Section 129 of the Act specifies that revised NSPS and emission guidelines must be developed for MWC's in accordance with the requirements of sections 111 and 129. Section 129 further specifies that revised NSPS and emission guidelines be developed for both large and small MWC's and that the revised NSPS and emission guidelines must reflect a more restrictive standard of performance. Section 129 includes a schedule for revising the 1991 NSPS. When the EPA did not comply with that schedule, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a complaint with the U.S. District Court for the Eastern District of New York. The resulting consent decree requires the EPA Administrator to sign a notice of proposed rulemaking not later than September 1, 1994 and a notice of promulgation not later than September 1, 1995 (Nos. CV–92–2093 and CV–93–0284).

The NSPS and guidelines promulgated on February 11, 1991 (56 FR 5488 and 56 FR 5514, respectively) apply to MWC's with unit capacities above 225 Mg/day and reflect BDT as determined by the Administrator at the time those standards were issued. Today's notice therefore proposes to create new NSPS to be fully consistent with sections 111 and 129 of the Act and to extend coverage of the standards to new MWC units located at MWC facilities with aggregate plant capacity above 35 Mg/day. Additionally, under a separate notice in today's **Federal Register**, new subpart Cb emission guidelines for existing MWC plants with aggregate capacities above 35 Mg/day of MSW are being proposed pursuant to sections 111 and 129 of the Act.

Today's proposed NSPS is more stringent than the NSPS promulgated on February 11, 1991. Today's proposed NSPS would replace the subpart Ea NSPS for those facilities for which construction, modification, or reconstruction commenced after September 20, 1994. However, the February 11, 1991 subpart Ea NSPS will remain in effect for affected facilities constructed, modified, or reconstructed after December 20, 1989 and on or before September 20, 1994. Those sources subject to the February 11, 1991 subpart Ea NSPS would also be subject to the emission guidelines being proposed under subpart Cb in a separate notice in today's **Federal Register**. In most cases, the proposed subpart Cb emission guidelines are more stringent than the existing subpart Ea standards.

B. New Source Performance Standards—General Goals

The Act requires the promulgation of performance standards under section 111 for categories of new and existing stationary sources that may contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Section 129 of the Act specifies that NSPS and emission guidelines must be developed for MWC's in accordance with the requirements of sections 111 and 129 of the Act. Section 129(a)(2) provides that the revised standards for new MWC's reflect the maximum degree of reduction in emissions of designated air pollutants, taking into consideration the cost of achieving such emission reduction, and any non-air-quality health and environmental impacts and energy requirements that the Administrator determines are achievable for a particular category of sources (this standard is commonly referred to as "maximum achievable control technology, or "MACT"). Additionally section 129 provides that standards for new sources may not be less stringent than the emissions control achieved in practice by the best controlled similar unit. This is referred to as the "MACT floor." The standards themselves are set forth as emission limits and do not specify what technology must be applied.

C. Overview of this Preamble

This preamble will:

(1) Summarize the proposed standards by discussing the conclusions reached with respect to each of the elements in the decision summary;

(2) Describe the environmental, energy, and economic impacts of the proposed standards;

(3) Present a rationale for each of the decisions associated with this proposal;

(4) Present a regulatory flexibility analysis; and

(5) Discuss administrative requirements relevant to this action.

II. Summary of the Proposed Subpart Eb Standards

This section presents a summary of the proposed NSPS, including identification of the source category and pollutants that would be regulated under the proposal, discussion of the format of the proposed standards, and presentation of the proposed standards and their associated performance testing, monitoring, recordkeeping and reporting requirements. This section also provides a comparison of the emission standards in this proposed subpart Eb NSPS versus the 1991 subpart Ea NSPS.

A. Source Category to be Regulated

Today's proposed standards would apply to each MWC unit located at an MWC facility that has an aggregate plant capacity to combust over 35 Mg/day of MSW, for which construction, modification, or reconstruction commenced after September 20, 1994. Additionally, under the proposed NSPS, plants with an aggregate capacity to combust between 25 and 35 Mg/day would be required to submit an initial report of their facility capacities and

location, but would not be subject to any other provisions of the NSPS. Municipal waste combustors that commenced construction, modification, reconstruction on or before September 20, 1994 are not covered under today's proposed standards, but are being addressed in a separate notice in today's **Federal Register**.

An MWC is defined as any setting or equipment that combusts MSW. Municipal solid waste combustion includes the burning (or pyrolysis) of MSW in any type of setting or equipment, including combustion equipment with or without heat recovery. This definition has been slightly modified from the February 11, 1991 NSPS and is discussed below.

Municipal solid waste is defined as either a mixture or a single-item stream of household, commercial, and/or institutional discards. This would include materials such as paper, wood, yard wastes, tree trimmings, plastics, leather, rubber, glass, metals, and other combustible and noncombustible materials. The MSW definition includes household discards as well as discards from institutional and commercial sources, but does not include industrial process or manufacturing discards. The definition of MSW also includes refuse-derived fuel (RDF), which is solid waste that is shredded (or pelletized) and classified by size before combustion. Municipal solid waste does not, however, include wastes that are solely segregated medical wastes. However, if segregated medical wastes are mixed with MSW, the resulting mixture remains MSW, and the proposed standards would apply if the aggregate MWC plant capacity exceeded 35 Mg/day capacity. Minor editing changes are proposed in the definition of MSW to clarify this point.

Air curtain incinerators that combust MSW are MWC's. However, air curtain incinerators that burn only yard wastes, tree trimmings, and clean untreated lumber would be covered under a separate set of proposed opacity emission limits, and no other part of the proposal would apply. Air curtain incinerator opacity requirements are discussed in section VII of this preamble.

B. Pollutants to be Regulated

Section 129 of the Act requires the EPA to establish numerical emission limits specifically for SO_2, HCl, PM, opacity, Cd, Pb, Hg, dioxins/furans, CO, and NO_X. Section 129 specifies that the EPA may also

> * * * promulgate numerical emission limitations or provide for the monitoring of post-combustion concentrations of surrogate substances, parameters, or periods of residence times in excess of stated temperatures with respect to pollutants other than those listed [above]. * * *

Therefore, the EPA is proposing standards for load and flue gas temperature at the PM control device inlet as additional indicators of MWC operating practices. The EPA is also proposing a standard for fly ash/bottom ash fugitive emissions because these emissions include Cd, Pb, Hg, and dioxins/furans (see section VI of this preamble for further discussion of the EPA's decision to regulate fugitive emissions from MWC's).

The February 11, 1991 NSPS includes standards for all of the pollutants listed above except Cd, Pb, Hg, and fly ash/bottom ash fugitive emissions. The proposed NSPS would establish standards for all of the pollutants listed above. The proposed standards for the same pollutants regulated by the February 11, 1991 NSPS (i.e., SO_2, HCl, PM, opacity, dioxins/furans, NO_X, CO, load, and flue gas temperature at the PM control device inlet) would be revised under the proposal to reflect the requirements of section 129.

C. Format for the Proposed Standards

The format of the proposed standards is similar to the format of the February 11, 1991 NSPS. In most cases, the format is in the form of emission limits (concentrations).

The February 11, 1991 NSPS specifies emission limits for PM and opacity. Particulate matter is measured as a concentration (milligrams per dry standard cubic meter (mg/dscm)) and is corrected to 7 percent oxygen (O_2), and opacity is measured on a percentage basis. The format for the PM and opacity standards would not change in today's proposal, but Cd, Pb, and Hg emission limits would be added. Emissions of Cd, Pb, and Hg would be calculated as a concentration (mg/dscm) corrected to 7 percent O_2, dry basis. For Hg, today's proposed standards would also establish an alternative percentage reduction requirement. A new method (Method 29) that would measure these pollutants is being proposed in a separate part of today's **Federal Register**.

The February 11, 1991 NSPS establishes control requirements for SO_2 and HCl (MWC acid gases) by specifying both numerical emission limits and alternative percentage reduction requirements for both SO_2 and HCl. The concentration emission limits for HCl and SO_2 are calculated as parts per million by volume (ppmv) corrected to 7 percent O_2, dry basis. Today's proposed standards for SO_2 and HCl would also be based on the same format.

The February 11, 1991 NSPS addresses a numerical emission limit for NO_X emissions. The concentration emission limit for NO_X is calculated as ppmv. Today's proposed standard for NO_X is based on the same format as the February 11, 1991 NSPS.

The February 11, 1991 NSPS establishes MWC organics control by specifying an emission limit for dioxins/furans. The format of the dioxin/furan emission limit would be revised by today's proposal. In the February 11, 1991 NSPS, emissions of dioxins/furans are calculated as a concentration (nanograms per dry standard cubic meter (ng/dscm)) corrected to 7 percent O_2, dry basis, on a total mass basis (i.e., the mass of all tetra- through octa-congeners were added together). In today's proposal, dioxin/furan emissions could be reported either in units of ng/dscm toxic equivalency (TEQ) or in units of ng/dscm total mass dioxins/furans. Reporting in TEQ units is done by first measuring the total mass of dioxin/furan congeners and then adjusting the results for the toxicity of each dioxin/furan congener. The same test method (Method 23) is used in either case. See section II.F of this preamble for further discussion of the proposed method of reporting dioxin/furan emissions in terms of TEQ.

In addition to controlling stack emissions, the February 11, 1991 NSPS also establishes good combustion operating standards for MWC's. These operating standards are part of good combustion practices (GCP) and ensure that emissions of MWC organics (dioxins/furans) are minimized on a continuous basis. The GCP requirements are included in today's proposal, but they are being extended to apply to MWC's at plants of 35 Mg/day aggregate capacity or larger. Additionally, some minor revisions are being proposed. The proposed revisions would include: (1) A requirement that all shift operators and chief facility operators obtain full operator certification, (2) "stand in" authority for MWC control room operators, and (3) required training of MWC shift supervisors. These items are discussed below.

The February 11, 1991 NSPS requires provisional certification of the chief facility operator and shift supervisors by the American Society of Mechanical Engineers (ASME) or a State certification program. Development of a site-specific training manual to be used for training other MWC personnel is also required. Today's proposal would require that the chief facility operator and shift supervisor obtain both provisional and then full operator certification.

Today's proposal would also allow for the optional certification of one or more control room operators. Under the February 11, 1991 NSPS, all chief facility operators and shift supervisors shall be certified, and one of these individuals must be onsite during all periods of MWC operation. Under today's proposal, a provisionally certified control room operator may "stand in" for the chief facility operator or shift supervisor during periods in which the certified chief facility operator or certified shift supervisor is offsite, in order to fulfill the requirement that a certified individual be onsite during all periods of MWC operation. This would provide additional operating flexibility. Today's proposal would also require that all chief facility operators, shift supervisors, and control room operators complete the EPA or a State MWC operator training course. The EPA has developed a model training program that has been distributed to State air pollution control agencies, the EPA Regional Offices, and MWC industry groups. The EPA believes that operator training is an integral part of the implementation of GCP.

Today's proposed standards would establish siting requirements for all new MWC's at plants with aggregate capacities above 35 Mg/day. These siting requirements would include three components. First, an analysis of the impact of the facility on ambient air quality, visibility, soils, and vegetation would be required. Second, the siting requirements would include submittal of a materials separation plan for the area served by the affected facility. Third, the MWC owner or operator would be required to make both the siting analysis and the materials separation plan available to the public, hold public meetings to receive comments on the siting analysis and materials separation plan, and respond in writing to the comments received. These siting requirements were not included in the February 11, 1991 NSPS. See section V.D of this preamble for a more detailed discussion of the proposed siting requirements.

Today's proposed standards also establish standards for fugitive fly ash/bottom ash emissions from ash handling facilities. The proposed standards would establish visible emissions limits for emissions of ash from buildings where ash was transferred and from external ash transfer equipment and ash handling areas at the MWC facility. This requirement was not included in the February 11, 1991 NSPS.

D. Proposed Standards

Today's proposal would establish standards for MWC acid gases (SO_2 and HCl), MWC metals (PM, opacity, Cd, Pb, and Hg), MWC organics (dioxins/furans), and NO_X. The proposed standards also include requirements for fly ash/bottom ash fugitive handling, MWC operating practices (CO, load, and flue gas temperature), operator training and certification, and siting for new MWC units.

The proposed NSPS would divide the MWC population into two subcategories: The first would be for MWC units located at small MWC plants (i.e., those with aggregate capacities to combust greater than 35 Mg/day of MSW but equal to or less than 225 Mg/day), and the second would be for MWC units at large plants (i.e., those with aggregate capacities to combust more than 225 Mg/day of MSW). The aggregate capacity of all MWC units at one site constructed after September 20, 1994 would be added together to define aggregate MWC plant capacity for determining NSPS applicability.

The proposed NSPS for each subcategory of MWC's are summarized in table 1. The proposed NSPS are also discussed briefly below.

TABLE 1. SUMMARY OF PROPOSED NSPS FOR NEW MWC'S

[Subpart Eb][a]

Plant size (MSW combustion capacity)	Requirement
Applicability	
The proposed NSPS would apply to new MWC units located at plants with capacities to combust greater than 25 Mg/day of residential, commercial, and/or institutional discards.[b] Industrial discards are not covered by the proposed NSPS.	
≤25 Mg/day	Not covered by standards.
>25 Mg/day but ≤ 35 Mg/day	Initial report of MWC design capacity and startup date.
>35 Mg/day but ≤ 225 Mg/day (referred to as small MWC plants)	Subject to provisions listed below.
>225 Mg/day (referred to as large MWC plants)	Subject to provisions listed below.

Good Combustion Practices:

- Applies to large and small MWC plants.
- A site-specific operator training manual would be required to be developed and made available for MWC personnel. The EPA or State MWC operator training course would be required to be completed by the MWC chief facility operator, shift supervisors, and control room operators.
- The ASME or a State MWC operator certification would be required to be obtained by the MWC chief facility operator (mandatory), shift supervisors (mandatory), and control room operators (optional).
- The MWC load level would be required to be measured and not to exceed the maximum load level as demonstrated during the most recent dioxin/furan performance test.
- The PM control device inlet flue gas temperature would be required to be measured and not to exceed the level demonstrated during the most recent dioxin/furan performance test.
- The CO level would be required to be measured using CEMS, and the concentration in the flue gas would be required not to exceed the following.

MWC type	CO Level[c]	Averaging time
Modular starved-air and excessair	50 ppmv	4-hour.
Mass burn waterwall and refractory	100 ppmv	4-hour.
Mass burn rotary refractory	100 ppmv	4-hour.
Fluidized-bed combustion	100 ppmv	4-hour.
Coal/RDF mixed fuel-fired	150 ppmv	4-hour.

MWC type	CO Level[c]	Averaging time
RDF stokers	150 ppmv	24-hour.
Mass burn rotary waterwall	100 ppmv	24-hour.

MWC Organic Emissions (measured as dioxin/furan)[c,d]	
• Dioxins/furans (compliance test by EPA Reference Method 23)	
Large and small MWC plants	13 ng/dscm total mass or 0.20 ng/dscm dioxin/furan TEQ[e].
• Basis for dioxin/furan standard	GCP and SD/FF/CI.
MWC Metal Emissions[c]	
• PM (compliance test by EPA Reference Method 5)	
Large and small MWC plants	15 mg/dscm (0.007 gr/dscf).
• Opacity (compliance test by EPA Reference Method 9)	
Large and small MWC plants	10 percent (6-minute average).
• Cd (compliance test by EPA Reference Method 29)[f]	
Large and small MWC plants	0.010 mg/dscm (4.4 gr/million dscf).
• Pb (compliance test by EPA Reference Method 29)[f]	
Large and small MWC plants	0.10 mg/dscm (44 gr/million dscf).
• Hg (compliance test by EPA Reference Method 29)[f]	
Large and small MWC plants	0.080 mg/dscm (35 gr/million dscf) or 85-percent reduction in Hg emissions.
• Basis for PM, opacity, Cd, Pb, and Hg standards	
Large and small MWC plants	See basis for dioxin/furan standard.
MWC Acid Gas Emissions[c]	
• SO_2 (compliance test by CEMS)	
Large and small MWC plants	30 ppmv or 80-percent reduction in SO_2 emissions (24-hour).
• HCl (compliance test by EPA Reference Method 26)	
Large and small MWC plants	25 ppmv or 95-percent reduction in HCl emissions.
• Basis for SO_2 and HC1 standards	See basis for dioxin/furan standard.
Nitrogen Oxides Emissions[c]	
• NO_X (compliance test by CEMS)	
Large MWC plants	180 ppmv.
Small MWC plants	No NO_X control requirement.
• Basis for NO_x standard	
Large MWC plants	SNCR.
Small MWC plants	No NO_X control requirement.
Fly Ash/Bottom Ash Fugitive Emissions	
• Fly Ash/Bottom Ash (compliance test by EPA Reference Method 22)	
Large and small MWC plants	No visible emissions from buildings, ash transfer points, or ash handling areas.
• Basis for fugitive emissions standard	Wet ash handling or enclosed ash handling.
Siting Requirements	
• Large and small MWC plants	(1) Siting analysis, (2) materials separation plan, and (3) public meetings (including response to comments)[g].
Compliance Testing and Monitoring Requirements	
• Load, flue gas temperature	Continuous monitoring, 4-hour arithmetic average.
• CO	CEMS, 4- or 24-hour arithmetic average, as applicable.
• Dioxins/furans[d], PM, Cd, Pb, Hg, and HCl	
Large MWC plants	Annual stack test.
Small MWC plants	Annual or third year stack test[h].
• Opacity	COMS (6-minute average) and annual stack test.
• SO_2	CEMS, 24-hour geometric mean.
• NO_X (large MWC plants only)	CEMS, 24-hour arithmetic average.
• Fly ash/bottom ash fugitive emissions	Annual test.

[a] Definition of Abbreviations Used in Table:
ASME = American Society of Mechanical Engineers
Cd = cadmium
CEMS = continuous emission monitoring system
CO = carbon monoxide
COMS = continuous opacity monitoring system
GCP = good combustion practices
gr/dscf = grains per dry standard cubic foot
gr/million dscf = grains per million dry standard cubic feet
HCl = hydrogen chloride
Hg = mercury

Mg/day = megagrams per day (1 Mg/day = 1.1 short tons/day (2,204 pounds/day))
mg/dscm = milligrams per dry standard cubic meter (100 mg/dscm = 0.044 gr/dscf)
MSW = municipal solid waste
MWC = municipal waste combustor
ng/dscm = nanograms per dry standard cubic meter (1,000,000 ng = 1 mg)
NO_X = nitrogen oxides
NSPS = new source performance standards
Pb = lead
PM = particulate matter
ppmv = parts per million by volume
RDF = refuse-derived fuel
SD/FF/CI = spray dryer/fabric filter/activated carbon injection
SNCR = selective noncatalytic reduction
SO_2 = sulfur dioxide
TEQ = toxic equivalency of 2,3,7,8- tetrachlorinated dibenzo-p-dioxin (North Atlantic Treaty Organization (NATO) 1989 international criteria)
Total mass = total mass of tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

[b] Air curtain incinerators that combust only yard wastes, tree trimmings, and/or clean lumber would be subject to an opacity emission limit but to no other parts of the proposed NSPS. Air curtain incinerators that combust other MSW are subject to all requirements under the proposed NSPS.

[c] All concentration levels in the table are corrected to 7 percent O_2, dry basis.

[d] Dioxins/furans measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans. For plants complying with the TEQ format of the standard, TEQ is determined using 1989 international toxicity equivalency factors.

[e] For MWC's constructed after September 20, 1994, but on or before September 22, 1997, the standard would be 0.50 ng/dscm TEQ or 30 ng/dscm total mass for the first 3 years of operation of the MWC. After the first 3 years, the standard would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass. For all MWC's constructed after September 22, 1997, the standard at startup would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass.

[f] Method 29 is being proposed in a separate notice in today's FEDERAL REGISTER.

[g] Two public meetings would be held for review of the materials separation plan. The first public meeting would focus on review of a draft materials separation plan. The draft materials separation plan and the summary of responses to public comments about the plan would be submitted to EPA prior to application for a construction permit under New Source Review (NSR). A second public meeting would be held after submission of the application for a construction permit and would focus on both the final materials separation plan and the siting analysis. The siting analysis, the materials separation plan, and the summary of responses to public comments on the siting analysis and the materials separation plan would be submitted as part of the initial notification of construction.

[h] The proposed NSPS includes provisions that would allow small MWC plants to conduct performance tests for dioxins/furans, PM, Cd, Pb, Hg, and HCl every third year if the MWC meets certain specified criteria discussed in section II.F of this preamble.

The proposed standards are summarized below.

1. Municipal Waste Combustor Organics

The proposed standards for MWC organics would require new MWC's at MWC plants with capacities above 35 Mg/day for which construction commences after September 20, 1994, but on or before September 22, 1997, to meet a dioxin/furan emission limit of either 0.50 ng/dscm TEQ or 30 ng/dscm total mass, at 7 percent O_2 for the first 3 years following the date of initial startup. Thereafter, the standard would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass. For MWC's at plants with capacities above 35 Mg/day for which construction commences after September 22, 1997, the standard at startup would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass. Emissions reported in TEQ would be calculated using the 1989 North Atlantic Treaty Organization (NATO) international toxic equivalency factors (TEF's), using the methods described in section II.F of this preamble and section 60.58b of the proposed subpart Eb NSPS.

2. Municipal Waste Combustor Metals

The proposed standards for MWC metals would require all MWC's at MWC plants with capacities above 35 Mg/day to meet a PM emission limit of 15 mg/dscm at 7 percent O_2. Municipal waste combustors at both large and small MWC plants would also be required to meet an opacity limit of 10 percent based on a 6-minute averaging period.

The proposed standards would also establish specific emission levels for Cd, Pb, and Hg. The proposed standards would require new MWC's at MWC plants with capacities above 35 Mg/day to meet a Cd limit of 0.010 mg/dscm, a Pb limit of 0.10 mg/dscm, and an Hg limit of 0.080 mg/dscm or an 85-percent reduction in potential Hg emissions. These proposed emission limits are corrected to 7 percent O_2 on a dry basis.

3. Municipal Waste Combustor Acid Gases

The proposed standards for MWC acid gases would require MWC's at plants with capacities above 35 Mg/day to meet an HCl emission limit of either 25 ppmv or 95-percent reduction (at 7 percent O_2, dry basis). These MWC plants would also be required to achieve an SO_2 emission limit of either 30 ppmv or 80-percent reduction (at 7 percent O_2, dry basis, on a 24-hour geometric mean basis, measured continuously).

4. Good Combustion Practices

Today's proposed NSPS would require all new MWC's at MWC plants with capacities above 35 Mg/day to comply with specific operating practices that reflect GCP. These operating practices include CO emission limits, combustor load levels, and flue gas temperatures at the inlet to the PM control device.

The GCP CO levels remain basically unchanged from the February 11, 1991 NSPS. For modular starved-air and modular excess-air types of MWC's, the CO emission limit would be 50 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis. For mass burn waterwall, mass burn refractory (rotary and fixed-wall), and fluidized-bed types of MWC's, the CO emission limit would be 100 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis. For mass burn rotary waterwall MWC's, the CO emission limit would be 100 ppmv (at 7 percent O_2, dry basis) on a 24-hour block average basis. For RDF-stoker MWC's, the CO limit would be 150 ppmv (at 7 percent O_2, dry basis) on a 24-hour block average basis. For coal/RDF mixed fuel-fired MWC's, the CO limit would be 150 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis. These limits remain unchanged from the February 11, 1991 NSPS except that a limit specifically for mass burn rotary refractory units has been added for clarification.

Municipal waste combustors would be allowed to operate up to 110 percent of the maximum capacity, as achieved during the most recent dioxin/furan compliance test. Maximum capacity would be based on the steam flow rate, which would be continuously monitored according to the ASME Power Test Code (PTC) for Steam Generating Units (PTC4.1 and PTC19.5). This requirement is unchanged from the February 11, 1991 NSPS. The EPA requests comments on this method of measuring load for steam-generating

MWC's. Specifically, the EPA has questions regarding the requirement for calibration of the measuring device (e.g., orifice plate) before and after each dioxin/furan compliance test. The EPA is concerned that this calibration requirement may be overly burdensome because the main steam line that contains the orifice plate may need to be cut in order to access the orifice plate for recalibration. Also, the EPA requests comments on whether the ASME PTC adequately addresses the need for calibrating the signal from the flow meter.

Additionally, the EPA requests comments on the use of boiler feed water flow as an alternative method for continuously monitoring load for steam-generating MWC's.

Furthermore, the EPA is considering allowing the use of the continuous flue gas volumetric flow rate to measure maximum capacity for both steam-generating MWC's, as well as those MWC's that do not generate steam. These types of monitors are based on ultrasonic, thermal, or differential pressure methods, and are now being required as part of the EPA's Acid Rain Program (40 CFR part 75). The EPA requests comments on whether continuous flue gas volumetric flow rate monitors are adequately demonstrated and accurate methods for determining compliance with the load level requirements, and if they should be allowed as an alternative to the use of the ASME PTC.

Under the NSPS, MWC's would establish a site-specific maximum flue gas temperature at the final PM control device inlet demonstrated during their most recent dioxin/furan compliance test. Similar to the provisions for establishing a maximum load level measurement, the maximum demonstrated PM control device inlet temperature is established as the maximum 4-hour block average temperature measured during the most recent dioxin/furan compliance test. The MWC must then be operated so that the temperature at the final PM control device inlet does not exceed this level by more than 17 °C (30 °F) (4-hour block average basis).

5. Operator Certification and Training

The proposed NSPS would require full operator certification of all MWC shift supervisors and MWC chief facility operators by the ASME or a State certification program. The proposed standards would also require that at least one of the following persons be on duty at all times during which the MWC is combusting waste: A fully certified chief facility operator, a fully certified shift supervisor, or a provisionally certified control room operator. A provisionally certified control room operator would be allowed to "stand in" during times a fully certified chief facility operator or shift supervisor is offsite. These requirements would become effective on the date of promulgation of the NSPS or 6 months after startup of a new MWC, whichever is later.

In addition, the proposed NSPS would require each owner or operator of an MWC plant with an aggregate capacity greater than 35 Mg/day to develop and maintain a site-specific training manual and to review it with all employees associated with the operation of the MWC (including MWC maintenance personnel, crane/load operators, and ash handlers). The manual and training would be updated annually. This site-specific training requirement would be effective on the date of promulgation of the NSPS or 6 months after startup of a new MWC, whichever is later.

Section 129 of the Act of 1990 requires the EPA to develop and promote a model program for the training and certification of MWC operators. Section 129 specifies that "any person with control over processes affecting emissions from a unit" must successfully complete an acceptable training program. Consistent with section 129, today's proposed revisions would require all MWC chief facility operators, shift supervisors, and control room operators to complete the EPA or a State MWC operator training course before operating an MWC or within 6 months following promulgation of the standards, whichever is later. The EPA has developed a model training program and has distributed it to State air pollution control agencies, EPA regional offices, and MWC industry groups. This model training program could be used to fulfill this requirement and prepare for the ASME certification.

6. Nitrogen Oxides Emissions

The proposed standards include a NO_X control requirement for MWC's at large plants and would require these MWC's to meet a NO_X emission limit of 180 ppmv (corrected to 7 percent O_2, dry basis, on a 24-hour daily average basis). A "no control" NO_X emission limit for MWC's at small plants is also proposed and is discussed in section VII of this preamble.

7. Siting Requirements

Siting requirements are being proposed for all new MWC's at plants with capacities above 35 Mg/day. These siting requirements are not included in the 1991 subpart Ea NSPS. The siting requirements would include the following three components: (1) A siting analysis, (2) a materials separation plan, and (3) public meetings. The siting analysis would address the impact of the facility, taking into account other major industrial facilities near the proposed site, on ambient air quality, visibility, soils, vegetation, and other factors that may be relevant in determining that the benefits of the proposed facility significantly outweigh the environmental and social costs imposed as a result of its location and construction. The materials separation plan would summarize materials separation requirements for the facility and its service area. Following public meetings on the siting analysis and materials separation plan, the facility would be required to prepare transcripts of the public meetings and summaries of comments and responses for the public meetings.

8. Fly Ash/Bottom Ash Fugitive Emissions

Standards are proposed for fly ash/bottom ash fugitive dust emissions from ash handling and storage facilities at all MWC's at plants above 35 Mg/day capacity. The proposed standards would establish a no visible emissions limit for fly ash/bottom ash handling and would apply to ash handling, conditioning, loading and storage buildings, any external ash conveyors, ash transfer points, or ash handling activities (e.g., truck loading), and any other area at the facility that is a potential source of fly ash or bottom ash fugitive emissions.

E. Comparison of the 1991 NSPS and Today's Proposed NSPS

The subpart Ea NSPS promulgated on February 11, 1991 and today's proposed subpart Eb standards both include emission limits for dioxins/furans, PM, SO_2, HCl, and NO_X; however, today's proposed standards for most of these pollutants are more stringent than the NSPS promulgated on February 11, 1991. The February 11, 1991 NSPS did not address Cd, Pb, Hg, or fly ash/bottom ash fugitive emissions, but these pollutants are included in today's proposal. Also, today's proposal would apply to all MWC units at plants with aggregate capacities above 35 Mg/day, whereas the February 11, 1991 NSPS only included MWC's with unit capacities above 225 Mg/day. A comparison of the 1991 NSPS and the proposed NSPS emission limits for these pollutants is shown in table 2.

TABLE 2.—COMPARISON OF THE PROPOSED NSPS (SUBPART Eb) AND THE 1991 NSPS (SUBPART Ea)

Pollutant or parameter	NSPS emission limit[a]	
	Proposed NSPS (subpart Eb)	1991 NSPS (subpart Ea)
	MWC plants >35 Mg/day[b]	MWC's >225 Mg/day[c]
Dioxins/furans	0.20 ng/dscm toxic equivalence or 13 ng/dscm total mass	30 ng/dscm, total mass (equivalent to about 0.50 ng/dscm toxic equivalence).
SO_2	30 ppmv or 80-percent reduction[d]	30 ppmv or 80-percent reduction[d].
HCl	25 ppmv or 95-percent reduction[d]	25 ppmv or 95-percent reduction.[d]
PM	15 mg/dscm	34 mg/dscm.
Opacity	10 percent	10 percent.
Cd	0.010 mg/dscm	None.
Pb	0.10 mg/dscm	None.
Hg	0.080 mg/dscm (or 85-percent reduction)[d]	None.
NO_x	180 ppmv[e]	180 ppmv.
Fly ash/bottom ash fugitive emissions.	No visible emissions from buildings, ash transfer points, or ash handling areas	None.
Siting requirements	Siting analysis, materials separation plan, and public meeting requirements	None.

[a] All emission limits are corrected to 7 percent O_2, dry basis.
[b] Refers to aggregate MWC plant capacity.
[c] Refers to MWC unit capacity.
[d] Whichever is less stringent.
[e] Plants >225 Mg/day only.

The MWC operating standards (GCP) contained in today's proposal are the same as those in the February 11, 1991 NSPS. The training and certification requirements have changed somewhat. The February 11, 1991 standards require only provisional certification of MWC chief facility operators and shift supervisors, but today's proposed standards would require both provisional and then full certification. This change is being proposed because the full operator certification program is now widely available. In 1991, the program was not widely available.

Today's proposal also adds a provision to allow provisionally certified control room operators to stand in for the MWC chief facility operators or shift supervisors in their temporary absence from the MWC. Additionally, today's proposal would require all MWC chief facility operators, shift supervisors, and control room operators to complete the EPA or a State MWC training course. This training course requirement was not included in the February 11, 1991 NSPS.

F. Performance Testing and Monitoring Requirements

Information related to the performance testing and monitoring requirements for MWC acid gases (SO_2 and HCl), MWC organics (dioxin/furan), PM, opacity, MWC operating practices, and NO_X has been published in a previous **Federal Register** notice (56 FR 5488, February 11, 1991). These same requirements would be adopted by today's proposed NSPS and would be extended to apply to all MWC's at plants with aggregate capacities above 35 Mg/day. Because the proposed NSPS allows compliance with a dioxin/furan limit either on a TEQ basis or on a total mass basis, procedures are being proposed for determining dioxin/furan emissions on a TEQ basis. The mass of each tetra- through octa- chlorinated dibenzo-p-dioxin and dibenzofuran congener would be measured by EPA Reference Method 23. Each congener mass would then be adjusted by the corresponding toxic equivalency factor (TEF; the 1989 NATO international TEF's). Finally, the adjusted congener masses would be added together to determine dioxins/furans in ng/dscm TEQ. Furthermore, today's proposal would require both large and small MWC facilities to conduct annual opacity tests using EPA Reference Method 9. This testing would be in addition to the continuous monitoring of opacity levels. Also, today's proposal allows small MWC facilities to conduct less frequent testing for dioxin/furan, HCl, and PM emissions if the small facility consistently demonstrates compliance. More specifically, if three consecutive annual compliance tests for an MWC at a small MWC plant indicate compliance with the emission limit for a pollutant (i.e., dioxins/furans, PM, or HCl), the MWC would be allowed to wait 3 years before retesting for the pollutant. If the next test conducted in the third year shows compliance with the emission limit for that pollutant, then the facility could again wait 3 years to test for the pollutant. If noncompliance with the emission limit for the pollutant occurs, corrective actions would be required to be undertaken and annual testing would be required to be conducted until 3 consecutive years of compliance with the emission limit is established. At a minimum, performance tests for dioxins/furans, PM, and HCl would be required to be performed for each MWC unit at small MWC plants every 3 years. All large MWC plants would continue to be required to conduct annual compliance tests.

Annual performance tests to determine compliance with the Cd, Pb, and Hg emission limits would be based on EPA Reference Method 29. The average emission rates of three or more test runs using this methodology would be used to determine compliance. The EPA considered the use of EPA Reference Method 101A for Hg testing; however, based on available data, the EPA has concluded that Method 29 is a better measure of Cd, Pb, and Hg emissions than Method 101A and has therefore proposed Method 29 for testing MWC's.

Also, as discussed above for dioxins/furans, PM, and HCl, if small plants demonstrate compliance with the Cd, Pb, and Hg emission limits for 3 consecutive years, they would be allowed to begin testing for these three pollutants every third year.

The EPA Reference Method 29 is proposed in a separate part of today's **Federal Register**. Method 29 is very similar to the method that has been used by the EPA's Office of Solid Waste to measure metals emissions from boilers cofiring hazardous waste, commonly referred to as the EPA multimetals method. The proposed Method 29 is discussed in section IV.H of this preamble.

Testing and monitoring requirements for NO_X at large MWC's are the same as those contained in the February 11, 1991 **Federal Register** notice (56 FR 5488), and are based on use of a CEMS.

Annual performance tests to determine compliance with the proposed fly ash/bottom ash visible emissions limits would be based on EPA Reference Method 22 (3-hour continuous visual observation). The limits would apply at all times and the tests would be conducted during periods of time when fly ash/bottom ash is transferred from the combustor or from the air pollution control device to the ash loading area, and when ash is loaded for transportation or is being transported onsite.

The data availability requirement for CEMS (SO_2, NO_X, CO, and O_2 [or CO_2]) has been increased from the 1991 NSPS. Today's proposal would require that valid paired CEMS hourly averages (i.e., SO_2 and O_2 (or CO_2), NO_X and O_2 (or CO_2), and CO and O_2 (or CO_2)) be obtained for 75 percent of the hours per day for 90 percent of the days per calendar quarter that the affected facility is operated and combusting MSW.

G. Reporting and Recordkeeping Requirements

The MWC NSPS promulgated on February 11, 1991 established reporting and recordkeeping requirements for MWC organics (dioxins/furans), MWC metals (PM and opacity), MWC acid gases (SO_2 and HCl), operating practices (CO, load, flue gas temperature, and operator training/certification) and NO_X. These reporting and recordkeeping requirements are discussed in the February 11, 1991 **Federal Register** notice (56 FR 5488). These same reporting and recordkeeping requirements would be adopted under the proposed NSPS, with two exceptions. First, dioxins/furans would be recorded and reported on either a total mass basis or a TEQ basis. Second, if small MWC's meet the criteria allowing them to conduct performance tests for dioxins/furans, PM, and HCl every third year, they would submit a simplified annual report for those years in which testing was not conducted.

Today's proposal also would add reporting and recordkeeping requirements for Cd, Pb, and Hg. The proposed standards would require that initial and annual compliance reports be submitted for Cd, Pb, and Hg for MWC's at plants with aggregate capacities above 35 Mg/day. If small MWC's meet the criteria allowing them to conduct performance tests for Cd, Pb, or Hg every third year, they would be allowed to submit a simplified annual report for those years when a full compliance test was not required. The proposed NSPS would also require that the amount of activated carbon injected for Hg control at small and large plants be recorded during MWC operation.

Initial and annual compliance reports for fly ash/bottom ash visible emissions testing would be required under today's proposal for both small and large plants.

Additionally, today's proposal would require that the siting analysis, materials separation plan, and summary of responses to public comments be submitted to the State. Refer to section V.D of this preamble for a discussion of these proposed requirements.

Records of all data, including results of emission tests and compliance reports, would be maintained for 5 years following the date of submission of the data.

III. Impacts of the Proposed Standards

The EPA projects that about 72 new MWC plants with a total MSW combustion capacity of about 17.6 million Mg/yr will begin construction by the year 2000. Of those 72 plants, 48 are projected to be large plants and 24 are projected to be small plants. The proposed subpart Eb NSPS would cover both the small and large plants, while the 1991 subpart Ea NSPS covers only large plants. This section describes the impacts (i.e., air, water, solid waste, energy, control cost, and economic impacts) of the proposed NSPS. The impacts of the proposed rule are provided in two forms. First, the incremental impacts of the proposed NSPS over the 1991 subpart Ea NSPS are presented. Second, the impacts of the proposed NSPS over a pre-1989 baseline (i.e., a baseline prior to the effective date of the subpart Ea NSPS) are presented. A summary of these impacts is provided in table 3.

TABLE 3.—IMPACTS OF THE CURRENT SUBPART Ea AND PROPOSED SUBPART Eb NSPS

Parameter	Increment of proposed NSPS over the 1991 NSPS	1991 NSPS[a]	Total[b]
New MWC's subject to NSPS in the Fifth Year after Promulgation:			
Combustion capacity (10^6 Mg/yr)	0.8	16.8	17.6
Number of MWC plants	24	48	72
Cost (1990 Dollars):			
Capital cost ($\$10^6$)	156	613	769
Annualized cost ($\$10^6$/yr)	43	157	200
Average cost increase ($/Mg MSW combusted)	1.95	11.55	13.50
Annual Emissions Reduction (Mg/yr):			
SO_2	3,000	35,000	38,000
HCl	4,000	46,000	50,000
PM	800	5,700	6,500
Cd	1	9	10
Pb	17	140	157
Hg	18	9	27
NO_X	200	10,300	10,500
Total dioxins/furans (kg/yr)[c]	1	28	29
Dioxin/furan TEQ (g/yr)[d]	17	467	484

[a] The impacts are based on a pre-1989 baseline (i.e., a baseline prior to the effective date of the subpart Ea NSPS.

[b] The total impacts are calculated by adding the incremental impacts of the proposed NSPS (subpart Eb) to the impacts of the 1991 NSPS (subpart Ea). These impacts would be equivalent to the total impacts of the proposed NSPS over a pre-1989 baseline

[c] kg/yr=kilograms per year.

[d] g/yr=grams per year.

In addition, a summary of economic impacts (e.g., household, community, and business impacts) is presented that provides projected economic burdens resulting from the combination of the 1991 subpart Ea NSPS and the proposed subpart Eb NSPS.

The cost estimates provided in this section are in 1990 dollars, and include costs for emission control and compliance testing. The estimates do not include costs for such things as permitting and enforcement. For further information on the impacts of the proposed NSPS, refer to the document entitled "Economic Impact Analysis for Proposed Emission Standards and Guidelines for Municipal Waste Combustors" that is included in the list of items under **SUPPLEMENTARY INFORMATION** at the beginning of this preamble.

A. Incremental Impacts of the Proposed NSPS over the 1991 NSPS

The following is a discussion of the incremental air, water and solid waste, energy, and cost impacts of the proposed NSPS over the impacts of the 1991 subpart Ea NSPS.

1. Air Impacts

The air emission reductions discussed below, as well as other impacts discussed in today's proposal, are nationwide impacts that would result from full implementation of the NSPS in the fifth year after adoption. These are incremental impacts of the proposal over the 1991 subpart Ea NSPS.

Under today's proposed standards, nationwide emissions of total dioxins/furans would be reduced by about 1 kilogram per year (kg/yr), total mass, over the reductions associated with the 1991 subpart Ea NSPS. Emissions of dioxins/furans on a TEQ basis would reduced by about 10 grams per year (g/yr). On a nationwide basis, dioxin/furan emissions would be reduced by about 33 percent over levels under the 1991 subpart Ea NSPS.

Under the proposed NSPS, nationwide emissions of PM would be reduced by about 800 megagrams per year (Mg/yr) over the levels associated with the 1991 subpart Ea NSPS. This represents a nationwide reduction of about 34 percent over the subpart Ea levels.

Nationwide emissions of Cd and Pb would be reduced by about 1 and 17 Mg/yr, respectively, over the levels associated with the 1991 subpart Ea NSPS. This represents an incremental reduction of about 53 percent for Cd and 81 percent for Pb over subpart Ea NSPS levels.

Nationwide emissions of Hg would be reduced by about 18 Mg/yr over levels associated with the 1991 subpart Ea NSPS. This represents an incremental reduction of about 72 percent over subpart Ea NSPS levels.

Nationwide emissions of SO_2 and HCl would be reduced by about 3,000 and 4,000 Mg/yr, respectively, over reductions associated with the 1991 subpart Ea NSPS. Total acid gas emissions would be reduced by about 58 percent over subpart Ea NSPS levels.

Nationwide emissions of NO_X would be reduced by about 200 Mg/yr, or about 1 percent nationwide, over levels associated with the 1991 subpart Ea NSPS.

2. Water and Solid Waste Impacts

The acid gas/PM and NO_X control technologies used as the basis for today's proposed NSPS are the same technologies used as a basis for the subpart Ea NSPS. Those technologies were determined to have negligible water or solid waste impacts, as discussed in the previous **Federal Register** notice (56 FR 5488).

In the proposed NSPS, activated carbon injection is the technological basis for controlling Hg emissions. Activated carbon injection does not produce a wastewater stream, and it would have a negligible solid waste impact.

As with the 1991 NSPS, the EPA concludes that MWC ash disposal is adequately addressed by waste management standards so that considerations of ash quality do not play a role in this rulemaking.

3. Energy Impacts

The energy impact of applying acid gas/PM controls to small plants and applying Hg controls to both small and large MWC plants will result in a total national energy increase of about 27 gigawatt hours per year (GW-hr/yr) of electricity. No increase in the use of natural gas is anticipated.

Many of the small plants covered under today's proposal produce steam that is used to generate electricity for sale. For example, a typical 100 Mg/day MWC plant would generate about 12 GW-hr/yr of electricity. Such an MWC would require additional energy to operate pollution control equipment. The required energy would be about 0.7 GW-hr/yr of electricity, which has a relatively small impact on energy generated at the plant (about 6 percent of energy generated).

4. Control Cost Impacts

The EPA estimates the incremental annual social cost of control of the proposed NSPS over the 1991 subpart Ea NSPS to be about $43 million per year and the incremental national average cost per unit of waste combusted to be about $1.95/Mg. The incremental capital cost of control in the first 5 years of application is estimated to be $156 million over the cost of the 1991 subpart Ea NSPS.

B. Impacts of the Proposed NSPS Over a Pre-1989 Baseline

The following provides a discussion of the impacts of the proposed subpart Eb NSPS over a pre-1989 baseline. Since the 1991 subpart Ea NSPS has been effective for 3 years, the impacts presented below provide a useful account of the total impact of the NSPS, based on both the 1991 subpart Ea and proposed subpart Eb standards.

1. Air Impacts

The air emission reductions discussed below are nationwide impacts that would result from full implementation of the NSPS in the fifth year after adoption. These are not incremental impacts relative to the February 11, 1991 NSPS (see section III.A for a description of incremental impacts).

In combination, today's proposed standards and the 1991 NSPS would reduce nationwide emissions of dioxins/furans by about 29 kg/yr, total mass. Emissions of dioxin/furans on a TEQ basis would be reduced by about 480 g/yr. This represents an overall reduction of about 97 percent compared to baseline dioxins/furans emission levels in the absence of the 1991 and proposed NSPS.

Under the proposed standards and the 1991 NSPS, nationwide emissions of PM would be reduced by about 6,500 Mg/yr. This represents an overall control level of over 80 percent for PM emissions compared to baseline levels in the absence of the 1991 and proposed NSPS.

Nationwide emissions of Cd and Pb would be reduced by 10 and 157 Mg/yr, respectively. This represents an overall reduction of about 94 percent for Cd emissions and about 98 percent for Pb

emissions, compared to emission levels in the absence of the 1991 and proposed NSPS.

As a result of the 1991 and proposed NSPS, nationwide Hg emissions would be reduced by about 27 Mg/yr over baseline levels. This represents an overall reduction of about 80 percent for Hg emissions compared to baseline levels in the absence of the 1991 and proposed NSPS.

Nationwide emissions of SO_2 would be reduced by about 38,000 Mg/yr, and nationwide emissions of HCl would be reduced by about 50,000 Mg/yr. The 1991 and proposed NSPS would reduce MWC acid gas emissions by about 94 percent compared to baseline emission levels.

Nitrogen oxides emissions would be reduced by about 10,500 Mg/yr. This represents an overall nationwide reduction in NO_X emissions of about 35 percent as compared to levels in the absence of the 1991 and proposed NSPS.

2. Water and Solid Waste Impacts

As discussed in section III.A.2, the technologies used to comply with both the 1991 subpart Ea and proposed subpart Eb NSPS do not produce a wastewater stream; therefore, no significant water pollution impacts are projected to occur. Additionally, the application of these technologies would result in a negligible solid waste impact.

3. Energy Impacts

As a result of the proposed and 1991 standards, total national usage of energy is estimated to increase by about 290 GW-hr/yr of electricity above baseline. No increase in the usage of natural gas is anticipated.

The majority of the MWC's covered under the proposal produce steam that is used to generate electricity for sale. Those MWC's would require energy to operate pollution control equipment, but such energy requirements have a relatively small impact on energy generated at the plant (about 4 to 6 percent of total energy generated).

4. Control Cost Impacts

a. *National Overview.* The EPA estimates the total combined annual social cost of control of the 1991 NSPS and today's proposed standards to be about $200 million per year, and the overall national average cost per unit of waste combusted would be about $13.50/Mg. For perspective, typical costs incurred in 1990 by the general public for the collection, transportation, and combustion of MSW and ash disposal ranged from $22/Mg to over $145/Mg of MSW, averaging about $90/Mg. Additionally, the EPA estimates the capital cost of control in the first 5 years of application of the 1991 NSPS and today's proposal to be $769 million.

b. *Control Costs for Typical MWC Plants.* The previous section presented costs of the proposal on a national basis. This section presents examples of typical costs that would be experienced at both a large MWC plant and a small MWC plant. These are typical costs.

The costing data presented in this section are provided in the following formats: capital cost, annualized cost, and cost per Mg of municipal waste combusted. The costing information is subcategorized by air pollution control components (i.e., acid gas scrubber, activated carbon injection application, and NO_X control). For perspective, the estimated cost of combustion units (which includes the cost of GCP) is also displayed. This costing information has been derived from 1989 background information documents that were used in developing the 1991 NSPS (see **SUPPLEMENTARY INFORMATION** for more information about these documents), and is presented in 1987 dollars (the escalation factor for converting to mid-1990 dollars is 1.111).

From table 3A, it can be noted that the capital cost for control at a new large MWC plant (730 Mg/day capacity) would be about $14.2 million of which $12.0 million would be for the acid gas control, 2.0 million for NO_X control, and less than one million for activated carbon injection. On an annualized basis, the cost would be about $4.2 million/yr or about $17.50/Mg of waste combusted. This would increase baseline combustor cost from about $60/Mg combusted to about $77/Mg combusted. Large MWC plants represent about 95 percent of MWC combustion capacity.

For a new small MWC plant (90 Mg/day capacity), table 3A shows a capital cost for control of about $3.14 million of which $3.1 million would be for the acid gas control system and the remaining for activated carbon injection. On an annualized basis, the cost would be about $920,000/yr or about $31/Mg of waste combusted. This would increase baseline combustor cost from about $60/Mg combusted to about $91/Mg combusted. Small MWC plants represent about 5 percent of MWC combustion capacity.

C. Economic Impacts

The following provides a discussion of the total economic impacts (e.g., household, community, and business impacts) of the proposed and 1991 NSPS over a pre-1989 baseline. As discussed in sections III.A.4 and III.B.4 of this preamble, the proposed subpart Eb standards would have a small incremental national average cost per unit of waste combusted ($1.95/Mg) as compared to the combined impact of the 1991 subpart Ea NSPS and the proposed subpart Eb NSPS ($13.50/Mg). Since the proposed NSPS is based on the same technologies as the 1991 NSPS, and since the 1991 NSPS has been effective for 3 years, the impacts presented below provide a useful account of the total economic impacts of the NSPS, based on both the 1991 and proposed NSPS. In estimating the economic impacts, the EPA assumed that all new MWC's would have been built with no more emission control than that mandated by regulations promulgated before 1991, specifically, 40 CFR part 60, subparts E and Db. This pre-1991 situation represents the baseline for estimating regulatory costs; therefore, all cost estimates provided are the full costs above this baseline.

TABLE 3A.—CAPITAL AND ANNUALIZED COSTS OF AIR POLLUTION CONTROL FOR TYPICAL NEW LARGE AND SMALL MWC PLANTS[a]

Parameter	Baseline combustor[b]	Air pollution control device cost[a]				
		Acid gas/PM	CI[c]	NO_X	Total APCD cost[d]	Total combustor and APCD cost
New large MWC plant (730 Mg/day MB/WW with SD/FF, CI, and SNCR)[e, f, g]:						
Capital cost (10^6)	50	12	0.150	2.0	14.2	64.2
Percent of total capital cost (%)[h]	78	19	0.2	3	22	100
Annualized cost (10^6/yr)	14.4	3.56	0.091	0.582	4.23	18.6

TABLE 3A.—CAPITAL AND ANNUALIZED COSTS OF AIR POLLUTION CONTROL FOR TYPICAL NEW LARGE AND SMALL MWC PLANTS[a]—Continued

Parameter	Baseline combustor[b]	Air pollution control device cost[a]				
		Acid gas/PM	CI[c]	NO_X	Total APCD cost[d]	Total combustor and APCD cost
Average cost increase ($/Mg MSW combusted)	59.5	14.8	0.37	2.39	17.5	77.05
New small MWC plant (90 Mg/day MOD/SA with SD/FF and CI)[i]:						
Capital cost (10^6)	5.5	3.1	0.043	0	3.14	8.64
Percent of total capital cost (%)[h]	64	36	0.5	0	36	100
Annualized cost (10^6/yr)	1.83	0.91	0.014	0	0.92	2.76
Average cost increase ($/Mg MSW combusted)	60.5	30.2	0.46	0	30.7	91.2

[a] The costs presented are in 1987 dollars. To calculate mid-1990 dollars, multiply 1987 dollars by a factor of 1.111. Total cost values may not add due to rounding.
[b] Costs for good combustion practices are included in combustor design (no cost).
[c] CI = activated carbon injection.
[d] APCD = air pollution control device.
[e] MB/WW = mass burn waterwall combustor.
[f] SD/FF = spray dryer and fabric filter.
[g] SNCR = selective noncatalytic reduction.
[h] Does not add to 100 percent due to rounding.
[i] MOD/SA = modular starved-air combustor.

The overall incremental national average cost per unit of waste combusted of $13.50/Mg (presented in section III.B.4 of this preamble) breaks down as follows: $11 for acid gas/PM and metals control; $0.40 for Hg control; $1.80 for NO_X control; and $0.35 for testing, reporting, and recordkeeping. The $1.80 cost for NO_X control is for large MWC plants only, because no small plants will incur NO_X control costs.

The standard will have a wide range of impacts on the price of combustion services. To study these potential impacts, the EPA first applied a cost accounting procedure that approximates the one that would be used by an individual publicly owned MWC. Then, using a 1993 average tipping fee of $57/Mg of MSW combusted (1990 dollars) and assuming the full cost of meeting acid gas, PM, Hg, and NO_X requirements is passed directly to MWC customers, the EPA found that the lowest and highest tipping fee increases for the model plants used in the EPA's economic analysis would be about $11/Mg and $85/Mg, respectively. The majority of tipping fee increases would be in the $13/Mg to $18/Mg range. This increase would be equivalent to about $1.00/month to $1.50/month for a typical household.

The EPA projects that, regardless of how the regulatory costs are financed, most of the burden will find its way directly or indirectly to households served by MWC's. Costs that are directly assessed to households are likely to be in the form of increased collection fees and/or increased taxes. Indirect household costs are price increases charged by businesses that similarly are faced with increases in collection fees and/or taxes. For the 1991 NSPS and the standards being proposed today, the EPA projects an increase in the average annual household cost of waste disposal of about $21 for communities that construct new MWC's. The actual cost per household will depend on local conditions, including the extent to which recycling and landfilling are also used within the affected community. Approximately 54 percent of the total average household cost is a direct cost, thus the annual direct household cost would be a little over $11. The EPA estimates that the average annual household cost breaks down to $17 per year for communities over 250,000 in population, $23 for communities with populations between 100,000 and 250,000, $29 for communities with populations between 50,000 and 100,000, and $27 for communities with populations under 50,000. This range represents 0.04 to 0.09 percent of household income. The EPA expects that comparatively few communities under 100,000 will be affected by the standards, because such communities tend to rely on landfilling.

The adoption of new regulations increases costs for a community and at some point has the potential to affect abilities to issue bonds. To address this issue, the EPA used demographic and financial data to project potential difficulty that might confront communities planning to construct new MWC's with bond financing. Applying generally accepted criteria for issuance of revenue and general obligation bonds, the EPA found that no community, large or small, should experience difficulty with bond financing as a result of the proposed standards.

To address the issue of cost increases, the EPA identified five private firms that plan to construct one or more MWC's that will be subject to the standards. Of the five, four are small (i.e., have less than $6 million in annual sales). (Firms for which annual sales data are not available are assumed to be small.) Financial data are available for only one firm, which is a large firm. Total annual costs of the 1991 and proposed NSPS as a percentage of sales is less than 1 percent for that firm. Potential tipping fee increases, based on the full pass-through of emission control costs (i.e., passing all control costs to consumers via the tipping fee) and an average tipping fee of $57/Mg (1990 dollars), will average about 28 percent for MWC's owned by small firms, and about 17 percent for MWC's owned by large firms.

In its analysis of cost, economic, and environmental impacts, the EPA assumed that the 1991 NSPS and the standards being proposed today will not cause communities to alter their plans to construct new (or to use already constructed) MWC plants. Specifically, the EPA is assuming that its projections of how much MSW will be combusted in the year 2000, and the types and sizes of new combustors that will be used, will not be effected by the standards being proposed today. However, some communities, if faced with large compliance costs, may choose to delay or cancel construction, or to downsize MWC's, or to change combustion technology. These communities

probably would expand landfilling, recycling, or source-reduction activities. If the standards do cause some communities to shift away from combustion, the result will be a general reduction of the cost impacts reported here. However, any such shifts caused by the standards, and the net economic and environmental effects of those shifts, are extremely difficult to project. This is in part due to the fact that environmental regulations for landfills, as well as landfill site location problems, will be exerting an opposite influence on communities—causing them to look with more favor on combustion alternatives.

The EPA has been able to quantify some of the benefits of the standards. The absence of sufficient exposure-response and valuation information precludes a comprehensive benefits analysis for many of the MWC pollutants. The EPA expects partial benefits for reduction of PM and SO_2—primarily benefits from reductions in morbidity and mortality—to total about $160 million annually. However, recent evidence suggests the mortality reduction benefits of particulate matter controls may be higher than is assumed in this analysis.

In conclusion, based on the combined economic impacts analysis of both the 1991 and proposed NSPS, the EPA expects that no community will be significantly impacted by the proposed and 1991 NSPS. Since the incremental impact of the proposal over the 1991 NSPS is only one-seventh the total combined impact (based on incremental national average cost per unit of waste combusted), the proposal is expected to have a very small impact on communities.

IV. Rationale for Proposed Standards for MWC Emissions

This section addresses the legal, technical, and economic basis for the proposed NSPS. The basis for regulating MWC's, for regulating the specified pollutants, and for regulating MWC's according to the specified size categories are discussed. The section also presents the EPA's approach in establishing the MACT floor and selecting MACT. Additionally, the section discusses the selected format for the proposed standards, the proposed performance testing and monitoring requirements, and the proposed reporting and recordkeeping requirements.

A. Background

On November 15, 1990, the Act was amended. The amendments added a new section 129 to the Act, which applies to a range of solid waste incinerators including MWC's, medical waste incinerators (MWI's), infectious waste incinerators, and industrial waste incinerators.

Under authority of sections 111 and 129 of the Act of 1990, the EPA was directed to develop and promulgate MACT-based NSPS for MWC's according to a specified schedule. At the time of enactment of the Act as amended in 1990, the EPA had already proposed, under section 111 of the Act, NSPS based on BDT for all sizes of new MWC's. Section 129 of the Act of 1990 directed the EPA to promulgate standards based on BDT under the deadlines imposed in the consent decree in *State of New York et al.* versus *Reilly* (No. 89–1729 D.D.C.), but limited applicability of the standards to combustors with unit capacities greater than 225 Mg/day. As a result, the standards, which were proposed in 1989, under development for promulgation in late 1990 were revised to be applicable only to these MWC units. The final standards were signed by the Administrator on January 11, 1991 published in the **Federal Register** on February 11, 1991 (56 FR 5488).

Section 129 of the Act also directs the EPA to develop another NSPS for MWC's that would be based on a more stringent control scenario, apply to smaller facilities, and cover more pollutants. Specifically, section 129 directs the EPA to promulgate MACT-based NSPS for MWC units at MWC plants with capacities to combust less than 225 Mg/day. Section 129 also directs the EPA to develop numerical emission limits for Cd, Pb, and Hg, to incorporate siting requirements for new units, and to develop operator training requirements. Additionally, section 129 directs the EPA to develop an opacity limit for air curtain incinerators firing certain "clean" fuels.

Today's proposal complies with all requirements of section 129 described above. This has been done by: (1) Proposing MACT-based NSPS that cover MWC units at plants with capacities above 35 Mg/day; (2) proposing numerical emission limits for Cd, Pb, and Hg; (3) proposing siting requirements for new MWC units; (4) proposing operator training requirements; and (5) proposing opacity limits for air curtain incinerators firing specific "clean" fuels.

The proposed NSPS are, in effect, replacing the February 11, 1991 subpart Ea NSPS for MWC facilities for which construction, modification, or reconstruction begins after September 20, 1994, because the February 11, 1991 subpart Ea NSPS are based on BDT rather than MACT. The February 11, 1991 subpart Ea NSPS will remain in effect for facilities for which construction, modification or reconstruction began after December 20, 1989 but on or before September 20, 1994. Those existing facilities constructed after December 20, 1989 but before this proposal would be subject to both the 1991 subpart Ea NSPS and the subpart Cb guidelines proposed in a separate notice in today's **Federal Register**. This dual coverage under both the proposed subpart Cb and the 1991 subpart Ea is further discussed in the preamble to the proposed subpart Cb in today's **Federal Register** notice.

B. Selection of Source Category

The previous MWC NSPS adopted on February 11, 1991 provided the rationale for the selection of MWC's as a source category to be regulated (56 FR 5488). Moreover, section 129 of the Act directs the EPA to issue NSPS for this source category, and thereby confirms the EPA's earlier decision.

Today's proposed NSPS (subpart Eb) would apply to new MWC's, defined as those MWC's for which construction, modification, or reconstruction commenced after September 20, 1994. Municipal waste combustors for which construction, modification, or reconstruction commenced on or before September 20, 1994, would be covered by the subpart Cb emission guidelines proposed in a separate notice in today's **Federal Register**.

Also, as required by section 129 of the Act, today's proposed NSPS would establish opacity limits for certain new air curtain incinerators, for which construction, modification, or reconstruction commenced after September 20, 1994. Under the proposed NSPS, air curtain incinerators that burn only yard wastes, tree trimmings, and clean untreated lumber would be required to meet an opacity limit and no other requirements would apply. The proposed standards for these air curtain incinerators are presented in section VII of this preamble.

C. Modification or Reconstruction of Existing MWC's

The subpart Ea NSPS proposal published in the **Federal Register** on December 20, 1989 (54 FR 52251) provided a discussion of the terms and conditions associated with construction, modification, and reconstruction for MWC's. One change is being proposed. Previously, the terms "modification" and "reconstruction" were defined under sections 60.14 and 60.15 of subpart A of part 60. Section 129 of the Act has specified a new definition of

"modified solid waste incineration unit" that combines and revises the previous definitions of "modification" and "reconstruction." Specifically, "modified solid waste incineration unit" refers to:

(1) Modifications for which the

* * * cumulative costs of the modifications, over the life of the unit, exceed 50 per centum of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs * * *.

or (2) modifications involving

* * * a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under [section 129] or section 111 * * *.

D. Selection of Designated Pollutants

The previous MWC NSPS proposal published in the Federal Register on December 20, 1989 (54 FR 52251) provided the rationale for the selection of "MWC emissions" and NO_X as designated pollutants under section 111(b) of the Act. Additionally, section 129 of the Act specifies that emission limits shall be developed for PM, opacity, SO_2, HCl, NO_X, CO, Cd, Pb, Hg, and dioxins/furans. Emission limits for all but three of these pollutants (Cd, Pb, and Hg) were established in the February 11, 1991 standards. Section 129 also requires that siting requirements be established for new MWC's that will minimize, on a site-specific basis, potential risks to public health or the environment. Today's proposal responds to these new 1990 Act requirements.

Standards for fugitive MWC fly ash/bottom ash emissions are proposed today because these emissions contain PM, Cd, Pb, Hg, and dioxins/furans, which are components of the designated pollutant "MWC emissions."

E. Selection of Affected Facilities

For the proposed NSPS, the affected facility, an MWC facility, is defined as any setting or equipment chamber or pit used to burn MSW (including RDF) and extends to MWC fly ash/bottom ash emission points, including ash storage areas, conveyor transfer points, and ash loading areas for hauling trucks at the MWC site. This does not extend to ash handling outside of the MWC property boundary or at ash fill sites.

Municipal waste combustion includes the burning (or pyrolysis) of MSW in any type of equipment, chamber, or pit, including equipment with and without heat recovery. Municipal solid waste is defined as either a mixture or a single-item stream of household, commercial, and/or institutional discards. This would include discards such as paper, wood, yard wastes, tree trimmings, plastics, leather, rubber, glass, metals, and other combustible and noncombustible materials. The MSW definition includes household discards as well as discards from institutional and commercial sources, but does not include segregated industrial process/manufacturing discards or medical waste. The MSW definition also includes RDF, which is a type of MSW that is shredded (or pelletized) and classified by size before combustion. However, any mixtures of medical waste with nonmedical hospital waste or with household, commercial, or institutional waste is considered to be MSW. Any mixtures or industrial process/manufacturing discards with nonprocess industrial waste or with household, commercial, or institutional waste is considered to be MSW. Minor editing has been made in the definition of MSW to clarify this point.

Cofired combustors are those that fire MSW with non-MSW fuel such as coal. Cofired combustors that combust a fuel feed stream comprised, in aggregate, of equal to or less than 30 percent MSW or RDF (by weight, based on a 24-hour average) would not be subject to the NSPS and would be required only to submit an initial notification of construction and subsequent reports of the amount of MSW and other fuels combusted. The exclusion of cofired combustors from the NSPS is consistent with section 129 of the 1990 Act. This exclusion is unchanged from the February 11, 1991 NSPS.

Air curtain incinerators with unit capacities to combust greater than 35 Mg/day of MSW are subject to the proposal; however, air curtain incinerators that combust only tree trimmings, yard wastes, and clean untreated lumber (these are a subset of MSW) would be subject to an opacity standard and its associated testing, recordkeeping, and reporting, which are included in today's proposal, but would not be subject to any other parts of today's proposal. This exclusion does not apply to air curtain incinerators that combust other MSW materials.

Additionally, waste-fuel power generation facilities that combust a single-item waste stream of tires, fuel derived solely from tires, or used oil would be subject only to an initial notification of construction and would not be subject to any other provisions in today's proposal. This exclusion is unchanged from the NSPS promulgated on February 11, 1991.

The NSPS for MWC's proposed today would apply to MWC units at plants with capacities above 35 Mg/day. The lower size threshold of 35 Mg/day aggregate plant capacity for controlling MWC emissions under the proposed NSPS was selected after reviewing the population distributions of MWI's and MWC's. Most incinerators at medical waste facilities are smaller incinerators that fire segregated medical waste with general hospital discards (MSW), and these incinerators would have the potential to be covered by today's proposal. The population distribution of MWI's is distinctly different from the population distribution of traditional MWC plants that are the target of today's proposal. The existing distribution of MWC's is composed of about 179 plants, with an average plant size of about 600 Mg/day combustion capacity, with two or three MWC units per plant. Assuming continuous operation, the potential nationwide combustion capacity of existing MWC's is about 107,000 Mg/day. The MWI distribution is quite different and includes about 7,000 combustors with a single combustion unit per facility and an average unit size of less than 3 Mg/day combustion capacity. The total U.S. capacity of MWI's is about 20,000 Mg/day. This population is being addressed under a separate rulemaking. These population distributions of existing MWC's and MWI's are for existing units but are considered representative of new unit applications. Clearly, the MWC population represents a smaller number of comparatively larger combustors, and MWI's represent a much larger number of smaller combustors. The lower size cutoff of 35 Mg/day aggregate plant capacity that is included in today's proposal would exclude less than 1 percent of the total nationwide combustion capacity of MWC's and would result in over 99 percent of total MWC capacity being covered by the standards. The same lower size cutoff of 35 Mg/day would prevent significant dual coverage under the proposal by excluding more than 99 percent of MWI units and about 97 percent of nationwide MWI capacity from today's proposed revisions.

The proposed standards would therefore cover the great majority of MWC's, but cover only a few of the largest regional MWI's (nine units at three sites are known to cofire medical waste with MSW and are above the 35 Mg/day total plant capacity cutoff). The Act of 1990 requires that regulations for MWI's be developed separately. For these reasons, it is appropriate that today's proposed standards focus on

MWC's and that a separate regulation focus on MWI's. The NSPS and emission guidelines for MWI's are scheduled to be proposed in 1995.

Those MWC's at plants with aggregate capacities below 35 Mg/day would not be subject to the emission limits or any other emission control requirements under today's proposal. However, MWC plants with aggregate capacities greater than 25 Mg/day and less than or equal to 35 Mg/day would be required to provide a one-time notification of construction, which would include their location, planned startup date, the types of fuels that will be combusted, and aggregate plant capacity and supporting information including calculations used to determine plant capacity. This one-time report would allow the EPA or State agency to enforce the lower size cutoff for applicability to the proposed standards. Plants with aggregate capacities of 25 Mg/day or below would not be subject to any provisions under this proposal.

The proposed standards for MWC's are subdivided into two subcategories of air emissions requirements: The first for MWC's located at MWC plants with aggregate capacities to combust more than 35 Mg/day but less than or equal to 225 Mg/day of MSW (referred to as small MWC plants), and the second for MWC's located at MWC plants with aggregate capacities to combust greater than 225 Mg/day of MSW (referred to as large MWC plants). The 225 Mg/day dividing point was established because the population of plants with aggregate capacities equal to or below 225 Mg/day contains many modular MWC's, and there are concerns about how applicable technologies such as selective noncatalytic reduction (SNCR) are to modular MWC's.

The EPA projects that the population of new MWC's at plants with aggregate capacities above 225 Mg/day will account for about 93 percent of new combustion capacity, whereas the population of MWC's at plants with aggregate capacities greater than 35 Mg/day but equal to or less than 225 Mg/day will account for about 7 percent of new combustion capacity.

F. Selection of Maximum Achievable Control Technology

The following discussion addresses the EPA's selection of MACT. The existing technologies for controlling emissions of the designated pollutants from MWC's are first reviewed, followed by a summary of the EPA's approach for establishing the MACT floor. Finally, the discussion presents the EPA's selection of MACT for MWC's.

1. Summary of MWC Control Technologies

The following discussion reviews the existing technologies for controlling emissions of acid gases, dioxins/furans, PM, Cd, Pb, Hg, and NO_X from MWC's.

a. *Acid Gas/PM Control Technologies.* Municipal waste combustor acid gas/PM control is a general term that refers to a group of MWC air pollution control technology combinations. These combinations control a wide range of pollutants, such as MWC acid gases (including SO_2 and HCl), MWC organics (including dioxins/furans), and PM and metals (including Cd, Pb, and a number of other metals except Hg). The two acid gas/PM controls most commonly used in the United States for new MWC's are: (1) GCP plus dry sorbent injection (DSI) followed by a fabric filter (FF); and (2) GCP plus a spray dryer (SD) followed by an FF. Discussions of these two acid gas/PM control systems were presented in the December 20, 1989 proposal preamble for the 1991 acid gas and PM NSPS in subpart Ea (54 FR 52251). Control of Cd, Pb, and Hg were not discussed in detail in the 1989 preamble.

Since 1991, the performance of the acid gas/PM control systems for removal of Cd, Pb, and Hg has been investigated in more depth. Cadmium and Pb are volatile at temperatures present in combustion systems, but condense onto PM at temperatures associated with the operation of most PM control systems. As a result, the control of Cd and Pb is generally related to the control of PM emissions. However, because of the potential for adsorption of these metals onto fine PM that is less readily collected than larger PM, the control efficiency for these metals may be lower than that for total PM.

Fabric filter-equipped systems (e.g., DSI/FF's and SD/FF's) generally have better Cd and Pb control because these devices are better able to collect fine PM than electrostatic precipitator (ESP)-equipped systems. For DSI/FF and SD/FF systems, data for controlled Cd emissions range from 0.001 to 0.010 mg/dscm. Emissions of Pb from MWC's with these systems range up to 0.10 mg/dscm, but the majority are generally less than 0.050 mg/dscm.

Although the above technologies are effective at removing Cd, Pb, and other metals, they do not consistently remove Hg without integrating some other form of Hg control. A discussion of Hg control is presented below.

b. *Mercury Control Technologies.* The EPA estimates that typical uncontrolled Hg emission levels from MWC's in the United States range from 0.20 to 1.4 mg/dscm at 7 percent O_2. Unlike other metals, Hg has a high vapor pressure at typical operating temperatures of air pollution control devices; therefore, collection of Hg by the PM control device is highly variable. The EPA collected test data from more than 30 MWC's with various air pollution control device systems that indicate a wide range of Hg control. High-efficiency PM control, lower flue gas temperatures in the air pollution control system, and a sufficient level of carbon in the fly ash facilitate Hg control. Higher levels of carbon in the fly ash and reduced flue gas temperatures enhance Hg adsorption onto the carbon, which can then be removed by the PM control device. To promote Hg adsorption, it is important to operate the control systems at temperatures less than about 150 to 200 °C. Low flue gas temperature is inherent to acid gas control.

Municipal waste combustors with high combustion efficiency will have effective carbon burnout and, therefore, will have low fly ash carbon content. These units may achieve little or no Hg control even when equipped with acid gas/PM control systems, and the control may be highly variable even at the same site.

Three techniques of Hg control are currently being used: Activated carbon injection, sodium sulfide (Na_2S) injection, and wet scrubbing. Activated carbon injection and Na_2S injection are used in conjunction with an acid gas control device. Brief discussions of these three Hg control technologies and their capabilities are presented below.

Injection of powdered activated carbon into the flue gas prior to the acid gas/PM control device has been tested at U.S. MWC's. The removal mechanism is not fully understood, but it is believed that activated carbon is a catalyst for the oxidation of elemental Hg to mercuric oxide and mercuric chloride, which can more readily be captured in the air pollution control device. This technology has been applied commercially to MWC's in Europe equipped with SD/ESP's and during test programs in Europe and Canada to MWC's with SD/FF's and DSI/FF's. The EPA also recently tested activated carbon injection at the Stanislaus County MWC in California and the Camden County MWC in New Jersey. The Stanislaus County MWC is equipped with an SD/FF, and the Camden County MWC is equipped with an SD/ESP. Test results show Hg reductions greater than 85 percent when injecting activated carbon.

Another Hg control technology that has been applied to MWC's is Na_2S

injection. Sodium sulfide is a crystalline solid that dissolves in water. The resulting Na_2S solution is sprayed into the flue gas prior to the acid gas/PM control device. The reaction of Na_2S and Hg precipitates solid mercuric sulfide (HgS) that is collected in the PM control device.

Three MWC's in Sweden, two in Germany, and one in Canada have used Na_2S injection to control Hg emissions. All of these facilities use DSI/FF systems for acid gas/PM control, and injection of Na_2S occurs prior to the DSI/FF system at flue gas temperatures of 130 to 250 °C. In addition, Hg emission tests were conducted at the Stanislaus County MWC in California while using Na_2S injection. Results from tests at European, Canadian, and U.S. MWC's have shown Hg removal efficiencies of 40 to 90 percent when using Na_2S injection.

Wet scrubbing is a form of acid gas control that also controls Hg without use of an add-on Hg control system. This technology has primarily been used on MWC's in Europe and Japan. Typically, the flue gas is first directed through an ESP to reduce PM, followed by wet scrubbing, which involves passing the flue gas through a one- or two-stage absorber system where the gas stream is saturated with an alkaline solution. During this process, flue gas temperatures are reduced to as low as 55 °C. The low absorber operating temperature promotes Hg condensation, resulting in an Hg reduction of greater than 80 percent. The alkaline solution used in the wet scrubbing process, typically containing calcium hydroxide ($Ca(OH)_2$), reacts with the acid gas to form salts, which are generally insoluble and may be removed by sequential clarifying, thickening, and vacuum filtering. The dewatered salts or sludges are then sent to a landfill. The disadvantages of wet scrubbing include the quantity of water required, potential difficulties with waste handling, and undefined performance at U.S. MWC units firing U.S. MSW streams.

c. *Nitrogen Oxides Control Technologies.* During combustion, NO_X are formed through oxidation of fuel-bound nitrogen (N_2) contained in MSW, and fixation and oxidation of atmospheric N_2. Emissions of NO_X can be controlled using SNCR add-on control technology that reduces NO_X to N_2 without the use of catalysts. Techniques include Thermal $DeNO_X$™, which injects ammonia into the combustor as a reducing agent; the NO_XOUT™ process, which injects urea with chemical additives; and a two-stage urea/methanol injection process. A discussion of SNCR NO_X control was presented in the December 20, 1989 proposal preamble for the 1991 NSPS for new MWC's (54 FR 52251). The use of SNCR at MWC's results in NO_X emission reductions of about 45 percent.

There are some concerns about the applicability of SNCR to modular MWC's. The SNCR technology has never been applied to modular MWC's, and several factors may complicate the use of SNCR and may reduce its performance level. First, many modular units are batch fed in cycles of about 6 to 12 minutes per charge (due to small combustor size), which may cause frequent temperature fluctuations. When the temperature fluctuates above the required injection temperature window, the reducing reagent is oxidized to NO_X, and NO_X emissions can increase. When the temperature drops below the required range, unreacted ammonia (NH_3) emissions can occur. In addition, the varying moisture and nonhomogeneous nature of the waste burned can also result in temperature fluctuations in a small unit. With certain modifications, it may be possible to accommodate SNCR at new modular units; however, the NO_X reduction performance of an SNCR system on a modular unit will probably be lower than that for a combustor with more stable operating temperatures, as occurs at large MWC's.

The EPA requests comment on the applicability of SNCR and other NO_X control techniques to MWC's at small plants. The EPA requests that comments address the cost, technical performance, and reliability of application of SNCR or other NO_X control techniques specifically to modular starved-air MWC's and modular excess-air MWC's. Based on the comments and information received, the EPA will reconsider requiring NO_X control on MWC's at small plants.

The amount of NO_X formed varies by combustor type. Three types of MWC's, mass burn/rotary combustors, fluidized-bed combustors, and modular/excess-air combustors, are considered "low NO_X" combustors. Available data show that these types of MWC's consistently show NO_X levels below 150 ppmv without the use of SNCR.

2. MACT Floor and MACT Requirements of the Act

The NSPS promulgated under subpart Ea on February 11, 1991 is based on BDT. Section 129 requires that the NSPS promulgated under subpart Ea be reviewed and revised based on MACT. Congress established a minimum floor for the standards. For new sources, the standard may be no less stringent than "the emission control that is achieved in practice by the best controlled similar unit." This is often referred to as the "MACT floor" for new sources.

To establish the emission control level achieved by the best controlled similar unit, the EPA reviewed available MWC emissions test data associated with all types of combustors and all types of emission control technologies that are currently being used to control emissions of SO_2, HCl, PM, Pb, Cd, Hg, dioxins/furans, and NO_X. The EPA identified the best controlled unit and reviewed the performance of its associated control technology. The EPA has concluded that the control technology used by the best controlled unit is applicable to all types of combustors (with one exception, as noted below) and achieves the same level of performance on all combustor types. Thus, there is no need to subcategorize performance to different classes of similar MWC units. The EPA determined that the best controlled MWC (i.e., the basis for the MACT floor) would be an MWC equipped with an SD/FF and SNCR (large MWC plants only). Based on test data from MWC's equipped with SD/FF and SNCR (large plants only) control systems, the EPA established the MACT floor as the emission control level for each pollutant achieved in practice by the best controlled MWC unit.

The MACT floor defines the minimum level of emission control that may be considered to be MACT, regardless of cost or other considerations. However, in requiring control beyond the MACT floor when determining MACT, the EPA must determine the maximum emission reduction achievable for new MWC units taking into consideration the cost of achieving such emission reduction and any non-air-quality health and environmental impacts and energy requirements. Therefore, the level of control that represents MACT may be more stringent than the MACT floor. The following section presents the EPA's rationale for establishing the MACT floor and MACT for MWC's.

3. MACT Floor and MACT

This section summarizes the MACT floor and presents the EPA's rationale for establishing MACT for each pollutant for MWC's at both small and large MWC plants.

In establishing the MACT floor and MACT for each pollutant for small and large plants, the EPA used principally the data base created for establishing the NSPS for MWC's proposed in 1989 and promulgated in 1991 under subpart Ea. For a few pollutants in this proposal, the EPA utilized more recent test data

to supplement the 1989 data base. Because most of the test data used for this proposal are more than 4 years old, and in consideration of the fact that most MWC's retest at least once per year, the EPA requests submittal of the most recent MWC emissions test data.

Additionally, the EPA requests comment on which MWC emissions test data would be the most appropriate basis for judging the performance of SD/FF's in establishing the MACT floor and MACT for new MWC's. For example, should the EPA consider test data for only the most recently-built MWC's (e.g., units that have begun operation since 1990), or should consideration be made of all operational MWC's, independent of unit age? Also, if the EPA has multiple emission tests for a given MWC over its operating history (which is common), should the EPA utilize the data from all of the emission tests performed for the unit or from only the most recent emission test, in determining the performance of the unit? The EPA also requests comment on suggestions of analytical methods to use for analysis of the data (e.g., analytical methods that could be used to address emissions variability, including methods for analyzing variable data collected over multiple years for one MWC and methods of adjusting the emissions data to account for variability). The appropriate treatment of variability will be related to the format chosen for the standards (see discussion of alternative formats below).

Based on the new data submitted and on the final choice of which test data and what analytical methods to use, the EPA may promulgate final emission limits that are more or less stringent than those proposed today.

a. *Summary of the MACT floor.* This proposal determines the MACT floor for new units based on performance of the best control technology. Under the proposal, emission control level achieved in practice by an MWC equipped with the best emission control technology (i.e., an SD/FF and SNCR (large MWC plants only)) represents the MACT floor for each pollutant (see table 4).

TABLE 4.—MACT FLOOR EMISSION LEVELS FOR NEW MWC'S

Pollutant	MACT floor emission level [a,b]
SO_2	30 ppmv or 80-percent reduction.
HCl	25 ppmv or 95-percent reduction.
Pb	0.10 mg/dscm.
Cd	0.010 mg/dscm.
PM	15 mg/dscm.
Hg	0.65 mg/dscm.
Dioxins/furans	20 ng/dscm total mass or about 0.40 ng/dscm TEQ.
NO_X	180 ppmv (large MWC plants) Uncontrolled (small MWC plants).

[a] All emission levels are corrected to 7 percent O_2, dry basis.

[b] Most of the MACT floor requirements for large MWC plants are more stringent than the 1991 subpart Ea NSPS (see table 2).

The MACT floor for new sources (best control) could be constructed in a number of different ways including a technology basis (this proposal), a permit basis, or an emission data basis. For example, under the permit basis the most stringent MWC operating permit limitation might determine the floor. Other approaches are also possible. The different approaches would result in noticeably different MACT floor performance levels. The EPA specifically requests comment on what approach is most appropriate and the rationale for that approach. Based on the EPA's review of comments received on this issue, as well as reanalysis of the data submitted, the MACT floor for the promulgated NSPS may be noticeably higher or lower than the floor included in the proposal.

b. *MACT for Sulfur Dioxide.* Uncontrolled SO_2 emission levels at both small and large MWC plants are, on average, 160 ppmv. The best emission control system for controlling SO_2 emissions is an SD/FF. The EPA's analysis of test data from existing MWC's with SD/FF systems indicates that an SO_2 emission level of either 30 ppmv or an 80-percent reduction of SO_2 emissions can be continuously achieved over a 24-hour block averaging period. Therefore, the MACT floor for SO_2 emissions is either 30 ppmv or 80-percent reduction, whichever is less stringent. The proposed MACT standard for SO_2 for MWC's at both small and large MWC plants is the MACT floor level of 30 ppmv or 80-percent reduction, whichever is less stringent.

c. *MACT for Hydrogen Chloride.* Uncontrolled HCl emission levels at both small and large MWC plants are, on average, 500 ppmv. The best emission control system for controlling HCl emissions is an SD/FF. The EPA's analysis of test data from existing MWC's with SD/FF systems indicates that an HCl emission level of either 25 ppmv or a 95-percent reduction in HCl emissions can be achieved. Compliance with the HCl limit is determined by an annual stack test rather than CEMS, so there is no CEMS data averaging period associated with this level of performance. Based on the EPA's analysis, the MACT floor for HCl emissions is either 25 ppmv or 95-percent reduction, whichever is less stringent. The proposed MACT standard for HCl for MWC's at both small and large MWC plants is the MACT floor level of either 25 ppmv or 95-percent reduction, whichever is less stringent.

d. *MACT for Particulate Matter.* Uncontrolled PM emission levels at small and large MWC plants are, on average, 1,500 and 3,700 mg/dscm, respectively. The best emission control system for controlling PM emissions is an SD/FF. The EPA's analysis of recent test data has shown that SD/FF systems can continuously achieve a PM emission level of 15 mg/dscm, which represents greater than 99-percent reduction. Therefore, the MACT floor for PM emissions is 15 mg/dscm. The proposed MACT standard for PM for MWC's at both small and large MWC plants is the MACT floor level of 15 mg/dscm.

e. *MACT for Cadmium.* Uncontrolled Cd emission levels at both small and large MWC plants are, on average, 1.2 mg/dscm. The best emission control system for controlling Cd emissions is an SD/FF. The EPA's analysis of test data from existing MWC's with SD/FF systems indicates that these systems can continuously achieve a Cd emission level of 0.010 mg/dscm, which represents greater than 99-percent reduction. Therefore, the MACT floor for Cd emissions is 0.010 mg/dscm. The proposed MACT standard for Cd for MWC's at both small and large MWC plants is the MACT floor level of 0.010 mg/dscm.

f. *MACT for Lead.* Uncontrolled Pb emission levels at both small and large MWC plants are, on average, 25 mg/dscm. The best emission control system for controlling Pb emissions is an SD/FF. The EPA's analysis of test data from existing MWC's with modern SD/FF systems indicates that these systems can continuously achieve a Pb emission level of 0.10 mg/dscm, which represents greater than 99-percent reduction. Therefore, the MACT floor for Pb emissions is 0.10 mg/dscm. The proposed MACT standard for Pb for MWC's at both small and large MWC plants is the MACT floor level of 0.10 mg/dscm.

g. *MACT for Mercury.* Uncontrolled Hg emission levels at both small and large MWC plants are, on average, 0.65 mg/dscm. The MACT floor is based on using an SD/FF. Control of Hg is highly variable, and the EPA's analysis of recent test data has indicated that the

control efficiency of SD/FF systems for Hg ranges from no control to 50-percent Hg reduction (i.e., achieving Hg emission levels of 0.33 to 0.65 mg/dscm). Therefore, the MACT floor for Hg is 0.65 mg/dscm.

As discussed in section IV.F.1.b of this preamble, the EPA has determined that Hg control is based on three variables: Lower flue gas temperatures in the air pollution control system, high-efficiency PM control (e.g., based on use of an FF or ESP), and a sufficient level of carbon in the fly ash (i.e., based on use of activated carbon injection). Recent testing programs at the MWC plants in Stanislaus County, California, and Camden County, New Jersey, have demonstrated that the combination of an SD/FF or SD/ESP system, activated carbon injection, and low flue gas temperature at the PM control device inlet can achieve high Hg control efficiency. The EPA's analysis of this test data has indicated that MWC's equipped with this combination of control technologies could continuously achieve an Hg emission level of either less than 0.080 mg/dscm, corrected to 7 percent O_2, or an 85-percent reduction in Hg emissions. Data from individual test runs show occasional spikes of high inlet Hg emissions due to the variability in the waste feed composition. In cases where Hg levels are temporarily elevated, a 0.080 mg/dscm level may not be consistently achievable; however, activated carbon injection could achieve an 85-percent reduction during such episodes. Based on the data from MWC's using activated carbon injection, Hg control to these levels is achievable by properly operated systems on all types of MWC's. Since activated carbon injection is a relatively new technology and has not yet been applied commercially, the 0.080 mg/dscm or 85-percent reduction Hg emission level is not part of the MACT floor. The EPA estimates the cost to add carbon injection to be reasonable, at a cost effectiveness of $1.00/Mg of MSW combusted. Therefore, the EPA is proposing MACT for Hg for MWC's at both small and large MWC plants to be more stringent than the MACT floor, at a level of 0.080 mg/dscm or an 85-percent reduction in Hg emissions, whichever is least stringent.

The EPA has selected activated carbon injection as the basis for achieving MACT for Hg, although facilities may use any technology capable of meeting the proposed standard. Of the three Hg control technologies discussed in section IV.F.1.b of this preamble, the EPA has determined that the performance of activated carbon injection is the best demonstrated of the three Hg control technologies in the United States.

h. *MACT for Dioxins/Furans.* Uncontrolled dioxin/furan emission levels at both small and large MWC plants are, on average, 1,000 ng/dscm, total mass. The best emission control system for controlling dioxin/furan emissions is an SD/FF system and GCP. The EPA's analysis of available test data for dioxin/furan emissions from new MWC's with SD/FF systems and GCP indicates that dioxin/furan emission levels of less than 20 ng/dscm total mass are continuously achievable. Therefore, the MACT floor for dioxins/furans is 20 ng/dscm, which represents a 98-percent reduction.

The EPA has determined that additional dioxin/furan control is achievable with activated carbon injection, which is the basis for MACT for Hg, as discussed above. The EPA's analysis of test data from a recent testing program at an MWC at the Camden County, New Jersey, facility and other facilities indicates that the injection of activated carbon into the flue gas of an SD-based scrubbing system provides additional removal of dioxins/furans (greater than 50 percent additional control over levels achieved with SD/ESP systems alone). As such, the EPA believes a dioxin/furan level of approximately 10 ng/dscm total mass (which represents a 99-percent reduction) is achievable for MWC's using GCP and equipped with SD/FF's and activated carbon injection. Because carbon injection is being proposed as part of the basis for MACT for Hg, the EPA is proposing MACT for dioxins/furans for MWC's at both small and large MWC plants based on carbon injection. The EPA is proposing MACT for dioxins/furans on both a TEQ basis and a total mass basis. Based on the EPA's analysis of an average TEQ ratio, the 10 ng/dscm total mass emission level translates to 0.16 TEQ. However, because there is uncertainty about the ratio, the proposed MACT floor for dioxins/furans on a TEQ basis is 0.20 ng/dscm. Using the average TEQ ratio, 0.20 ng/dscm TEQ is equivalent to about 13 ng/dscm total mass dioxins/furans. Therefore, the EPA is proposing MACT for dioxins/furans for MWC's at both small and large MWC plants at a level of 0.20 ng/dscm TEQ or 13 ng/dscm total mass. Sources may comply with either format of the limit.

However, since the activated carbon injection technology does not have a long-term record of commercial application in the United States and since the 0.20 ng/dscm TEQ or 13 ng/dscm total mass standard is restrictive, the EPA is proposing a 3-year optimization schedule for activated carbon injection applied at initial subpart Eb applications. All affected facilities commencing construction after September 20, 1994, but on or before September 22, 1997 would be required to meet a standard of 0.50 ng/dscm TEQ or 30 ng/dscm total mass for the first 3 years following the date of initial startup. Thereafter, the standard would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass. For all affected facilities commencing construction after September 22, 1997, the standard at startup would be 0.20 ng/dscm TEQ or 13 ng/dscm total mass. Starting in 1994, MWC units with activated carbon injection technology will be initiating commercial operation. As dioxin/furan data become available from MWC's operating with carbon injection technology, the EPA will reconsider the appropriateness of the 3-year optimization schedule.

i. *MACT for Nitrogen Oxides.* The average NO_X emission level for MWC's without postcombustion NO_X control (at both small and large MWC plants) is 225 ppmv. The best emission control system for controlling NO_X emissions from MWC's at large MWC plants is SNCR. The EPA's analysis of test data for existing MWC's (excluding modular MWC's) equipped with SNCR indicates that an emission level of 180 ppmv can be continuously achieved. Therefore, the MACT floor for NO_X for MWC's at large MWC plants is 180 ppmv (24-hour averaging period).

As discussed in section IV.F.1.c of this preamble, the addition of SNCR postcombustion NO_X control has not been demonstrated on any modular MWC, and the performance of such a system on a modular MWC is in question. Since the performance of an SNCR system on a modular MWC is in question, postcombustion NO_X control is not being considered for MWC's at small MWC plants; therefore, the MACT floor for NO_X for MWC's at small MWC plants is no control.

The proposed MACT standard for NO_X for MWC's at large MWC plants is the MACT floor level of 180 ppmv. The proposed MACT standard for NO_X for MWC's at small MWC plants is based on no control. Section IX of this preamble discusses the proposed "no control" NO_X standard for MWC's at small MWC plants.

G. Selection of Format for the Proposed Standards

The February 11, 1991 NSPS described a format for MWC acid gases (SO_2 and HCl), MWC metals (PM and opacity), MWC organics (dioxins/furans), MWC operating practices (CO,

load, and flue gas temperature at the PM control device inlet) and NO_X, and that same format is being adopted by today's proposed NSPS except for dioxins/furans. The selection of the format for the standards for the above pollutants, is described in previous **Federal Register** notices (54 FR 52251, December 20, 1989 and 56 FR 5488, February 11, 1991). The specific formats of the proposed standards for Cd, Pb, and Hg are discussed below. For dioxins/furans, the revised format is in units of either TEQ or total mass dioxin/furans.

As required by section 129(a)(4) of the Act, the proposed standards would establish numerical limitations for Cd, Pb, and Hg. For the purpose of regulating Cd and Pb, the format selected in the proposed NSPS for the numerical emission limitations would be numerical concentration limits (mg/dscm) at 7 percent O_2. For the purpose of regulating Hg, the format selected would be both a numerical concentration limit (mg/dscm) and an alternative percentage reduction requirement. The numerical Hg emission limit reflects the emission level that can be achieved based on activated carbon injection in combination with SD/FF controls. An alternative Hg percentage reduction requirement may be met instead of the numerical emission limit because emissions of Hg can be highly variable and dependent on the Hg input level. Even at the same MWC, test data show occasional spikes of high Hg emissions due to variability in the waste feed. In cases where Hg levels are temporarily elevated, the 0.080 mg/dscm level may not be consistently achievable; however, the control devices could achieve the 85-percent reduction during such episodes. Therefore, a combination of a concentration limit and an optional percentage reduction format best assures the maximum achievable Hg control while accommodating potential spikes in Hg emission levels.

As discussed above, the proposed standards for SO_2, HCl, and Hg include two formats: (1) a percent reduction format, and (2) an emission limit (concentration) format. The EPA requests comment on and test data supporting the appropriateness of promulgating final standards for SO_2, HCl, and Hg which include only the emission limit format. For each pollutant, the commenter should specify an appropriate emission limit (without an associated alternative percent reduction format) and provide rationale for the limit. Based on the comments received, the EPA may promulgate final standards for SO_2, HCl, and Hg in the form of emission limits that are higher or lower than the proposed emission limits.

The EPA has proposed emission limits that reflect the performance levels achieved by MWC's equipped with properly designed, constructed, and operated air pollution control systems. The proposed standards would apply during all periods of MWC operation. To comply with the proposed standards, the air pollution control system would be designed and operated such that actual emissions are less than the proposed emission limits. Where continuous monitoring systems are available, such as for SO_2 and NO_X, the proposal would require their use to determine compliance on a continuous basis. For other pollutants, an annual stack test would be required. The EPA requests comment on whether continuous monitoring methods exist for any additional pollutants.

The EPA also seeks comments on alternate formats of the standard that would encourage optimal control system operation and optimal performance, thus minimizing emissions. For example, the standard could provide incentives, such as reduced testing and reporting, for MWC's that operate well below the emission limit. One approach would be to structure the standard such that, for an MWC with multiple units, if all units demonstrated emissions at least 30 percent less than the limit, then only one of the units would be tested each year. The unit selected for testing would be rotated such that each unit would be tested during its rotational cycle (e.g., once every three years, for an MWC plant with three units).

Another potential regulatory approach to assure optimal performance would be to supplement the current emission limits (which must be demonstrated by annual stack tests) with more stringent emission limits calculated for each pollutant based on long-term average emission levels. Compliance with this supplemental limit would be determined by continuous monitoring, where applicable, or by the average of the annual emissions tests from the current year and one or more preceding years. The current limits account for variability from one emissions test to another, whereas the composite average emission limits would reflect the mean performance level over the life of the plant. This may be a preferable measure of environmental performance for some of the pollutants because it is their long term or cumulative emissions that are of most concern. Other formats of the standard that encourage optimal performance would also be possible. Comments and suggestions are requested. Based on the information and comments received, the EPA may change the form of the rule to include a long term emissions average, an alternative compliance testing schedule, or other alternative format to encourage optimal performance of the air pollution control system.

Additionally, the EPA requests comment and suggestions on specific work practice requirements or equipment requirements that would assure optimal operation of the air pollution control system and minimize emissions. Such operating practices or equipment practices would be most beneficial for minimizing emissions of those pollutants for which annual stack testing is the proposed compliance test method. Comments are specifically requested on work practice standards or equipment requirements that would minimize dioxin/furan, Hg, Cd, and PM emissions. Based on the information received, the EPA may require specific work practices or equipment to supplement the emission limits included in the final standards.

H. Performance Test Methods and Monitoring Requirements

The NSPS promulgated on February 11, 1991 for MWC's with unit capacities above 225 Mg/day established performance testing and monitoring requirements for MWC acid gases (SO_2 and HCl), MWC metals (PM and opacity), MWC organics (dioxins/furans), MWC operating practices (CO, load, and flue gas temperature), and NO_X. These testing and monitoring requirements are described in the NSPS promulgated on February 11, 1991 (56 FR 5488). These same testing and monitoring requirements will apply to MWC's at all size plants under today's proposed NSPS, except that: (1) Procedures are being proposed for determining dioxin/furan emissions on a TEQ basis; (2) continuous monitoring of NO_X is not required at small plants; (3) provisions have been incorporated to allow compliance testing every third year for dioxins/furans, PM, and HCl at small plants that pass their compliance test for 3 years in a row; and (4) annual opacity tests using EPA Reference Method 9 (in combination with continuous monitoring of opacity level) would be required for both large and small MWC plants. Furthermore, today's proposal includes new data availability requirements for CEMs. Today's proposal requires that valid paired CEMs hourly averages (i.e., SO_2 and O_2 (or CO_2), NO_X and O_2 (or CO_2), and CO and O_2 (or CO_2)) be obtained for 75 percent of the hours per day for 90

percent of the days per calendar quarter that the MWC is operating and combusting MSW.

Because the proposed NSPS allows compliance with a dioxin/furan limit either on a TEQ basis or on a total mass basis, procedures are being proposed for determining dioxin/furan emissions on a TEQ basis. For measuring dioxins/furans, on a TEQ basis, the mass of each dioxin/furan tetra- through octa-congener would be measured by EPA Reference Method 23. Then, each congener mass would be adjusted by the corresponding TEF's, which are listed in the proposed NSPS. Finally, the adjusted congener masses would be added together to determine dioxins/furans in terms of nanograms per dry standard cubic meter TEQ.

Under the proposed standards, if three consecutive annual compliance tests for an MWC at a small MWC plant indicate compliance with the emission limit for a pollutant (i.e., dioxins/furans, PM, or HCl), the MWC would be allowed to wait 3 years before retesting for the pollutant. If the next test conducted in the third year shows compliance with the emission limit for the pollutant, then the facility could again wait 3 years to wait for the pollutant. If noncompliance with the emission limit for the pollutant occurs, corrective actions would be required to be undertaken and annual testing would be required to be conducted until 3 consecutive years of compliance with the emission limit established. At a minimum, performance tests for dioxins/furans, PM, and HCl must be performed for each MWC at a small MWC plant every 3 years. This provision is included to minimize costs for small plants, while still retaining periodic testing to ensure compliance.

Testing and monitoring requirements are being proposed today to ensure control of Cd, Pb, and Hg emissions. For Cd, Pb, and Hg, an initial performance test would be required for MWC's at small and large plants to determine compliance with the proposed emission limits. The performance test for Cd, Pb, and Hg would be conducted in accordance with EPA Reference Method 29. The number and location of sampling points would be determined using EPA Reference Method 1, and flue gas analysis would be performed using EPA Reference Method 3. All performance tests would consist of a minimum of three test runs conducted under representative full load operating conditions. The average Cd, Pb, and Hg emission rates of three test runs or more would be used to determine compliance.

Also, as discussed above for dioxins/furans, PM, and HCl, if small plants demonstrate compliance with the Cd, Pb, and Hg emission limits for 3 consecutive years, they would be allowed to begin testing for these three pollutants every third year. At a minimum, performance tests for Cd, Pb, and Hg would be required to be conducted by small MWC plants every 3 years. Large plants would be required to test for Cd, Pb, and Hg annually. These annual testing requirements are consistent with those for other pollutants, and MWC plants can reduce testing expenses by testing for multiple pollutants during the same test period.

Studies conducted by the EPA have shown EPA Reference Method 29 to be a more reliable method for measuring Hg from MWC's than EPA Reference Method 101A. Recent refinements have been made to Method 101A, but the EPA has concluded that Method 29 remains a superior method.

In a separate notice in today's **Federal Register**, EPA Reference Method 29 is being proposed for determining emissions of Hg and other metals from MWC's, MWI's, and power plants. Method 29 consists of a particulate filter followed in series by two nitric acid/hydrogen peroxide (HNO_3/H_2O_2) impingers and two acidified potassium permangenate ($KMnO_4/H_2SO_4$) impingers. The method is identical to the EPA's Office of Solid Waste multimetals method, except that Method 29 requires filtration and analysis of the impinger solution collected in the $KMnO_4/H_2SO_4$ impingers. These filtration and analysis requirements are being added to the method for quality assurance purposes to protect against the loss of Hg in the manganese oxide (MnO_2) precipitate that can form in this solution. This additional step will result in similar sample preparation and analysis requirements for EPA Reference Methods 29 and 101A.

The EPA does not believe that addition of the filtration and analysis step will change the achievable Hg emission rates for MWC's and MWI's. Because of the significant amount of chlorine in MWC and MWI flue gas, most of the Hg in these flue gases occurs as water-soluble ionic Hg. As a result, use of Method 29 collects most of the Hg in these flue gases on the filter and in the HNO_3/H_2O_2 impingers, with the remainder collected in the $KMnO_4/H_2SO_4$ impingers. Flue gases emitted from processes having lower chlorine levels and/or higher sulfur levels (e.g., coal-fired power plants) have a higher fraction of their Hg emissions present as water-insoluble elemental Hg that is collected in the $KMnO_4/H_2SO_4$ impingers.

In testing conducted by the EPA at an MWC during which Method 101A $KMnO_4/H_2SO_4$ impinger solutions were filtered and the filters analyzed (with Method 101A, all of the Hg in the flue gas is collected by the $KMnO_4/H_2SO_4$ impingers), results showed that less than 3 percent of the total Hg collected by the sampling train was associated with precipitated MnO_2. Based on review of analytical procedures used with multimetal trail samples collected during several other EPA-sponsored test programs, the EPA believes the potential loss of Hg in precipitated MnO_2 during these tests was less than 3 percent (during these tests, the $KMnO_4/H_2SO_4$ impingers were shaken prior to removal of a representative analytical sample and, thus, a portion of any precipitated MnO_2 was likely to have been included in the analytical sample).

Because the analytical filter makes only a negligible difference in the Hg test results for MWC's and because it is desirable to use a uniform Hg test method for all source categories, the EPA is proposing that the full Method 29 test procedures (including the analytical filter analysis) be used for measuring Hg emissions from MWC's.

Overall, the proposed guidelines would require that CEMS be used as the compliance test method for those pollutants for which CEMS are available (i.e., SO_2, NO_X, CO, CO_2 (or O_2), opacity, MWC load level, and air pollution control device temperature). For those pollutants for which CEMS are not available (i.e., HCl, Hg, Cd, Pb, PM, and dioxins/furans), the proposed guidelines would require that stack test methods be used on an annual basis to determine compliance. Progress continues to be made on the development of new and improved CEMS. The EPA requests comment on the availability of CEMS to replace stack testing for any of the pollutants listed above. The EPA specifically requests comment on the availability, precision, accuracy, and cost of CEMS for HCl and Hg. Based on the information received, the EPA will reconsider CEMS requirements and may increase the number of pollutants monitored by CEMS.

I. Reporting and Recordkeeping Requirements

The proposed standards would require owners and operators of all affected facilities to submit notifications of construction or reconstruction, date of anticipated startup, and anticipated date of demonstration of the continuous emission monitoring system (CEMS) (if

applicable), as required under § 60.7 of subpart A of part 60.

The NSPS promulgated on February 11, 1991 include reporting and recordkeeping requirements for MWC acid gases, MWC metals (PM and opacity), MWC organics (dioxins/furan), MWC operating practices, and NO_X. These reporting and recordkeeping requirements are summarized in the previous **Federal Register** notice (56 FR 5488, February 11, 1991). Under today's proposed standards, these same reporting and recordkeeping requirements would apply to MWC's at both small and large plants with the following four exceptions: (1) Dioxin/furan emissions would be recorded and reported either in terms of dioxin/furan TEQ or as total mass of dioxins/furans; (2) monitoring and reporting of NO_X emissions would not be required for small plants because NO_X control is not applicable; (3) if MWC's at small plants have met the criteria allowing them to conduct compliance tests for dioxin/furans, PM, or HCl every third year, they would submit a simplified report for years when a full compliance test was not required; and (4) both small and large MWC plants would be required to report the results of annual method 9 opacity tests.

The reporting and recordkeeping requirements in the proposed NSPS are necessary to inform enforcement personnel of the compliance status of new MWC's that begin operation.

In addition, the records would provide the data and information necessary to ensure continued compliance of these MWC's with the proposed regulation. At the same time, these requirements would not impose an unreasonable burden on MWC owners or operators. All required records and all quarterly and annual reports must be maintained for 5 years following the date of such records or submittal of such reports. All information contained in the records must be open to the public.

Recordkeeping and reporting requirements are being proposed in today's NSPS for Cd, Pb, and Hg. After the initial performance test has been completed, the proposed standard would require the submission of annual compliance reports for Cd, Pb, and Hg for MWC's at both small and large plants. However, if MWC's at small plants have met the criteria allowing them to conduct compliance tests for Cd, Pb, or Hg every third year, they would submit a simplified annual report for years in which a full compliance test was not required.

The proposed NSPS would require that certain types of records be maintained. If an activated carbon injection system is used for Hg control, MWC plants would be required to keep records of the quantity of activated carbon used for each 8-hour period of MWC operation. These records would provide documentation that these systems continue to be operated properly between compliance tests. The proposed NSPS would also require the submittal of initial and annual compliance reports for fly ash/bottom ash fugitive emissions testing for MWC's at both small and large MWC plants.

Additionally, today's proposal would require that the siting analysis, materials separation plan, and summary of response to public comment be submitted to the State. Refer to section V.D of this preamble for a discussion of the proposed reporting requirements.

V. Rationale for the Proposed Standards for Siting Requirements

This section presents the EPA's rationale for establishing the proposed siting requirements, including a siting analysis, a materials separation plan, and public meetings.

A. Overview

Under authority of section 129 of the Act, the EPA is proposing siting requirements for new MWC's. As proposed, the siting requirements include three major components: (1) A siting analysis, (2) a materials separation plan, and (3) public meetings with responses to public comments. These siting requirements would apply only to MWC units at MWC facilities with aggregate capacities to combust greater than 35 Mg/day of MSW, for which the initial application for a construction permit under 40 CFR part 51, subpart I, or part 52 is submitted after the date of promulgation of the final rule. These siting requirements would not apply to existing MWC's.

B. Siting Analysis

The following discussion presents the EPA's rationale for proposing the requirement for sources to prepare a siting analysis, including the various siting approaches considered and the proposed siting analysis.

1. Siting Analysis Approaches Considered

The EPA considered four approaches in the development of proposed siting analysis requirements. These approaches are summarized below.

The first approach would require that an environmental assessment be conducted, patterned on requirements under the National Environmental Policy Act. This would require an examination of impacts in all media (i.e., air, water, solid waste, energy, and land use). It would also require a description of alternatives to the proposed project including alternative sites, technologies, or design. The elements of this approach would cover a range of health and environmental impacts that can be considered in siting an MWC. However, many of these elements are addressed in current Federal, State, or local permitting processes or review procedures.

The second approach is patterned after the Resource Conservation and Recovery Act (RCRA). Requirements for siting hazardous waste treatment, storage, and disposal facilities. It consists of an exclusion list with the provision that an MWC cannot be sited in certain locations (e.g., in a 100-year floodplain or over a high-quality groundwater resource) unless "it can be shown to the satisfaction of EPA" that no adverse impact will occur.

The third approach would be a regulatory review approach. Under this approach, the MWC owner or operator would prepare a document listing all current Federal, State, and local regulatory requirements and permit conditions that apply to the proposed MWC, along with a discussion of the equipment, construction practices, operating practices, and other conditions used to comply with each requirement. This approach addresses relevant siting issues, and would not require duplicate analyses of health or environmental impacts that are already required under other authorities (e.g., New Source Review (NSR) air permits, National Pollution Discharge Elimination System (NPDES) water discharge permits, stormwater permits, wetland permits, State solid waste permits, or local zoning permits).

The fourth approach would establish general siting requirements patterned after requirements currently in use under the NSR program. This approach would require an analysis of the impact of the facility, taking into account other major industrial facilities near the proposal site, on ambient air quality, visibility, soils, and vegetation. This approach has already been successfully implemented under the NSR program. Under this approach, facilities may be able to use analyses conducted under the NSR program to comply with the NSPS siting requirements. This approach would also involve public meetings, and the facility owner or operator would be required to prepare summaries and comments to the public comments received at the public meetings.

2. Proposed Siting Analysis

The EPA is proposing the fourth approach, as discussed above, as the basis for the proposed siting analysis. The first three approaches were considered to either overlap with current requirements or be overly complex. Under the proposal, MWC owners or operators would be required to conduct an analysis of the impact of the proposed facility on ambient air quality, visibility, soils, and vegetation. Furthermore, this analysis would be required to consider the air quality, visibility, soils, and vegetation impacts of other major industrial facilities located near the planned MWC. Consideration of the impacts of other local facilities would involve an analysis of both background air quality levels and emissions from other sources in the area prior to operation of the planned MWC and total air emissions in the area after addition of the planned MWC due to the incremental impact of the planned MWC.

The EPA believes that requiring this type of siting analysis would allow facilities to use the same type of siting analysis for complying with both NSR and NSPS requirements. The Agency invites comments regarding the proposed siting analysis, including suggestions of alternative approaches.

C. Materials Separation/Materials Management Planning

The following discussion presents the EPA's rationale for proposing the requirement for sources to prepare a materials separation plan.

1. Background

As State and local governments plan for solid waste management, the EPA has encouraged them to employ the Integrated Solid Waste Management (ISWM) approach. Through ISWM, communities achieve flexibility by looking beyond a single solution. In tailoring systems to meet their unique needs, communities consider all four elements of ISWM: Reduction, recycling, combustion, and landfilling, as described in EPA's document entitled "An Agenda for Action". In this integrated approach, systems are designed so that some or all of the four waste management options are used as a complement to one another to safely and efficiently manage municipal solid waste. The system is "custom designed" to meet local environmental, economic, and institutional needs. A key element of integrated waste management is the hierarchy, which favors source reduction (including reuse) to decrease the volume and toxicity and increase the useful life of products in order to reduce the volume and toxicity of waste. Recycling (including composting) is the preferred waste management option to further reduce potential risks to human health and the environment, divert waste from landfills and combustors, conserve energy, and slow the depletion of nonrenewable natural resources. In implementing source reduction and recycling, shifting risks from one medium to another (e.g., groundwater to air) or from one population to another must be avoided. Landfills and combustors will be necessary for the foreseeable future to handle a significant portion of wastes, but are lower on the hierarchy because of the potential risks to human health and the environment and long-term management costs. This risk potential can be largely minimized through proper design and management. Integrated waste management can and should be implemented at a local level to the extent practical, and is a useful conceptual tool for making management decisions; however, it must be considered in the context of each community's unique waste and demographic characteristics. Diversion of solid waste by reducing the quantity generated and by recycling materials from the waste stream can effectively reduce the burden on MWC's and landfills.

Waste diversion has become increasingly popular at the local level, as well as nationally and internationally, as the tool to reduce waste going to MWC's or landfills. In 1989, the EPA challenged the nation to reduce and recycle 25 percent of MSW by 1992. The EPA called on all sectors of our society to voluntarily assume responsibility for helping to attain this goal. Today, many states have source reduction programs, including, for example, yard waste composting, fee-for-service programs, and industrial/commercial waste minimization programs. In fact, all but eight States have established waste diversion goals. These goals vary, but generally call for diversion of 20 to 60 percent of the solid waste stream and are to be attained over the next 5 years.

With EPA encouragement, communities are increasingly using the "variable rate fee" approach to charge for waste management services. This approach fosters waste reduction and recycling because the waste generators are charged only for the amount of waste they produce that must be combusted or landfilled. Waste generators can reduce the amount they pay for services by reducing the amount of waste they produce or by recycling more materials, thereby diverting materials from MWC's and landfills.

Across the nation, residents, businesses, and communities are using a variety of approaches to collect, separate, and otherwise prepare recovery materials for recycling. These materials may be sorted into different categories at the point of generation (e.g., residences or businesses) for separate collection, or they may be collected together and taken to a regional or community facility for sorting and processing for recycling.

The collection of recovered materials has grown dramatically and continues to increase. According to EPA studies, the national recycling rate was only 9 percent in 1980 and grew to 17 percent by 1992. The EPA estimates the current national recycling rate at about 22 percent. Certain States and communities report even higher rates. Across the nation, materials that formerly were relegated to combustion or landfilling are being recovered for recycling. Waste reduction and recycling are increasingly becoming key factors in the sizing, design, and siting of MWC's and landfills.

Markets for recycled materials are critical to the success of recycling, and this has been recognized both here and abroad. In the United States, States have been creative in developing a variety of nonregulatory approaches to spur markets. These include several measures to help start new businesses using recovered materials and to help existing businesses convert to the use of recovered materials, such as: (1) Information and technical assistance, (2) financing assistance, (3) direct financial assistance, (4) tax breaks (i.e., credits and exemptions), and (5) "buy recycled" programs to encourage the purchase of goods made from recovered materials.

The EPA continues to be instrumental in enhancing markets for goods from recycled materials. In an effort to position the Federal community in a leadership role, the EPA is providing guidelines to assist Federal procurement agencies in buying increasing quantities of goods made from recovered materials. In October 1993, an Executive Order was signed by the President of the United States directing Federal agencies to procure goods made from recovered materials, harnessing the purchasing power of the Federal community to strengthen markets for these materials.

There are substantial public and private sector efforts underway across the nation to foster markets for recycled goods. For example, the Chicago Board of Trade has recently announced that by late 1994 they will add recyclable

plastics and glass to their listing of commodities. From these efforts, the demand for recovered materials will grow to complement the increasing supply of materials diverted from the solid waste stream as more communities implement the ISWM approach. This diversion will impact the characteristics of the remaining portion of the waste stream.

2. Proposed Materials Separation Plan

The design of any element of an ISWM system, whether a landfill or an MWC, must necessarily reflect the impact of the other elements. To provide for proper sizing and other elements of the landfill or MWC design, it is important to consider current and projected waste generation rates and the impact of source reduction and diversion on the character of the remaining waste stream that serves as the MWC feedstock. Today's proposal is consistent with and complements the ISWM approach by providing for an assessment of the impact of materials separation on municipal waste combustion.

Under today's proposal, prior to applying for a permit to construct a new MWC, the owner or operator of the MWC would be required to submit a materials separation plan for public review and comment. Today's proposal would require the materials separation plan to be applicable to the area served by the MWC. No rigid performance levels, specification of separation system design, or designation of materials to be separated are specified in the proposal.

The proposal allows the materials separation plan to be tailored to the service area, considered in the design of the new MWC, and reviewed by the public prior to construction of the MWC. The materials separation plan may be optimized for the entire service area, so that certain subareas may have materials separation requirements while other subareas may not have materials separation requirements. This approach is fully consistent with EPA's ISWM goals for both MWC's and landfills.

The Agency invites comments regarding the proposed materials separation plan requirements, including suggestions of alternative approaches. A definition of "materials separation plan" has been included in the definitions section (§ 60.51b) of the proposed NSPS.

The above requirements for a materials separation plan are being proposed only for new MWC's and are not being proposed for existing MWC's. The MWC industry has made impressive progress in implementing materials separation programs at existing MWC's, and this should be encouraged.

D. Public Meeting and Reporting Requirements

The proposed NSPS requires that the MWC owner or operator make the materials separation plan available to the public in the service area where the affected facility is to be constructed. As part of making this information available to the public, the MWC owner or operator would be required to distribute a preliminary draft materials separation plan to all public libraries in the affected service area and to publish a notification of the public meeting in the principal newspaper(s) serving the area where the MWC will be sited and where the waste will be collected. The MWC owner or operator would then be required to hold a public meeting and accept comments on the preliminary draft materials separation plan. The public meeting would be required to be held in the county where the MWC is to be constructed and would be required to be scheduled 30 days or more after making the materials separation plan available to the public and publishing the notification of the public meeting.

At the public meeting, information should be provided that summarizes what materials are planned for separation, how they will be separated, what service areas will be included in the plan, and what level of separation is expected. The information presented at the meeting should also identify the amount of MSW that is expected to remain after the separation plan is implemented and identify alternative disposal methods available for the waste (e.g., local MWC, local landfill, long-distance transport to an MWC, or long-distance transport to a landfill). The following hypothetical plan and discussion serve as an example of the types of information that would be provided at the meeting. At the public meeting, a plan is proposed that: (1) Yard waste be collected from specific residential areas using a curbside collection program, and (2) corrugated paper be collected from commercial facilities in specific commercial area using dumpster pickup. The plan is expected to reduce the overall MSW stream by 20 percent, resulting in a residual MSW stream of approximately 400 Mg/day to be disposed of by either a local MWC or a local landfill.

Although not included as a component of today's proposal, the EPA encourages the development and public presentation of a supplementary regional waste management plan. Such plans have already been developed for many areas. Presentation of a materials management plan at the initial materials separation public meeting would inform the public about current regional waste management plans if such plans existed. If a regional management plan does not exist, the meeting would provide the opportunity for local public input into the development of a regional solid waste management plan. A waste management plan would focus on the full range of options available to manage municipal solid waste, as exemplified in ISWM. Such a plan could include an analysis of the current waste generation situation and the range of strategies that are currently used to deal with municipal solid waste, including the following examples: current waste generation rates; existing waste disposal options (e.g., landfills versus MWC's); current source reduction (e.g., composting and waste disposal fees); and materials separation and recycling programs. The materials management plan could consider the adequacy of current strategies to handle projected waste generation.

Finally, as in the integrated management approach called for under ISWM, the whole range of strategies available to meet projected waste disposal needs could be fully examined and considered. This could include consideration of the role of landfilling, the role of MWC application, the role of source reduction, and the role of materials separation and recycling. The materials separation management plan could outline the expected cost of these alternative strategies to the public, including the cost per Mg of municipal waste disposed (or the cost of waste disposal avoided), and their impact in terms of waste disposal capacity or waste generation avoided.

As mentioned above, a materials management plan is not part of the proposed siting requirements. The proposed siting requirements include the development of only a materials separation plan. However, the materials separation plan and regional materials management plan are closely related, and public input in their development is encouraged.

The MWC owner or operator would be required to prepare responses to the comments received at the public meeting. The MWC owner or operator would be required to make the document summarizing responses to the public comments available to the public in the service area where the MWC is to be located, including distribution to all public libraries in the service area. The MWC owner or operator would then be required to submit the final draft materials separation plan and the

document summarizing responses to public comments to the State or the EPA, as applicable, prior to the facility's application for a construction permit under NSR (40 CFR part 51, subpart I, or part 52, as applicable). The EPA concluded that the draft materials separation plan should be submitted during the initial planning process with the application for a construction permit to be fully consistent with the EPA's ISWM approach and to ensure that the facility is designed to meet the materials separation goals of the region or community. Following application for a NSR construction permit, the public would again have the opportunity to review and comment on the final draft materials separation plan at the public meeting that would be held for public review of the siting analysis, as discussed below. The final materials separation plan would be submitted with the initial notification of construction.

The proposed NSPS also requires that, during the period of review of the materials separation plan and NSR application for a construction permit, the MWC owner or operator make the MWC siting analysis available to the public in the service area where the affected facility is to be constructed. As part of making this information available to the public, the MWC owner or operator would be required to distribute the siting analysis to all public libraries in the affected service area and to publish a notification of the public meeting in the principal newspaper(s) serving the area where the MWC will be sited and where the waste will be collected. The MWC owner or operator would then be required to hold a public meeting and accept comments on the siting analysis. The public meeting would be required to be held in the county where the MWC is to be constructed and would be required to be scheduled 30 days or more after making the siting analysis available to the public and publishing the notification of the public meeting. Because the proposed siting analysis is based on the NSR requirements, the EPA anticipates that if a public meeting is scheduled to address the environmental impacts analysis required by the NSR program, the same public meeting could also be used to discuss the proposed siting analysis. Also, as discussed above, the same public meeting would address the final draft materials separation plan.

The MWC owner or operator would be required to prepare responses to the comments received at the public meeting and to make the document summarizing responses to public comments available to the public in the service area where the MWC is to be located, including distribution to all public libraries in the service area. The MWC owner or operator would be required to submit the siting analysis, the final materials separation plan, and the document summarizing responses to public comments on the siting analysis and any additional public comment on the materials separation plan as part of the facility's initial notification of construction.

As discussed above, the final materials separation plan is submitted with the initial notification of construction of the MWC. Under this proposal, after the final plan is submitted, no subsequent reporting would be required. However, the EPA is considering requiring an annual materials separation report. The EPA requests comment on the usefulness of using a materials separation report to document the effectiveness of the plan and any changes made to it, and to help determine if any changes are warranted. Comment is also requested on appropriate means to ensure that the adopted materials separation plan is implemented. Based on the comments received, the final regulation may require submission of annual reports for assessing the performance of the materials separation plan.

VI. Rationale for the Proposed Standards for Fugitive Fly Ash/Bottom Ash Emissions

The following discussion addresses the basis for EPA's decision to regulate fugitive fly ash/bottom ash emissions from MWC facilities. The available technologies for controlling these fugitive emissions and the EPA's selection of MACT for these emissions are presented.

A. Background

Fugitive fly ash/bottom ash emissions are emissions of dust from fly ash and bottom ash handling that are not confined (i.e., emissions that are not contained within a fully enclosed ash handling system). The fly ash/bottom ash dust consists of PM and various associated pollutants adsorbed to the PM such as Cd, Pb, Hg, and organic compounds (e.g., dioxins/furans). A study of MWC ash handling and storage facilities at best controlled MWC facilities has shown that such facilities, when improperly controlled, can be sources of these pollutants through fugitive fly ash/bottom ash emissions. Therefore, visible emissions standards for fugitive fly ash/bottom ash emissions are being proposed to ensure control equipment and operating practices are implemented to eliminate such emissions.

B. Fugitive Emission Control Techniques

Sources of MWC fugitive fly ash/bottom ash emissions include fly ash and bottom ash conveyors and conveyor transfer points, storage facilities (including ash storage bins or piles), and ash loading facilities for trucks or containers.

Fugitive fly ash/bottom ash emissions from conveyors that are not already inside enclosed structures can be controlled by totally enclosing the conveyors. Emissions from conveyor transfer points can be controlled by totally enclosing the transfer point and ventilating it to a control device if the transfer point is not inside an enclosed structure. Alternatively, adequate moisture in the fly ash and bottom ash can be maintained to control fugitive emissions from conveyors or transfer points.

Fugitive fly ash/bottom ash emissions from the ash storage facilities at an MWC plant can be controlled by totally enclosing the ash storage operations and by ensuring that the fly ash and bottom ash have an adequate moisture content to prevent dust generation. Chemical stabilizers and binders may also be used in addition to or in place of moisture to prevent dust emissions from MWC ash for nearly all the activities described in this section.

Fugitive fly ash/bottom ash emissions from loading ash into trucks or containers can be controlled by ensuring an adequate moisture content of the ash, either by adding extra moisture (water) or by combining and mixing fly ash with bottom ash that has passed through a water-filled quench tank. Fugitive fly ash/bottom ash emissions from the ash loading facility may also be controlled by enclosing the ash loading facility, fitting the truck bays with doors that can be closed, and discharging the vent air to a control device.

Fugitive fly ash/bottom ash emissions from moving trucks used for hauling ash can be controlled by ensuring that the ash is moist and that the truck or container is properly sealed and covered during transit. Truck tires can be washed prior to leaving the ash handling facility to prevent ash from being tracked onto roadways where it can later become airborne as fugitive fly ash/bottom ash emissions. Additional emissions control can be achieved by reducing ash spills during loading and by recovering any spilled ash through sweeping, vacuuming, or washing before the spilled ash can be tracked out of the facility.

Data collected at several MWC's indicate that when the control methods described above are applied in a consistent and conscientious manner, fugitive fly ash/bottom ash emissions can be controlled so that no visible emissions are observed from the ash storage facilities, ash transfer points, ash loading to trucks or containers, and trucks hauling MWC ash.

C. Proposed Fugitive Emissions Standards

A standard of no visible fugitive fly ash/bottom ash emissions from ash handling and storage facilities and transfer points is being proposed and is consistent with the determination that the controls described above represent MACT. Section 129 of the Act requires that standards for new sources cannot be less stringent than the control achieved in practice by the best controlled similar source. The controls described above are in place at the ash handling and storage facilities at many MWC's and are the most stringent available controls for new MWC's.

Therefore, fugitive emission standards are consistent with MACT and are being proposed. Fugitive fly ash/bottom ash emissions from any MWC ash storage facility or any ash transfer point at an MWC plant with aggregate capacity to combust greater than 35 Mg/day of MSW would have to be controlled so that no visible emissions shall be detected.

The fly ash/bottom ash visible emission standard will be determined using EPA Reference Method 22 (3-hour continuous visual observation). Compliance with the visible emissions standards would be determined by an annual performance test. Reports of initial and annual performance tests would be required.

Any technology may be used to meet these standards. The fly ash/bottom ash fugitive emissions standards would apply to ash handling facilities within the property boundary of the MWC, but would not apply to offsite transport of ash.

VII. Proposed Standards for Air Curtain Incinerators

Air curtain incinerators operate by forcefully projecting a curtain of air across the top of an open chamber or pit. The air curtain reduces emissions during operation by promoting better combustion. Incinerators of this type are built either above or below ground and typically have refractory walls and a floor. Section 129 of the Act exempts air curtain incinerators firing MSW from the definition of "municipal waste combustion unit" provided that the air curtain incinerator burns only tree trimmings, yard wastes, and clean untreated lumber, and that it complies with an opacity limit that would be established by the EPA. As clarified under the proposed NSPS, "untreated lumber" means that the lumber has not been painted, pigment-stained, or "pressure treated."

Today's proposed NSPS includes opacity limits specifically for air curtain incinerators that would combust greater than 35 Mg/day of yard wastes, tree trimmings, or clean untreated lumber. The proposed opacity limits are 10-percent opacity (6-minute average), except that a level of up to 35 percent (6-minute average) would be allowed during the first 30 minutes of operation of the unit. The proposed opacity limits are based on levels achieved by well-designed and operated air curtain incinerators. Compliance with the proposed air curtain incinerator opacity limits would be demonstrated by conducting an annual compliance test in accordance with EPA Reference Method 9.

Air curtain incinerators with unit capacities above 35 Mg/day that burn MSW other than yard wastes, tree trimmings, or clean untreated lumber are covered by the NSPS for MWC's. Air curtain incinerators with unit capacities above 35 Mg/day that burn only yard wastes, tree trimmings, or clean untreated lumber would be subject to the proposed opacity standard and its associated testing, reporting, and recordkeeping requirements, but would not be subject to any other parts of the proposed NSPS.

VIII. Comparison of the Proposal and European Emission Limits for MWC's

Europe is more densely populated than the United States and the combustion of MSW became increasing common after World War II. Because European countries have more experience combusting MSW, it is interesting to compare the emission control requirements for MWC's located in the Member States of the European Union (EU) to those for MWC's in the United States. In addition to comparing emission requirements, the EPA also compared the prevalence of waste combustion in the United States and the EU.

In general, MSW combustion is more common in the EU than in the United States. There are 12 members of the EU: Belgium, Denmark, France, Germany, Great Britain, Greece, Ireland, Italy, Luxembourg, The Netherlands, Spain, and Portugal. The percentage of waste combusted in many of the EU countries is over 30 percent, with Denmark, Luxembourg, and the Netherlands, combusting 60, 60, and 40 percent of their waste, respectively. As a national average for the United States, 16 percent of the waste generated is combusted. In the Eastern United States, where the majority of MWC's are located, the rate of waste combustion is higher, averaging 25 to 30 percent. In the New England region, the rate of waste combustion approaches 60 percent. Therefore, although the United States as a whole has a much lower rate of waste combustion than does the EU, certain regions of the United States have combustion rates similar to those in the EU.

Factors such as population density, percentage of urbanization, land availability, and topography/geology influence the method of waste disposal for a country or a region. In the EU, the majority of the countries have population densities that range from 200 to 600 people per square mile and urban population percentages of 60 to 90 percent. The United States, in comparison, has a much lower average population density of approximately 70 people per square mile, and the percentage of the population living in urban areas is approximately 75 percent. In the Eastern United States, the population density and percentage of urban population are higher than national levels, at around 200 people per square mile with over 80 percent of the population living in urban areas, which is comparable to most of Europe. As noted above, other factors contribute to the use of MWC technology. For example, in Florida, the geology is such that in some cases landfilling waste is not a desirable option. Similarly, the mountainous regions in parts of Europe restrict the use of landfilling, and the increased use of MWC's is common.

Regarding regulatory development in the EU, the EU sets uniform environmental guidelines, and individual EU countries may adopt those guidelines or more stringent requirements. This is similar to the role the EPA plays with the individual States. Table 5 presents: (1) The proposed EPA NSPS for new MWC plants with capacities above 35 and 225 Mg/day and (2) the EU guidelines that apply to new MWC plants with capacities greater than 72 Mg/day.

TABLE 5.—COMPARISON OF THE EPA'S PROPOSED NSPS AND THE EU REQUIREMENTS FOR NEW MWC'S

Pollutant	Units[a] (@ 7% O_2)	Proposed EPA NSPS[b]		EU guidelines[d]
		Small plants[b]	Large plants[c]	
PM	mg/dscm	15	15	39
Cd	mg/dscm	0.010	0.0101	([e])
Pb	mg/dscm	0.10	0.10	([e])
Hg	mg/dscm	[f]0.080	[f]0.080	([e])
Hg and Cd	mg/dscm	[g]0.09	[g]0.09	[h]0.2
Pb+Cr+Cu+Mn[i]	mg/dscm	([j])	([j])	[h]6.5
HCl	ppmv	[k]25	[k]25	[kl]43
SO_2	ppmv	[m]30	[m]30	[h]147
NO_X	ppmv	500	180	([n])
CO	ppmv	[o]100	[o]100	[p]112
Dioxins/furans	ng/dscm.			
	TEQ	0.20	0.20	([n])
	Total mass	13	13	([n])

[a] All limits are presented on a dry basis, at standard conditions (20 °C, 101 kilopascals) corrected to 7 percent O_2.
[a] Applies to plants that commence construction, modification, or reconstruction after September 20, 1994 and have capacities greater than 35 Mg/day and less than or equal to 225 Mg/day.
[c] Applies to plants that commence construction, modification, or reconstruction after September 20, 1994 and have capacities larger than 225 Mg/day.
[d] Applies to all new plants with capacities greater than 72 Mg/day.
[e] No individual limit specified. See combined limit.
[f] Or 85 percent reduction.
[g] The proposed NSPS does not include a combined limit for Hg and Cd; however, based on the individual limits, a combined limit is shown for comparison.
[h] Based on periodic determination.
[i] Cr, Cu, and Mn are abbreviations for chromium, copper, and manganese, respectively.
[j] No combined limit specified. See individual Pb limit.
[k] Or 95-percent reduction. Emissions measured by an annual stack test.
[l] Based on a 7-day rolling average, measured continuously.
[m] Or 80-percent reduction. Limit based on a 24-hour average, measured continuously.
[n] No limit specified.
[o] For mass burn/waterwall combustors. Based on a 4-hour average, measured continuously.
[p] Based on an hourly average, measured continuously.

As shown in table 5, the EU guidelines cover many of the same pollutants as the EPA NSPS proposed in today's notice. There are differences between the EPA standards and the EU guidelines with regard to regulatory flexibility for demonstrating compliance, as well as the test methods used to measure emissions. Factors like these should be considered when comparing emission requirements. The EPA and EU both have set levels for PM, HC1, SO_2, and CO. For these pollutants, the allowable emission levels proposed by the EPA are more restrictive than the EU guidelines. No EU guidelines exist for NO_X or dioxins/furans, and the EU metals emission guidelines are for combined metals (e.g., Hg+Cd). As shown in table 5, the EPA NSPS for both large and small plants for Hg and Cd, if combined, are lower than the EU Hg+Cd guideline.

Some of the EU countries have adopted limits that are more stringent than the general EU guidelines. For example, The Netherlands has recently adopted standards for new and existing MWC's that are considered to be some of the most stringent in the world. For example, the Dutch Hg limit of 0.065 mg/dscm for new MWC's (corrected to 7 percent O_2) is lower than both the EU guideline and the EPA's proposed Hg standards. The Dutch dioxin/furan limit for new MWC's is 0.13 ng/dscm TEQ. This limit is lower than the EPA's proposed standard of 0.20 ng/dscm TEQ or 13 ng/dscm total dioxins/furans. The EU has no dioxin/furan limit.

It is difficult to directly compare the Dutch standards to the EPA standards or to the performance of U.S. MWC's because the test methods used in The Netherlands to measure emissions are different from those used in the United States. Several new MWC plants are currently being constructed in The Netherlands and are expected to demonstrate compliance in 1995.

As with some of the EU countries, some of the individual States are establishing more stringent emissions standards than those in today's proposed standards. Brief descriptions of the regulations under consideration in Florida, Minnesota, and New Jersey are presented below.

The State of Florida has promulgated a regulation that would set an Hg emission limit of 0.070 mg/dscm (corrected to 7 percent O_2), or an 80-percent Hg reduction, for facilities that install Hg control equipment (e.g., activated carbon injection) and that are equipped with acid gas control equipment. This limit must be met by July 1, 1995, and compliance must be demonstrated annually using EPA Reference Method 101A. For facilities equipped with acid gas control equipment that choose to control Hg exclusively through the use of an Hg waste separation program, Hg emissions would be limited to 0.14 mg/dscm after July 1, 1995 and to 0.070 mg/dscm after July 1, 1997. Compliance must be demonstrated semiannually using Reference Method 101A. Facilities not currently equipped with acid gas controls will be required to meet the proposed Hg emission limits when the facility is required to demonstrate compliance with the acid gas limits included in the EPA's proposal. Florida's rulemaking procedures to develop SO_2 and HC1 emission limits will be initiated by December 1, 1994, unless the Federal regulations (today's action) have been proposed by that date.

The State of Minnesota has also promulgated Hg requirements for MWC's. For mass burn MWC's with acid gas control, the quarterly Hg emission limit (one three-test run average) is 0.10 mg/dscm (corrected to 7 percent O_2). However, the annual average Hg emissions limit (average of the four most recent quarterly tests) is 0.060 mg/dscm. Measurements must be made using EPA

Reference Method 29. The Minnesota requirement also allows MWC's to demonstrate compliance with the quarterly and annual limits by achieving an alternative 85-percent reduction in Hg emissions.

Similar to the Florida regulations, the Minnesota regulations provide less stringent standards for MWC's without acid gas control until the time that acid gas control is required.

The State of New Jersey will be proposing an Hg standard for MWC's of 0.028 mg/dscm (corrected to 7 percent O_2), which would be effective as of January 1, 2000, and an interim standard of 0.065 mg/dscm or an 80-percent reduction, which would be effective as of December 31, 1995. The 0.028 mg/dscm limit is based on reducing the uncontrolled Hg emission level (assumed to be 0.70 mg/dscm) by 80 percent through reduction of Hg in the waste burned, and another 80-percent reduction from Hg in the flue gas. These limits are annual averages based on quarterly 3-run testing (i.e., a total of 12 runs), using EPA Reference Method 29.

IX. Miscellaneous

This section addresses the two following issues: (1) The selection of a "no control" limit for NO_X for MWC's at small MWC plants, and (2) the July 14, 1992 remand of the issue of lead-acid vehicle battery combustion, and (3) a general request for comment on the proposal.

Regarding the first issue, section 129 of the Act specifies that standards for MWC's must include emission limits for PM, opacity, SO_2, HC1, NO_X, CO, Pb, Cd, Hg, and dioxins/furans. This means that emission limits for these pollutants must be specified even if the MACT selected for a subcategory of facilities does not control that particular pollutant. In particular, under today's proposal, the MACT floor and MACT for NO_X control at small MWC plants is based on no control (see section IV.F.1.c for additional discussion). Therefore, a "no control" emission limit is proposed for NO_X emissions from small MWC plants. The proposed "no control" limit for NO_X for small MWC plants is 500 ppmv. This proposed limit is not intended to result in emissions control, and the proposal does not include any testing, reporting, or recordkeeping requirements. The EPA expects that the "no control" limit will not be exceeded.

The 500 ppmv limit represents an emission level higher than any of the test data and allows an adequate margin to accommodate the variability in NO_X emission levels. The EPA requests public comments on whether it is appropriate to include such a "no control" emission limit in the final NSPS or whether such a limit is not necessary.

Regarding the second issue, on December 20, 1989, the EPA proposed NSPS and emission guidelines for new and existing MWC's under section 111 of the Act. The proposed NSPS and emission guidelines included a prohibition on the combustion of lead-acid vehicle batteries in MWC's. On February 11, 1991, the EPA promulgated standards and guidelines for new and existing MWC's that did not prohibit the combustion of lead-acid vehicle batteries. The decision not to prohibit the combustion of lead-acid vehicle batteries was challenged in the U.S. Court of Appeals by the NRDC, the State of New York, and the State of Florida. In 1992, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the EPA had not adequately explained its decision not to require a lead acid battery separation as part of the 1991 NSPS and emission guidelines, when it had included such a requirement in its proposed rule (*State of New York* v. *Reilly*, 969 F.2d 1147, 1153 (D.C. Cir. 1992)). The EPA is not addressing the lead acid battery issue in this notice, but will publish a separate notice in the **Federal Register** in the near future.

Regarding the third issue, the MWC regulations are complex, and the EPA expects to receive numerous comments on this proposal. The EPA has specifically requested comments on items fundamental to the proposal, including but not limited to the MACT floor, MACT performance levels, and materials separation plans.

X. Administrative Requirements

This section addresses the following administrative requirements: public hearing, docket, procedural requirements of the Act, Office of Management and Budget review, and Regulatory Flexibility Act compliance.

A. Public Hearing

A public hearing will be held 15 days following proposal. The public hearing will discuss the proposed standards in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentations at the public hearing should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be mailed to the Air and Radiation Docket and Information Center at the address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Air and Radiation Docket and Information Center in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review material (section 307(d)(7)(A)) of the Act. The docket number for this rulemaking is A–90–45. Docket No. A–89–08 also includes background information for this rulemaking that supported the proposal and promulgation of the subpart Ea NSPS.

C. Clean Air Act Procedural Requirements

The following procedural requirements of the Act are addressed: administrative listing, periodic review, external participation, and economic impact assessment.

1. Administrator Listing—Sections 111 and 129 of the Act

As prescribed by section 111 of the Act, establishment of standards of performance for MWC's is based on the Administrator's determination (52 FR 25399, July 7, 1987) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. Additionally, section 129 of the Act of 1990 directs the Administrator to promulgate revised NSPS for new MWC's.

2. Periodic Review—Sections 111 and 129 of the Act

Sections 111 and 129 of the Act require that the regulation be reviewed not later than 5 years following the initial promulgation. At that time and at 5-year intervals thereafter, the Administrator shall review the regulation and revise it if necessary. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in

emission control technology, and reporting requirements.

3. External Participation

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator welcomes comments on all aspects of the proposal, including economic and technological issues.

4. Economic Impact Assessment

Section 317A of the Act requires the EPA to prepare an economic impact assessment for any NSPS promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed standards. In the manner described in sections III, IV, V, and VI of this preamble regarding the impacts of and rationale for the proposed standards, the EPA considered all aspects of the economic impact assessment in proposing the standards. The economic impact assessment is included in the list of key technical documents at the beginning of today's notice under **SUPPLEMENTARY INFORMATION.**

D. Office of Management and Budget Reviews

1. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1506.03) and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 or by calling (202) 260–2740.

This collection of information is estimated to have an average annual reporting burden of about 0.81 person years per recordkeeper (MWC facility). Very small MWC plants with capacities between 25 and 35 Mg/day will have a smaller burden. These plants would only be required to submit reports of notification of construction, anticipated startup date, and actual startup date. Small MWC plants with capacities between 35 and 225 Mg/day would incur the greatest burden as a result of today's proposed standards. The reporting and recordkeeping burden for these plants would include initial and annual testing and reporting of emissions of PM, Pb, Cd, Hg, dioxins/furans, and HC1; SO_2 and CO CEMS demonstration and reporting; preparation of a site selection analysis report, and other requirements.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for the EPA." The final rule will address any comments on the information collection requirements contained in this proposal.

2. Executive Order 12866 Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant", and therefore, subject to the OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, users fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the EPA considers the proposed NSPS not to be a "significant" rule because the annual effect on the economy is expected not to exceed $43 million over the cost of the existing subpart Ea NSPS. However, the EPA considers this proposed NSPS to be "significant" because of its relationship to the emission guidelines for MWC's that are being proposed under a separate notice in today's **Federal Register**. The proposed emission guidelines would cost about $450 million/year. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public docket for this rulemaking.

3. Executive Order 12875

Under Executive Order 12875, the EPA is required to consult with representatives of affected State, local, and tribal governments, and keep these affected parties informed about the content and effect of the proposed standards. The following discussion provides a brief summary of the content, need for, and cost of the proposal, as well as the actions that the EPA has taken to communicate and consult with the affected parties.

a. *Summary of the Proposed Standards.* The proposed NSPS would establish emission limitations for new MWC units located at MWC plants with plant capacities to combust greater than 35 Mg/day of MSW. The proposed standards do not specify which type of air pollution control equipment must be used at MWC's to meet the proposed emission limitations. The EPA expects, however, that, as a result of the proposal, most large MWC plants (plants with greater than 225 Mg/day capacity) would use scrubbing systems (SD/FF) for dioxins/furans, metals, and acid gas control and SNCR for NO_X control. Small MWC plants (plants with 35 to 225 Mg/day capacity) would be expected to install scrubbing systems (SD/FF), but SNCR technology would not be necessary. Refer to section II of this preamble for a more detailed discussion of the proposed standards.

b. *Need for the Proposed Standards.* Under the Act Amendments of 1990, section 129 includes a schedule that requires the EPA to adopt the standards for large and small MWC plants by the end of 1991 and 1992, respectively. The EPA did not comply with that schedule and is now under court order to propose the standards by September 1, 1994 and promulgate the standards by September 1, 1995. As required by section 129, the proposed standards would establish emission limits for MWC organics (dioxins/furans), MWC metals (Cd, Pb, Hg, PM, and opacity), MWC acid gases (HCl and SO_2), and NO_X. See section I of this preamble for further discussion of the regulatory history and general goals of the proposed standards.

c. *Cost of the Proposal.* The national cost of the proposed NSPS would be about $43 million per year. The subpart Ea NSPS promulgated in 1991 already requires the installation of acid gas/PM control systems; therefore, the cost of installing acid gas/PM control systems is not included in the $43 million per year national cost of the proposal (see section III.B of this preamble for a discussion of national costs based on a pre-1989 baseline.) However, for perspective, the cost of the entire air

pollution control system (including acid gas/PM control systems) is provided here. For an individual combustor subject to the proposed standards, the cost of the air pollution control system will vary depending on the plant size. The average annualized cost of control required by the proposed standards for a typical large MWC plant would be about $3.8 million per year. The average annualized cost of control of the proposed standards for a typical small MWC plant would be about $0.84 million per year. Tipping fees at combustors currently average about $57/Mg of MSW combusted. As a result of the air pollution control required by the proposal, the tipping fees for new MWC plants would typically increase by $13 to $18/Mg, with the lower cost being for large MWC plants and the higher cost being for small MWC plants. Regarding the impact of the proposed standards directly or indirectly on households, the EPA projects an increase in the household cost of waste disposal of about $17 to $29 per year or about $2 per month for communities that have MWC's. Refer to section III of this preamble for a more complete summary of the cost and economic impacts of the proposed NSPS, on both national and plant-specific bases.

d. *Communication with Affected Parties.* As previously mentioned, Executive Order 12875 requires the EPA to consult with representatives of affected State, local, and tribal governments, and prior to promulgation of final standards, summarize concerns of the governmental entities and respond to their comments. The EPA has already initiated consultations with numerous governmental entities including, but not limited to, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the Municipal Waste Management Association, and the Solid Waste Association of North America. These groups have been informed of the content of the proposal and the estimated impacts. In drafting the proposal, the EPA has considered the concerns expressed by these groups, and discussions with these groups will continue following proposal. Following proposal, the EPA will mail a copy of this proposal to all owners/operators of MWC's and their associated local governmental official. The EPA awaits their comments on the proposal and will respond to their comments.

E. Regulatory Flexibility Act Compliance

Section 605 of the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to give special consideration to the impacts of regulations on small entities, which are small businesses, small organizations, and small governments. The major purpose of the RFA is to keep paperwork and regulatory requirements from getting out of proportion to the scale of the entities being regulated, without compromising the objectives of, in this case, the Act.

If a regulation is likely to have a significant economic impact on a substantial number of small entities, the EPA may give special consideration to those small entities when analyzing regulatory alternatives and drafting the regulation. In the case at hand, the EPA considers that a regulation that is likely to affect 20 percent or more of small entities with MWC's is a regulation that will affect a substantial number of small entities.

Definitions of small entities are flexible. For analysis of the regulations being proposed today, the EPA considers a small business in this industry to be one with gross annual revenue less than $6 million, and a small government to be one that serves a population less than 50,000. (A typical city of 50,000 generates about 90 Mg/day of MSW.) Most small governments dispose of their MSW by landfilling and, therefore, will not be affected by regulation of MWC emissions. In regard to small organizations such as independent not-for-profit enterprises, the EPA finds that they have no more than a very minor involvement with MWC's, and for that reason the EPA has not found it necessary to study potential direct impacts on small organizations.

Many MWC's exist that range in size up to 35 Mg/day. The EPA estimates that MWC's under 35 Mg/day in capacity except for MWI's, which are being regulated in a separate action, contribute a negligible fraction of total MWC emissions. Many MWC's under 35 Mg/day in capacity, and a few larger ones, are owned or operated by small entities. The EPA estimates that considerably fewer than 20 percent of small-entity MWC's would be affected by the standards being proposed today were those MWC's to be constructed in the future. The EPA projects that the relative proportion of MWC's that are small-entity MWC's combusting less than 35 Mg/day will remain the same in the future as it is today.

Thus, the number of affected small entities is not expected to be substantial, and a regulatory flexibility analysis is not required. Nevertheless, the EPA has conducted an extensive analysis of potential regulatory impacts on households, small governments, and small businesses. The analysis is summarized above in the discussion of regulatory cost and economic impacts. The full analysis is included in the economic impact assessment in the docket and is listed at the beginning of today's notice under **SUPPLEMENTARY INFORMATION.**

On December 20, 1989, the EPA proposed standards for MWC's that applied to all sizes of MWC's. The proposal had no lower size cutoff. Small businesses, small governments, and groups representing small-entity interests commented extensively on the need to lighten the potential regulatory burden on small entities. Most commenters suggested a small size cutoff considerably smaller than the one now being proposed. The most frequently suggested levels were 5 to 11 Mg/day, 18 Mg/day, 23 Mg/day, and 45 Mg/day. The EPA has used these suggestions and the information submitted by these commenters, as well as information from other sources, to fulfill the intent of the RFA. The EPA has incorporated into the regulation being proposed today several features that will mitigate, and in most cases eliminate, any potential, adverse economic impacts on small entities. These features are as follows:

(1) The regulation will apply only to MWC's with a plant capacity of greater than 35 Mg/day. This cutoff eliminates from the purview of the regulation the overwhelming majority of projected new, very small MWC's (There will be a one-time requirement for MWC plants in the 25 to 35 Mg/day range to report for verification the capacities and locations of the plants, but this paperwork will impose no economic burden);

(2) The regulation is "tiered" so that the stringency (and therefore potential economic burden) of the emission standards increases as the size of the MWC plant increases. Plants with capacities less than or equal to 25 Mg/day are not covered under the proposed NSPS. Plants with capacities of 25 to 35 Mg/day would have only the one-time reporting requirement of capacity and location. Plants with capacities of 35 to 225 Mg/day are not required to control NO_x. Only plants with capacities larger than 225 Mg/day—plants not often associated with small entities—are subject to a full complement of rigorous standards; and

(3) The regulation consists predominantly of emission standards, as opposed to design, equipment, work practice, or operational standards. Emission standards give MWC owners and operators the freedom to select the most economical means of compliance with the standards.

Pursuant to the provisions of 5 U.S.C. 605(b), the EPA certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities, because the number of small entities affected is not substantial.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping.

Dated: September 1, 1994.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 94–22344 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 60

[AD–FRL–5068–6]

Emission Guidelines: Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed guidelines and notice of public hearing.

SUMMARY: The EPA is proposing new subpart Cb "emission guidelines" to be used by States in developing State regulations to control emissions from existing municipal waste combustors (MWC's). Today's proposed guidelines would apply to MWC's for which construction, modification, or reconstruction began on or before September 20, 1994.

Today's proposal would implement sections 111 and 129 of the Clean Air Act (Act). The proposed guidelines would apply to existing MWC units at facilities with capacities to combust greater than 35 megagrams per day (Mg/day; a megagram is a metric ton, and one megagram is equal to 2,204 pounds or about 1.1 short tons) of municipal solid waste (MSW) and would require sources to achieve emission levels reflecting the maximum degree of reduction in emissions of air pollutants that the Administrator determines is achievable, taking into consideration the costs, non-air-quality health and environmental impacts, and energy impacts. The proposed guidelines would establish emission limits for MWC acid gases (sulfur dioxide (SO_2) and hydrogen chloride (HCl)), MWC metals (particulate matter (PM), opacity, cadmium (Cd), lead (Pb), and mercury (Hg)), MWC organics (dioxins/furans), nitrogen oxides (NO_X), and MWC fugitive fly ash/bottom ash emissions. The proposed guidelines would also establish requirements for MWC operating practices (carbon monoxide (CO), load, and flue gas temperature), and operator training and certification.

DATES: *Comments.* Comments must be received on or before November 21, 1994.

Public Hearing. A public hearing will be held about 15 days following proposal. See **SUPPLEMENTARY INFORMATION** for additional information regarding the public hearing.

ADDRESSES: *Comments.* Comments on the proposal should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102), ATTN: Docket No. A–90–45, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. See **SUPPLEMENTARY INFORMATION** for additional information regarding submittal of comments.

Background Information. Key background information for the proposal includes: (1) A document entitled "FACT SHEET: Existing Municipal Waste Combustors—Proposed Subpart Cb Emission Guidelines," which succinctly summarizes the proposal, and (2) several technical documents listed under **SUPPLEMENTARY INFORMATION,** including all of the background information documents that supported the proposal and promulgation of the subpart Ca emission guidelines. See **SUPPLEMENTARY INFORMATION** for instructions for obtaining these documents.

Docket. Docket Nos. A–90–45 and A–89–08, containing supporting information used in developing the proposed emission guidelines, are located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, Central Mall, 401 M Street, SW, Washington, DC 20460. The docket may also be accessed by calling (202) 260–7548. See **SUPPLEMENTARY INFORMATION** for further information regarding the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Stevenson at (919) 541–5264 or Mr. Fred Porter at (919) 541–5251, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background Information

On December 20, 1989, the EPA proposed emission guidelines for existing MWC's in subpart Ca of 40 CFR part 60. The subpart Ca emission guidelines were promulgated on February 11, 1991 and were developed under authority of section 111 of the Act of 1977. The Act of 1990 requires the EPA to review and revise, as necessary, the subpart Ca guidelines. The EPA has reviewed the subpart Ca emission guidelines and has concluded that they are not adequate to comply with the requirements of section 129 of the Act of 1990. In a separate notice in today's **Federal Register,** the EPA is proposing to withdraw the subpart Ca emission guidelines that were promulgated on February 11, 1991. Today's proposed subpart Cb guidelines would fully comply with the requirements of section 129 of the Act of 1990.

The **Federal Register** notices for the proposed emission guidelines, withdrawal of the subpart Ca emission guidelines, and a proposed EPA test method that is associated with the proposed guidelines, and the economic impacts analysis associated with the proposed emission guidelines are listed below and are available on the EPA's Technology Transfer Network (TTN) electronic bulletin board. Also listed below and available on the EPA's TTN is a FACT SHEET, which succinctly summarizes the proposal and is suggested reading for persons requiring a limited overview of the proposal. The TTN contains 18 electronic bulletin boards, and the items listed below are included in the Clean Air Act Amendments (CAAA) bulletin board and the Emissions Measurement Technical Information Center (EMTIC) bulletin board. The FACT SHEET can also be obtained by calling Ms. Cassie Posey at (919) 541–0069.

MWC Items in the CAAA Electronic Bulletin Board

(1) "FACT SHEET: Existing Municipal Waste Combustors—Proposed Subpart Cb Emission Guidelines."

(2) **Federal Register** notice for this proposal: "Emission Guidelines: Municipal Waste Combustors" (this document).

(3) **Federal Register** notice: "Withdrawal of the 1991 Emission Guidelines for Municipal Waste Combustors."

(4) "Economic Impact Analysis for Proposed Emission Standards and Guidelines for Municipal Waste Combustors," EPA–450/3–91–029, March 1994.

MWC Items in the EMTIC Electronic Bulletin Board

(1) "Emissions Test Method 29: Determination of Metals Emissions from Stationary Sources (1994 Proposal)," EPA–454/R–94–016, April 1994, (which includes both the **Federal Register** proposal notice (chapter 1) and the full

text of the rationale and test method for the proposal (chapter 2)).

The TTN is accessible 24 hours per day, 7 days per week, except Monday morning from 8 a.m. to 12 p.m., when the system is updated. The service is free, except for the cost of the phone call. Dial (919) 541–5742 to access the TTN. The TTN is compatible with up to a 14,400 bits-per-second (bps) modem. Further instructions for accessing the TTN can be obtained by calling the help desk at (919) 541–5384.

The background information for today's proposal includes all of the documents that supported the proposal and promulgation of the subpart Ca emission guidelines (Docket No. A–89–08), as well as information in Docket No. A–90–45. Key background information documents used in developing the subpart Ca emission guidelines as well as today's proposed guidelines are as follows:

(1) "Municipal Waste Combustors—Background Information for Proposed Guidelines for Existing Facilities," EPA–450/3–89–27e, August 1989;

(2) "Municipal Waste Combustors—Background Information for Proposed Standards: Post-Combustion Technology Performance," EPA–450/3–89–27c, August 1989;

(3) "Municipal Waste Combustion Assessment: Combustion Control at Existing Facilities," EPA–600/8–89–057, August 1989;

(4) "Municipal Waste Combustion Assessment, Technical Basis for Good Combustion Practices," EPA–600/8–89–063, August 1989;

(5) "Municipal Waste Combustors—Background Information for Proposed Standards: Cost Procedures," EPA–450/3–89–27a, August 1989; and

(6) "Economic Impact Analysis for Proposed Emissions Standards and Guidelines for Municipal Waste Combustors," EPA–450/3–91–029, March 1994.

Docket Nos. A–90–45 and A–89–08 are available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the location specified in the ADDRESSES section of this preamble. A reasonable fee may be charged for copying. Additionally, the docket may be accessed by telephone, as specified in the ADDRESSES section.

Comments. Today's action is a proposal and comments are requested. The MWC regulations are complex, and the EPA expects to receive numerous comments on this proposal. The EPA has specifically requested comments on items fundamental to the proposal, including but not limited to the MACT floor, MACT performance levels, and a consideration of materials separation requirements for existing MWC's. The EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Whenever applicable, full supporting data and detailed analyses should be submitted with all comments to allow the EPA to respond to the comments.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Walter Stevenson, c/o Ms. Melva Toomer, U.S. EPA Confidential Business Manager, 411 W. Chapel Hill Street, Room 944, Durham, North Carolina 27701. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, it may be made available to the public without further notice to the commenter.

Public Hearing. The public hearing will be held to provide interested parties an opportunity for oral presentation of data, views, or arguments concerning the proposed guidelines (see DATES for the hearing schedule). The public hearing will be held at Research Triangle Park, North Carolina, and will start at about 9 a.m. Persons wishing to present oral testimony at the public hearing should call Ms. Julia Latta at (919) 541–5578 at least 2 days in advance of the public hearing. Persons interested in attending the hearing should also call Ms. Latta to verify the time, date, and location of the hearing. Persons may call (919) 541–5264 to hear a recorded message that provides current information on the status of the public hearing.

Preamble Outline. The following outline is provided to aid in locating information in this preamble.

I. Introduction
A. Summary of Regulatory History
B. Emission Guidelines—General Goals
C. Overview of this Preamble
II. Summary of the Proposed Subpart Cb MWC Emission Guidelines
A. Source Category to be Regulated
B. Pollutants to be Regulated
C. Format for the Proposed Guidelines
D. Proposed Emission Guidelines
E. Comparison of the 1991 Guidelines and Today's Proposal
F. Performance Testing and Monitoring Requirements
G. Reporting, Recordkeeping, and Compliance Schedule Guidelines
III. Impacts of the Proposed Emission Guidelines
A. Air Impacts
B. Water and Solid Waste Impacts
C. Energy Impacts
D. Cost and Economic Impacts
IV. Rationale for the Proposed Guidelines for MWC Emissions
A. Background
B. Selection of Source Category
C. Modification or Reconstruction of Existing MWC's
D. Selection of Designated Pollutants
E. Selection of Designated Facilities
F. Selection of Maximum Achievable Control Technology
G. Selection of Format for the Proposed Guidelines
H. Performance Test Methods and Monitoring Requirements
I. Reporting, Recordkeeping, and Compliance Schedule Requirements
V. Rationale for the Proposed Guidelines for Fugitive Fly Ash/Bottom Ash Emissions
A. Background
B. Fugitive Emission Control Techniques
C. Proposed Fugitive Emissions Guidelines
VI. Proposed Guidelines for Air Curtain Incinerators
VII. Comparison of the Proposal and European Emission Limits
VIII. Miscellaneous
IX. Administrative Requirements
A. Public Hearing
B. Docket
C. Clean Air Act Procedural Requirements
D. Executive Order 12866 Review
E. Regulatory Flexibility Act Compliance

I. Introduction

This section provides an introduction to the proposed rule by: (1) Summarizing the history of the development of emission guidelines for existing MWC's over the past 7 years; (2) summarizing the general goals of the proposed rule that are specified by sections 111(d) and 129 of the Act of 1990; and (3) providing a brief overview of the major issues discussed in this preamble.

A. Summary of Regulatory History

Today's proposal is a result of a series of regulatory decisions that were initiated in 1987. During the early and mid-1980's, studies were performed to determine whether MWC emissions should be regulated and, if so, under what section of the Act. As set forth in the advance notice of proposed rulemaking (52 FR 25399, July 7, 1987), the EPA decided to regulate air emissions from MWC's under section 111 of the Act as it existed prior to the 1990 Amendments. Section 111 of the Act required that the regulations be

based on best demonstrated technology (BDT). On December 20, 1989, the EPA proposed new source performance standards (NSPS) for new MWC's and emission guidelines for existing MWC's (54 FR 52251 and 54 FR 52209, respectively). On November 15, 1990, the Act Amendments of 1990 were enacted and added section 129 to the Act. Section 129 of the Act specifies that revised NSPS and emission guidelines must be developed for MWC's in accordance with the requirements of sections 111 and 129. Section 129 further specifies that revised NSPS and emission guidelines be developed for both large and small MWC's and that the NSPS and emission guidelines must reflect certain standards of performance. Section 129 includes a schedule for revising the 1991 emission guidelines. When the EPA did not comply with that schedule, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a complaint with the U.S. District Court for the Eastern District of New York. The resulting consent decree requires the EPA Administrator to sign a notice of proposed rulemaking not later than September 1, 1994 and a notice of promulgation not later than September 1, 1995 (Nos. CV–92–2093 and CV–93–0284).

The NSPS and guidelines promulgated on February 11, 1991 (56 FR 5488 and 56 FR 5514, respectively) apply to MWC's with unit capacities above 225 Mg/day and reflect BDT as determined by the Administrator at the time those guidelines were issued. Today's notice therefore proposes to create new emission guidelines to be fully consistent with sections 111 and 129 of the Act and to extend coverage of the guidelines to existing MWC units located at MWC facilities with aggregate plant capacity above 35 Mg/day. In a separate notice in today's **Federal Register**, the EPA is proposing to withdraw the subpart Ca emission guidelines that were promulgated on February 11, 1991.

Under a separate regulatory action in today's **Federal Register**, a new subpart Eb NSPS for new MWC plants with aggregate capacities above 35 Mg/day of MSW that are constructed after September 20, 1994 is being proposed pursuant to sections 111(b) and 129 of the Act. Even though a new subpart Eb NSPS is being proposed, the February 11, 1991 subpart Ea NSPS will remain in effect. Municipal waste combustors constructed, modified, or reconstructed after December 20, 1989 but on or before September 20, 1994 would be subject to both subpart Ea (NSPS) requirements and today's proposed subpart Cb (guideline) requirements. In most cases, the control technologies being used to meet the 1991 subpart Ea NSPS emission limits would be able to comply with the proposed subpart Cb guidelines, except that additional controls would be required to reduce Hg emissions, dioxin/furan emissions, and fugitive fly ash/bottom ash emissions.

B. Emission Guidelines—General Goals

The Act requires the promulgation of performance standards under section 111 for categories of new and existing stationary sources that may contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Section 129 of the Act specifies that NSPS and emission guidelines must be developed for MWC's in accordance with the requirements of sections 111 and 129. Section 129(a)(2) provides that emission guidelines for existing MWC's reflect the maximum degree of reduction in emissions of designated air pollutants, taking into consideration the cost of achieving such emission reduction, and any non-air-quality health and environmental impacts and energy requirements that Administrator determines is achievable for a particular category of sources (this standard is commonly referred to as "maximum achievable control technology, or "MACT"). Additionally, section 129 provides that the emissions limitations in the guidelines for existing MWC's may not be less stringent than the average emissions limitation achieved by the best performing 12 percent of units in the category. This is referred to as the "MACT floor."

According to sections 111(d) and 129(b), States must submit to the Administrator, within 1 year of the EPA's promulgation of the guidelines, a plan that accomplishes the following: (1) Establishes for existing sources emission standards for designated pollutants; and (2) provides for implementation and enforcement of the emission standards. Section 129(b) provides that a State plan for existing MWC's be at least as protective as the emission guidelines.

As specified in section 129 of the Act, States are required to submit to the Administrator a plan implementing the emission guidelines within 1 year after the promulgation of the guidelines. This proposal further requires that a State plan shall provide that each unit subject to the guidelines shall be in compliance with all requirements of the State plan within 3 years following issuance of a revised construction or operation permit, if a permit modification is required, or within 3 years following approval of the State plan, if a permit modification is not required. Section 60.24(e)(1) of subpart B of part 60 requires that any compliance schedule extending more than 1 year from adoption of a State plan shall include legally enforceable increments of progress to achieve compliance for each designated facility. The proposed emission guidelines include this requirement. This proposed compliance schedule is more comprehensive than the compliance schedule and timetable specified in the subpart Ca emission guidelines promulgated on February 11, 1991 (56 FR 5514). The Act specifies that the procedure for State submission of a plan shall be similar to the procedure for submission of State implementation plans under section 110. Section 129 specifies that the EPA, in reviewing State plans for any variation from the emission guidelines, must ensure that State plans and their resulting MWC control requirements are at least as protective as the EPA guidelines, including incorporation of the compliance scheduling requirements established by the guidelines. The Act also provides that the EPA shall prescribe a plan according to procedures similar to those in section 110(c) if a State fails to submit a "satisfactory plan."

Moreover, States that believe additional control is desirable may require more extensive controls, which might have the effect of closing otherwise marginal facilities or banning a particular category of sources outright.

C. Overview of This Preamble

This preamble will:

(1) Summarize the proposed guidelines by discussing the conclusions reached with respect to each of the elements in the decision summary;

(2) describe the environmental, energy, and economic impacts of these proposed guidelines;

(3) present a rationale for each of the decisions associated with this proposal;

(4) present a regulatory flexibility analysis; and

(5) discuss administrative requirements relevant to this action.

II. Summary of the Proposed Subpart Cb MWC Emission Guidelines

This section presents a summary of the proposed emission guidelines, including identification of the source category and pollutants that would be regulated under the proposal, discussion of the format of the proposed guidelines, and presentation of the proposed guidelines and their associated performance testing, monitoring, recordkeeping, and reporting requirements. This section

also provides a comparison of the emission guidelines in this proposed subpart Cb versus the 1991 emission guidelines (subpart Ca).

A. Source Category To Be Regulated

Today's proposed emission guidelines would require States to develop emission regulations limiting air emissions from each existing MWC unit located at an MWC facility that has an aggregate existing plant capacity to combust over 35 Mg/day of MSW, for which construction, modification, or reconstruction commenced on or before September 20, 1994. The proposed guidelines would apply to more than 99 percent of all existing MWC capacity. Additionally, plants with an aggregate capacity to combust between 25 and 35 Mg/day would be required to submit an initial report of their location and facility capacities, but would not be subject to any provisions of the guidelines.

The aggregate design capacity of all existing MWC's at an MWC plant would be considered in determining: (1) Whether a plant is subject to the guidelines; and (2) what control levels are applicable. The capacity of new MWC's (i.e., those that commenced construction, modification, or reconstruction after September 20, 1994) that are located at the MWC plant would not be considered in determining applicability of the emission guidelines to existing MWC's, but would be considered in determining the applicability of the subpart Eb NSPS. Only MWC units constructed, modified, or reconstructed on or before September 20, 1994 would be used for determining the applicability of subpart Cb guidelines. Modification of an existing MWC to comply with the emission guidelines would not bring an existing MWC under the NSPS for new MWC's.

An MWC is defined as any setting or equipment that combusts MSW. Municipal waste combustion includes the burning (or pyrolysis) of MSW in any type of setting or equipment, including combustion equipment with and without heat recovery. This definition has been slightly modified from the February 11, 1991 guidelines and is discussed below.

Municipal solid waste is defined as either a mixture or a single-item stream of household, commercial, and/or institutional discards. This would include discards such as paper, wood, yard wastes, tree trimmings, plastics, leather, rubber, glass, metals, and other combustible and noncombustible materials. The MSW definition includes household discards as well as discards from institutional and commercial sources, but does not include industrial process or manufacturing discards. The MSW definition also includes refuse-derived fuel (RDF), which is made from MSW that is shredded (or pelletized) and classified by size before combustion. Municipal solid waste does not, however, include wastes that are solely segregated medical wastes. However, if segregated medical wastes are mixed with MSW, the resulting mixture is considered to be MSW, and the proposed guidelines would apply if the aggregate plant capacity exceeded 35 Mg/day. Minor editing is proposed in the definition of MSW to clarify this point.

Air curtain incinerators that combust MSW are MWC's. However, air curtain incinerators that burn only yard wastes, tree trimmings, and clean untreated lumber would be covered under a separate set of proposed opacity emission levels, and no other part of the proposal would apply. Air curtain incinerator opacity requirements are discussed in section VI of this preamble.

B. Pollutants To Be Regulated

Section 129 of the Act requires the EPA to establish numerical emission limits specifically for SO_2, HCl, PM, opacity, Cd, Pb, Hg, dioxins/furans, CO, and NO_X. Section 129 specifies that the EPA may also:

> * * * promulgate numerical emission limitations or provide for the monitoring of post-combustion concentrations of surrogate substances, parameters, or periods of residence times in excess of stated temperatures with respect to pollutants other than those listed [above] * * *.

Therefore, the EPA is proposing guidelines for load and flue gas temperature at the PM control device inlet as additional indicators of MWC operating practices. The EPA is also proposing a guideline emission level for fly ash/bottom ash fugitive emissions because these emissions include Cd, Pb, Hg, and dioxins/furans (see section V of this preamble for further discussion of the EPA's decision to regulate fugitive emissions from MWC's).

The February 11, 1991 guidelines include emission limitations for all of the pollutants listed above except Cd, Pb, Hg, NO_X, and fly ash/bottom ash fugitive emissions. The proposed guidelines would establish guidelines for all of the pollutants listed above. The proposed guidelines for the same pollutants regulated by the February 11, 1991 guidelines (i.e., SO_2, HCl, PM, opacity, dioxins/furans, CO, load, and flue gas temperature at the PM control device inlet) have been revised to reflect the requirements of section 129.

C. Format for the Proposed Guidelines

The format of the proposed emission guidelines is similar to the format of the February 11, 1991 guidelines. In most cases, the format is in the form of an emission level (concentration).

The format of the dioxin/furan guideline would be revised in today's proposal. In the 1991 guidelines, dioxin/furan emissions were reported as a concentration (nanograms per dry standard cubic meter (ng/dscm), corrected to 7 percent oxygen (O_2), dry basis) on a total mass basis (i.e., the mass of all tetra- through octa-congeners were added together). In today's proposal, dioxin/furan emissions could be reported in units of either ng/dscm total mass or ng/dscm toxic equivalency (TEQ). Reporting in TEQ units is done by first measuring the total mass of dioxin/furan congeners and then adjusting the results to account for the varying toxicity of each congener. The same test method (Method 23) is used in either case. See section II.F of this preamble for further discussion of the proposed method of reporting dioxin/furan emissions in terms of TEQ.

The February 11, 1991 guidelines specify guideline emission levels for PM and opacity. Particulate matter is measured as a concentration (milligrams per dry standard cubic meter (mg/dscm)) and is corrected to 7 percent O_2, and opacity is measured on a percentage basis. The format for the PM and opacity guidelines would not change, but Cd, Pb, and Hg emission guideline limits would be added. Emissions of Cd, Pb, and Hg would be calculated as a concentration (mg/dscm) corrected to 7 percent O_2. For Hg, the proposed emission guidelines would also establish an alternative percentage reduction requirement. A new method (Method 29) that would measure these pollutants is being proposed in a separate part of today's **Federal Register**.

The February 11, 1991 guidelines establish control requirements for SO_2 and HCl (MWC acid gases) by specifying both numerical emission levels, calculated as parts per million by volume (ppmv) corrected to 7 percent O_2, dry basis, and percentage reduction requirements for both SO_2 and HCl. Today's proposed guidelines would also be based on the same format.

Today's proposal would also establish a guideline emission level (ppmv) for NO_X emissions. The NO_X guideline emission level would apply to MWC units at MWC plants with capacities to combust greater than 225 Mg/day.

In addition to controlling stack emissions, the February 11, 1991

emission guidelines establish combustion operating guidelines for MWC's. These operating guidelines are part of good combustion practices (GCP) and ensure that emissions of MWC organics (dioxins/furans) are minimized on a continuous basis. The GCP requirements are included in today's proposal, but they are being extended to apply to MWC's at plants of 35 Mg/day aggregate capacity or larger. Additionally, some minor revisions are being proposed. The proposed revisions would include: (1) A requirement that all shift supervisors and chief facility operators obtain full (as opposed to provisional) operator certification; (2) "stand in" authority for MWC control room operators; and (3) required training of MWC shift supervisors. These items are discussed below.

The February 11, 1991 emission guidelines require provisional certification of the chief facility operator and shift supervisors by the American Society of Mechanical Engineers (ASME) or a State certification program. Development of a site-specific training manual to be used for training other MWC personnel is also required. Today's proposal would require that the chief facility operator and shift supervisor obtain both provisional and then full operator certification.

Today's proposal would allow for the optional certification of one or more control room operators. Under the February 11, 1991 guidelines, all chief facility operators and shift supervisors must be certified, and one of these individuals must be onsite during all periods of MWC operation. Under today's proposal, a provisionally certified control room operator may "stand in" for the chief facility operator or shift supervisor during periods in which the certified chief facility operator or certified shift supervisor is offsite, in order to fulfill the requirement that a certified individual be on site during all periods of MWC operation. This would provide additional operating flexibility. Today's proposal would also require that all chief facility operators, shift supervisors, and control room operators complete the MWC training program developed by the EPA or a State program. The EPA has developed a model training program that has been distributed to State air pollution control agencies, EPA Regional Offices, and MWC industry groups. The EPA believes that operator training is an integral part of the implementation of GCP.

Today's proposed guidelines also establish guidelines for fugitive fly ash/bottom ash emissions from ash handling facilities. These guidelines would establish a no visible emissions level, and would apply to all buildings, external ash transfer equipment, and ash handling areas at the MWC facility.

D. Proposed Emission Guidelines

Today's proposal would establish emission guidelines for MWC organics (dioxins/furans), MWC metals (PM, opacity, Cd, Pb, and Hg), MWC acid gases (SO_2 and HCl), and NO_X. The guidelines also propose requirements for fly ash/bottom ash fugitive handling, MWC operating practices (CO, load, and flue gas temperature), and operator training and certification.

The proposed guidelines would divide the MWC population into two subcategories: The first would be for MWC units located at small MWC plants (i.e., those with aggregate capacities to combust greater than 35 Mg/day of MSW but equal to or less than 225 Mg/day), and the second would be for MWC units at large plants (i.e., those with aggregate capacities to combust more than 225 Mg/day of MSW). The aggregate capacity of all existing MWC units at one site would be added together to define aggregate MWC plant capacity for the purposes of the emission guidelines. The proposed emission guidelines for each subcategory and subclass of MWC's are summarized in table 1.

TABLE 1.—SUMMARY OF PROPOSED EMISSION GUIDELINES FOR EXISTING MWC'S

[Subpart Cb][a]

Plant size (MSW combustion capacity)	Requirement
Applicability	
The proposed guidelines would apply to existing MWC's located at plants with capacities to combust greater than 25 Mg/day of residential, commercial, and/or institutional discards.[b] **Industrial discards are not covered by the proposed guidelines.**	
≤ 25 Mg/day	Not covered by guidelines.
> 25 Mg/day but ≤ 35 Mg/day	Initial report of MWC design capacity and startup date.
> 35 Mg/day but ≤ 225 Mg/day (referred to as small MWC plants)	Subject to provisions listed below.
> 225 Mg/day (referred to as large MWC plants)	Subject to provisions listed below.

Good Combustion Practices

- Applies to large and small MWC plants.
- A site-specific operator training manual would be required to be developed and made available for MWC personnel. The EPA or a State MWC operator training course would be required to be completed by the MWC chief facility operator, shift supervisors, and control room operators.
- The ASME or a State MWC operator certification would be required to be obtained by the MWC chief facility operator (mandatory), shift supervisors (mandatory), and control room operators (optional).
- The MWC load level would be required to be measured and not to exceed the maximum load level as demonstrated during the most recent dioxin/furan performance test.
- The maximum PM control device inlet flue gas temperature would be required to be measured and not to exceed the level demonstrated during the most recent dioxin/furan performance test.
- The CO level would be required to be measured using a CEMS, and the concentration in the flue gas would be required not to exceed the following:

MWC type	CO level[c]	Averaging time
Modular starved-air and excess-air	50 ppmv	4-hour.
Mass burn waterwall and refractory	100 ppmv	4-hour.
Mass burn rotary refractory	100 ppmv	24-hour.
Fluidized-bed combustion	100 ppmv	4-hour.

MWC type	CO level	Averaging time
Coal/RDF mixed fuel-fired	150 ppmv	4-hour.
RDF stokers	200 ppmv	24-hour.
Mass burn rotary waterwall	250 ppmv	24-hour.

MWC Organic Emissions (measured as dioxin/furan) [c,d]	
• Dioxins/furans (compliance test by EPA Reference Method 23)	
Large MWC plants	30 ng/dscm total mass or 0.5 ng/dscm dioxin/furan TEQ.
Small MWC plants	60 ng/dscm total mass or 1.0 ng/dscm dioxin/furan TEQ.
• Basis for dioxin/furan guideline	
Large MWC plants	GCP and SD/ESP/CI or GCP and SD/FF/CI
Small MWC plants	GCP and DSI/ESP/CI
MWC Metal Emissions [c]	
• PM (compliance test by EPA Reference Method 5)	
Large MWC plants	27 mg/dscm (0.012 gr/dscf).
Small MWC plants	69 mg/dscm (0.030 gr/dscf).
• Opacity (compliance test by EPA Reference Method 9)	
Large and small MWC plants	10 percent (6-minute average).
• Cd (compliance test by EPA Reference Method 29) [e]	
Large MWC plants	0.040 mg/dscm (18 gr/million dscf).
Small MWC plants	0.10 mg/dscm (44 gr/million dscf).
• Pb (compliance test by EPA Reference Method 29) [e]	
Large MWC plants	0.50 mg/dscm (200 gr/million dscf).
Small MWC plants	1.6 mg/dscm (700 gr/million dscf).
• Hg (compliance test by EPA Reference Method 29) [e]	
Large and small MWC plants	0.080 mg/dscm (35 gr/million dscf) or 85-percent reduction in Hg emissions.
• Basis for PM, opacity, Cd, Pb, and Hg guidelines	
Large and small MWC plants	See basis for dioxin/furan guidelines.
MWC Acid Gas Emissions [c]	
• SO_2 (compliance test by CEMS)	
Large MWC plants	35 ppmv or 75-percent reduction in SO_2 emissions (24-hour).
Small MWC plants	80 ppmv or 50-percent reduction in SO_2 emissions (24-hour).
• HCl (compliance test by EPA Reference Method 26)	
Large MWC plants	35 ppmv or 95-percent reduction in HCl emissions.
Small MWC plants	250 ppmv or 50-percent reduction in HCl emissions.
• Basis for SO_2 and HCl guidelines	
Large and small MWC plants	See basis for dioxin/furan guidelines.
Nitrogen Oxides Emissions [c]	
• NO_X (compliance test by CEMS)	
Large MWC plants	180 ppmv (except mass burn/refractory MWC's).
Mass burn refractory MWC plants	No NO_X control requirement.
Small MWC plants	No NO_X control requirement.
• Basis for NO_X guideline	
Large MWC plants	SNCR.
Mass burn refractory MWC plants	No NO_X control requirement.
Small MWC plants	No NO_X control requirement.
Fly Ash/Bottom Ash Fugitive Emissions	
• Fly Ash/Bottom Ash (compliance test by EPA Reference Method 22)	
Large and small plants	No visible emissions from buildings, ash transfer points, or ash handling areas.
• Basis for fugitive emission guideline	Wet ash handling or enclosed ash handling.
Compliance Testing/Monitoring Requirements	
• Load, flue gas temperature	Continuous monitoring systems, 4-hour arithmetic average.
• CO	CEMS, 4- or 24-hour arithmetic average, as applicable.
• **Dioxins/Furans,** [d] **PM, Cd, Pb, Hg, and HCl**	
Large MWC plants	Annual stack test.
Small MWC plants	Annual or third year stack test[f].
• Opacity	COMS (6-minute average) and annual stack test.
• SO_2	CEMS, 24-hour geometric mean.
• NO_X (large MWC plants only)	CEMS, 24-hour arithmetic average.
• Fly ash/bottom ash fugitive emissions	Annual test.

Compliance Schedule:

- State plans would be required to include one of the following two schedules for compliance with regulatory requirements: (1) Full compliance within 1 year following approval of the State plan; or (2) full compliance within 3 years following issuance of a revised construction or operation permit, if a permit modification is required, or within 3 years following approval of the State plan, if a permit modification is not required, provided the State plan includes measurable and enforceable incremental steps of progress toward compliance.
- State plans would be required to specify that all MWC's at large MWC plants for which construction, modification, or reconstruction is commenced after June 26, 1987 comply with the emission guidelines for Hg and dioxins/furans within 1 year following issuance of a revised construction or operation permit, if a permit modification is required, or within 1 year following approval of the State plan, if a permit modification is not required.
- State plans would be required to require compliance with the MWC operator training and certification requirements by 1 year after promulgation of the guidelines.

[a] Definition of abbreviations used in table:
ASME=American Society of Mechanical Engineers
Cd=cadmium
CEMS=continuous emission monitoring system
CO=carbon monoxide
COMS=continuous opacity monitoring system
DSI/ESP/CI=dry sorbent injection/electrostatic precipitator/activated carbon injection
GCP=good combustion practices
gr/dscf=grains per dry standard cubic foot
gr/million dscf=grains per million dry standard cubic feet
HCl=hydrogen chloride
Hg=mercury
mg/dscm=milligrams per dry standard cubic meter (100 mg/dscm=0.044 gr/dscf)
Mg/day=megagrams per day (1 Mg/day=1.1 short tons/day (2,204 pounds/day))
MSW=municipal solid waste
MWC=municipal waste combustor
ng/dscm=nanograms per dry standard cubic meter (1,000,000 ng=1 mg)
NO_X=nitrogen oxides
Pb=lead
PM=particulate matter
ppmv=parts per million by volume
RDF=refuse-derived fuel
SD/ESP/CI=spray dryer/electrostatic precipitator/activated carbon injection system
SD/FF/CI=spray dryer/fabric filter/activated carbon injection system
SNCR=selective noncatalytic reduction
SO_2=sulfur dioxide
TEQ=toxic equivalency of 2,3,7,8-tetrachlorinated dibenzo-p-dioxin (1989 North Atlantic Treaty Organization (NATO) international criteria)
Total mass=total mass of tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

[b] Air curtain incinerators that combust only yard waste, tree trimmings, and/or clean untreated lumber would be subject to an opacity guideline, but to no other parts of the proposed emission guidelines. Air curtain incinerators that combust other MSW are subject to all requirements under the proposed emission guidelines.

[c] All concentration levels in the table are converted to 7 percent O_2, dry basis.

[d] Dioxins/furans are measured as tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans. For plants complying with the TEQ format, TEQ is determined using 1989 international toxicity equivalency factors.

[e] Method 29 is being proposed in a separate notice in today's FEDERAL REGISTER.

[f] The proposed guidelines include provisions that would allow small MWC plants to conduct performance tests for dioxin/furans, PM, Cd, Pb, Hg, and HCl every third year if the MWC meets certain specified criteria, as discussed in section II.F of this preamble.

The proposed guideline limits are summarized below.

1. Municipal Waste Combustor Organics

The proposed guidelines would require existing MWC's at large MWC plants to meet a dioxin/furan emission level of 0.50 ng/dscm TEQ or 30 ng/dscm total dioxins/furans, corrected to 7 percent O_2. Existing MWC's located at small MWC plants would be required to meet a dioxin/furan level of 1.0 ng/dscm TEQ or 60 ng/dscm total dioxins/furans, corrected to 7 percent O_2. The TEQ emission levels would be calculated using the 1989 North Atlantic Treaty Organization (NATO) international toxic equivalency factors (TEF's), using the methods described in section II.F of this preamble and section 60.58b of subpart Eb of today's proposed NSPS.

2. Municipal Waste Combustor Metals

The proposed emission guidelines would require MWC's at large plants to control PM to a level of 27 mg/dscm corrected to 7 percent O_2. The emission guideline PM level proposed for MWC's at small plants is 69 mg/dscm, corrected to 7 percent O_2. Municipal waste combustors at both small and large existing MWC plants would be required to meet an opacity level of 10 percent using a 6-minute averaging period.

The proposed emission guidelines would also establish specific emission levels for Cd, Pb, and Hg. The proposed guidelines would require existing MWC's at large plants to meet a Cd emission level of 0.040 mg/dscm, a Pb emission level of 0.50 mg/dscm, and an Hg emission level of 0.080 mg/dscm or an 85-percent reduction in Hg emissions.

For existing MWC's at small plants, the emission guidelines would be 0.10 mg/dscm for Cd, 1.6 mg/dscm for Pb, and 0.080 mg/dscm or an 85-percent reduction in Hg emissions.

3. Municipal Waste Combustor Acid Gases

The proposed emission guidelines for acid gases would require all existing MWC's located at large plants to control SO_2 emissions to a level of either 35 ppmv or 75-percent reduction (at 7 percent O_2, dry basis) on a 24-hour geometric mean basis and HCl emissions to a level of either 35 ppmv or 95-percent reduction (at 7 percent O_2, dry basis). All existing MWC's located at small plants would be required to meet an SO_2 emission level of either 80 ppmv or 50-percent reduction (at 7 percent O_2, dry basis) on a 24-hour geometric mean basis and an HCl emission level of either 250 ppmv or 50-percent reduction (at 7 percent O_2, dry basis).

4. Good Combustion Practices

Today's proposed emission guidelines would require all existing MWC's at plants with capacities above 35 Mg/day to comply with specified operating practices that reflect GCP. These operating practices include CO levels, combustor load levels, and flue gas temperatures and are specified below.

The GCP levels remain unchanged from the February 11, 1991 guidelines.

For modular starved-air and modular excess-air types of MWC's, the CO emission limit would be 50 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis. For mass burn waterwall, mass burn fixed-wall refractory, and fluidized-bed types of MWC's, the CO emission limit would be 100 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis. For mass burn rotary refractory MWC's, the CO emission limit would be 100 ppmv (at 7 percent O_2, dry basis) on a 24-hour block average basis. For mass burn rotary waterwall MWC's, the CO emission limit would be 250 ppmv (at 7 percent O_2, dry basis) on a 24-hour block average basis. For RDF-stoker MWC's, the CO limit would be 200 ppmv (at 7 percent O_2, dry basis) on a 24-hour block average basis. For coal/RDF mixed fuel-fired MWC's, the CO limit would be 150 ppmv (at 7 percent O_2, dry basis) on a 4-hour block average basis.

Municipal waste combustors would be allowed to operate up to 110 percent of the maximum capacity, as achieved during the most recent dioxin/furan compliance test. Maximum capacity would be based on the steam flow rate, which would be continuously monitored according to the ASME Power Test Code (PTC) for Steam Generating Units (PTC4.1 and PTC19.5). This requirement is unchanged from the February 11, 1991 emission guidelines. The EPA requests comments on this method of measuring load for steam-generating MWC's. Specifically, the EPA has questions regarding the requirement for calibration of the measuring device (e.g., orifice plate) before and after each dioxin/furan compliance test. The EPA is concerned that this calibration requirement may be overly burdensome because the main steam line that contains the orifice plate may need to be cut in order to access the orifice plate for recalibration. Also, the EPA requests comments on whether the ASME PTC adequately addresses the need for calibrating the signal from the flow meter.

Additionally, the EPA requests comments on the use of boiler feed water flow as an alternative method for continuously monitoring load for steam-generating MWC's.

Furthermore, the EPA is considering allowing the use of the continuous flue gas volumetric flow rate to measure maximum capacity for both steam-generating MWC's, as well as those MWC's that do not generate steam. These types of monitors are based on ultrasonic, thermal, or differential pressure methods, and are now being required as part of the EPA's Acid Rain Program (40 CFR part 75). The EPA requests comments on whether continuous flue gas volumetric flow rate monitors are adequately demonstrated and accurate methods for determining compliance with the load level requirements, and if they should be allowed as an alternative to the use of the ASME PTC.

Under the guidelines, MWC's would establish a site-specific maximum flue gas temperature at the final PM control device inlet demonstrated during their most recent dioxin/furan compliance test. Similar to the provisions for establishing a maximum load level measurement, the maximum demonstrated PM control device inlet temperature is established as the maximum 4-hour block average temperature measured during the most recent dioxin/furan compliance test. The MWC must then be operated so that the temperature at the final PM control device inlet does not exceed this level by more than 17 °C (30 °F) (4-hour block average basis).

5. Operator Certification and Training

The proposed emission guidelines would require full certification of all MWC shift supervisors and MWC chief facility operators by the ASME or a State program. The proposed guidelines would also require that at least one of the following persons be on duty at the MWC at all times during which the MWC is combusting waste: A fully certified MWC chief facility operator, a fully certified shift supervisor, or a provisionally certified control room operator. A provisionally certified control room operator would be allowed to "stand in" during times that a fully certified chief facility operator or shift supervisor is offsite.

In addition, the proposed emission guidelines would require each owner or operator of an MWC with an aggregate capacity greater than 35 Mg/day to develop and maintain a site-specific training manual and to review it with all employees associated with the operation of the MWC (including MWC maintenance personnel, crane/load operators, and ash handlers). The manual and training would be updated annually.

Section 129 of the Act of 1990 requires the EPA to develop and promote a model State program for the training and certification of MWC operators. Section 129 specifies that "any person with control over processes affecting emissions from a unit" must successfully complete an acceptable training program. Consistent with section 129, today's proposed emission guidelines would require all MWC chief facility operators, shift supervisors, and control room operators at MWC plants with capacities above 35 Mg/day to complete the MWC operator training course developed by the EPA or a State program. The EPA has developed a model training program and has distributed it to State air pollution control agencies, EPA regional offices, and MWC industry groups. This model training program could be used to fulfill this requirement and prepare for the ASME certification.

6. Nitrogen Oxides Emissions

The proposed emission guidelines would require MWC's at large plants, except refractory MWC's, to control NO_X emissions to a level of 180 ppmv (corrected to 7 percent O_2, dry basis, on a 24-hour daily average basis). A "no control" NO_X emission guideline level for MWC's at small plants and refractory MWC's at large plants is proposed and discussed in section VIII of this preamble.

7. Fly Ash or Bottom Ash Fugitive Emissions

The proposed guidelines for fly ash/bottom ash fugitive dust emissions would establish a guideline of no visible emissions for fly ash or bottom ash emissions from an MWC facility.

The visible emissions guidelines would apply to buildings and external ash handling or transfer activities (e.g., loading), and any other area at the designated facility that is a potential source of fly ash or bottom ash fugitive emissions.

E. Comparison of the 1991 Guidelines and Today's Proposal

The subpart Ca emission guidelines promulgated on February 11, 1991 and today's proposed subpart Cb emission guidelines both contain guideline emission levels for dioxins/furans, PM, SO_2, and HCl at large MWC's; however, today's proposed guidelines for most of these pollutants are more stringent than the guidelines promulgated on February 11, 1991. The February 11, 1991 guidelines did not address Cd, Pb, Hg, NO_X, or fly ash/bottom ash fugitive emissions, but each of these is included in today's proposal. Also, today's proposal covers all MWC units at plants with aggregate capacities above 35 Mg/day, whereas the February 11, 1991 guidelines only covered MWC units with unit capacities above 225 Mg/day. A comparison of the 1991 guidelines and proposed guideline emission levels is provided in table 2.

TABLE 2.—COMPARISON OF THE PROPOSED GUIDELINES (SUBPART Cb) AND THE 1991 GUIDELINES (SUBPART Ca)

Pollutant	Guideline emission level[a]		
	Proposed subpart Cb guidelines[b]	1991 guidelines (subpart Ca)	
	MWC plants > 225 Mg/day[c]	MWC's > 225 Mg/day but < 1000 Mg/day[c]	MWC's > 1000 Mg/day[c]
Dioxins/furans	0.5 ng/dscm toxic equivalence or 30 ng/dscm total mass.	125 ng/dscm, total mass (equivalent to 2.0 ng/dscm toxic equivalence).	60 ng/dscm, total mass (equivalent to 1.0 ng/dscm toxic equivalence).
SO_2	35 ppmv or 75-percent reduction[d]	30 ppmv or 50-percent reduction[d]	30 ppmv or 70-percent reduction[d].
HCl	35 ppmv or 95-percent reduction[d]	25 ppmv or 50-percent reduction[d]	25 ppmv or 90-percent reduction[d].
PM	27 mg/dscm	69 mg/dscm	34 mg/dscm.
Opacity	10 percent	10 percent	10 percent.
Cd	0.040 mg/dscm	None	None.
Pb	0.50 mg/dscm	None	None.
Hg	0.080 mg/dscm (or 85-percent reduction)[d].	None	None.
NO_X	180 ppmv	None.	None.
Fly ash/bottom ash fugitive emissions.	No visible emissions from buildings, ash transfer points, or ash handling areas.	None	None.

[a] All emission levels are corrected to 7 percent O_2, dry basis.
[b] Separate guideline levels are also proposed for MWC plants with aggregate plant capacities between 35 and 225 Mg/day.
[c] The February 11, 1991 guidelines were based on MWC unit capacity, and today's proposed guidelines are based on aggregate plant capacity.
[d] Whichever is less stringent.

The MWC operating guidelines (GCP) included in today's proposal are the same as those in the February 11, 1991 guidelines. The training and certification requirements have changed somewhat. The February 11, 1991 guidelines required only provisional certification of MWC chief facility operators and shift supervisors, but today's proposed guidelines would require both provisional and then full certification. This change is being proposed because the full operator certification program is now widely available. In 1991, the program was not widely available.

Today's proposal also adds a provision to allow provisionally certified MWC control room operators to stand in for the MWC chief facility operators or shift supervisors in their temporary absence from the MWC. Additionally, today's proposal would require all MWC chief facility operators, shift supervisors, and control room operators to complete the EPA or a State MWC training course. This training course requirement was not included in the February 11, 1991 guidelines.

F. Performance Testing and Monitoring Requirements

Information related to the performance testing and monitoring requirements for MWC acid gases (SO_2 and HCl), MWC organics (dioxins/furans), PM, and MWC operating practices was published in the February 11 and 13, 1991 **Federal Register** notices (56 FR 5514 and 56 FR 5758). These same requirements would be adopted by today's proposed guidelines and would be extended to apply to all MWC's at plants with aggregate capacities above 35 Mg/day. Because the proposed guidelines allow compliance with either a dioxin/furan limit in terms of TEQ or a dioxin/furan limit on a total mass basis, procedures are being proposed for determining dioxin/furan emissions on a TEQ basis. The mass of each tetra- through octa- chlorinated dibenzo-p-dioxin and dibenzofuran congener would be measured by EPA Reference Method 23. Each congener mass would then be adjusted by the corresponding toxic equivalency factor (TEF; the 1989 NATO international TEF's). Finally, the adjusted congener masses would be added together to determine dioxins/furans in ng/dscm TEQ. Furthermore, today's proposal would require both large and small MWC facilities to conduct annual opacity tests using EPA Reference Method 9. This testing would be in addition to the continuous monitoring of opacity levels. Also, today's proposal allows small MWC facilities to conduct less frequent testing for dioxin/furan, HCl, and PM emissions if the small facility consistently demonstrates compliance. More specifically, under today's proposed emission guidelines, if three consecutive annual compliance tests for an MWC at a small MWC plant indicate compliance with the emission guideline for a pollutant (i.e., PM, HCl, or dioxins/furans), the MWC would be allowed to wait 3 years before retesting for the pollutant. If the next test conducted in the third year shows compliance with the emission guideline for that pollutant, then the facility could again wait 3 years to test for the pollutant. If noncompliance with the emission guideline for the pollutant occurs, corrective actions would be required to be undertaken and annual testing would be required to be conducted until 3 consecutive years of compliance with the emission guideline is established. At a minimum, performance tests for dioxins/furans, HCl, and PM would be required to be performed for each MWC at a small MWC plant every 3 years. This provision is included to minimize costs for small MWC plants, while still retaining periodic testing to ensure compliance. All large MWC plants would continue to be required to conduct annual compliance tests.

Annual performance tests to determine compliance with the Cd, Pb, and Hg emission guidelines would be based on EPA Reference Method 29. The average emission rates of three or more test runs using this methodology would be used to determine compliance. The EPA considered the use of EPA Reference Method 101A for Hg testing; however, based on available data, the EPA has concluded that Method 29 is a better measure of Cd, Pb, and Hg emissions than Method 101A and has therefore proposed Method 29 for testing MWC's. Also, as discussed above for dioxins/furans, PM, and HCl, if small plants demonstrate compliance with the Cd, Pb, and Hg emission guidelines for 3 consecutive years, they would be allowed to begin testing for these three pollutants every third year

The EPA Reference Method 29 is proposed in a separate part of today's **Federal Register**. Method 29 is very similar to the method that has been used by the EPA's Office of Solid Waste to measure metal emissions from boilers cofiring hazardous waste, commonly referred to as the EPA multimetals method. The proposed Method 29 is discussed in section IV.H of this preamble.

The proposed emission guidelines for NO_X would require continuous monitoring of NO_X emissions for MWC's at large plants, except refractory units for which a "no control" emission guideline is proposed. Compliance with the NO_X emission guideline level for nonrefractory MWC's at large plants would be determined by calculating the arithmetic average of the hourly emission rates, as measured by the continuous emission monitoring system (CEMS), for a 24-hour period that the MWC operates, using EPA Reference Method 19. Quality assurance would be maintained in accordance with appendix F of 40 CFR part 60.

Annual performance tests to determine compliance with proposed fly ash/bottom ash visible emissions guidelines would be based on EPA Reference Method 22 (3-hour continuous visual observation). The limits would apply at all times, and tests would be conducted during periods of time when fly ash/bottom ash is transferred from the combustor or from the air pollution control device to the ash loading area, and when ash is loaded for transportation or is being transported onsite.

The data availability requirement for CEMS (SO_2, NO_X, CO, and O_2 (or CO_2)) has been changed from the 1991 NSPS.

Today's proposal would require that valid paired CEMS hourly averages (i.e., SO_2 and O_2 (or CO_2), NO_X and O_2 (or CO_2), and CO and O_2 (or CO_2)) be obtained for 75 percent of the hours per day for 90 percent of the days per calendar quarter that the designated facility is operated and combusting MSW.

G. Reporting, Recordkeeping, and Compliance Schedule Guidelines

The MWC emission guidelines promulgated on February 11, 1991 for MWC's with unit capacities above 225 Mg/day established reporting and recordkeeping requirements for MWC organics (dioxins/furans), MWC metals (PM and opacity), MWC acid gases (SO_2 and HCl), and operating practices (CO, load, flue gas temperature, and operator training/certification). These reporting and recordkeeping requirements are discussed in the February 11, 1991 **Federal Register** notice (56 FR 5514). These same reporting and recordkeeping requirements would be adopted under the proposed guidelines, except that dioxin/furan emissions would be recorded and reported on either a total mass basis or a TEQ basis. Furthermore, if small MWC's meet the criteria in today's proposal allowing them to conduct performance tests for dioxins/furans, HCl, and PM every third year, they would submit a simplified annual report for years in which a full compliance test was not required.

Today's proposal also would add reporting and recordkeeping requirements for Cd, Pb, Hg, and NO_X. The proposed emission guidelines would require that initial and annual compliance reports be submitted for Cd, Pb, and Hg for MWC's at plants with capacities above 35 Mg/day. If small MWC's meet the criteria allowing them to conduct performance tests for Cd, Pb, or Hg every third year, they would be allowed to submit a simplified annual report for years when a full compliance test was not required. The proposed guidelines would also require that the amount of activated carbon injected for Hg control at small and large plants be recorded during MWC operation.

The NSPS for MWC's promulgated on February 11, 1991 (56 FR 5488) establishes reporting and recordkeeping requirements for NO_X for new MWC's; however, no NO_X requirements were established for existing MWC's. These NSPS reporting and recordkeeping requirements would now apply to MWC's only at large plants under today's proposed emission guidelines. Submittal of initial and quarterly reports for all CEMS data and accuracy determinations for NO_X emissions would be required. Quality assurance would be required in accordance with appendix F in 40 CFR part 60.

Initial and annual compliance reports for fly ash/bottom ash visible emissions testing would be required under today's proposal for both small and large plants.

The proposed emission guidelines include revised compliance scheduling requirements. The proposed guidelines require State plans to require both small and large MWC plants to meet one of the following two compliance schedules: (1) Full compliance with the State plan within 1 year after approval of the State plan, or (2) full compliance with the State plan within 3 years following issuance of a revised construction or operation permit, if a permit modification is required, or within 3 years following approval of the State plan, if a permit modification is not required, provided the State plan includes measurable and enforceable incremental steps of progress toward compliance with the State plan (see section IV.I of this preamble for further discussion of this requirement).

The proposed emission guidelines also include an accelerated compliance schedule for compliance with the proposed dioxin/furan and Hg emission limits for certain MWC's. Under the accelerated schedule, MWC units for which construction commenced after June 26, 1987 and that are located at large MWC plants would be required to be in compliance with the proposed dioxin/furan and Hg emission guidelines within 1 year following issuance of a revised construction or operation permit, if a permit modification is required, or within 1 year following approval of the State plan, if a permit modification is not required (these units are already equipped with acid gas/PM control systems). The rationale for requiring this accelerated schedule is provided in section IV.I of this preamble.

Additionally, the proposal requires compliance with both the operator training and certification requirements by 1 year after the date of promulgation of the emission guidelines.

Records of all data, including results of emission tests and compliance reports would be maintained for 5 years following the date of submission of the data.

III. Impacts of the Proposed Emission Guidelines

This section describes the impacts (i.e., air, water, solid waste, energy, control cost, and economic impacts) of the proposed emission guidelines for small and large MWC facilities. The impacts are summarized in table 3. Table 3 presents: (1) The impact of these proposed subpart Cb guidelines over a pre-1989 baseline (i.e., baseline prior to the effective date of the subpart Ca guidelines); and (2) the incremental impact of these proposed subpart Cb guidelines over the subpart Ca guidelines. The following discussion focuses only on the impacts of today's proposal based on a pre-1989 baseline, since the emission guidelines promulgated in 1991 have not been implemented. For further information on the impacts of the proposed emission guidelines, refer to the document entitled "Economic Impact Analysis for Proposed Emission Standards and Guidelines for Municipal Waste Combustors" that is included in the list of items under **SUPPLEMENTARY INFORMATION** at the beginning of this preamble.

TABLE 3.—IMPACTS OF THE 1991 SUBPART Ca AND PROPOSED SUBPART Cb GUIDELINES

Parameter	1991 subpart Ca guidelines[a]	Proposed 1994 subpart Cb guidelines[a]	Increment of proposed 1994 subpart Cb guidelines over the 1991 subpart Ca guidelines[b]
Characteristics of Existing MWC's:			
Combustion capacity (10^6 Mg/yr)	35.9	39.0	3.1
Number of MWC plants	158	179	21
Cost (1990 Dollars):			
Capital cost ($10^6)	888	2,100	1,212
Annualized cost ($10^6/yr)	168	445	277
Average cost increase ($/Mg MSW combusted)	6.40	13.60	7.20
Annual Emissions Reduction (Mg/yr):			
SO_2	25,000	43,000	18,000
HCl	36,000	56,000	20,000
PM	1,100	3,100	2,000
Cd	2	5	3
Pb	30	83	53
Hg	11	47	36
NO_X	0	19,000	19,000
Total dioxins/furans (kg/yr)[c]	117	157	40
Dioxin/furan TEQ (g/yr)[d]	1,950	2,620	670

[a] The impacts are based on a pre-1989 baseline (i.e., a baseline prior to the effective date of the subpart Ca guidelines).
[b] The impacts are calculated by subtracting the impacts of the 1991 subpart Ca guidelines from the impacts of the proposed 1994 subpart Cb guidelines (based on a pre-1989 baseline).
[c] kg/yr = kilograms per year.
[d] g/yr = grams per year.

A. Air Impacts

The air emission reductions discussed below, as well as all other impacts discussed in today's proposal, are nationwide impacts that would result from full implementation of the guidelines and are relative to the current baseline MWC population, considering in-place air pollution control devices. These are not incremental impacts relative to the February 11, 1991 emission guidelines. The total impacts are presented because the February 11, 1991 guidelines have not been implemented and are being significantly altered by today's proposal.

Under today's proposed emission guidelines, nationwide emissions of total dioxins/furans would be reduced by about 157 kilograms per year (kg/yr) compared with emissions in the absence of nationwide guidelines. Emissions of dioxins/furans on a TEQ basis would be reduced by about 2,620 grams per year (g/yr). This represents a nationwide reduction of about 99 percent compared to baseline levels in the absence of the guidelines. Remaining nationwide dioxin/furan emissions would be about 42 g/yr TEQ.

Nationwide emissions of PM would be decreased by about 3,100 megagrams per year (Mg/yr) compared with levels in the absence of emission guidelines. This represents a reduction of just under 50 percent compared to baseline levels in the absence of nationwide guidelines. In combination with baseline control, this would represent greater than 99-percent PM control. Emissions of Cd would be reduced by about 6 Mg/yr, Pb would be reduced by about 91 Mg/yr, and Hg would be reduced by about 48 Mg/yr. These emission reductions represent decreases of about 70 to 80 percent for each of these three metals. In combination with baseline control, this would represent greater than 99-percent control for Cd and Pb and greater than 80-percent control for Hg.

Nationwide emissions of SO_2 and HCl would be decreased by 43,000 Mg/yr and 56,000 Mg/yr, respectively, relative to current baseline levels. This represents about 87-percent control of acid gases compared to baseline levels in the absence of emission guidelines. In combination with baseline control, this would represent about 95-percent control of these acid gases.

The proposed emission guidelines would reduce nationwide emissions of NO_X by 19,000 Mg/yr, representing an overall nationwide emission reduction of over 30 percent compared to baseline levels that would be emitted without the proposed guidelines.

B. Water and Solid Waste Impacts

Water and solid waste impacts that would result from today's proposal were determined not to be significant. No water pollution impacts are projected because the control technologies considered would not produce a wastewater stream.

The EPA believes that MWC ash disposal is adequately addressed by current waste management standards, so that considerations of ash quality need not play a role in this rulemaking.

C. Energy Impacts

The energy impacts of applying add-on pollutant emission controls required as part of today's proposal would not result in significant energy impacts. Today's proposal for MWC acid gases, MWC organics, MWC metals, and NO_X would affect an estimated 179 MWC plants and would result in energy requirements of 400 to 500 gigawatt-hours per year (GW-hr/yr) of electricity to operate the air pollution control devices, and about 780 terajoules per year (TJ/yr) of natural gas to maintain combustor operating conditions that reflect GCP.

Most of the MWC's that would be affected by the proposed guidelines generate electricity for sale. For example, a large mass burn/waterwall MWC plant would generate about 500 GW-hr/yr of electricity. The energy to operate its air pollution control equipment would represent only about 4 percent of generation. Additionally, natural gas that is fired for GCP

requirements represents less than 0.2 percent of the annual heat input to MWC's. Considering that a large percentage of new power plant capacity to be constructed in the next 10 years will fire natural gas, the firing of small amounts of natural gas for GCP (while generating electricity) actually reallocates natural gas use rather than just increasing consumption.

D. Cost and Economic Impacts

1. National Overview

The EPA projects that about 33 million Mg of MSW will be combusted in the year 2000 in existing MWC plants subject to the guidelines being proposed today. The EPA estimates that there would be 179 existing MWC plants in operation that would be subject to the subpart Cb guidelines: 60 in the 35- to 225-Mg/day capacity range and 119 in the larger than 225-Mg/day capacity range. The typical plant has two or three MWC units.

The cost estimates given below are in 1990 dollars and are for emission control and compliance testing. The estimates do not include costs for such things as permitting and enforcement. To estimate the costs of the guidelines being proposed today, the EPA has taken into account all existing control equipment. Cost estimates are incremental over costs associated with the control equipment in current use and include retrofit premiums. Cost estimates are total costs for the revised MWC guidelines and are not incremental to the February 11, 1991 guidelines.

The nationwide annual cost of the guidelines including testing, reporting, and recordkeeping for acid gas, PM, Hg, and NO_X control would be about $445 million. The national average annual cost of the guidelines per unit of MSW combusted would be about $14/Mg.

The above costs for the guidelines are overall national costs spread over the entire existing MWC population. However, about one half of the affected waste flow from existing MWC's larger than 225 Mg/day already is combusted in facilities equipped with spray dryer/electrostatic precipitator (SD/ESP) or spray dryer/fabric filter (SD/FF) systems, and these MWC's would incur only a minor compliance cost (about $3/Mg) as a result of the proposed guidelines. The average annual cost of acid gas, PM, and Hg control per unit of MSW combusted at large plants that do not already have SD/ESP or SD/FF systems would be about $20/Mg.

The average annual cost per unit of MSW combusted at small plants using dry sorbent injection/electrostatic precipitator (DSI/ESP) systems and Hg control would be about $36/Mg.

The guidelines will have a wide range of impacts on the price of combustion services. To study these potential impacts, the EPA first applied a cost accounting procedure that approximates the one that would be used by an individual publicly owned MWC. Then, using a 1993 average tipping fee of $57/Mg of MSW combusted (1990 dollars) of waste combusted and assuming the full cost of meeting acid gas, PM, Hg, and NO_X requirements is passed directly to MWC customers, the EPA found that the lowest and highest tipping fee increases for the model plants used in the EPA's economic analysis would be $9 and $56, respectively, per megagram of MSW combusted. The majority of tipping fee increases would be in the $17 to $28/Mg range. (These estimates apply only to MWC's at small plants that do not already have DSI/ESP, SD/ESP, or SD/FF systems or large plants that do not currently have SD/ESP or SD/FF systems.)

The EPA projects that, regardless of how the regulatory costs are financed, most of the burden will find its way directly or indirectly to households served by MWC's. Costs that are directly assessed to households are likely to be in the form of increased collection fees and/or increased taxes. Indirect household costs are price increases charged by businesses that similarly are faced with increases in collection fees and/or taxes. For the guidelines being proposed today, the EPA projects an increase in the average annual household cost of waste disposal of about $25 for communities that have MWC's. The actual cost per household will depend on local conditions, including the extent to which recycling and landfilling are also used within the affected community. Approximately 62 percent of the total average household cost is a direct cost, thus the annual direct household cost would be approximately $15. The EPA estimates that the average annual household cost breaks down to $26 per year for communities over 250,000 in population; $24 for communities with populations between 100,000 and 250,000; $24 for communities with populations between 50,000 and 100,000; and $22 for communities with populations under 50,000. This range represents less than 1 percent of household income. The actual cost per household will depend on local conditions.

The EPA identified 39 private firms each of which owns one or more MWC's. Detailed financial data are published for only 17 of the firms projected to incur costs, none of which is small (under $6 million in annual sales). (Firms for which annual sales data are not available are assumed to be small.) The total annual cost of the guidelines as a percentage of sales averages less than 1 percent and ranges from less than 1 percent to about 80 percent for these 17 firms. Potential tipping fee increases, based on an assumed full cost pass-through (i.e., passing all control costs to consumers via the tipping fee) and an average tipping fee of $57/Mg, are about 18 percent for MWC's owned by small firms and about 14 percent for MWC's owned by large firms.

Some of the benefits of the emission guidelines have been quantified. The absence of sufficient exposure-response and valuation information precludes a comprehensive benefits analysis for many of the MWC pollutants. The EPA expects partial benefits for reduction of PM and SO_2, including benefits from reductions in morbidity and mortality, to total about $106 million annually. The total benefits would be higher if benefits from reductions of other pollutants were valuated. In addition, recent evidence suggests the mortality reduction benefits of particulate mater controls may be higher than is assumed in this analysis.

2. Control Costs for Typical MWC Plants

The previous section presented costs of the proposal on a national basis. This section presents examples of typical retrofit costs that would be experienced at both a large MWC plant and a small MWC plant. These are typical costs. Lower costs will be experienced at MWC plants that have already installed the air pollution control components required by the proposal. Higher costs will be experienced for MWC plants with more difficult retrofit applications.

The costing data presented in this section are provided in the following formats: capital cost, annualized cost, and cost per Mg of municipal waste combusted. The costing information is subcategorized by air pollution control components (i.e., GCP upgrade, acid gas scrubber, activated carbon injection application, and NO_X control). For perspective, the estimated cost of combustion units is also displayed. Since the actual MWC unit cost for an existing combustion unit is sensitive to past funding practices, the EPA could not provide this cost. Instead, the EPA has provided the cost of combustion units for a new MWC plant for reference. This costing information has been derived from 1989 background information documents that were used in developing the 1991 NSPS and

emission guidelines (see **SUPPLEMENTARY INFORMATION** for more information about these documents), and is presented in 1987 dollars (the escalation factor for converting to mid-1990 dollars is 1.111).

From table 3A, it can be noted that the capital cost for retrofit at a large existing MWC plant (980 Mg/day capacity) would be about $16.8 million of which $13.6 million would be for the acid gas control, 2.9 million for NO_X control, and less than one million for activated carbon injection and GCP. On an annualized basis, the cost would be about $5.1 million/yr or about $16/Mg of waste combusted. This would increase baseline combustor cost from about $60/Mg combusted (based on the baseline combustor cost for a new large MWC plant presented in table 3B) to about $76/Mg combusted. Large MWC plants represent about 94 percent of the existing MWC combustion capacity.

TABLE 3A.—CAPITAL AND ANNUALIZED COSTS OF AIR POLLUTION CONTROL FOR TYPICAL EXISTING LARGE AND SMALL MWC PLANTS [a]

Parameter	Baseline combustor	GCP [b]	Air pollution control device cost [a]				Total combustor and APCD cost
			Acid gas/PM	CI [c]	NO_X	Total APCD cost [d]	
Existing large MWC plant (980 Mg/day MB/WW retrofitted with GCP, SD/ESP, CI, and SNCR) [e,f,g,h]:							
Capital cost (10^6)	NA [i]	0.086	13.6	0.279	2.9	16.8	NA
Annualized cost (10^6/yr)	NA	0.148	3.8	0.498	0.844	5.14	NA
Average cost increase ($/Mg MSW combusted).	NA	0.45	11.7	1.52	2.53	15.7	NA
Existing small MWC plant (135 Mg/day MOD/SA retrofitted with GCP, DSI/ESP and CI) [j,k,l]:							
Capital cost (10^6)	NA	0.27	2.5	0.055	0	2.55	NA
Annualized cost (10^6/yr)	NA	0.182	0.726	0.041	0	0.77	NA
Average cost increase ($/Mg MSW combusted).	NA	4.01	16.0	0.90	0	16.9	NA

[a] The costs presented are in 1987 dollars. To calculate mid-1990 dollars, multiply 1987 dollars by a factor of 1.111. Total cost values may not add due to rounding.
[b] GCP = good combustion practices.
[c] CI = activated carbon injection.
[d] APCD = air pollution control device.
[e] MB/WW = mass burn waterwall combustor.
[f] SNCR = selective noncatalytic reduction.
[g] SD/ESP = spray dryer and electrostatic precipitator.
[h] The costs presented are based on the assumption that an existing ESP was upgraded and retrofitted with a spray dryer system.
[i] NA = not available. Because the capital cost of the existing combustor was not available, the total costs could not be calculated. Refer to the baseline combustor cost in table 3B for new facilities, which is similar to the cost for existing facilities.
[j] MOD/SA = modular starved-air combustor.
[k] DSI/ESP = dry sorbent injection and electrostatic precipitator.
[l] The costs presented are based on the assumption that an existing ESP was upgraded and retrofitted with a dry sorbent injection system.

TABLE 3B.—CAPITAL AND ANNUALIZED COSTS OF AIR POLLUTION CONTROL FOR TYPICAL NEW LARGE AND SMALL MWC PLANTS [a]

Parameter	Baseline combustor	GCP [b]	Air pollution control device cost [a]				Total combustor and APCD cost
			Acid gas/PM	CI [c]	NO_X	Total APCD cost [d]	
New large MWC plant (730 Mg/day MB/WW with SD/FF, CI, and SNCR) [e,f,g]:							
Capital cost (10^6)	50	0	12	0.150	2.0	14.2	64.2
Percent of total capital cost (%) [h]	78	0	19	0.2	3	22	100
Annualized cost (10^6/yr)	14.4	0	3.56	0.091	0.582	4.23	18.6
Average cost increase ($/Mg MSW combusted)	59.5	0	14.8	0.37	2.39	17.5	77.05
New small MWC plant (90 Mg/day MOD/SA with SD/FF and CI) [i]:							
Capital cost (10^6)	5.5	0	3.1	0.043	0	3.14	8.64
Percent of total capital cost (%) [h]	64	0	36	0.5	0	36	100
Annualized cost (10^6/yr)	1.83	0	0.91	0.014	0	0.92	2.76
Average cost increase ($/Mg MSW combusted)	60.5	0	30.2	0.46	0	30.7	91.2

[a] The costs presented are in 1987 dollars. To calculate mid-1990 dollars, multiply 1987 dollars by a factor of 1 111 Total cost values may not add due to rounding.
[b] GCP = good combustion practices. Costs for GCP are included in combustor design (no cost).
[c] CI = activated carbon injection.
[d] APCD = air pollution control device.
[e] MB/WW = mass burn waterwall combustor
[f] SD/FF = spray dryer and fabric filter
[g] SNCR = selective noncatalytic reduction.
[h] Does not add to 100 percent due to rounding.
[i] MOD/SA = modular starved-air combustor

For a small existing MWC plant (135 Mg/day capacity), table 3A shows a capital cost for retrofit of about $2.6 million of which $2.5 million would be for the acid gas control system and the remaining for activated carbon injection and GCP. On an annualized basis, the cost would be about $770,000/yr or about $17/Mg of waste combusted. This would increase baseline combustor cost from about $61/Mg combusted (based on the baseline combustor cost for a new small MWC plant presented in table 3B) to about $78/Mg combusted. Small MWC plants represent about 6 percent of the existing MWC combustion capacity.

IV. Rationale for the Proposed Guidelines for MWC Emissions

This section addresses the legal, technical, and economic basis for the proposed emission guidelines. The basis for regulating MWC's, for regulating the specified pollutants, and for regulating MWC's according to the specified size categories are discussed. The section also presents the EPA's approach in establishing the MACT floor and selecting MACT. Additionally, the section discusses the selected format of the proposed guidelines, the proposed performance testing and monitoring requirements, and the proposed reporting and recordkeeping requirements.

A. Background

On November 15, 1990, the Act was amended. The Act of 1990 includes a new section 129 that applies to a range of solid waste incinerators including MWC's, medical waste incinerators (MWI's), infectious waste incinerators, and industrial waste incinerators.

Under authority of sections 111 and 129 of the Act of 1990, the EPA was directed to promulgate MACT-based guidelines for MWC's. However, section 129 also includes a clause directing the EPA to issue emission guidelines based on BDT under the terms imposed in the consent decree issued from *State of New York et al.* v. *Reilly* (No. 89–1729 D.D.C.), but limiting applicability of those emission guidelines to MWC's with unit capacities greater than 225 Mg/day. Emission guidelines that were signed by the Administrator on January 11, 1991 and published in the **Federal Register** on February 11, 1991 (56 FR 5514) complied with this component of the section 129 requirements.

Regarding the MACT-based guidelines, section 129 directs the EPA to promulgate MACT-based guidelines for MWC units located at plants with capacities greater than 225 Mg/day and at plants with capacities less than 225 Mg/day. The MACT-based guidelines are to include numerical emission limits for Cd, Pb, Hg, and NO_X, and are to address operator training requirements.

Today's proposal complies with all requirements of section 129 described above. This has been done by: (1) Proposing MACT-based guidelines that cover MWC units at plants with capacities above 35 Mg/day; (2) proposing numerical emission limits for Cd, Pb, Hg, and NO_X; (3) proposing operator training requirements; and (4) proposing opacity limits for air curtain incinerators firing specific "clean" fuels.

The subpart Eb NSPS that is proposed in a separate notice in today's **Federal Register** would apply to new facilities constructed after September 20, 1994. However, the February 11, 1991 subpart Ea NSPS will remain in effect. Therefore, those existing facilities subject to the February 11, 1991 NSPS that were constructed on or prior to September 20, 1994 would be subject to both the subpart Ea NSPS and the proposed subpart Cb emission guidelines.

B. Selection of Source Category

The MWC guidelines adopted on February 11, 1991 provided the rationale for the selection of MWC's as a source category to be regulated (56 FR 5514). Moreover, section 129 of the Act directs the EPA to issue guidelines for this source category, and thereby confirms the EPA's earlier decision.

Today's proposed emission guidelines (subpart Cb) would apply to existing MWC's, defined as those MWC's for which construction, modification, or reconstruction commenced on or before September 20, 1994. Municipal waste combustors for which construction, modification, or reconstruction commenced after September 20, 1994 would be covered by the subpart Eb NSPS proposed in a separate notice in today's **Federal Register**.

Also, as required by section 129 of the Act, today's proposed guidelines would establish opacity limits for certain existing air curtain incinerators, for which construction, modification, or reconstruction commenced on or before September 20, 1994. Under the proposed guidelines, air curtain incinerators that burn only yard wastes, tree trimmings, and clean untreated lumber would be required to meet an opacity limit, and no other requirements would apply. The proposed guidelines for these air curtain incinerators are presented in section VI of this preamble.

C. Modification or Reconstruction of Existing MWC's

The subpart Ea NSPS proposal published in the **Federal Register** on December 20, 1989 (54 FR 52251) provided a discussion of the terms and conditions associated with construction, modification, and reconstruction for MWC's. One change is being proposed. Previously, the terms "modification" and "reconstruction" were defined under sections 60.14 and 60.15 of subpart A of part 60. Section 129 of the Act has specified a new definition of "modified solid waste incineration unit" that combines and revises the previous definitions of "modification" and "reconstruction." Specifically, "modified solid waste incineration unit" refers to: (1) Modifications for which the

> * * * cumulative costs of the modifications, over the life of the unit, exceed 50 per centum of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs. * * *

or (2) modifications involving

> * * * a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under [section 129] or section 111 * * *.

D. Selection of Designated Pollutants

A complete discussion of the rationale for selecting "MWC emissions" as the designated pollutants under sections 111(b) and 111(d) of the Act is provided in the December 20, 1989 proposal preamble for the 1991 emission guidelines (54 FR 52209). Additionally, section 129 of the Act specifies that emission guidelines be developed for PM, opacity, SO_2, HCl, NO_X, CO, Cd, Pb, Hg, and dioxins/furans. Emission guidelines for all but four of these pollutants (Cd, Pb, Hg, and NO_X) were established in the February 11, 1991 emission guidelines (56 FR 5514). Section 129 specifies that emission limits be set for each of the metals (Cd, Pb, and Hg).

Emission guidelines for fugitive MWC fly ash/bottom ash emissions are proposed today because these emissions also contain PM, Cd, Pb, Hg, and dioxins/furans.

E. Selection of Designated Facilities

For the proposed emission guidelines, the designated facility, an MWC unit, is defined as any setting or equipment chamber or pit used to burn MSW (including RDF) and extends to and includes MWC fly ash/bottom ash emission points, including ash storage

areas, conveyor transfer points, and ash loading areas for hauling trucks at the MWC site. This does not extend to ash handling outside of the MWC property boundary or at ash fill sites.

Municipal waste combustion includes the burning (or pyrolysis) of MSW in any type of equipment, chamber, or pit including equipment with and without heat recovery. Municipal solid waste is defined as either a mixture or a single-item stream of household, commercial, and/or institutional discards. This would include discards such as paper, wood, yard wastes, tree trimmings, plastics, leather, rubber, glass, metals, and other combustible and noncombustible materials. The MSW definition includes household discards as well as discards from institutional and commercial sources, but does not include industrial process or manufacturing discards. The MSW definition also includes RDF, which is a type of MSW that is shredded (or pelletized) and classified by size before combustion. Municipal solid waste does not include wastes that are solely segregated medical wastes. However, any mixtures of medical waste with nonmedical hospital waste or with household, commercial, or institutional waste is considered to be MSW. Minor editing has been done to the definition of MSW to clarify this point.

Cofired combustors are those that fire MSW with non-MSW fuel such as coal. Cofired combustors that combust a fuel feed stream comprised, in aggregate, of equal to or less than 30 percent MSW or RDF (by weight, based on a 24-hour average), would not be subject to the emission guidelines and would be required only to submit reports of the amount of MSW and other fuels combusted. The exclusion of cofired combustors from the guidelines is consistent with the Act of 1990. This exclusion is unchanged from the February 11, 1991 guidelines.

Waste-fuel power generation facilities that combust a single-item waste stream of tires, fuel derived solely from tires, or used oil would be subject only to an initial report and to no other provisions in today's proposal or to the emission guidelines that were promulgated on February 11, 1991 (56 FR 5514). This exclusion is unchanged from the February 11, 1991 guidelines.

Air curtain incinerators with unit capacities to combust greater than 35 Mg/day of MSW are subject to the proposal; however, air curtain incinerators that combust only tree trimmings, yard wastes, and clean untreated lumber (these are a subset of MSW) would be subject to an opacity standard and its associated testing, recordkeeping, and reporting included in today's proposal, but would not be subject to other parts of today's proposal. This exclusion does not apply to air curtain incinerators that combust other MSW materials.

Today's proposed guidelines for MWC's would apply to MWC units at plants with capacities above 35 Mg/day The lower size cutoff of 35 Mg/day aggregate plant capacity for controlling MWC emissions under the proposed emission guidelines was selected after reviewing the population distributions of MWI's and MWC's. Most incinerators at medical waste facilities are smaller incinerators that fire segregated medical waste with general hospital discards (MSW), and these incinerators would have the potential to be covered by today's proposal. The population distribution of MWI's is distinctly different from the population distribution of traditional MWC plants that are the target of today's proposal. The existing distribution of MWC's is composed of about 372 units (about 179 plants), with an average plant size of about 600 Mg/day combustion capacity, with two or three MWC units at each plant. The potential nationwide combustion capacity of existing MWC's is about 107,000 Mg/day, assuming continuous operation. The MWI distribution is quite different and includes about 7,000 combustors with a single combustion unit per facility and an average unit size of less than 3 Mg/day combustion capacity. The total U.S. capacity of MWI's is about 20,000 Mg/day. This population is being addressed under a separate rulemaking. Clearly, the MWC population represents a smaller number of comparatively larger units, and MWI's represent a much larger number of smaller units. The lower size cutoff of 35 Mg/day aggregate plant capacity that is included in today's proposed emission guidelines would exclude less than 1 percent of the total nationwide combustion capacity of MWC's and would result in over 99 percent of total MWC capacity being covered by this proposal. The same lower size cutoff would prevent significant dual coverage under this proposal by excluding more than 99 percent of MWI units and about 97 percent of nationwide MWI capacity from today's proposed revisions.

As mentioned above, the proposed emission guidelines with a 35 Mg/day cutoff would cover the great majority of MWC's, and may also cover a few of the largest MWI's (nine units at three sites are known to cofire medical waste with MSW and are above the 35 Mg/day of MSW total plant capacity cutoff). Section 129 of the Act requires that regulations for MWI's be developed in a separate rulemaking. For these reasons, it is appropriate that today's proposed guidelines focus on MWC's and that a separate regulation focus on MWI's. The NSPS and guidelines for MWI's are scheduled to be proposed in 1995

Municipal waste combustor plants with aggregate capacities below 35 Mg/day would not be subject to the emission limits under today's proposed emission guidelines. However, those facilities with aggregate plant capacities between 25 and 35 Mg/day would be required to report (one time) their location, startup date, and aggregate plant capacity. They would also be required to provide supporting information, including calculations used to determine plant capacity. This one-time report would allow the EPA or State agency to enforce the lower size cutoff for applicability to the proposed guidelines. Plants with aggregate capacities of 25 Mg/day or below would not be subject to any provisions under this proposal.

The proposed emission guidelines for MWC's are subdivided into two subcategories of air emissions requirements: The first for MWC's located at MWC plants with aggregate capacities to combust more than 35 Mg/day but less than or equal to 225 Mg/day of MSW (referred to as small MWC plants), and the second for MWC's located at MWC plants with aggregate capacities to combust greater than 225 Mg/day of MSW (referred to as large MWC plants). The 225 Mg/day dividing point was established because this size break represents a transition point between field-erected waterwall MWC's and modular MWC's.

In the subcategory of existing plants with capacities greater than 225 Mg/day there are about 119 MWC plants with 235 MWC units. In the subcategory of existing plants with capacities greater than 35 Mg/day but equal to or less than 225 Mg/day, there are about 60 plants with 137 units. The large plant subcategory accounts for about 94 percent of the total combustion capacity whereas the smaller subcategory accounts for about 5 percent of total capacity.

F. Selection of Maximum Achievable Control Technology

The following discussion addresses the EPA's selection of MACT. The existing technologies for controlling emissions of the designated pollutants from MWC's are reviewed, followed by a summary of the EPA's approach for establishing the MACT floor. Finally, the discussion presents the EPA's

selection of MACT for MWC's at small and large MWC plants.

1 Summary of MWC Control Technologies

The following discussion reviews the existing technologies for controlling emissions of acid gases, dioxins/furans, PM, Cd, Pb, Hg, and NO_x from MWC's.

a. *Acid Gas/PM Control Technologies.* Municipal waste combustor acid gas/PM control is a general term that refers to a group of MWC air pollution control technology combinations. These combinations control a wide range of pollutants, such as acid gases (including SO_2 and HCl), organics (including dioxins/furans), and PM and metals (including Cd, Pb, and a number of other metals except Hg). The three acid gas/PM controls most commonly used in the United States for existing MWC's are: (1) GCP plus DSI followed by an ESP; (2) GCP plus an SD followed by an ESP; and (3) GCP plus an SD followed by an FF. Discussions of each of these control systems were presented in the December 20, 1989 proposal preamble for the acid gas and PM emission guidelines in subpart Ca (54 FR 52209). Control of Cd, Pb, and Hg were not discussed in detail in the 1989 preamble.

Since 1991, the performance of the acid gas/PM control systems for removal of Cd, Pb, and Hg has been investigated in more depth. Cadmium and Pb are both volatile at temperatures present in combustion systems, but condense onto PM in the flue gas at temperatures associated with the operation of most PM control systems. As a result, the control of Cd and Pb is generally related to the control of PM emissions. Much of the PM in the flue gas from an MWC is fine PM; from 20 to 70 percent of the PM in the flue gas from an MWC has an aerodynamic diameter of less than 1 micrometer (1 micron). Because of the potential for adsorption of Cd and Pb onto fine PM that is less readily collected by control devices than larger PM, the control of fine PM is especially important in controlling these metals.

Both FF-equipped systems (i.e., DSI/FF's and SD/FF's) and electrostatic precipitator (ESP)-equipped systems (e.g., ESP's, DSI/ESP's, and SD/ESP's) can achieve efficient control of PM, and the efficiency of total PM and fine PM control achieved by these systems depends on their design. However, FF-equipped systems are generally more effective in capturing fine PM than ESP-equipped systems. Therefore, the control of Cd and Pb achieved by FF-equipped systems is typically better than that of ESP-equipped systems.

For DSI/FF and SD/FF systems, data for controlled Cd emissions range from 0.001 to 0.0100 mg/dscm. Emissions of Pb from MWC's with these systems are less than 0.10 mg/dscm. For SD/ESP systems, the data for Cd and Pb emissions are variable, showing emission levels from 0.005 to 0.040 mg/dscm for Cd, and levels of less than 0.10 to 0.50 mg/dscm for Pb. For DSI/ESP and ESP-only systems, there is no indication of a difference in the level of Cd and Pb control between these control systems. For both of these systems, Cd emission levels range up to 0.10 mg/dscm, and Pb emission levels range up to 1.6 mg/dscm.

Although the above combinations of acid gas/PM controls are effective at removing Cd, Pb, and other metals, they do not consistently remove Hg without integrating some other form of Hg control. A discussion of Hg control is presented below.

b. *Mercury Control Technologies.* The EPA estimates that typical uncontrolled Hg levels for MWC's in the United States range from 0.20 to 1.4 mg/dscm at 7 percent O_2. Unlike other metals, Hg has a high vapor pressure at typical operating temperatures of air pollution control devices. As a result, collection of Hg by the PM control device is highly variable. The EPA collected test data from more than 30 MWC's with various air pollution controls that indicate a wide range of Hg control. High-efficiency PM control, lower flue gas temperatures in the air pollution control system, and a sufficient level of carbon in the fly ash facilitate Hg control. Higher levels of carbon in the fly ash and reduced flue gas temperatures enhance Hg adsorption onto the carbon, which is removed by the PM control device. To promote Hg adsorption, it is important to operate the control systems at temperatures less than about 150 to 200 °C. Low flue gas temperature is inherent to acid gas control.

Municipal waste combustors having high combustion efficiency will have effective carbon burnout and, therefore, will have low fly ash carbon content. These units may achieve little or no Hg control even when equipped with acid gas/PM control systems, and the control may be highly variable even at the same site.

Three techniques for Hg control are currently being used at MWC's: Activated carbon injection, sodium sulfide (Na_2S) injection, and wet scrubbing. Activated carbon injection and Na_2S injection are used in conjunction with an existing acid gas control device. Brief discussions of these three Hg control technologies and their capabilities are presented below.

Injection of powdered activated carbon into the flue gas prior to the acid gas/PM control device has been tested at U.S. MWC's. The removal mechanism is not fully understood, but it is believed that activated carbon is a catalyst for the oxidation of elemental Hg to mercuric oxide and mercuric chloride, which can more readily be captured in the air pollution control device. This technology has been applied commercially to MWC's in Europe equipped with SD/ESP's and during test programs in Europe and Canada to MWC's with SD/FF's and DSI/FF's. The EPA also tested activated carbon injection at the Stanislaus County MWC in California and the Camden County MWC in New Jersey. The Stanislaus County MWC is equipped with an SD/FF, and the Camden County MWC is equipped with an SD/ESP. Test results show Hg reductions greater than 85 percent when injecting activated carbon.

A second Hg control technology is Na_2S injection. Sodium sulfide is a crystalline solid that dissolves in water. The resulting Na_2S solution is sprayed into the flue gas prior to the acid gas/PM control device. The reaction of Na_2S and Hg precipitates solid mercuric sulfide (HgS) that is collected in the PM control device.

Three MWC's in Sweden, two in Germany, and one in Canada have used Na_2S injection to control Hg emissions. All of these facilities use DSI/FF systems for acid gas/PM control, and injection of Na_2S occurs prior to the DSI/FF system at flue gas temperatures of 130 to 250 °C. In addition, Hg emission tests were conducted at the Stanislaus County MWC in California while using Na_2S injection. Results from tests at European, Canadian, and U.S. MWC's have shown Hg removal efficiencies of 40 to 90 percent when using Na_2S injection.

Wet scrubbing is a form of acid gas control that also controls Hg without use of an add-on Hg control system. It has been used primarily in Europe and Japan. Typically, the flue gas is first directed through an ESP to reduce PM, followed by wet scrubbing, which involves passing the flue gas through a one- or two-stage absorber system where the gas stream is saturated with an alkaline solution. During this process, flue gas temperatures are reduced to as low as 55 °C. The low absorber operating temperature promotes Hg condensation, resulting in an Hg reduction of 80 percent or better. The alkaline solution used in the wet scrubbing process, typically containing calcium hydroxide, reacts with the acid gas to form salts, which are generally insoluble and may be removed by

sequential clarifying, thickening, and vacuum filtering. The dewatered salts or sludges are then sent to a landfill. The disadvantages of wet scrubbing include the quantity of water required, potential difficulties with waste handling, and undefined performance at MWC units firing domestic (U.S.) MSW streams.

c. *Nitrogen Oxides Control Technologies.* During the combustion process, NO_X are formed through two mechanisms: (1) Oxidation of fuel-bound nitrogen (N_2) contained in MSW to NO_X; and (2) fixation and oxidation of atmospheric N_2. In MWC's, the conversion of fuel-bound N_2 accounts for most (75 to 80 percent) of the NO_X production.

Controlling NO_X emissions from MWC's can be accomplished through: (1) Combustion modifications to reduce NO_X formation; (2) postcombustion control, which reduces NO_X in the flue gas to elemental N_2; or (3) use of "low-NO_X" combustors to reduce NO_X formation. Combustion modifications include staged combustion, low excess air, and flue gas recirculation. Combustion modification retrofit at existing MWC's has had limited application and its retrofit potential must be evaluated on a case-by-case basis.

Postcombustion NO_X control using selective noncatalytic reduction (SNCR) is more flexible and has been more commonly used for MWC NO_X control. The SNCR control technology reduces NO_X to N_2 without the use of catalysts. Techniques include Thermal $DeNO_X$™, which injects ammonia into the combustor as a reducing agent; the NO_XOUT™ process, which injects urea with chemical additives; and a two-stage urea/methanol injection process. A discussion of SNCR NO_X control was presented in the December 20, 1989 proposal preamble (54 FR 52251) for the 1991 NSPS for new MWC's. The use of SNCR at existing MWC's results in NO_X emission reductions of about 45 percent.

However, for existing mass burn/refractory MWC's, SNCR retrofit problems exist. Mass burn/refractory MWC's are generally older and operate with greater fluctuations in combustor flue gas temperature profiles than is typical for other types of MWC's. The fluctuating temperature profiles create SNCR applicability and performance problems. The SNCR control has not been used nor is expected to be used at mass burn/refractory MWC's or other specialized combustors.

The SNCR technology has also never been applied to a modular combustor, and the performance of such a system on a modular combustor is questionable. Performance questions arise because of the potential for temperature fluctuations resulting from batch-feed operations along with the inability of the refractory-lined furnace to dampen temperature spikes. The EPA requests comment on the applicability of SNCR and other NO_X control techniques to MWC's at small plants. The EPA requests that comments address the cost, technical performance, and reliability of application of SNCR or other NO_X control techniques specifically to modular starved-air MWC's and modular excess-air MWC's. Based on the comments and information received, the EPA will reconsider requiring NO_X control on MWC's at small plants.

Three types of MWC's, mass burn/rotary combustors, fluidized-bed combustors, and modular/excess-air combustors, are considered "low NO_X" combustors. Available data show that these types of MWC's consistently show NO_X levels below 150 ppmv without the use of SNCR.

2. MACT Floor and MACT Requirements of the Act

Section 129 of the Act, as amended in 1990, directs the EPA to review and revise the February 11, 1991 guidelines to reflect MACT. Section 129 also establishes a minimum "floor" for the guidelines, in terms of their stringency; specifically:

> * * * emission standards for existing units * * * shall not be less stringent than the average emission limitation achieved by the best performing 12 percent of units in the category * * *.

The intent of this MACT floor is to ensure that the guidelines reflect the performance of the best emission control technologies currently operating at existing MWC units. A large portion of the existing MWC population is represented by relatively new and relatively well-controlled MWC units (the average age of an MWC unit is less than 10 years). This results in a large percentage of existing MWC units being operated with the best emission control technologies. This subset constitutes about 45 percent of existing MWC units at large MWC plants, and, based on EPA's current information, these units are all well maintained and operated. Based on the examination and analysis of the emission data available from these units, the EPA has not found a basis for separating the top 12 percent of these units from the remaining units in the subset of those units that are well-equipped, maintained, and operated. Consequently, to determine the MACT floor, the EPA utilized emission limitations included in Federal/State permits.

Emission limitations for existing MWC units at large plants were determined by examining the air quality permits for those units obtained from the EPA Regional Offices and by examining responses to section 114 information requests, which included a section regarding permitted emission limits. Emission limitations for MWC units at small plants were determined only by examining the responses to section 114 information requests.

The emission limitations for each pollutant were then converted to common units so that they could be compared. The emission limitations for each pollutant were ranked separately for the small and large categories of MWC plants. From those rankings, the average of the top 12 percent of emission limitations (i.e., the average of the most stringent limitations) for each pollutant in the small and large plant categories were calculated to determine the MACT floors.

The MACT floor defines the minimum level of emission control that may be considered in defining MACT, regardless of cost or other considerations. In considering control alternatives beyond the MACT floor, the EPA must consider the cost of achieving such emission reductions and any nonair quality health and environmental impacts and energy requirements. Therefore, the level of control that represents MACT may be more stringent than the MACT floor.

In the proposed regulations, subcategorization of existing MWC units was limited only to size (units at large and small MWC plants). Since the MACT floors may be sensitive to subcategorization, it is possible that further or alternative means of subcategorization may affect the determination of the MACT floor (i.e., the minimum level of control requirements under section 129). The Act provides that "the Administrator may distinguish among classes, types (including mass-burn, refuse-derived fuel, modular, and other types of units), and sizes of units within a category" in establishing MACT standards. In examining various ways of subcategorization, the EPA found that subcategorization uniformly across all emission standards could result in more stringent standards for one pollutant and somewhat less stringent standards for other pollutants. For example, subcategorization by MWC technology generally results in a less stringent MACT floor for NO_X and a more stringent floor for PM. Depending upon the approach used for subcategorization,

the NO_X MACT floor for some units could be considerably higher than the 215 ppmv floor in the proposed rule. For example, the NO_X MACT floor for mass burn/waterwall units could be 230 ppmv, and the NO_X MACT floor for refuse-derived fuel units could be 275 ppmv.

The EPA is soliciting comments on whether subcategorization (beyond size) should be used in the final rule and on the basis that one would support for such further subcategorization (e.g., the inapplicability of SNCR for mass burn/refractory combustors, and the inherently "low-NO_X" emission characteristics of mass burn/rotary combustors, fluidized bed combustors, and modular/excess-air combustors.) In addition, the EPA is seeking comment on the appropriateness of using different subcategorization approaches for different pollutants. For example, in setting standards under section 111 of the Act for industrial boilers, the EPA established different emission standards based on different fuel type inputs.

The following section presents the EPA's rationale for establishing the MACT floor and MACT for MWC's.

3. MACT Floor and MACT for Large MWC Plants

This section summarizes the MACT floor and presents the EPA's rationale for establishing MACT for each pollutant for MWC's at large MWC facilities.

a. *Summary of MACT Floor for Large MWC Plants.* This proposal determines the MACT floor for existing MWC's based on permit limits. The population of MWC's at large plants consists of about 235 combustor units. Therefore, the top 29 combustor units with the most stringent permit limitations would represent the top 12 percent of emission limitations for determining the MACT floor. An average of the top 29 permit limits was calculated to determine the floor for each pollutant. The MACT floor emission levels for each pollutant for large MWC plants is shown in table 4.

TABLE 4.—MACT FLOOR EMISSION LEVELS FOR EXISTING MWC'S AT LARGE MWC PLANTS

Pollutant	MACT floor emission level[a,b]
SO_2	35 ppmv.
HCl	35 ppmv.
PM	27 mg/dscm.
Cd	0.25 mg/dscm.
Pb	0.53 mg/dscm.
Hg	0.36 mg/dscm.

TABLE 4.—MACT FLOOR EMISSION LEVELS FOR EXISTING MWC'S AT LARGE MWC PLANTS—Continued

Pollutant	MACT floor emission level[a,b]
Dioxins/furans	100 ng/dscm total mass or about 1.7 ng/dscm TEQ.
NO_X	215 ppmv.

[a] All emission levels are corrected to 7 percent O_2, dry basis.

[b] Most of the MACT floor requirements for large MWC plants are more stringent than the 1991 subpart Ca guidelines. See table 2.

The top 12 percent MACT floor for the emission guidelines could be constructed in a number of different ways including a permit basis (this proposal), a technology basis, or an emissions data basis. Under a technology basis, MWC's would be ranked by their control technology to determine the technology used by the average or median of the top 12 percent of the MWC population, and the floor would be based on the performance of that technology. Under an emission data basis, data on the best top 12 percent of available test runs would be averaged to calculate the floor. Other approaches are also possible. The different approaches would result in noticeably different MACT floor performance levels. The EPA specifically requests comments on what approach is most appropriate and the rationale for that approach. Based on the EPA's review of comments received on this issue, as well as reanalysis of any data submitted, the MACT floor for the promulgated guidelines may be noticeably higher or lower than the floor included in the proposal.

b. *Discussion of the Selection of MACT for Large MWC Plants.* After establishing the MACT floor for each pollutant based on permit limits, the EPA considered the cost, health and environmental impacts, and energy requirements of selecting MACT for each pollutant at a control level more stringent than the MACT floor. In selecting MACT for each pollutant for large plants, the EPA used principally the data base created for establishing the emission guidelines for MWC's proposed in 1989 and promulgated in 1991 under subpart Ca. For a few pollutants in this proposal, the EPA utilized more recent test data to supplement the 1989 data base. Because most of the test data used for this proposal are more than 4 years old, and in consideration of the fact that most MWC's retest at least once per year, the EPA requests submittal of the most recent MWC emissions test data.

The EPA requests comment on which MWC emissions test data would be the most appropriate to use for establishing MACT for existing MWC's. For example, if the EPA has multiple emission tests for a given MWC over its operating history (which is common), should the EPA utilize the data from all of the emission tests performed for the unit or from only the most recent emission test, in determining the performance of the unit? Additionally, the EPA requests comment on suggestions of analytical methods to use for analyzing the data (e.g., analytical methods that could be used to address emissions variability, including methods for analyzing variable test data for one MWC collected over multiple years and methods of adjusting the best 12 percent of the emissions data to account for variability). The appropriate treatment of variability will be related to the format chosen for the standards (see discussion of alternative formats below).

Based on the new data submitted and on the final choice of which test data and what analysis methods to use, the EPA may promulgate final emission guidelines that are more or less stringent than those proposed today. The following sections IV.F.3.c through IV.F.3.j present the EPA's rationale for selecting MACT for each pollutant for MWC's at large MWC facilities.

c. *MACT for Sulfur Dioxide for Large MWC Plants.* Uncontrolled levels of SO_2 for MWC's are typically about 160 ppmv. The MACT floor for SO_2 at large plants is 35 ppmv. Therefore, acid gas control would be needed to achieve the MACT floor level of control. Both SD/ESP's and SD/FF's can meet the MACT floor level of control. Tests of many SD/FF's have demonstrated SO_2 control to levels below 35 ppmv.

Although SD/FF systems can generally achieve slightly better SO_2 control than SD/ESP systems, the cost of requiring existing SD/ESP systems to retrofit an SD/FF to meet SO_2 control levels more stringent than the MACT floor would be prohibitively expensive and is considered unreasonable. For example, at a typical 1,400 Mg/day MWC plant already equipped with an SD/ESP, the capital cost to remove the ESP and retrofit a new FF (as part of an SD/FF system) would be about $14 million. This cost would be in addition to paying the remaining debt for the relatively new ESP (about $5 million including interest payments) and would result in a relatively small increase in control device efficiency. The incremental cost of control for requiring a retrofit from an SD/ESP to an SD/FF would be greater than $10,000/Mg of acid gas reduction and would increase

SO_2 removal efficiency by only about 6 percent. Therefore, the EPA is proposing that the MACT guideline level for SO_2 remain at the MACT floor level of 35 ppmv. Additionally, the EPA is proposing an alternative SO_2 guideline level of 75-percent reduction to address SO_2 emissions variability. Therefore, the proposed MACT floor guideline level for SO_2 is either 35 ppmv or 75-percent reduction (24-hour averaging period), whichever is less stringent.

d. *MACT for Hydrogen Chloride for Large MWC Plants.* Acid gas control would also be needed for large MWC's to reduce HCl emissions from uncontrolled levels of about 500 ppmv to the HCl MACT floor level of 35 ppmv. The same types of acid gas control systems needed to achieve the MACT control level for SO_2 will also meet the MACT floor levels of HCl. While it is expected that SD/FF systems could achieve slightly lower HCl levels than SD/ESP systems, it has not been demonstrated that existing SD/FF or SD/ESP systems can consistently meet HCl levels below the MACT floor. Therefore, the EPA is proposing that the MACT guideline level for HCl remain at the MACT floor level of 35 ppmv. Additionally, the EPA is proposing an alternative HCl guideline level of 95-percent reduction to address HCl emissions variability. Therefore, the proposed MACT floor guideline level for HCl is either 35 ppmv or 95-percent reduction, whichever is less stringent.

e. *MACT for Particulate Matter for Large MWC Plants.* On average, uncontrolled levels of PM from MWC's are about 3,700 mg/dscm. The MACT floor for PM at large MWC plants is 27 mg/dscm. The MACT floor will require greater than a 99-percent reduction in PM emissions. The EPA's analysis of data from existing MWC's showed that both SD/FF and SD/ESP systems can meet MACT floor PM levels. Although the newest SD/FF systems can meet levels of less than 15 mg/dscm, SD/ESP systems and many existing SD/FF systems cannot achieve such levels. Therefore, the proposed MACT for PM at large MWC's is the MACT floor level of 27 mg/dscm.

f. *MACT for Cadmium for Large MWC Plants.* Average uncontrolled levels of Cd are about 1.2 mg/dscm from MWC's. The MACT floor for Cd for large MWC plants is 0.25 mg/dscm. Therefore, the MACT floor will require about 80-percent Cd reduction. As with Pb, Cd control is associated with PM control. The EPA's analysis of Cd control showed that SD/FF systems can generally achieve Cd levels of less than 0.010 mg/dscm and that SD/ESP systems can achieve less than 0.040 mg/dscm. The Cd removal efficiency achievable with an SD/FF is only about 1.2 percent better than an SD/ESP (99.5-percent reduction versus 98.3-percent reduction, respectively). Again, the high cost of retrofit to an SD/FF is considered unreasonable for such a small incremental reduction in emissions. Because a level of 0.040 mg/dscm is achievable with both SD/ESP and SD/FF systems, and these technologies would already be needed to meet MACT for acid gas control, the proposed MACT for Cd is more stringent than the MACT floor, at a level of 0.040 mg/dscm.

g. *MACT for Lead for Large MWC Plants.* Uncontrolled Pb emissions from MWC's are about 25 mg/dscm, and the MACT floor for large MWC's is 0.53 mg/dscm. A reduction of about 98 percent would be needed to achieve the MACT floor. The SD/ESP or SD/FF systems needed to meet MACT for acid gases will also meet the MACT floor for Pb. The EPA's analysis of Pb control showed that SD/FF systems can meet Pb levels of 0.20 mg/dscm, and SD/ESP systems can meet Pb levels of 0.50 mg/dscm. The Pb removal efficiency achievable with an SD/FF is only about 0.8 percent better than an SD/ESP (reductions of about 99.8 versus 99.0 percent, respectively). As explained above, the cost of replacing an SD/ESP with an SD/FF would be unreasonable considering the small difference in control efficiency. Because both SD/FF and SD/ESP systems can achieve Pb levels of 0.50 mg/dscm, the proposed MACT for Pb is more stringent than the MACT floor, at a level of 0.50 mg/dscm.

h. *MACT for Mercury for Large MWC Plants.* Uncontrolled levels of Hg from MWC's are about 0.65 mg/dscm on average. The MACT floor for Hg for large plants is 0.36 mg/dscm. The MACT floor, therefore, will require about 40-percent reduction in Hg emissions. As described in section IV.F.1.b of this preamble, Hg control can be achieved by using activated carbon injection in combination with an acid gas/PM control system (and the associated low flue gas temperatures). Recent tests at the MWC's at Camden County, New Jersey (SD/ESP), and Stanislaus County, California (SD/FF), demonstrate that both SD/ESP and SD/FF systems with activated carbon injection can achieve an 85-percent emission reduction in Hg emissions or an Hg emission level of 0.080 mg/dscm, corrected to 7 percent O_2. Data from individual test runs show occasional spikes of high inlet Hg emissions due to the variability in the waste feed composition. In cases where Hg levels are temporarily elevated, a 0.080 mg/dscm level may not be consistently achievable; however, activated carbon injection could achieve an 85-percent reduction during such episodes. Based on the data from MWC's using activated carbon injection, Hg control to these levels is achievable by properly operated systems on all types of MWC's.

Although the MACT floor requires Hg control, the control levels achievable using SD/ESP or SD/FF systems and activated carbon injection are more stringent than the MACT floor. The incremental cost of reducing Hg emissions from the MACT floor level of 0.36 mg/dscm to the demonstrated level of 0.080 is less than about $1.00/Mg of MSW combusted. This incremental cost is considered reasonable given the toxicity and bioaccumulation potential of Hg. Therefore, the proposed MACT guidelines for Hg are 0.080 mg/dscm or an 85-percent reduction, whichever is least stringent.

The EPA has selected activated carbon injection as the basis for achieving MACT for Hg, although facilities may use any technology capable of meeting the proposed guideline. Of the three Hg control technologies discussed in section IV.F.1.b of this preamble, the EPA has determined that activated carbon injection is the most widely tested of the three Hg control technologies in the United States.

i. *MACT for Dioxins/Furans for Large MWC Plants.* The average level of dioxins/furans from an uncontrolled MWC is about 1,000 ng/dscm total mass. The MACT floor for total dioxins/furans of 100 ng/dscm would require about a 90-percent reduction.

Dioxins/furans are controlled by GCP and acid gas/PM control. Good combustion practices alone can achieve total dioxin/furan levels of about 500 ng/dscm. In combination with GCP, SD/FF systems can achieve total dioxin/furan levels less than 30 ng/dscm, and SD/ESP systems can achieve total dioxin/furan levels of less than 60 ng/dscm. Therefore, the MACT floor (i.e., 100 ng/dscm) can be achieved with either SD/ESP or SD/FF systems, and these systems would already be the basis for meeting MACT for acid gas and PM emissions.

As discussed above, the MACT for Hg would be based on activated carbon injection. Recent tests at the Camden County, New Jersey, MWC showed that the injection of activated carbon into the flue gas of an SD/ESP system provides further removal of dioxins/furans (greater than 50-percent reduction over levels achieved by the SD/ESP systems). The greater than 50-percent reduction of the 60 ng/dscm level achieved by an SD/ESP would equate to total dioxin/

furan emission levels below 30 ng/dscm (0.5 ng/dscm dioxin/furan TEQ) for SD/ESP systems with activated carbon injection.

As noted, SD/ESP or SD/FF systems with activated carbon injection would already be needed to achieve MACT for acid gas, PM, and Hg. Because both of these control systems in combination with activated carbon injection can achieve a dioxin/furan emission level of 30 ng/dscm or less, and because of the high cost for retrofitting an SD/FF, the proposed guideline for dioxin/furan at large MWC's is based on GCP and SD/ESP systems plus activated carbon injection. The EPA is proposing MACT for dioxins/furans on both a TEQ and a total mass basis. The 30 ng/dscm of total dioxins/furans is equivalent to 0.50 ng/dscm of dioxin/furan TEQ; therefore, the proposed guideline level for large MWC plants is 30 ng/dscm total dioxins/furans or 0.50 ng/dscm of dioxin/furan TEQ. Comments are requested on whether lower dioxin/furan guideline levels, which would require SD/FF's, should be incorporated into the final guidelines.

j. *MACT for Nitrogen Oxides for Large MWC Plants.* The average level of NO_X emissions from MWC's without postcombustion NO_X control is about 225 ppmv. The MACT floor, however, is 215 ppmv. Therefore, postcombustion NO_X controls will be needed by most existing MWC's at large plants to meet the MACT floor.

Selective noncatalytic reduction is currently used by 16 existing MWC units at large plants. Tests conducted by the EPA at the Stanislaus County, California, MWC showed that existing SNCR systems achieve NO_X levels of 180 ppmv on a 24-hour average basis.

Because postcombustion NO_X control is required by the MACT floor, and there is only a small incremental cost to operate an SNCR system to achieve 180 ppmv versus the MACT floor level of 215 ppmv, the proposed guideline level for NO_X for large plants (excluding mass burn/refractory MWC's) is 180 ppmv.

As discussed in section IV.F.1.c of this preamble, SNCR may not be effective on mass burn/refractory MWC's. Therefore, postcombustion NO_X control is not being considered for this type of MWC. The MACT guideline for NO_X for mass burn/refractory MWC's at large MWC plants is based on no control. Section VIII of this preamble discusses "no control" emission limits for NO_X.

The EPA recognizes that costs associated with the proposed NO_X control requirements for large existing MWC plants are not insignificant. Under the proposal, about 73 percent of current MWC capacity would be expected to retrofit NO_X control. On a national basis, the retrofit of NO_X controls to existing MWC plants would cost about $56 million/yr and would represent about 13 percent of the $445 million annual cost of the entire proposal.

As discussed above, the MACT floor for large MWC plants is 215 ppmv and would require less than 20-percent NO_X control (reduction). This could be achieved by application of SNCR technology at a low performance level or, perhaps, by using combustion modification (e.g., excess air) or materials management. The proposal, however, goes beyond MACT floor requirements and would establish MACT at 180 ppmv or about 30- to 40-percent NO_X reduction based on the full application of SNCR at an MWC with average baseline emissions of 225 ppmv.

The EPA requests comment on the alternative of establishing NO_X standards at the level of the MACT floor (215 ppmv) based on the above approach. The EPA also requests comment and data supporting the achievability of a MACT floor level (24-hour arithmetic average, corrected to 7 percent O_2) without the use of an SNCR system. Additionally, the EPA requests data and information on alternative NO_X control technologies including but not limited to the application of combustion modification techniques to existing MWC's or of other management measures (perhaps separation of yard waste) to comply with either the proposed level or a floor level at a lower cost than an SNCR system.

4. MACT Floor and MACT for Small MWC Plants

This section summarizes the MACT floor and presents the EPA's rationale for establishing MACT for each pollutant for MWC's at small MWC facilities.

a. *Summary of MACT Floor for Small MWC Plants.* The proposal determines the MACT floor for existing MWC's based on permit limits. The population of MWC units at small MWC plants consists of about 137 combustor units. Only 88 of the 137 units are facilities that have federally enforceable permit limitations. Therefore, for determining the MACT floor, the emission limitations achieved by the top 11 units in the small MWC plant category represent the top 12 percent of units with federally enforced permit limitations. Many of the smallest MWC's with unit capabilities below 45 Mg/day (i.e., those MWC's not subject to the 1971 subpart E NSPS) do not have federally enforceable permit limitations. For some pollutants, less than 11 permits were identified for the category of small MWC plants (i.e., many small plants with permits have emission limits for only some of the pollutants covered by the proposed guidelines.) In such cases, typical uncontrolled emission levels for that pollutant were used for determining the average of the top 12 percent of emission limitations. Table 5 provides a summary of the MACT floor emission levels for each pollutant for small MWC plants.

TABLE 5.—MACT FLOOR EMISSION LEVELS FOR EXISTING MWC'S AT SMALL MWC PLANTS

Pollutant	MACT floor emission level[a]
SO_2	120 ppmv
HCl	660 ppmv
PM	85 mg/dscm.
Cd	1.1 mg/dscm.
Pb	15 mg/dscm
Hg	1.2 mg/dscm.
Dioxins/furans	1,700 ng/dscm total mass or about 28 ng/dscm TEQ
NO_X	Uncontrolled.

[a] All emission levels are corrected to 7 percent O_2, dry basis

As discussed in Section IV.F.3.a. for large plants, the MACT floor could be constructed in a number of different ways including a permit basis (this proposal), a technology basis, or an emission data basis. Comments are requested on what approach is most appropriate and the rationalization for the approach. Based on the EPA's review of the comments received and reanalysis of the data, the MACT floor for the promulgated guidelines may be noticeably higher or lower than the floor included in the proposal.

b. *Discussion of the Selection of MACT for Small MWC Plants.* After establishing the MACT floor for each pollutant based on permit limits, the EPA considered the cost, health and environmental impacts, and energy requirements of selecting MACT for each pollutant at a control level more stringent than the MACT floor. As discussed above for large MWC plants in section IV.F.3.b, in selecting MACT for each pollutant for small plants, the EPA used principally the data base created for establishing the emission guidelines for MWC's proposed in 1989 and promulgated in 1991 under subpart Ca. As discussed, the EPA specifically requests submittal of the most recent MWC emissions test data. Additionally, as discussed, the EPA requests comment on which MWC emissions test data would be the most appropriate to use for

establishing MACT for existing MWC's (e.g., if the EPA has multiple emission tests for a given MWC over its operating history, should the EPA utilize the data from all of the emission tests performed for the unit or from only the most recent emission test) and comment on suggestions of analytical methods to use for analyzing the data (e.g., analytical methods that could be used to address emissions variability, including methods for analyzing variable test data for one MWC collected over multiple years and methods of adjusting the best 12 percent of the emissions data to account for variability). The appropriate treatment of variability will be related to the format chosen for the standards (see discussion of alternative formats below).

Based on the new data submitted and on the final choice of which test data to utilize, the EPA may promulgate final emission guidelines that are more or less stringent than those proposed today. The following sections IV.F.4.c through IV.F.4.j present the EPA's rationale for selecting MACT for each pollutant for MWC's at small MWC facilities.

c. *MACT for Sulfur Dioxide for Small MWC Plants.* Uncontrolled SO_2 emissions from MWC's are typically about 160 ppmv, and the MACT floor for SO_2 for small MWC plants is 120 ppmv. Therefore, MACT will require SO_2 reduction of about 35 percent compared to uncontrolled levels. Dry sorbent injection/ESP systems can achieve greater than 50-percent reductions in SO_2, and can satisfy the MACT floor requirements. Retrofitting a new SD/FF system would achieve greater acid gas control and small additional reductions in other MWC pollutants, but the associated costs of such retrofits at small MWC's would be prohibitively high (greater than $10,000/Mg of acid gas reduction).

Although the MACT floor requires SO_2 control to only 120 ppmv, the incremental cost of operating a DSI/ESP system to achieve 80 ppmv (about a 50-percent reduction) versus 120 ppmv is small and results in improved cost effectiveness. Therefore, the MACT guideline proposed for SO_2 is more stringent than the MACT floor and is proposed at a level of either 80 ppmv or 50-percent reduction (24-hour averaging period), whichever is less stringent.

The EPA recognizes that costs associated with the proposed acid gas control retrofit requirements for small MWC plants are not insignificant. Small MWC plants represent about 10 percent of the national MWC capacity to be retrofitted with acid gas control systems, and their associated cost burden would be about 15 percent of the national cost of the proposal. On a national basis, the retrofit of acid gas controls to small MWC plants would cost about $60 million annually and the retrofit of acid gas controls to large MWC plants would be about $340 million annually.

As discussed above, the MACT floor for small MWC plants is 120 ppmv and would require about 35-percent SO_2 control (reduction). This could be achieved by application of a DSI/ESP scrubbing system. The proposal, however, goes beyond the MACT floor requirements and would establish MACT at 80 ppmv or 50-percent SO_2 reduction based on the application of a DSI/ESP at its full optimal capability. Even at optimal conditions, acid gas scrubbing on MWC units at small plants has a higher control cost ($/Mg acid gas removed) than for MWC units at large plants. In fact, acid gas control costs for small plants ($/Mg acid gas removed) are more than twice those for large plants.

In the final regulations, the EPA is considering the alternative of establishing acid gas control requirements for small MWC plants at the level required by the MACT floor (120 ppmv or 35-percent reduction). The EPA requests comment and data supporting the achievability of a 120 ppmv MACT floor level (24-hour geometric average, corrected to 7 percent O_2) without the use of a scrubbing system. Additionally, the EPA requests data and information on alternative acid gas control technologies that could be applied to MWC units at small plants to comply with a 120 ppmv floor level at a lower cost than a DSI/ESP system.

Because some MWC units at small existing MWC plants are operated at a low annual capacity factor and because the cost effectiveness of acid gas control is sensitive to annual capacity factor, the EPA requests comment on the appropriateness of subcategorizing MWC units at small plants by annual capacity factor before determining the MACT floor. The reanalysis after subcategorizing by annual capacity factor may conclude that MACT for low capacity MWC units is less restrictive than MACT for high capacity MWC units at small existing plants.

If the final guidelines establish different control requirements for low capacity MWC units than high capacity MWC units, the guidelines would include operational restrictions for low capacity units. That is, each low capacity MWC unit located at a small MWC plant would be required to have a federally enforceable operating permit that limits the annual capacity factor of the unit to a specified capacity level, and records would have to be maintained to document the amount of waste fired in the unit on an annual basis. The annual capacity factor would be calculated on a unit basis and not on a plant basis. This would assure that obsolete and inoperable MWC units at an MWC site (i.e., with a 0-percent annual capacity factor) are not averaged together with replacement high capacity units to calculate the annual capacity factor, with the possible effect of circumvention of emission control requirements for high capacity factor units. Additionally, if a decision was made to switch a unit from a low capacity operational designation to a high capacity designation, the unit would have to be retrofitted with emission control equipment to comply with the emission guideline requirements for high capacity MWC's.

d. *MACT for Hydrogen Chloride for Small MWC Plants.* The MACT floor for HCl for small MWC plants is 660 ppmv, which is above the typical uncontrolled level of about 500 ppmv. The MACT floor for HCl would not require acid gas control, but MACT for SO_2 would already require acid gas control based on DSI/ESP systems. Dry sorbent injection/ESP systems used for SO_2 control can achieve greater than 50-percent reductions in HCl emissions. As discussed above, the cost to retrofit an SD/ESP or SD/FF system on a small MWC plant would be unreasonably expensive.

Because a DSI/ESP system operating in a manner that achieves the MACT for SO_2 would also achieve a 50-percent reduction in HCl, the proposed MACT guideline for HCl at small MWC plants is either 250 ppmv or 50-percent reduction, whichever is less stringent.

The EPA recognizes that costs associated with the proposed acid gas control retrofit requirements for small MWC plants are not insignificant. The same acid gas control system used to control SO_2 emissions controls HCl emissions, and similar issues exist. As discussed under the MACT SO_2 section, small MWC plants represent about 10 percent of the national MWC capacity to be retrofitted with acid gas control systems, and the associated cost burden for this acid gas retrofit would be about 15 percent of the national cost of the proposal. On a national basis, the retrofit of SO_2/HCl acid gas control systems to small MWC plants would cost about $60 million/yr and the retrofit of acid gas controls to large MWC plants would be about $340 million/yr.

As discussed above, the HCl MACT floor for small MWC plants is 660 ppmv and would not require any HCl control.

The proposal, however, goes beyond the MACT floor requirement and would establish MACT at 250 ppmv or 50-percent HCl reduction based on the DSI/ESP acid gas control system installed for SO_2 control. The EPA is soliciting comments on the alternative of establishing HCl control requirements for small MWC plants at the level required by the MACT floor (i.e., 660 ppmv, which requires no control). The EPA requests comment and data supporting the achievability of a 660 ppmv MACT floor level (24-hour geometric average, corrected to 7 percent O_2) without the use of a scrubbing system.

e. *MACT for Particulate Matter for Small MWC Plants.* Average uncontrolled PM emissions from MWC's are about 1,500 mg/dscm. The MACT floor for PM is 85 mg/dscm, which would require about a 95-percent reduction in PM over uncontrolled levels.

The MACT floor for PM can be achieved with the same DSI/ESP system needed to meet MACT for the other pollutants. A DSI/ESP system can achieve PM emissions of less than 69 mg/dscm. The cost to operate a DSI/ESP system to achieve 69 mg/dscm versus the MACT floor level of 85 mg/dscm is negligible. Therefore, the proposed MACT guideline for PM for small MWC plants is below the MACT floor at a level of 69 mg/dscm.

f. *MACT for Cadmium for Small MWC Plants.* Typical uncontrolled levels of Cd from MWC's are about 1.2 mg/dscm. The MACT floor is also 1.1 mg/dscm, thus the MACT floor requires less than 10-percent Cd control. However, the DSI/ESP systems that would already be needed to achieve the MACT floor for SO_2 can achieve Cd levels of 0.10 mg/dscm. The proposed Cd MACT guideline, therefore, is 0.10 mg/dscm based on DSI/ESP control.

g. *MACT for Lead for Small MWC Plants.* The average uncontrolled emission level of Pb from MWC's is about 25 mg/dscm, and the MACT floor for Pb for small plants is 15 mg/dscm. The MACT floor requires a 40-percent reduction in Pb. The DSI/ESP systems needed to meet MACT for acid gases can achieve Pb levels of 1.6 mg/dscm. The proposed MACT for Pb is based on DSI/ESP control, and the proposed MACT guideline Pb level is 1.6 mg/dscm.

h. *MACT for Mercury for Small MWC Plants.* The MACT floor for Hg for small MWC plants is 1.2 mg/dscm, which is above typical uncontrolled Hg emission levels for MWC's. Therefore, no Hg control is needed to meet the MACT floor.

Because acid gas/PM control systems (DSI/ESP) will be needed at small plants to meet other MACT requirements, activated carbon injection could be added to the acid gas/PM control system to achieve Hg control. The incremental cost to add activated carbon injection to control Hg at small MWC plants already equipped with acid gas/PM control is about $1.40/Mg of MSW combusted. The EPA believes that this cost is reasonable given the concerns over the bioaccumulation of Hg in the environment.

In addition to the EPA's test programs to study Hg removal using SD-based scrubbing systems with activated carbon injection, the EPA has also conducted Hg performance tests of DSI-based scrubbing systems with activated carbon injection at small MWI's (Borgess, Michigan, MWI). The use of activated carbon injection with either SD-based scrubbing systems or DSI-based scrubbing systems has demonstrated greater than 85-percent Hg control.

In combination, DSI/ESP systems with activated carbon injection can achieve Hg emission levels of 0.080 mg/dscm or an 85-percent reduction in Hg emissions. Therefore, the proposed MACT guideline for Hg for small MWC plants is 0.080 mg/dscm or an 85-percent reduction, whichever is less stringent.

i. *MACT for Dioxins/Furans for Small MWC Plants.* The MACT floor for total dioxins/furans is 1,700 ng/dscm, which is above typical uncontrolled levels of about 1,000 ng/dscm. Although the MACT floor for dioxins/furans would be based on no control, DSI/ESP is already needed to meet MACT for other pollutants, and GCP are needed to meet MWC operational and CO requirements. The combination of GCP and DSI/ESP can achieve total dioxin/furan levels of less than 125 ng/dscm.

As discussed above, MACT for Hg for small plants would be based on using activated carbon injection. Activated carbon injection provides additional removal of dioxins/furans beyond that achieved by the acid gas/PM control system, as discussed in the rationale for MACT for dioxins/furans for large plants. Recent tests at small MWI's using DSI systems with activated carbon injection have also shown that additional dioxin/furan removal is achieved with activated carbon injection (greater than a 50-percent reduction over levels achieved by the acid gas/PM control system). Based on the use of activated carbon injection with GCP and DSI/ESP systems, a level of 60 ng/dscm would be achievable. The EPA is proposing MACT for dioxins/furans on both a TEQ basis and a total mass basis. Based on EPA's analysis, a total dioxin/furan level of 60 ng/dscm is equivalent to 1.0 ng/dscm of dioxin/furan TEQ. Therefore, the proposed MACT guideline for MWC's at small plants is 1.0 ng/dscm of dioxin/furan TEQ or 60 ng/dscm total mass dioxins/furans.

j. *MACT for Nitrogen Oxides for Small MWC Plants.* Uncontrolled NO_X emissions from MWC's are about 225 ppmv on average. The MACT floor is no control. The addition of SNCR postcombustion NO_X control has not been demonstrated on any modular starved-air MWC's, and the performance of such a system on a modular starved-air MWC is in question. Since NO_X control is not required by the MACT floor and SNCR has not been demonstrated on modular starved-air MWC's, postcombustion NO_X control is not being proposed for small MWC's. The MACT guideline for NO_X for MWC's at small MWC plants is based on no control. Section VIII of this preamble discusses "no control" emission limits for NO_X.

G. Selection of Format for the Proposed Guidelines

The February 11, 1991 emission guidelines described a format for MWC acid gases (SO_2 and HCl), MWC metals (PM and opacity), MWC organics (dioxins/furans), and MWC operating practices (CO, load, and flue gas temperature), and that same format is being adopted by today's proposed guidelines, except for dioxins/furans. The selection of the format for the emission guidelines for the above pollutants is described in previous **Federal Register** notices (54 FR 52209, December 20, 1989 and 56 FR 5514, February 11, 1991). For dioxins/furans, the proposed guidelines establish dioxin/furan guideline emission levels on both a total mass dioxins/furans basis and a TEQ basis. The format for the proposed emission guidelines for NO_X is the same as the format of the 1991 NSPS (56 FR 5488, February 11, 1991) and today's proposed subpart Eb NSPS. The selection of the format for the 1991 NO_X standard is in previous **Federal Register** notices (54 FR 52251, December 20, 1989 and 56 FR 5488, February 11, 1991). The same format will apply under the emission guidelines for NO_X proposed today for MWC's at large plants. The specific formats of the proposed emission guidelines for Cd, Pb, and Hg are discussed below.

As required by section 129(a)(4) of the Act, the proposed emission guidelines would establish numerical emission limitations for Cd, Pb, and Hg. For the purpose of regulating Cd and Pb, the

format selected in the proposed emission guidelines for the numerical emission limitations would be a numerical concentration limit (mg/dscm) corrected to 7 percent O_2. For the purpose of regulating Hg, the format selected in the proposed emissions guidelines would be both a numerical concentration limit (mg/dscm) and an alternative percentage reduction requirement. The numerical Hg emission limit reflects the emission level that can be achieved based on activated carbon injection in combination with acid gas/PM control. An alternative percentage reduction requirement may be met instead of the numerical emission level because emissions of Hg can be highly variable and dependent on the Hg input level. Even at the same MWC, test data show occasional spikes of high Hg emissions due to variability in the waste feed. In cases where Hg levels are temporarily elevated, the 0.080 mg/dscm level may not be consistently achievable. However, the control devices could achieve an 85-percent reduction during such episodes. Therefore, a combination of a concentration level and an optional percentage reduction format best assures the maximum achievable Hg control while accommodating potential spikes in Hg emission levels.

As discussed above, the proposed emission guidelines for SO_2, HCl, and Hg include two formats: (1) A percent reduction format, and (2) an emission limit (concentration) format. The EPA requests comment on and test data supporting the appropriateness of promulgating final guidelines for SO_2, HCl, and Hg which include only the emission limit format. For each pollutant, the commenter should specify an appropriate emission limit (without an associated alternative percent reduction format) and provide rationale for the limit. Based on the comments received, the EPA may promulgate final emission guidelines for SO_2, HCl, and Hg in the form of emission limits that are higher or lower than the proposed emission limits.

The EPA has proposed emission guidelines that reflect the performance levels achieved by MWC's equipped with properly designed, constructed, and operated air pollution control systems. The proposed emission guideline levels would apply during all periods of MWC operation. To comply with the proposed guideline levels, the air pollution control system would be designed and operated such that actual emissions are less than the proposed guideline levels. Where continuous monitoring systems are available, such as for SO_2 and NO_X, the proposal would require their use to determine compliance on a continuous basis. For other pollutants, an annual stack test would be required. The EPA requests comment on whether continuous monitoring methods exist for any additional pollutants.

The EPA also seeks comments on alternate formats of the guidelines that would encourage optimal control system operation and optimal performance, thus minimizing emissions. For example, the guidelines could provide incentives, such as reduced testing and reporting, for MWC's that operate well below the guideline emission levels. One approach would be to structure the guideline such that, for an MWC with three units, if all units demonstrated emissions at least 30 percent less than the limit, then only one of the units would be tested each year. The unit selected for testing would be rotated such that each unit would be tested once every three years.

Another potential regulatory approach to assure optimal performance would be to supplement the current emission guidelines (which must be demonstrated by annual stack tests) with more stringent emission guidelines calculated for each pollutant based on long-term average emission levels. Compliance with this supplemental emission level would be determined by continuous monitoring, where applicable, or by the average of the annual tests from the current year and one or more preceding years. The current guideline emission levels account for variability from one emissions test to another, whereas the composite average emission levels would reflect the mean performance level. This may be a preferable measure of environmental performance for some of the pollutants because it is their long term or cumulative emissions that are of most concern. Other formats of the guidelines that encourage optimal performance would also be possible. Comments and suggestions are requested. Based on the information and comments received, the EPA may change the form of the rule to include a long term emissions average, and alternative compliance testing schedule, or other alternative format to encourage optimal performance of the air pollution control system.

Additionally, the EPA requests comment and suggestions on specific work practice requirements or equipment requirements that would assure optimal operation of the air pollution control system and minimize emissions. Such operating practices or equipment practices would be most beneficial for minimizing emissions of those pollutants for which annual stack testing is the proposed compliance test method. Comments are specifically requested on work practices or equipment requirements that would minimize dioxin/furan, Hg, Cd, and PM emissions. Based on the information received, the EPA may require specific work practices or equipment to supplement the emission limits included in the final guidelines.

H. Performance Test Methods and Monitoring Requirements

The emission guidelines promulgated on February 11, 1991 (56 FR 5514) for MWC's with unit capacities above 225 Mg/day established performance testing and monitoring requirements for MWC acid gases (SO_2 and HCl), MWC metals (PM and opacity), MWC organics (dioxins/furans), and MWC operating practices (CO, load, and flue gas temperature). These same requirements would be adopted under today's proposed emission guidelines, except that: (1) Procedures are being proposed for determining dioxin/furan emissions on a TEQ basis; (2) testing schedule provisions have been incorporated for annual compliance testing for PM (opacity not included), HCl, and dioxins/furans at small MWC plants; and (3) annual opacity tests using EPA Reference Method 9 (in combination with continuous monitoring of opacity levels) would be required for both large and small MWC plants. Furthermore, today's proposal includes new data availability requirements for CEMS. Today's proposal requires that valid paired CEMS hourly averages (i.e., SO_2 and O_2 (or CO_2), NO_X and O_2 (or CO_2), and CO and O_2 (or CO_2)) be obtained for 75 percent of the hours per day for 90 percent of the days per calendar quarter that the MWC is operating and combusting MSW.

Because the proposed NSPS allows compliance with a dioxin/furan limit either on a TEQ basis or on a total mass basis, procedures are being proposed for determining dioxin/furan emissions on a TEQ basis. For measuring dioxins/furans on a TEQ basis, the mass of each dioxin/furan tetra- through octa-congener would be measured by EPA Reference Method 23. Each congener mass would then be adjusted by the corresponding TEF's, which are listed in the proposed NSPS. Finally, the adjusted congener masses would be added together to determine dioxins/furans in terms of nanograms per dry standard cubic meter TEQ.

As required by the 1991 subpart Ca emission guidelines, following the initial performance test for PM, HCl, and dioxins/furans, subsequent annual

performance tests would be required for all MWC's to demonstrate compliance with the PM, HCl, and dioxin/furan emission limits. Under today's proposed emission guidelines, if three consecutive annual compliance tests for an MWC at a small MWC plant indicate compliance with the emission limit for a pollutant (i.e., PM, HCl, or dioxins/furans), the MWC would be allowed to wait 3 years before retesting for the pollutant. If the next test conducted in the third year shows compliance with the emission limit for that pollutant, then the facility could again wait 3 years to test for the pollutant. If noncompliance with the emission limit for the pollutant occurs, corrective actions would be required to be undertaken and annual testing would be required to be conducted until 3 consecutive years of compliance with the emission limit is established. At a minimum, performance tests for dioxins/furans, HCl, and PM would be required to be performed for each MWC at a small MWC plant every 3 years. This provision is included to minimize costs for small MWC plants, while still retaining periodic testing to ensure compliance.

Testing and monitoring requirements are being proposed in today's emission guidelines for NO_X, Cd, Pb, and Hg emissions. The 1991 NSPS for MWC's includes performance testing and monitoring requirements for NO_X. These testing and monitoring requirements are described in the NSPS promulgated on February 11, 1991 (56 FR 5488). These same testing and monitoring requirements would apply to MWC's only at large plants under today's proposed emission guidelines.

For Cd, Pb, and Hg, annual performance tests would be required for MWC's subject to the proposed emission guidelines. The performance test for all three metals would be conducted in accordance with EPA Reference Method 29. The EPA Reference Method 1 would be used for determining the number and location of sampling points. The EPA Reference Method 3 would be used for flue gas analysis. All performance tests would consist of a minimum of three test runs conducted under representative operating conditions (i.e., at full load). The average Cd, Pb, and Hg emission rates of the three runs or more would be used to determine compliance.

Also, as discussed above for dioxins/furans, PM, and HCl, if small plants demonstrate compliance with the Cd, Pb, and Hg emission limits for 3 consecutive years, they would be allowed to begin testing for these three pollutants every third year. At a minimum, performance tests for Cd, Pb, and Hg would be required to be performed by small MWC plants every 3 years. Large plants must test for each of these pollutants annually. These annual testing requirements are consistent with those for other pollutants, and MWC plants can reduce testing expenses by testing for multiple pollutants during the same test period.

Studies conducted by the EPA have shown EPA Reference Method 29 to be a more reliable method for measuring Hg from MWC's than EPA Reference Method 101A. Recent refinements have been made to Method 101A, but the EPA has concluded that Method 29 is a superior method.

In a separate notice in today's **Federal Register**, EPA Reference Method 29 is being proposed for determining emissions of Hg and other metals from MWC's, MWI's, and power plants. Method 29 consists of a particulate filter followed in series by two nitric acid/hydrogen peroxide ($HNO_3/H2O_2$) impingers and two acidified potassium permangenate ($KMnO_4/H_2SO_4$) impingers. The method is identical to the EPA's Office of Solid Waste multimetals method, except that Method 29 requires filtration and analysis of the impinger solution collected in the $KMnO_4/H_2SO_4$ impingers. These filtration and analysis requirements are being added to the method for quality assurance purposes to protect against the loss of Hg in the manganese oxide (MnO_2) precipitate that can form in this solution. This additional step will result in similar sample preparation and analysis requirements for EPA Reference Methods 29 and 101A.

The EPA does not believe that addition of this filtration and analysis step will change the achievable Hg emission rates for MWC's and MWI's. Because of the significant amount of chlorine in MWC and MWI flue gas, most of the Hg in these flue gases occurs as water-soluble ionic Hg. As a result, use of Method 29 collects most of the Hg in these flue gases on the filter and in the HNO_3/H_2O_2 impingers, with the remainder collected in the $KMnO_4/H_2SO_4$ impingers. Flue gases emitted from processes having lower chlorine levels and/or higher sulfur levels (e.g., coal-fired power plants) have a higher fraction of their Hg emissions present as water-insoluble elemental Hg that is collected in the $KMnO_4/H_2SO_4$ impingers.

In testing conducted by the EPA at an MWC during which Method 101A $KMnO_4/H_2SO_4$ impinger solutions were filtered and the filters analyzed (with Method 101A, all of the Hg in the flue gas is collected by the $KMnO_4/H_2SO_4$ impingers), results showed that less than 3 percent of the total Hg collected by the sampling train was associated with precipitated MnO_2.

Based on review of analytical procedures used with multimetal train samples collected during several other EPA-sponsored test programs, the EPA believes the potential loss of Hg in precipitated MnO_2 during these tests was less than 3 percent (during these tests, the $KMnO_4/H_2SO_4$ impingers were shaken prior to removal of a representative analytical sample and, thus, a portion of any precipitated MnO_2 was likely to have been included in the analytical sample).

Because the analytical filter only makes a negligible difference in the Hg test results for MWC's and because it is desirable to use a uniform Hg test method for all source categories, the EPA is proposing that the full Method 29 test procedures (including the analytical filter analysis) be used for measuring Hg emissions from MWC's.

Overall, the proposed guidelines would require that CEMS be used as the compliance test method for those pollutants for which CEMS are available (i.e., SO_2, NO_X, CO, CO_2 (or O_2), opacity, MWC load level, and air pollution control device temperature). For those pollutants for which CEMS are not available (i.e., HCl, Hg, Cd, Pb, PM, and dioxins/furans), the proposed guidelines would require that stack test methods be used on an annual basis to determine compliance. Progress continues to be made on the development of new and improved CEMS. The EPA requests comment on the availability of CEMS to replace stack testing for any of the pollutants listed above. The EPA specifically requests comment on the availability, precision, accuracy, and cost of CEMS for HCl and Hg. Based on the information received, the EPA will reconsider CEMS requirements and may increase the number of pollutants monitored by CEMS.

I. Reporting, Recordkeeping, and Compliance Schedule Requirements

The proposed emission guidelines would require owners and operators of all designated facilities to submit notifications of the anticipated date of startup and initial performance test and performance evaluation of the CEMS (where applicable).

The February 11, 1991 emission guidelines for MWC's established reporting and recordkeeping requirements for MWC acid gases, MWC organics (dioxins/furans), MWC metals (PM and opacity), and MWC operating practices. These reporting and

recordkeeping requirements are summarized in the previous **Federal Register** notice promulgating the February 11, 1991 emission guidelines (56 FR 5514). These same reporting and recordkeeping requirements would be adopted under today's proposed guidelines with the following exceptions: (1) Dioxin/furan emissions would be recorded and reported either in terms of dioxin/furan TEQ or as total mass of dioxins/furans; (2) if MWC's at small plants have met the criteria allowing them to conduct compliance tests for PM, HCl, or dioxins/furans every third year (see section IV.H of this preamble), they would submit a simplified annual report for years where testing for those pollutants was not required; and (3) both small and large MWC plants would be required to report the results of annual EPA Reference Method 9 opacity tests.

Recordkeeping and reporting requirements are being proposed in today's emission guidelines for NO_X, Cd, Pb, and Hg emissions. The reporting and recordkeeping requirements for NO_X are described in the NSPS promulgated on February 11, 1991 (56 FR 5488). Under today's proposed emission guidelines, these reporting and recordkeeping requirements would apply only to MWC's at large plants.

After an initial performance test has been completed, the proposed emission guidelines would additionally require the submission of annual compliance reports for Cd, Pb, and Hg. However, if MWC's at small plants have met the criteria allowing them to conduct compliance tests for Cd, Pb, or Hg every third year (see section IV.H of this preamble), they would submit a simplified annual report for years where testing for those pollutants was not required.

The proposed emission guidelines would require that certain types of records be maintained. If an activated carbon injection system is used for Hg control, MWC plants would be required to keep records of the quantity of activated carbon used for each 8-hour period of MWC operation. These records would provide documentation that these systems continue to be operated properly between compliance tests. Initial and annual compliance reports for fly ash/bottom ash fugitive emissions testing would be required for MWC's at both small and large MWC plants.

The proposed guidelines would also require that records be kept regarding the training and certification status of individuals involved in the operation of the MWC. The proposed guidelines would specify that all training and certification requirements be met within 1 year after the date of promulgation of the guidelines.

The proposed emission guidelines include revised compliance scheduling requirements. The proposed guidelines require State plans to require both small and large MWC plants to meet one of the following two compliance schedules: (1) Full compliance with the State plan by no later than 1 year after the approval of the State plan; or (2) full compliance with the State plan by no later than 3 years following issuance of a revised construction or operation permit, if a permit modification is required, or within 3 years following approval of the State plan, if a permit modification is not required, provided the State plan includes measurable and enforceable incremental steps of progress toward compliance with the State plan. Suggested items for specification in the State plan would be as follows:

(1) Date for obtaining the services of an architectural and engineering firm;

(2) Date for obtaining design drawings of the pollution control device(s);

(3) Date of for submittal of permit modifications, if necessary;

(4) Date for ordering the pollution control device(s);

(5) Date for delivery of the major components of the air pollution control device(s);

(6) Date of initial site preparation for installing the pollution control device(s);

(7) Date for commencing installation of the pollution control device(s);

(8) Date of initial startup of the air pollution control device(s); and

(9) Date for the initial compliance test(s) of the air pollution control device(s).

The date associated with each of these incremental steps in a compliance schedule would be established on a site-specific basis, by the State air pollution control agency. Furthermore, submittal of the State plan would be required to include performance test results for dioxin/furan emissions for those MWC units with a compliance schedule longer than 1 year from the date of approval of the State plan. These tests results would be required to have been measured no earlier than 1990 and would be considered by a State in developing a facility's compliance schedule.

In the event no plan for implementing the emission guidelines is adopted, all MWC units covered by the guidelines would be required to be in compliance with the guidelines no later than the date 5 years after the date of promulgation of these guidelines.

Because of recent concern about dioxin/furan and Hg emissions, the proposed emission guidelines require State plans to include an accelerated compliance schedule for compliance with the emission limits for these two pollutants for one subset of MWC's. Under the accelerated schedule, existing MWC units for which construction, modification, or reconstruction commenced after June 26, 1987 and that are located at large MWC plants would be required to be in compliance with the proposed dioxin/furan and Hg emission guidelines within 1 year following issuance of a revised construction or operation permit, if a permit modification is required, or within 1 year following approval of the State plan, if a permit modification is not required. On June 26, 1987, the EPA issued operational guidance to State and local agencies for best available control technology (BACT) determinations for permitting of both new and modified MWC's, pursuant to the new source review (NSR) provisions of the Act. This operational guidance has resulted in all new MWC's at large MWC plants permitted since June 26, 1987 being constructed with an SD/ESP or SD/FF control system. As discussed in section IV.F.1 of this preamble, control of dioxins/furans and Hg is based on the combination of an acid gas/PM control system and a carbon injection system. Since all MWC units at large MWC plants permitted since June 26, 1987 have been subject to NSR and are, therefore, already equipped with the appropriate acid gas/PM control devices for dioxin/furan and Hg control (i.e., SD/ESP or SD/FF), the EPA concluded that it would be reasonable to require that carbon injection be retrofitted to these MWC units according to an accelerated schedule in order to achieve additional dioxin/furan and Hg emission reductions as soon as possible.

Additionally, compliance with all operator training and certification guidelines would be required by 1 year after the date of promulgation of the emission guidelines.

All reports submitted under this rulemaking would also be required to be maintained as part of these records. All the information contained in these records would be made available to enforcement personnel upon request. All required records would be required to be maintained for 5 years following the date of such records.

The reporting and recordkeeping requirements in the proposed emission guidelines are necessary to inform enforcement personnel of the compliance status of existing MWC's. In addition, the records would provide the data and information necessary to ensure continued compliance of these

MWC's with the emission guidelines. At the same time, these requirements have been structured so as not to impose an unreasonable burden on MWC owners or operators.

V. Rationale for the Proposed Guidelines for Fugitive Fly Ash/Bottom Ash Emissions

The following discussion addresses the basis for EPA's decision to regulate fugitive fly ash/bottom ash emissions from MWC facilities. The available technologies for controlling these fugitive emissions and the EPA's selection of MACT for these emissions are presented.

A. Background

Fugitive emissions from MWC's are emissions of dust from fly ash and bottom ash handling that are not confined (i.e., emissions that are not contained within a fully enclosed ash handling system). The fly ash/bottom ash dust consists of PM and various associated pollutants adsorbed to the PM such as Cd, Pb, Hg, and organic compounds (e.g., dioxins/furans). A study of MWC ash handling and storage facilities has shown that such facilities, when improperly controlled, can be sources of these pollutants through fugitive fly ash/bottom ash emissions. Therefore, visible emission guidelines for fugitive fly ash/bottom ash emissions are being proposed to ensure that control equipment and operating practices are implemented to eliminate such emissions. Currently, more than 12 percent of existing MWC's use control systems to eliminate fugitive fly ash/bottom ash emissions.

B. Fugitive Emission Control Techniques

Sources of MWC fugitive bottom ash/fly ash emissions include the ash storage facilities (including ash storage bins or piles), fly ash and bottom ash conveyors and conveyor transfer points, and truck or container loading facilities.

Fugitive fly ash/bottom ash emissions from conveyors can be controlled by totally enclosing the conveyors when they are not already inside an enclosed structure. Emissions from conveyor transfer points can be controlled by totally enclosing the transfer point and ventilating it to a control device if the transfer point is not inside an enclosed structure. Alternatively, maintaining adequate moisture in the fly ash and bottom ash can be used to control fugitive emissions from conveyors or transfer points.

Fugitive fly ash/bottom ash emissions from the ash storage facilities at an MWC plant can be controlled by totally enclosing the ash storage areas and by ensuring that the fly ash and bottom ash have an adequate moisture content to prevent dust. Chemical stabilizers and binders may also be used in addition to or in place of moisture to prevent dust emissions from MWC ash for nearly all the activities described in this section.

Fugitive fly ash/bottom ash emissions from truck or container loading facilities at the MWC can be controlled primarily by the moisture content of the ash. Fly ash or bottom ash can be passed through a water-filled quench tank to wet the ash. Fugitive fly ash/bottom ash emissions from the ash loading facility at the MWC may also be controlled by enclosing the ash loading facility, fitting the truck bays with doors that can be closed, and discharging the vent air to a control device. Emissions can also be controlled by reducing ash spills during loading and by recovering any spilled ash through sweeping, vacuuming, or washing before the spilled ash can dry or be tracked out of the loading facility.

Fugitive fly ash/bottom ash emissions from moving trucks used for hauling ash from the MWC can be controlled by ensuring that the ash is moist and that the truck or container is properly sealed and covered during transit. Trucks can be covered with tarps, and truck tires can be washed prior to leaving the ash handling facility to prevent ash from being tracked onto roadways where it can later become airborne as fugitive dust emissions.

Data collected at several MWC's indicate that when the control methods described above are applied in a consistent and conscientious manner, fugitive fly ash/bottom ash emissions can be controlled so that no visible emissions are observed from the ash storage facilities or from ash transfer points such as conveyors, trucks or container loading facilities, and trucks hauling MWC ash.

C. Proposed Fugitive Emissions Guidelines

An emission guideline level of no visible emissions of fugitive fly ash/bottom ash emissions from ash storage facilities and transfer points is consistent with the determination that the controls described above represent MACT.

Therefore, the following MACT guidelines are being proposed. Fugitive fly ash/bottom ash emissions from any MWC ash storage facility or any ash transfer point at an MWC plant with aggregate capacity to combust greater than 35 Mg/day of MSW would be required to be controlled so that no visible emissions are detected.

The fly ash/bottom ash visible emissions guidelines would be determined using EPA Reference Method 22 (3-hour continuous visual observation). Compliance with the visible emissions guidelines would be determined by an annual performance test. Reports of initial and annual performance tests would be required.

Any technology may be used to meet these standards. The fly ash/bottom ash fugitive emissions guidelines would apply to ash handling facilities within the property boundary of the MWC including trucks moving away from the MWC, but would not apply to offsite transport of ash.

VI. Proposed Guidelines for Air Curtain Incinerators

Air curtain incinerators operate by forcefully projecting a curtain of air across the top of an open chamber or pit. The air curtain reduces emissions during operation by promoting better combustion. Incinerators of this type are built either above or below ground and typically have refractory walls and a floor. Section 129 of the Act exempts air curtain incinerators firing MSW from the definition of "municipal waste combustion unit" provided that the air curtain incinerator burns only tree trimmings, yard wastes, and clean untreated lumber and that it complies with an opacity limit that would be established by the EPA. As clarified under the proposed guidelines, "untreated lumber" means that the lumber has not been painted, pigment-stained, or "pressure treated."

Today's proposed guidelines include guideline opacity levels specifically for air curtain incinerators that would combust greater than 35 Mg/day of only yard wastes, tree trimmings, or clean untreated lumber. The proposed opacity levels are 10-percent opacity (6-minute average), except that a level of up to 35 percent (6-minute average) would be allowed during the first 30 minutes of operation of the unit. The proposed opacity levels are based on levels achieved by well-designed and operated air curtain incinerators. Compliance with the air curtain incinerator opacity guidelines would be demonstrated by conducting an annual compliance test in accordance with EPA Reference Method 9.

Air curtain incinerators with unit capacities above 35 Mg/day that burn MSW other than yard wastes, tree trimmings, or clean untreated lumber are covered by the emission guidelines for MWC's. Air curtain incinerators with unit capacities above 35 Mg/day that burn only yard wastes, tree trimmings, or clean untreated lumber would be subject to the proposed opacity guideline and its associated testing,

reporting, and recordkeeping requirements, but would not be subject to any other parts of the proposed emission guidelines.

VII. Comparison of the Proposal and European Emission Limits

Europe is more densely populated than the United States and the combustion of MSW became increasingly common after World War II. Because European countries have more experience combusting MSW, it is interesting to compare the emission control requirements for MWC's located in the Member States of the European Union (EU) to those for MWC's in the United States. In addition to comparing emission requirements, the EPA also compared the prevalence of waste combustion in the United States and the EU.

In general, MSW combustion is more common in the EU than in the United States. There are 12 members of the EU: Belgium, Denmark, France, Germany, Great Britain, Greece, Ireland, Italy, Luxembourg, The Netherlands, Spain, and Portugal. The percentage of waste combusted in many of the EU countries is over 30 percent, with Denmark, Luxembourg, and The Netherlands, combusting 60, 60, and 40 percent of their waste, respectively. As a national average for the United States, 16 percent of the waste generated is combusted. In the Eastern United States, where the majority of MWC's are located, the rate of waste combustion is higher, averaging 25 to 30 percent. In the New England region, the rate of waste combustion approaches 60 percent. Therefore, although the United States as a whole has a much lower rate of waste combustion than does the EU, certain regions of the United States have combustion rates similar to those of the EU.

Factors such as population density, percentage of urbanization, land availability, and topography/geology influence the method of waste disposal for a country or a region. In the EU, the majority of the countries have population densities that range from 200 to 600 people per square mile and urban population percentages of 60 to 90 percent. The United States, in comparison, has a much lower average population density of approximately 70 people per square mile, and the percentage of the population living in urban areas is approximately 75 percent. In the Eastern United States, the population density and percentage of urban population are higher than national levels, at around 200 people per square mile with over 80 percent of the population living in urban areas, which is comparable to most of Europe. As noted above, other factors contribute to the use of MWC technology. For example, in Florida, the geology is such that in some cases landfilling waste is not a desirable option. Similarly, the mountainous regions in parts of Europe restrict the use of landfilling, and the increased usage of MWC's is common.

Regarding regulatory development in the EU, the EU sets uniform environmental guidelines, and individual EU countries may adopt those guidelines or more stringent requirements. This is similar to the role the EPA plays with the individual States. Table 6 presents: (1) The proposed EPA emission guidelines for existing MWC plants with capacities above 35 and 225 Mg/day; and (2) the EU limits that apply to new and existing plants. Existing MWC plants in the EU with capacities greater than 144 Mg/day must meet these requirements by December 1, 1996. All other existing plants with capacities between 24 and 144 Mg/day must meet these requirements by December 1, 2000.

TABLE 6.—COMPARISON OF THE EPA'S PROPOSED GUIDELINES AND THE EU REQUIREMENTS FOR EXISTING MWC'S

Pollutant	Units[a] (@ 7% O_2)	Proposed EPA emission guidelines[b]		EU Guidelines[d]
		Small plants[b]	Large plants[c]	
PM	mg/dscm	69	27	39
Cd	mg/dscm	0.10	0.040	([e])
Pb	mg/dscm	1.6	0.50	([e])
Hg	mg/dscm	0.080[f]	0.080[f]	([e])
Hg and Cd	mg/dscm	0.18[g]	0.12[g]	0.26[h]
Pb+Cr+Cu+Mn[i]	mg/dscm	([j])	([j])	6.5[h]
HCl	ppmv	250[k, l]	35 G5k, m	43 G5n
SO_2	ppmv	80[l, o]	35[o, p]	147[h]
NO^X	ppmv	500	180	([q])
CO	ppmv	100[r]	100[r]	112[s]
Dioxins/furans	ng/dscm TEQ	1.0	0.50	([q])
	total mass	60	30	([q])

[a] All limits are presented on a dry basis, at standard conditions (20 °C, 101 kilopascals) corrected to 7 percent O_2 dry basis.
[b] Applies to plants that commenced construction, modification, or reconstruction on or before September 20, 1994 and have capacities greater than 35 Mg/day and less than or equal to 225 Mg/day.
[c] Applies to plants that commenced construction, modification, or reconstruction on or before September 20, 1994 and have capacities greater than 225 Mg/day.
[d] Applies to all existing plants with capacities greater than 24 Mg/day.
[e] No individual limit specified. See combined limit.
[f] Or 85-percent reduction.
[g] The proposed emission guidelines do not include a combined limit for Hg and Cd; however, based on the individual limits, a combined limit is shown for comparison.
[h] Based on periodic determination.
[i] Cr, Cu, and Mn are abbreviations for chromium, copper, and manganese, respectively.
[j] No combined limit specified. See individual Pb limit.
[k] Measured by an annual stack test.
[l] Or 50-percent reduction, whichever is less stringent.
[m] Or 95-percent reduction, whichever is less stringent.
[n] Based on a 7-day rolling average, measured continuously.
[o] Based on a 24-hour average, measured continuously.
[p] Or 75-percent reduction, whichever is less stringent.
[q] No limit specified.
[r] For mass burn/waterwall combustors. Based on a 4-hour average, measured continuously.
[s] Based on an hourly average, measured continuously.

As shown in table 6, the EU guidelines cover many of the same pollutants as the EPA emission guidelines proposed in today's notice. There are differences between the EPA and the EU guidelines with regard to regulatory flexibility for demonstrating compliance, as well as the test methods used to measure emissions. Factors like these should be considered when comparing emission requirements. The EPA and EU both have set standards for PM, HCl, SO_2, and CO. For these pollutants, the allowable emission levels proposed by the EPA for large MWC plants are more restrictive than the EU guidelines. For small MWC plants, the proposed EPA emission guidelines are more restrictive for CO. No EU limits exist for NO_x or dioxins/furans, and the EU metals emission limits are for combined metals (e.g., Hg+Cd). As shown in table 6, the proposed EPA guidelines for both large and small plants for Hg and Cd, if combined, are lower than the EU Hg+Cd limit.

Some of the EU countries have adopted limits that are more stringent than the general EU guidelines. For example, The Netherlands has recently adopted standards for new and existing MWC's that are considered to be some of the most stringent in the world. For example, the Dutch Hg limit of 0.065 mg/dscm for existing MWC's (corrected to 7 percent O_2) is lower than both the EU limit and the EPA's proposed Hg guidelines of 0.080 mg/dscm. The Dutch dioxin/furan limit for existing MWC's ranges from 0.13 to 0.52 ng/dscm TEQ (the limit varies depending on site-specific economics of the MWC). These limits are more restrictive than the EPA's proposed guidelines (0.5 ng/dscm TEQ or 30 ng/dscm total dioxins/furans for large MWC plants and 1.0 ng/dscm TEQ or 60 ng/dscm total dioxins/furans for small MWC plants). As noted, the EU has no dioxin/furan guideline.

It is difficult to compare the Dutch standards directly to the EPA emission guidelines or to the performance of U.S. MWC's because the test methods used in The Netherlands to measure emissions are different from those used in the United States. Also, many Dutch MWC's are currently completing retrofits in order to meet the Dutch standards by January 1995. The actual performance level of the MWC units will be unknown until that time.

As with some of the EU countries, some of the individual States are establishing more stringent emissions standards than those in today's proposed guidelines. Brief descriptions of the regulations under consideration in Florida, Minnesota, and New Jersey are presented below.

The State of Florida has promulgated a regulation that would set an Hg emission limit of 0.070 mg/dscm (corrected to 7 percent O_2), or an 80-percent Hg reduction, for facilities that install Hg control equipment (e.g., activated carbon injection) and that are equipped with acid gas control equipment. This limit must be met by July 1, 1995, and compliance must be demonstrated annually using EPA Reference Method 101A. For facilities equipped with acid gas control equipment that choose to control Hg exclusively through the use of an Hg waste separation program, Hg emissions would be limited to 0.14 mg/dscm after July 1, 1995 and to 0.070 mg/dscm after July 1, 1997. Compliance must be demonstrated semiannually using EPA Reference Method 101A. Facilities not currently equipped with acid gas controls will be required to meet the proposed Hg emission limits when the facility is required to demonstrate compliance with the acid gas limits included in the EPA's proposal. Florida's rulemaking procedures to develop SO_2 and HCl emission limits will be initiated by December 1, 1994 unless the Federal emission guidelines (today's action) have been proposed by that date.

The State of Minnesota has also promulgated Hg requirements for MWC's. For mass burn MWC's with acid gas control, the quarterly Hg emission limit (one three-test run average) is 0.10 mg/dscm (corrected to 7 percent O_2). However, the annual average Hg emissions limit (average of the four most recent quarterly tests) is 0.060 mg/dscm. Measurements must be made using EPA Reference Method 29. The Minnesota requirement also allows MWC's to demonstrate compliance with the quarterly and annual limits by achieving an alternative 85-percent reduction in Hg emissions.

Similar to the Florida regulations, the Minnesota regulation provides less stringent standards for MWC's without acid gas control until the time that acid gas control is required.

The State of New Jersey will be proposing an Hg standard for MWC's of 0.028 mg/dscm (corrected to 7 percent O_2), which would be effective as of January 1, 2000, and an interim standard of 0.065 mg/dscm or an 80-percent reduction, which would be effective as of December 31, 1995. The 0.028 mg/dscm limit is based on reducing the uncontrolled Hg emission level (assumed to be 0.70 mg/dscm) by 80 percent through reduction of Hg in the waste burned, and another 80-percent reduction from Hg in the flue gas. These limits are annual averages based on quarterly 3-run testing (i.e., a total of 12 runs), using EPA Reference Method 29.

VIII. Miscellaneous

This section addresses the four following issues: (1) The selection of a "no control" limit for NO_X for MWC's at small MWC plants, (2) the July 14, 1992 remand of the issue of lead-acid vehicle battery combustion, (3) request for comments about requiring a materials separation plan for existing MWC plants, and (4) general request for comment on the proposal.

Regarding the first issue, section 129 of the Act specifies that standards and guidelines for MWC's must include emission limits for PM, opacity, SO_2, HCl, NO_X, CO, Pb, Cd, Hg, and dioxins/furans. This means that emission limits for these pollutants must be specified even if the MACT selected for a subcategory of facilities does not control that particular pollutant. In particular, MACT requirements for small MWC plants are based on usage of GCP, DSI/ESP, and activated carbon injection, but NO_X control is not required. Also, MACT requirements for mass burn/refractory MWC's at large MWC plants are based on usage of GCP, SD/ESP, and activated carbon injection, but NO_X control is not required under today's proposal (see section IV.F.1.c for additional discussion). Therefore, a "no control" NO_X limit is proposed for MWC's at small MWC plants and for mass burn/refractory MWC's at large MWC plants. The proposed "no control" limit for NO_X for these MWC's is 500 ppmv. The proposed guidelines do not include any testing, reporting, or recordkeeping associated with the "no control" emission limit. The 500 ppmv limit represents an emission level higher than any of the test data and allows an adequate margin to accommodate the variability in NO_X emission levels. The EPA expects that this "no control" limit will not be exceeded. The EPA requests public comments on whether it is appropriate to include such a "no control" emission limit in the final emission guidelines or whether such a limit is not necessary.

Regarding the second issue, on December 20, 1989, the EPA proposed NSPS and emission guidelines for new and existing MWC's under section 111 of the Act. The proposed NSPS and emission guidelines included a prohibition on the combustion of lead-acid vehicle batteries in MWC's. On February 11, 1991, the EPA promulgated standards and guidelines for new and existing MWC that did not prohibit the

combustion of lead-acid vehicle batteries. The decision not to prohibit the combustion of lead-acid vehicle batteries was challenged in the U.S. Court of Appeals for the District of Columbia Circuit by NRDC, the State of New York, and the State of Florida. In 1992, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the EPA had not adequately explained its decision not to require a lead acid battery separation as part of the 1991 NSPS and emission guidelines, when it had included such a requirement in its proposed rule (*State of New York* v. *Reilly*, 969 F.2d 1147, 1153 (D.C.Cir. 1992)). The EPA is not addressing the lead acid battery issue in this notice, but will publish a separate notice in the **Federal Register** in the near future.

Regarding the third issue, unlike the NSPS for new MWC's proposed in a separate part of today's **Federal Register**, the proposed emission guidelines do not include any requirement for existing MWC's to prepare a materials separation plan. However, the EPA is considering the option of adding this type of requirement to the emission guidelines at promulgation. As defined in section 69.51b of the proposed NSPS (subpart Eb) included in a separate part of today's **Federal Register**, a materials separation plan would be a plan that identifies both a goal and an approach for a given MWC to separate certain components of MSW for its service area in order to make the separated materials available for recycling. While the current NSPS proposal does not require the adoption of any particular approach, various types of approaches that the owner or operator of an MWC may choose to include in their materials separation plan are drop-off facilities, buy-back or deposit-return incentives, curbside pick-up programs, or centralized mechanical separation. Refer to the proposed NSPS in a separate part of today's **Federal Register** for further discussion of the proposed material separation plan for new MWC's.

As part of development of a materials separation plan, the owner or operator of an existing MWC would be required to hold two public hearings for presentation of preliminary and final draft materials separation plans. The first public meeting would present the opportunity for the existing facility and interested public from the service area to discuss, among other issues, the types of materials separation approaches suited to the service area of the MWC. The second public meeting would present the opportunity for the existing facility to present a plan to integrate approaches discussed at the initial public meeting into the operation of the MWC (i.e., to discuss the effects of different types of materials separation on the performance of the combustor). After each public meeting, the owner or operator would be required to prepare and distribute documents responding to the public comments received at the public meetings. The final materials separation plan would be submitted along with the report documenting the results of the initial compliance test. Additionally, the owner or operator may be required to submit some form of annual report summarizing the effectiveness of the materials separation plan and identifying any modifications made to the plan after implementation. This last requirement has not yet been incorporated into the proposed NSPS materials separation requirements included in a separate part of today's **Federal Register**; however, the EPA has specifically requested comment in that notice on the usefulness of this type of subsequent reporting for assuring efficient application of the plan.

The EPA requests comments on the appropriateness of including materials separation plan requirements in the emission guidelines for existing MWC's.

Regarding the fourth issue, the MWC regulations are complex, and the EPA expects to receive numerous comments on this proposal. The EPA has specifically requested comments on items fundamental to the proposal, including but not limited to the MACT floor, MACT performance levels, and a consideration of materials separation requirements for existing MWC's.

IX. Administrative Requirements

This section addresses the following administrative requirements: Public hearing, docket, procedural requirements of the Act, Executive Order 12866 review, and Regulatory Flexibility Act compliance.

A. Public Hearing

A public hearing will be held 15 days following proposal. The hearing will be held at Research Triangle Park, North Carolina, and will start about 9:00 a.m. At the public hearing, the proposed standards will be discussed in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentations at the public hearing should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be mailed to the Air and Radiation Docket and Information Center at the address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Air and Radiation Docket and Information Center in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the official record in case of judicial review, except for interagency review material (section 307(d)(7)(A)). The docket number for this rulemaking is A–90–45. Docket No. A–89–08 also includes background information for this rulemaking that supported the proposal and promulgation of the subpart Ca emission guidelines.

C. Clean Air Act Procedural Requirements

The following procedural requirements of the Act are addressed: Administrative listing, periodic review, external participation, and economic impact assessment.

1. Administrative Listing—Sections 111 and 129 of the Act

As prescribed by section 111 of the Act, establishment of emission guidelines for MWC's is based on the Administrator's determination (52 FR 25399, July 7, 1987) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. Additionally, section 129 of the Act of 1990 directs the Administrator to promulgate guidelines for existing MWC's.

2. Periodic Review—Sections 111 and 129 of the Act

Sections 111 and 129 of the Act require that the guidelines be reviewed no later than 5 years following the initial promulgation. At that time and at 5-year intervals thereafter, the Administrator shall review the guidelines in accordance with sections 111 and 129 of the Act and revise them if necessary. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods,

enforceability, improvements in emission control technology, and reporting requirements.

3. External Participation

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator welcomes comments on all aspects of the proposed guidelines, including economic and technological issues.

4. Economic Impact Assessment

Section 317A of the Act requires the EPA to prepare an economic impact assessment for any emission guidelines promulgated under section 111(d) of the Act. An economic impact assessment was prepared for the proposed emission guidelines. In the manner described in sections III, IV, and V of this preamble regarding the impacts of and rationale for the proposed emission guidelines, the EPA considered all aspects of the economic impact assessment in proposing the emission guidelines. The economic impact assessment is included in the list of key technical documents at the beginning of today's notice under **SUPPLEMENTARY INFORMATION.**

D. Executive Order 12866 Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, users fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the EPA considers these proposed guidelines to be "significant" because their annual effect on the economy would be expected to exceed $100 million. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public docket for this rulemaking.

E. Regulatory Flexibility Act Compliance

Section 605 of the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to give special consideration to the impacts of regulations on small entities, which are small businesses, small organizations, and small governments. The major purpose of the RFA is to keep paperwork and regulatory requirements from getting out of proportion to the scale of the entities being regulated, without compromising the objectives of, in this case, the Act.

If a regulation is likely to have significant economic impacts on a substantial number of small entities, the EPA may give special consideration to those small entities when analyzing regulatory alternatives and drafting the regulation. In the case at hand, the EPA considers that a regulation that is likely to affect 20 percent or more of small entities with MWC's is a regulation that will affect a substantial number of small entities.

Definitions of small entities are flexible. For analysis of the guidelines being proposed today, the EPA considers a small business in this industry to be one with gross annual revenue less than $6 million, and a small government to be one that serves a population of less than 50,000. (A typical city of 50,000 generates about 90 Mg/day of MSW.) Most small governments dispose of their MSW by landfilling and, therefore, will not be affected by regulation of MWC emissions. In regard to small organizations such as independent not-for-profit enterprises, the EPA finds that they have no more than a very minor involvement with MWC's, and for that reason the EPA has not found it necessary to study potential direct impacts on small organizations.

A limited number of MWC units exist that range in size upward from a capacity to combust less than 1 Mg/day of MSW to those capable of combusting 35 Mg/day. The EPA estimates that MWC's under 35 Mg/day in capacity except for MWI's, which will be regulated under a separate action, contribute a negligible fraction of total MWC emissions. Many MWC's under 35 Mg/day in capacity, and a few larger ones, are owned or operated by small entities. The EPA estimates that considerably fewer than 20 percent of small-entity MWC's will be affected by the emission guidelines being proposed today.

Thus, the number of affected small entities is not expected to be substantial, and a regulatory flexibility analysis is not required. Nevertheless, the EPA has conducted an extensive analysis of potential regulatory impacts on households, small governments, and small businesses. The full analysis is included in the economic impact assessment in the docket and listed at the beginning of today's notice under **SUPPLEMENTARY INFORMATION.**

On December 20, 1989, the EPA proposed standards and emission guidelines that applied to all sizes of MWC's. The proposal had no lower size cutoff. Small businesses, small governments, and groups representing small-entity interests commented extensively on the need to lighten the potential regulatory burden on small entities. Most commenters suggested a small size cutoff considerably smaller than the one now being proposed. The most frequently suggested levels were 5 to 11 Mg/day, 18 Mg/day, 23 Mg/day, and 45 Mg/day. The EPA has used these suggestions and the information submitted by these commenters, as well as information from other sources, to fulfill the intent of the RFA. The EPA has incorporated into the guidelines being proposed today several features that will mitigate, and in most cases eliminate, any potentially adverse economic impacts on small entities. These features are as follows:

(1) The emission guidelines will apply only to MWC's with a plant capacity of greater than 35 Mg/day. This cutoff eliminates from the purview of the guidelines the overwhelming majority of existing very small MWC's (There will be a one-time requirement for MWC plants in the 25 to 35 Mg/day range to report for verification the capacities and locations of the plants, but this paperwork will impose a very minor economic burden.);

(2) The guidelines are "tiered" so that the stringency (and therefore potential economic burden) of the emission guidelines increases as the size of the MWC plant increases. Plants with capacities of 25 to 35 Mg/day would have only the one-time reporting of capacity and location. Plants with capacities of 35 to 225 Mg/day would have guidelines for PM, opacity, dioxins/furans, SO_2, HCl, Cd, Pb, Hg, operating practices, and operator training and certification. Additionally, small MWC plants would be required to perform compliance testing, but the guidelines and compliance testing requirements would not be as stringent

as those for plants larger than 225 Mg/day. Furthermore, the plants would not be required to control NO_X. Plants with capacities above 225 Mg/day would be subject to guidelines for NO_X in addition to all other pollutants, and compliance testing would be required more frequently;

(3) The emission guidelines consist of emission limits, as opposed to design, equipment, work practice, or operational standards. Emission limits give MWC owners and operators the freedom to select the most economical means of reducing emissions; and

(4) The emission guidelines are not the usual type of regulation governed by the RFA. The guidelines will not apply directly to any MWC's, but will be used as a guide by individual State air pollution control agencies in developing site-specific regulations for MWC's. States are allowed some flexibility in implementing the guidelines. Pursuant to the provisions of 5 U.S.C. 605(b), the EPA certifies that these proposed emission guidelines, if promulgated, will not have a significant economic impact on a substantial number of small entities, because the number of small entities affected is not substantial.

F. Executive Order 12875

Under Executive Order 12875, the EPA is required to consult with representatives of affected State, local, and tribal governments, and keep these affected parties informed about the content and effect of the proposed standards. The following discussion provides a brief summary of the content, need for, and cost of the proposal, as well as the actions that the EPA has taken to communicate and consult with the affected parties.

1. Summary of the Proposed Guidelines

The proposed emission guidelines would establish emission limitations for existing MWC units located at MWC plants with plant capacities to combust greater than 35 Mg/day of MSW. The proposed guidelines do not specify which type of air pollution control equipment must be used at MWC's to meet the proposed emission limitations. The EPA expects, however, that, as a result of the proposal, most large MWC plants (plants with greater than 225 Mg/day capacity) would retrofit scrubbing systems (SD/ESP) for dioxins/furans, metals, and acid gas control and SNCR for NO_X control. Small MWC plants (plants with 35 to 225 Mg/day capacity) would be expected to install scrubbing systems (DSI/ESP), but SNCR technology would not be necessary. Refer to section II of this preamble for a more detailed discussion of the proposed guidelines.

2. Need for the Proposed Guidelines

Under the Act Amendments of 1990, section 129 includes a schedule that requires the EPA to adopt the emission guidelines for large and small MWC plants by the end of 1991 and 1992, respectively. The EPA did not comply with that schedule and is now under court order to propose the emission guidelines by September 1, 1994 and promulgate the emission guidelines by September 1, 1995. As required by section 129, the proposed emission guidelines would establish guideline emission levels for MWC organics (dioxins/furans), MWC metals (Cd, Pb, Hg, PM, and opacity), MWC acid gases (HCl and SO_2), and NO_X. See section I of this preamble for further discussion of the regulatory history and general goals of the proposed guidelines.

3. Cost of the Proposal

The national cost of the proposed guidelines would be about $445 million per year. More than 40 percent of all existing MWC capacity subject to this proposal has already installed acid gas/PM control systems. The retrofit cost of the air pollution control system for an individual combustor subject to the proposed guidelines will vary depending on the plant size and difficulty of the retrofit. The average annualized retrofit cost of the proposed guidelines for a typical large MWC plant requiring retrofit would be about $4.1 million per year. The average annualized retrofit cost of the proposed guidelines for a typical small MWC plant requiring retrofit would be about $0.9 million per year. Tipping fees at combustors currently average about $57/Mg of MSW combusted. For those MWC plants that would require an air pollution control retrofit as a result of the proposal, the tipping fees would typically increase by $17 to $28/Mg, with the lower cost being for large MWC plants and the higher cost being for small MWC plants. Regarding the impact of the proposed guidelines directly or indirectly on households, the EPA projects an increase in the household cost of waste disposal of about $22 to $26 per year or about $2 per month for communities that have MWC's. Refer to section III.D of this preamble for a more complete summary of the cost and economic impacts of the proposed guidelines, on both national and plant-specific bases.

4. Communication With Affected Parties

As previously mentioned, Executive Order 12875 requires the EPA to consult with representatives of affected State, local, and tribal governments, and prior to promulgation of final standards, summarize concerns of the governmental entities and respond to their comments. The EPA has already initiated consultations with numerous governmental entities including, but not limited to, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the Municipal Waste Management Association, and the Solid Waste Association of North America. These groups have been informed of the content of the proposal and the estimated impacts. In drafting the proposal, the EPA has considered the concerns expressed by these groups, and discussions with these groups will continue following proposal. Following proposal, the EPA will mail a copy of this proposal to all owners/operators of MWC's and their associated local governmental official. The EPA awaits their comments on the proposal and will respond to their comments.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping.

Dated: September 1, 1994.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 94–22343 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 60

[AD-FRL–5068–8]

Withdrawal of the 1991 Emission Guidelines for Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed withdrawal of 1991 emission guidelines (subpart Ca) and request for comment.

SUMMARY: The EPA proposes to withdraw the emission guidelines for existing municipal waste combustors (MWC's) that were promulgated on February 11, 1991 in 40 CFR part 60, subpart Ca. The February 11, 1991 subpart Ca emission guidelines for MWC's would be replaced by more stringent guidelines being proposed under section 129 of the Clean Air Act (Act) as amended in 1990 (1990 Amendments). New emission guidelines that would replace those being proposed to be withdrawn in this document are being proposed in a separate document in today's **Federal Register**.

DATES: *Comments.* Comments concerning this proposal to withdraw the subpart Ca emission guidelines must be submitted on or before November 4, 1994.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102), Attention: Docket No. A–89–08, room M1500, Central Mall, 401 M Street, SW., Washington, DC 20460.

Docket. The docket is available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center (Mail Code 6102), Attention: Docket No. A–89–08, room M1500, Central Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For additional information contact Mr. Walter Stevenson at (919) 541–5264 or Mr. Fred Porter at (919) 541–5251, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: An electronic copy of this document is available from the EPA's Technology Transfer Network (TTN) electronic bulletin board system. The TTN contains 18 electronic bulletin boards, and this document is included in the Clean Air Act Amendments (CAAA) bulletin board. The TTN is accessible 24 hours per day, 7 days per week, except Monday morning from 8 a.m. to 12 p.m., when the system is updated. The service is free except for the cost of the phone call. Dial (919) 541–5742 to access the TTN. The TTN is compatible with up to a 14,400 bits-per-second (bps) modem. Further instructions for accessing the TTN can be obtained by calling the help desk at (919) 541–5384.

Summary of Proposed Withdrawal of the 1991 Emission Guidelines (Subpart Ca)

On December 20, 1989, the EPA proposed emission guidelines for all sizes of existing MWC's (54 FR 52209). Those proposed guidelines were developed under section 111(d) of the Act as amended in 1977 and were promulgated on February 11, 1991. Section 111(d) of the Act of 1977 requires emission guidelines for designated existing sources of air pollution to reflect the application of best demonstrated technology (BDT).

On November 15, 1990, just prior to the EPA's scheduled promulgation of the section 111(d) guidelines, the Act Amendments of 1990 were adopted. The 1990 Amendments added a new section 129 to the Act that applies to solid waste combustors including MWC's. Under authority of sections 111 and 129 of the Act of 1990, the EPA is required to promulgate revised guidelines for MWC's based upon the application of maximum achievable control technology (MACT). However, section 129 included a clause that directed the EPA to issue the emission guidelines developed based on BDT under the deadlines imposed in the consent decree issued from *State of New York et al.* v. *Reilly* (No. 89–1729 D.D.C.). Additionally, section 129 of the Act of 1990 directed the EPA to limit applicability of BDT-based guidelines to those MWC's with a unit capacity greater than 225 Mg/day (250 tons per day). Section 129 specified that revised MACT-based guidelines for units larger than 225 Mg/day capacity were to be adopted by the EPA within 1 year and that revised MACT-based guidelines for units smaller than 225 Mg/day were to be adopted within 2 years. Consistent with section 129, the EPA redrafted the BDT-based guidelines and limited applicability of the 1991 guidelines to MWC units larger than 225 Mg/day capacity.

In a separate document in today's **Federal Register**, the EPA is proposing emission guidelines for MWC's that reflect the application of MACT as required by section 129. The proposed MACT-based guidelines are more stringent than the February 11, 1991 BDT-based guidelines and would apply to MWC units at plants with a capacity of greater than 35 Mg/day. The MACT-based guidelines would require MWC facilities to purchase and install different types of air pollution control equipment than the BDT-based guidelines. Therefore, the EPA proposes to withdraw the February 11, 1991 guidelines since their implementation would not be consistent with the MACT requirements of section 129. The February 11, 1991 emission guidelines were promulgated in 40 CFR part 60, subpart Ca. The MACT-based guidelines proposed in a separate document in today's **Federal Register** are proposed as 40 CFR part 60, subpart Cb. This notice proposes to withdraw the subpart Ca emission guidelines.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping.

Dated: September 1, 1994.

Jonathan Z. Cannon,

Acting Administrator.

Part 60, chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

Subpart Ca [Removed and Reserved]

2. Subpart Ca is removed and reserved.

§ 60.30 [Amended]

3. Section 60.30 is amended by removing and reserving paragraph (a).

[FR Doc. 94–22346 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 60 and 61

[AD–FRL–5068–7]

Standards of Performance for New Stationary Sources National Emission Standards for Hazardous Air Pollutants, Addition of Method 29 to Appendix A of Part 60 and Amendments to Method 101A of Appendix B of Part 61

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The EPA is proposing to add Method 29, "Determination of Metals Emissions from Stationary Sources," to appendix A of part 60, and to propose amendments to Method 101A of appendix B of part 61. Method 29 is being proposed so that it can be used to determine cadmium, lead, and mercury emissions from municipal waste combustors (MWC) under subpart Ea of part 60. The amendments to Method 101A of appendix B of part 61 are intended to expand that method's applicability, and to add procedures for handling and analyzing samples collected by the sampling train.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before November 21, 1994.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by October 11, 1994, a public

hearing will be held on October 20, 1994, beginning at 10 a.m. Persons interested in attending the hearing should call the contact mentioned under **ADDRESSES** to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by October 11, 1994.

ADDRESSES: *Comments.* Comments on the proposal should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (Mail Code 6102), ATTN: Docket No. A–94–28, room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Background Information. The following document is identified as suggested reading: "Emissions Test Method 29: Determination of Metals Emissions From Stationary Sources (1994 Proposal)," EPA–454/R–94–016, April 1994. This document contains the full text of the proposed method and method revisions, and it can be obtained from the TTN or Docket No. A–94–28.

Public Hearing. If anyone contacts the EPA requesting a public hearing, it will be held at the EPA's Emission Measurement Laboratory Building, Old Page Road at I–40, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. William Grimley at (919) 541–1065, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Docket. Docket No. A–94–28, containing materials relevant to this rulemaking, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, room 1500, Central Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying. Additionally, the docket may be accessed by calling (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: For information concerning the methods, contact Mr. William Grimley at (919) 541–1065, Emission Measurement Branch, Technical Support Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: This document includes a summary of the proposed method; however, this document does not contain the full text of the method or method revisions. The full text of the proposal is readily available by: (1) Accessing the EPA's electronic bulletin board [Technology Transfer Network (TTN)], or (2) requesting a copy from Docket No. A–94–28 (call (202) 260–7548). The **ADDRESSES** and **SUPPLEMENTARY INFORMATION** sections of this notice can be reviewed for instructions on accessing the TTN.

As a proposed action, public comments are solicited. Comments should address the full text of the rulemaking, which is contained in a report entitled "Emission Test Method 29: Determination of Metals Emissions From Stationary Sources," EPA–454/R–94–016 (see the **ADDRESSES** and **SUPPLEMENTARY INFORMATION** sections of this document for information on how to obtain this document). Whenever applicable, full supporting data and detailed analysis should be submitted with all comments to allow the EPA to respond to the comments. The EPA will consider all comments and information received during the public comment period, and will make changes in the methods, where appropriate, prior to promulgation of the final rule. All comments should be directed to the EPA Air and Radiation Docket and Information Center, Docket No. A–94–28 (see **ADDRESSES**).

An electronic copy of the item listed below is available from the EPA's TTN electronic bulletin board system. The TTN contains 12 electronic bulletin boards, and information related to this proposal is included in the Emissions Measurement Technical Information Center (EMTIC) bulletin board. The TTN is accessible 24 hours per day, 7 days per week, except Monday from 8 a.m. to 12 a.m., when the system is updated. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to 14,400 bits per second modem. Further instructions for accessing the TTN can be obtained by calling the systems operator at (919) 541–5384.

Methods 29 and 101A Item in EMTIC Electronic Bulletin Board

1. "Emissions Test Method 29: Determination of Metals Emissions From Stationary Sources (1994 Proposal)," EPA–454/R–94–016, April 1994.

I. Summary of Proposed Method 29 and Method 101A Revisions

Under Subparts Ca and Ea, the EPA is proposing guidelines and standards to regulate mercury, cadmium, and lead emissions from MWC's. Method 29 is being proposed for addition to Appendix A of 40 CFR Part 60 and will serve as the compliance test method for MWC's for mercury, cadmium, and lead. Method 29 is applicable to the determination of antimony (Sb), arsenic (As), barium (Ba), beryllium (Be), cadmium (Cd), chromium (Cr), cobalt (Co), copper (Cu), lead (Pb), manganese (Mn), mercury (Hg), nickel (Ni), phosphorus (P), selenium (Se), silver (Ag), thallium (Tl), and zinc (Zn) emissions from stationary sources. Method 29 may be used to determine particulate emissions in addition to the metals emissions if the prescribed procedures and precautions are followed. For both methods, a stack sample is withdrawn isokinetically from the source, particulate emissions are collected in the probe and on a heated filter, and gaseous emissions are then collected in an aqueous acidic solution of hydrogen peroxide (analyzed for all metals including Hg) and an aqueous acidic solution of potassium permanganate (analyzed only for Hg). The recovered samples are digested, and appropriate fractions are analyzed for Hg by cold vapor atomic absorption spectroscopy (CVAAS) and for Sb, As, Ba, Be, Cd, Cr, Co, Cu, Pb, Mn, Ni, P, Se, Ag, Tl, and Zn by inductively coupled argon plasma emission spectroscopy (ICAP) or atomic absorption spectroscopy (AAS). Graphite furnace atomic absorption spectroscopy (GFAAS) is used for analysis of Sb, As, Cd, Co, Pb, Se, and Tl if these elements require greater analytical sensitivity than can be obtained by ICAP. Additionally, if desired, the tester may use AAS for analysis of all listed metals if the resulting in-stack method detection limits meet the goal of the testing program. Mercury emissions can be measured, alternatively, using EPA Method 101A of appendix B, 40 CFR part 61. Method 101–A measures only Hg but it can be of special interest to sources which need to measure both Hg and Mn emissions. Amendments to Method 101A of appendix B of part 61 are being proposed to provide consistency with Method 29.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rule in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with the EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the

Air Docket address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Air Docket in Washington, DC (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials) [Section 307(d)(7)(A)].

C. Office of Management and Budget Review

1. *Paperwork Reduction Act.* This rule does not contain any information collection requirements subject to the Office of Management and Budget (OMB) review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

2. *Executive Order 12866 review.* Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to the OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

1. Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, users fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the EPA does not consider this action to be significant because it does not involve any of the above mentioned items.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 601 *et seq*, I hereby certify that this proposed rule, if promulgated, will not have an economic impact on small entities because no additional costs will be incurred.

List of Subjects in 40 CFR Parts 60 and 61

Air pollution control, Arsenic, Asbestos, Beryllium, Cadmium, Lead, Hazardous materials, Incorporation by reference, Intergovernmental relations, Mercury, Municipal waste combustors, Reporting and recordkeeping requirements, Sewage sludge incineration.

Statutory Authority. The statutory authority for this proposal is provided by sections 101, 111, 112, 114, 116, 129, and 301 of the Clean Air Act, as amended; 42 U.S.C., 7401, 7411, 7412, 7414, 7416, 7429, and 7601.

Dated: September 1, 1994.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 94–22345 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7110]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base (100-year) flood elevation modifications for the communities listed below. The base (100-year) flood elevations and modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base (100-year) flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

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

Executive Order 12612, Federalism. This proposed rule involves no policies

that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
OHIO	
Gilboa (Village), Putnam County	
Blanchard River:	
Approximately 1,050 feet downstream of Pearl Street	*742
Approximately 1,100 feet upstream of Pearl Street	*744
Maps available for inspection at the Municipal Council Room, 206 West Main Street, Gilboa, Ohio.	
Send comments to The Honorable Richard McCullough, Mayor of the Village of Gilboa, 122 Franklin Street, Gilboa, Ohio 45875.	
Glenford (Village), Perry County	
Jonathan Creek:	
At downstream corporate limits, approximately 550 feet downstream of Main Street	*844
At upstream corporate limits, approximately 1,200 feet upstream of Main Street	*848
Maps available for inspection at the Village Clerk's Residence, 123 Mill Street, Glenford, Ohio.	
Send comments to The Honorable Nolan P. Henderson, Mayor of the Village of Glenford, P.O. Box 22, Glenford, Ohio 43739.	
Malvern (Village), Carroll County	
Big Sandy Creek:	
Approximately 600 feet downstream of downstream corporate limit	*994
Approximately 600 feet upstream of upstream corporate limit	*998
Maps available for inspection at the Village Hall, 116 West Main Street, Malvern, Ohio.	
Send comments to The Honorable Dale E. Lewis, Mayor of the Village of Malvern, 116 West Main Street, Malvern, Ohio 44644.	
Bluffton (Village), Allen County	
Riley Creek:	
Approximately 350 feet downstream of corporate limit	*812
Approximately 100 feet upstream of Norfolk and Western Railway	*827
Little Riley Creek:	
At confluence with Riley Creek	*813
Approximately 175 feet upstream of Columbus Grove-Bluffton Road	*822
Maps available for inspection at the Bluffton Village Offices, 100 East Elm Street, Bluffton, Ohio.	
Send comments to The Honorable Roger Edwards, Mayor of the Village of Bluffton, P.O. Box 63, Bluffton, Ohio 45817.	
PENNSYLVANIA	
Seward (Borough), Westmoreland County	
Conemaugh River:	
Downstream corporate limits of the Borough of Seward	*1,099
Upstream corporate limits of the Borough of Seward	*1,102
Maps available for inspection at Ms. Rose Bouch's Home, Corner of Washington Street and Hedges Street, Seward, Pennsylvania.	
Send comments to Mr. Thomas Mulligan, President of the Seward Borough Council, R.D. #2, Box 338 A, Seward, Pennsylvania 15954.	

§ 67.4 [Amended]

3. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Florida	Taylor County (Unincorporated Areas).	Woods Creek	Approximately 350 feet upstream of confluence with Spring Creek.	*30	*31
			Approximately 100 feet upstream of U.S. Route 221 and State Route 55.	None	*50
Maps available for inspection at the Courthouse Basement, 108 North Jefferson Street, Perry, Florida.					
Send comments to Mr. Vance R. Howell, Chairman of the Taylor County Board of Commissioners, P.O. Box 620, Perry, Florida 32347.					
Kentucky	Taylor Mill (City) Kenton County.	Banklick Creek	Approximately 0.5 mile downstream of State Highway 16.	*503	*499
			Approximately 1,300 feet upstream of State Highway 16.	*503	*499
Maps available for inspection at the City Hall, 5225 Taylor Mill Road, Taylor Mill, Kentucky.					
Send comments to The Honorable Mark Kreimborg, Mayor of the City of Taylor Mill, Kenton County, 5225 Taylor Mill Road, Taylor Mill, Kentucky 41015.					
Louisiana	Grand Isle (Town) Jefferson Parish.	Gulf of Mexico	Southern shoreline of Grand Isle	*15	*13
			At Bay Lane	*11	*10
			From Bayou Thunder Von Tranc to the northern shoreline of Caminada Bay.	*14	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			At bend in Oleander Drive near Bay St. Honore.	*14	*11
			South of Oleander Drive from Caminada Bay to Lona Linda Avenue.	*12	*13

Maps available for inspection at the Grand Isle Town Hall, Ludwig Lane, Grand Isle, Louisiana.
Send comments to The Honorable Andy Valance, Mayor of the Town of Grand Isle, P.O. Box 200, Grand Isle, Louisiana 70358.

Louisiana	Gretna (City) Jefferson Parish.	Ponding Area 20	At the intersection of Franklin Street and Stumpf Boulevard.	*1.5	*2.0
			At the intersection of Hancock Street and Isabell Street.	*1.5	*2.0
		Ponding Area 21	At the intersection of Smithway Drive and Linda Court.	*-2.0	*0.5
		Ponding Area 22	At the intersection of 28th Street and Long Avenue.	*-3.0	*0.5

Maps available for inspection at the City Hall, 2nd and Huey P. Long Avenue, Gretna, Louisiana.
Send comments to The Honorable Ronald C. Harris, Mayor of the City of Gretna, P.O. Box 404, Gretna, Louisiana 70054.

Louisiana	Harahan (City) Jefferson Parish.	Ponding Area 48	At intersection of Murleson and Berkley Avenue.	*11.0	*10.5
		Ponding Area 49	At intersection of Imperial and Landcaster Drive.	*12.0	*11.5
		Ponding Area 29	Approximately 600 feet east of intersection of Rosedown Place and Walter Road.	*4.0	*1.5
		Ponding Area 37	Approximately 500 feet west of intersection of State Route 48 and Normandy.	*8.5	*8.0
		Ponding Area 28	From northernmost corporate limits to Suave Road.	*2.5	*2.0

Maps available for inspection at the City Hall, 6437 Jefferson Highway, Harahan, Louisiana.
Send comments to The Honorable Carlo Ferrara, Mayor of the City of Harahan, 6437 Jefferson Highway, Harahan, Louisiana 70123.

Louisiana	Jean LaFitte (Town) Jefferson Parish.	Gulf of Mexico	At Bayou Barataria, from State Route 303 to the northern corporate limits.	*3.5	*7.0
			At the confluence of Fleming Canal and Unnamed Canal.	*5.0	*9.0
			East of Bayou Barataria, from Gloria Drive to southern corporate limits.	*6.0	*8.0
			East of Bayou Barataria, from Gloria Drive to the northern corporate limits.	*6.0	*7.0
			At Unnamed Canal approximately 1,000 feet upstream of confluence with Fleming Canal.	*5.0	*8.0

Maps available for inspection at the City Hall, Route 1, Box 1, Jean Lafitte, Louisiana.
Send comments to The Honorable Timothy Kerner, Mayor of the Town of Jean Lafitte, Route 1, Box 1, Jean LaFitte, Louisiana 70067.

Louisiana	Jefferson Parish (Unincorporated Areas).	West Bank Waggaman Basin.			
		Ponding Area 1	At intersection of Willswood Lane and Southern Pacific Railroad.	None	*5.0
		Ponding Area 2	Approximately 1,000 feet north of intersection of U.S. Route 90 and Kenner Road.	None	*3.5
		Ponding Area 3	Approximately 1,000 feet south of confluence of Avondale Canal and Main Canal.	*4.0	*1.0
		Ponding Area 3A	Approximately 1,000 feet southwest of intersection of Avondale Road and U.S. Route 90.	*4.0	*3.5
		Ponding Area 4	At intersection of Jamie Boulevard and Anne Drive.	None	*3.5
		Ponding Area 5	At intersection of Barnes Street and Wiegand Drive.	None	*5.0
		Ponding Area 6	Approximately 500 feet east of intersection of tank farm siding and Bridge City Avenue.	None	*4.0

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Ponding Area 7	Approximately 2,000 feet northeast of intersection of U.S. Route 90 and Texas and Pacific Railroad.	*2.0	*2.5
		Ponding Area 8	Approximately 2,500 feet northeast of intersection of Texas and Pacific Railroad and tank farm siding.	*2.0	*2.5
		Ponding Area 9	North of U.S. Route 90 (Business) from West Krueger to Westwego corporate limits.	*0.5	*1.5
			North of U.S. Route 90 (Business) from West Krueger west approximately 2,000 feet.	*2.0	*1.5
		Ponding Area 10	North of main canal to U.S. Route 90 and east of main canal to Labranche Canal.	*0.5	*1.0
			Approximately 1,000 feet south of intersection of Labranche Canal and U.S. Route 90.	*2.0	*1.0
		Ponding Area 11	At intersection of Jung Boulevard and Mayronne Canal.	*2.0	*1.5
			North of Lapalco Boulevard from Garden Road east to Ames Boulevard.	*0.3	*1.5
			North of Lapalco Boulevard from Ames Boulevard east to Diane Drive.	None	*1.5
		Ponding Area 12	At the intersection of Lincolnshire Drive and Benedict Drive.	*0.3	*1.0
			Approximately 500 feet south of the intersection of Westwood Drive and Lapalco Boulevard.	*2.0	*1.0
		Ponding Area 13	East of Sauvage Levee Avenue to Caddy Drive, south of Lapalco Boulevard to Coubra.	*2.0	*3.5
			West of Mary Drive and east of Nature Drive.	*6.0	*3.5
			At intersection of Randolph and James Drive.	None	*3.5
		Ponding Area 14	At intersection of Patriot Street and Orchid Drive.	*1.5	*1.0
			Approximately 300 feet west of intersection of Floral Drive and Warwick Drive.	None	*1.0
		Ponding Area 15	State Route 45 east to Bayou Des Families Ridge North.	*3.5	*5.0
			South of Bayou Des Families to Russell Drive.	None	*5.0
		Ponding Area 16	At intersection of Grand Terre Drive and Chenier Street.	*3.5	*5.5
		Ponding Area 17	At intersection of Teton Street and Oregon.	*3.5	*2.5
			At intersection of Pritchard Road and East Ames Boulevard.	None	*2.5
		Ponding Area 18	Bayou Des Families Ridge to State Route 3134 south.	*3.5	*5.0
		Ponding Area 19	State Route 3134 to Harvey Canal	*3.5	*1.5
		Ponding Area 20	At intersection of Van Trump Street and Palfrey Street.	None	*2.0
		Ponding Area 21	Northeast of Belle Chasse Highway and southeast of West Bank Expressway.	*−1.5	*0.5
			Northeast of East Lexington to the Gretna corporate limits.	None	*0.5
		Ponding Area 22	South of West Bank Expressway, southwest of Belle Chasse Highway and east of Southern Pacific Railroad.	*−1.5	*0.5
			At intersection of 1st Street and Maplewood Drive.	None	*0.5
		Ponding Area 23	Harvey Canal area of Intracoastal Waterway, north of Bayou Barataria.	*4.5	*5.5
		Ponding Area 24	From the western Kenner corporate limits to the Jefferson/Orleans Parish boundary, east of Bonnabel Canal, and north of West Metaire Avenue.	*-3.0	*3.5

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			From the western Kenner corporate limits to the Jefferson/Orleans Parish boundary, north of Lake Pontchartrain Levee.	*13.5	*15.0
			At the intersection of Cherokee Avenue and Poplar Street.	*−3.0	*−3.5
		Ponding Area 25	At intersection of 35th Street and Ridgelake Drive.	*−3.0	*−2.0
		Ponding Area 26	At intersection of Maple Ridge Drive E and Edinburg.	*−1.5	*0.0
			At intersection of East Livingston Place and Dolores.	None	*0.0
		Ponding Area 27	At intersection of North Upland Avenue and Milan Street.	None	*3.0
		Ponding Area 28	At intersection of Mary Lane and Stephen Drive.	None	*2.0
		Ponding Area 29	At intersection of Bellegrove Place and Orchard Road.	*4.0	*1.5
		Ponding Area 30	At intersection of Powell Street and Wholesalers Parkway.	None	*2.5
		Ponding Area 31	At intersection of Morris Place and Gelpi Avenue.	None	*4.5
		Ponding Area 32	Approximately 600 feet south on intersection of Maple Ridge Drive and Airline Highway.	None	*0.0
		Ponding Area 33	Approximately 500 feet west of intersection of Caroline Street and U.S. Route 48.	None	*7.0
		Ponding Area 34	Approximately 500 feet southwest of intersection of Valerie Avenue and State Route 48.	None	*6.5
		Ponding Area 35	At intersection of Marigold Street and Hibiscus Place.	None	*4.5
		Ponding Area 36	At intersection of 4th and Moss Lane	None	*6.0
		Ponding Area 37	Approximately 500 feet southwest of intersection of Levee View Drive and State Route 48.	None	*8.0
		Ponding Area 38	At intersection of South Drive and Central Avenue.	None	*9.5
		Ponding Area 39	Riverdale Drive east to Shrewsbury Road, south of U.S. Route 90.	None	*9.0
		Ponding Area 40	Approximately 300 feet south of intersection of U.S. Route 90 and Coolidge Street.	None	*4.0
		Ponding Area 41	At intersection of Spruce and Brooklyn Avenue.	None	*3.5
		Ponding Area 42	At intersection of Byron and Dakin Street	None	*2.0
		Gulf of Mexico	At Hackberry Bay	*10.5	*16.0
		Gulf of Mexico (Lake Cataouache).	At Bayou Segnette near Mayronne Canal just south of Westwego corporate limits.	*4.5	*5.0
		Gulf of Mexico	At Caminada Bay	*9.0	*13
			At Bay Des Ilettes	*10.0	*15
			Northern end of Three Bayou Bay	*7.0	*12
			At confluence of Cheniere Traverse Bayou with Bayou Dupont.	*5.0	*12
			At confluence of Bayou Des Families with Bayou Barataria.	*3.5	*7

Maps available for inspection at the Parish Government Office Building, 1221 Elmwood Place Boulevard, Harahan, Louisiana.

Send comments to The Honorable Michael Yenni, Jefferson Parish President, 1221 Elmwood Place Boulevard, Suite 1002, Harahan, Louisiana 70123.

Louisiana	Kenner (City) Jefferson Parish.	Ponding Area 24	New Orleans International Airport east runway north towards Veterans Memorial Highway.	None	*−3.5
			West of East Grandlake Boulevard	None	*−3.5
			At the intersection of Platt and Mesa Streets.	None	*−3.5

Maps available for inspection at the City Hall, 1801 Williams Avenue, Kenner, Louisiana.

Send comments to The Honorable Aaron F. Broussard, Mayor of the City of Kenner, 1801 Williams Boulevard, Kenner, Louisiana 70062.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Louisiana	Westwego (City) Jefferson Parish.	Ponding Area 9	At intersection of Vic A. Pitrie Drive and E Avenue.	*2.5	*1.5
			At Angela Street and western corporate limits.	*3.0	*1.5
			At intersection of Southern Pacific Railroad and western corporate limits.	*2.0	*1.5
		Gulf of Mexico	Dugues Canal at southern corporate limits.	*5.0	*6.0
Maps available for inspection at the City Hall, 419 Avenue A, Westwego, Louisiana.					
Send comments to The Honorable Robert Billiot, Mayor of the City of Westwego, 419 Avenue A, Westwego, Louisiana 70094.					
Maine	Farmington (Town) Franklin County	Sandy River	Approximately 0.5 mile downstream of State Route 41.	*338	*340
			Approximately 2.6 miles upstream of State Route 4 bridge (corporate limits).	*385	*389
		Wilson Stream	At confluence with Sandy River	*343	*345
			Approximately 0.4 mile upstream of State Route 133 bridge (corporate limits).	*376	*377
		Temple Stream	At confluence with Sandy River	*359	*355
			Approximately 0.9 mile above Russels Mill Road Bridge (corporate limits).	*454	*457
		Barker Stream	At confluence with Sandy River	*365	*368
			Approximately 800 feet upstream of State Route 27.	None	*533
		Cascade Brook	At confluence with Sandy River	*347	*352
			Approximately 180 feet above State Route 43 bridge (Allens Mill Road).	None	*484
		Beaver Brook	At confluence with Sandy River	*360	*357
			Upstream side of Middle Street bridge	*394	*395
		Clear Water Pond	Entire shoreline within community	None	*563
Maps available for inspection at the Farmington Municipal Building, 147 Lower Main Street, Farmington, Maine.					
Send comments to Ms. Francis Hardy, First Selectman of the Town of Farmington, 147 Lower Main Street, Farmington, Maine 04938.					
New Hampshire	Freedom (Town) Caroll County.	West Branch	At confluence with Ossipee Lake	None	*441
			Upstream side of Ossipee Lake Road	None	*446
		Ossipee Lake	Entire shoreline within community	None	*414
		Broad Bay	Entire shoreline within community	None	*414
		Leavitt Bay	Entire shoreline within community	None	*414
Maps available for inspection at the Town Office Building, Old Portland Road, Freedom, New Hampshire.					
Send comments to Mr. William O. Cutler, Chairman of the Town of Freedom Board of Selectmen, P.O. Box 227, Freedom, New Hampshire 03836.					
New Hampshire	Ossipee (Town) Carroll County.	Lovell River	Approximately 0.5 mile upstream of confluence with Ossipee Lake.	*414	*415
			Approximately 1,000 feet upstream of State Route 16/25.	None	*434
		West Branch	Approximately 0.6 mile upstream of confluence with Ossipee Lake.	None	*414
			At upstream corporate limits	None	*446
Maps available for inspection at the Town Hall, Main Street, Center Ossipee, New Hampshire.					
Send comments to Mr. John P. Picard, Chairman of the Town of Ossipee Board of Selectmen, Carroll County, P.O. Box 67, Center Ossipee, New Hampshire 03814.					
New York	Windham (Town) Greene County.	Batavia Kill	Approximately 0.7 mile downstream of County Route 12 (South Street).	None	*1,467
			Approximately 1.6 miles upstream of County Route 56.	None	*2,345
Maps available for inspection at the Town Hall, Route 296, Hensonville, New York.					
Send comments to Mr. Patrick P. Meehan, Jr., Supervisor of the Town of Windham, Town of Windham, Greene County, P.O. Box 96, Hensonville, New York 12439.					
Pennsylvania	Allegheny (Township) Westmoreland County.	Pine Run (Lower Reach)	At the CONRAIL	None	*789
			Approximately 700 feet upstream of State Route 56 (Bypass).	None	*815

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Allegheny Community Building, 136 Community Building Road, Leechburg, Pennsylvania.					
Send comments to Mrs. Rapheala Stoner, Chairperson of the Allegheny Board of Supervisors, 136 Community Building Road, Leechburg, Pennsylvania 15656.					
Pennsylvania	Avalon (Borough) Allegheny County.	Ohio River	Approximately 0.95 mile downstream of Divergence of Ohio River Back Channel.	None	*723
			Approximately 750 feet upstream of Divergence of Ohio River Back Channel.	None	*724
Maps available for inspection at the Borough Hall, 640 California Avenue, Avalon, Pennsylvania.					
Send comments to Ms. Joan Welsh, Manager for the Borough of Avalon, 640 California Avenue, Avalon, Pennsylvania 15202.					
Pennsylvania	Baldwin (Borough) Allegheny County.	Monongahela River	At confluence of Becks Run	*733	*734
			Approximately 0.42 mile downstream of Glenwood Bridge.	*734	*735
Maps available for inspection at the Zoning Office, 3344 Churchview Avenue, Baldwin, Pennsylvania.					
Send comments to Mr. Robert P. Bittle, President of the Borough of Baldwin Council, 3344 Churchview Avenue, Pittsburgh, Pennsylvania 15227.					
Pennsylvania	Bellevue (Borough) Allegheny County.	Ohio River	Approximately 750 feet upstream of Divergence of Ohio River Back Channel.	None	*724
			Approximately 0.43 mile downstream of McKees Rocks Bridge.	None	*724
Maps available for inspection at the Borough Hall, 537 Bayne Avenue, Bellevue, Pennsylvania.					
Send comments to Mr. Robert T. Grimm, Manager of the Borough of Bellevue, 537 Bayne Avenue, Bellevue, Pennsylvania 15202.					
Pennsylvania	Braddock (Borough) Allegheny County.	Monongahela River	At a point approximately 550 feet upstream of Rankin Bridge.	*738	*739
			At a point approximately 0.29 mile downstream of Lock & Dam No. 2.	*739	*740
Maps available for inspection at the Code Enforcement Street, 415 Sixth Street, Braddock, Pennsylvania.					
Send comments to Ms. Mildred Devich, President of the Borough of Braddock Council, 415 Sixth Street, Braddock, Pennsylvania 15104.					
Pennsylvania	California (Borough) Washington County.	Monongahela River	Approximately 1.3 miles downstream of confluence of Pike Run.	*766	*769
			Approximately 2.9 miles upstream of the confluence of Pike Run.	*770	*773
Maps available for inspection at the Municipal Building, 114 5th Street, California, Pennsylvania.					
Send comments to The Honorable Joseph Dochinez, Mayor of the Borough of California, 218 Pennsylvania Avenue, California, Pennsylvania 15419.					
Pennsylvania	Clairton (City) Allegheny County.	Monongahela River	Approximately 0.51 mile downstream of Glassport Bridge.	*747	*748
			Approximately 500 feet downstream of confluence of Wylie Run.	*748	*750
Maps available for inspection at the City Engineer's Office, 551 Ravensburg Boulevard, Clairton, Pennsylvania.					
Send comments to Mr. Bruce E. Jenkins, Engineering Assistant, 551 Ravensburg Boulevard, Clairton, Pennsylvania 15025–1297.					
Pennsylvania	Coal Center (Borough) Washington County.	Monongahela River	Approximately 1,650 feet downstream of confluence of Pike Run.	*767	*770
			Approximately 200 feet upstream of confluence of Pike Run.	*767	*770
Maps available for inspection at the Coal Center Borough Building, 132 Water Street, Coal Center, Pennsylvania.					
Send comments to The Honorable James Roberts, Mayor of the Borough of Coal Center, P.O. Box 174, Coal Center, Pennsylvania 15423.					
Pennsylvania	Collier (Township) Allegheny County.	Robinson Run	Approximately 1.09 miles downstream of Union Avenue.	None	*887
			Approximately 1.25 miles downstream of Union Avenue.	None	*888

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Chartiers Creek	Just downstream of Painters Run Road	*795	*797
			Approximately 0.39 mile upstream of State Route 519 (Washington Pike).	*802	*801

Maps available for inspection at the Zoning Office, 2418 Hilltop Road, Collier, Pennsylvania.

Send comments to Mr. Nick Mamula, Chairman of the Township of Collier Board of Commissioners, 2418 Hilltop Road, Presto, Pennsylvania 15142.

Pennsylvania	Coraopolis (Borough) Allegheny County.	Montour Run	At the upstream side of Montour Railroad	*718	*719
			Approximately 750 feet downstream of Coraopolis Boulevard.	*718	*719

Maps available for inspection at the Borough Hall, 1012 Fifth Avenue, Coraopolis, Pennsylvania.

Send comments to The Honorable Orlando Falcione, Mayor of the Borough of Coraopolis, 1012 Fifth Avenue, Coraopolis, Pennsylvania 15108.

Pennsylvania	Crafton (Borough) Allegheny County.	Chartiers Creek	Approximately 1.5 miles upstream of Ingram Avenue.	None	*754
			At Chartiers Avenue	None	*759

Maps available for inspection at the Borough Hall, 100 Stotz Avenue, Crafton, Pennsylvania.

Send comments to Mr. Alvin Handelsman, Engineer for the Borough of Crafton, 1011 Alcon Street, Pittsburgh, Pennsylvania 15220.

Pennsylvania	Cumberland (Township) Greene County.	Monongahela River	Approximately 500 feet downstream of confluence of New Run (downstream corporate limits).	None	*786
			At confluence of Little Whitley Creek (upstream corporate limits).	None	*794
		Muddy Creek	0.8 mile downstream of Township Route 634.	None	*1,005
			Approximately 470 feet upstream of Legislative Route 30102.	None	*1,031

Maps available for inspection at the Cumberland Township Building, 100 Municipal Road, Carmichaels, Pennsylvania.

Send comments to Mr. Philip A. Donaldson, Zoning Officer, Cumberland Township Building, 100 Municipal Road, Carmichaels, Pennsylvania 15320.

Pennsylvania	Delmont (Borough) Westmoreland County.	Turtle Creek (Upper Reach).	Approximately 400 feet downstream of Old William Penn Highway.	None	*1,054
			Approximately 350 feet upstream of Old William Penn Highway.	None	*1,063

Maps available for inspection at the Delmont Borough Office, 77 Greensburg Street, Delmont, Pennsylvania.

Send comments to Ms. Sarah Jane Lamont, President of the Delmont Borough Council, 77 Greensburg Street, Delmont, Pennsylvania 15626.

Pennsylvania	Dravosburg (Borough) Allegheny County.	Monongahela River	Approximately 0.75 mile downstream of Mansfield Bridge.	*745	*746
			Approximately 0.25 mile downstream of Mansfield Bridge.	*745	*746

Maps available for inspection at the Borough Hall, 226 Maple Avenue, Dravosburg, Pennsylvania.

Send comments to Mr. Art Page, President of the Borough of Dravosburg Council, P.O. Box 37, Dravosburg, Pennsylvania 15034.

Pennsylvania	Dunkard (Township) Greene County.	Monongahela River	At confluence of Dunkard Creek	None	*805
			Approximately 0.68 mile upstream of Point Marion Lock and Dam.	None	*809

Maps available for inspection at the Dunkard Township Building, Corner of Grant Street and Taylortown Road, Bobtown, Pennsylvania.

Send comments to Mr. Jerome K. Wiley, Chairman of the Township of Dunkard Board of Supervisors, Box 369, Bobtown, Pennsylvania 15315.

Pennsylvania	Duquesne (City) Allegheny County.	Monongahela River	At a point approximately 0.27 mile upstream of Lock and Dam No. 2.	*740	*741
			At a point approximately 1,200 feet upstream of McKeesport-Duquesne Bridge.	*743	*744

Maps available for inspection at the Building Inspector's Office, 12 South Second Street, Duquesne, Pennsylvania.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to The Honorable George F. Matt II, Mayor of the City of Duquesne, 12 South Second Street, Duquesne, Pennsylvania 15110.					
Pennsylvania	East Huntingdon (Township) Westmoreland County.	Belson Run	Approximately 350 feet upstream of Sunny Lane.	None	*1,138
			Approximately 625 feet upstream of Sunny Lane.	None	*1,139
Maps available for inspection at the East Huntingdon Municipal Building, Route 981, Alverton, Pennsylvania.					
Send comments to Mr. Joel B. Suter, Supervisor for the Township of East Huntingdon, P.O. Box 9, Alverton, Pennsylvania 15612.					
Pennsylvania	East Pittsburgh (Borough) Allegheny County.	Turtle Creek	Backwater reach from Monongahela River up to Westinghouse Bridge at Lincoln Highway.	None	*741
Maps available for inspection at the Borough Hall, 516 Bessemer Avenue, East Pittsburgh, Pennsylvania.					
Send comments to Mr. James Geric, President of the Borough of East Pittsburgh Council, 516 Bessemer Avenue, East Pittsburgh, Pennsylvania 15112.					
Pennsylvania	Elizabeth (Borough) Allegheny County.	Monongahela River	Approximately 0.21 mile downstream of confluence of Fallen Timber Run.	*748	*750
			At confluence of Smiths Run	*749	*750
		Fallen Timber Run	At confluence with Monongahela River	*749	*750
			Approximately 400 feet downstream of Rothey Street (Pennaman Avenue).	None	*752
Maps available for inspection at the Borough Hall, 206 Third Avenue, Elizabeth, Pennsylvania.					
Send comments to The Honorable Gerald M. LaFrankie, Mayor of the Borough of Elizabeth, 206 Third Avenue, Elizabeth, Pennsylvania 15037.					
Pennsylvania	Elizabeth (Township) Allegheny County.	Monongahela River	Approximately 100 feet upstream of confluence of Wylie Run.	*747	*750
			Approximately 0.43 mile downstream of State Route 51.	*747	*750
		Wylie Run	At confluence with Monongahela River	*747	*750
			Approximately 150 feet downstream of Glassport Road (McKeesport Road).	*747	*750
Maps available for inspection at the Township Hall, 522 Rock Run Road, Township of Elizabeth, Pennsylvania.					
Send comments to Mr. Charles Carlock, Chairman of the Township of Elizabeth Board of Supervisors, 522 Rock Run Road, Buena Vista, Pennsylvania 15018.					
Pennsylvania	Fairfield (Township) Westmoreland County.	Tubmill Creek	At Tubmill Dam	None	*1,295
			Approximately 550 feet downstream of Tubmill Dam.	None	*1,289
Maps available for inspection at the Fairfield Township Municipal Building, S.R. 1011 Midget Camp Road, Bolivar, Pennsylvania.					
Send comments to Mr. Paul J. Altimus, Chairman for the Township of Fairfield, R.D. #1, Box 231A, Bolivar, Pennsylvania 15923.					
Pennsylvania	Forward (Township) Allegheny County.	Monongahela River	At confluence of Smiths Run	*749	*750
Maps available for inspection at the Township Municipal Building, River Road, Forward, Pennsylvania.					
Send comments to Mr. Louis Majoris, Chairman of the Township Board of Supervisors, R.D. 3, Box 40–A, Monongahela, Pennsylvania 15063.					
Pennsylvania	Franklin Park (Borough) Allegheny County.	Bear Run	Approximately 0.51 mile upstream of Mount Nebo Road.	None	*950
Maps available for inspection at the Borough Hall, 2428 Rochester Road, Franklin Park, Pennsylvania.					
Send comments to Mr. Gerald L. Reichart, Manager of the Borough of Franklin Par, 2428 Rochester Road, Sewickley, Pennsylvania 15143.					
Pennsylvania	Glassport (Borough) Allegheny County.	Monongahela River	Approximately 0.34 mile upstream of confluence of Harrison Hollow Stream.	*746	*747
			Approximately 0.37 mile upstream of Glassport Bridge.	*747	*748
Maps available for inspection at the Borough Hall, Fifth & Monongahela, Glassport, Pennsylvania.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to Mr. Anthony Pepe, President of the Borough of Glassport Council, Fifth & Monongahela, Glassport, Pennsylvania 15045.					
Pennsylvania	Greensboro (Borough) Greene County.	Monongahela River	Approximately 900 feet downstream of downstream corporate limits.	*799	*800
			At the upstream corporate limits	*800	*801
Maps available for inspection at the Greensboro Borough Building, Main Street, Greensboro, Pennsylvania. Send comments to Mr. Peter O. Everly, President of the Borough of Greensboro Council, P.O. Box 152, Greensboro, Pennsylvania 15338.					
Pennsylvania	Hamilton (Township) Monroe County.	McMichael Creek	At upstream corporate limits	None	*623
			Approximately 150 feet downstream of Turkey Hill Road.	*465	*466
Maps available for inspection at the Township Building, Fenner Street, Hamilton, Pennsylvania. Send comments to Mr. Alan Everett, Chairman of the Township of Hamilton Board of Supervisors, P.O. Box 285, Sciota, Pennsylvania 18354.					
Pennsylvania	Harmar (Township) Allegheny County.	Little Deer Creek	Approximately 150 feet downstream of Jacoby Road.	None	*783
			Approximately 700 feet upstream of Bessemer and Lake Erie Railroad.	None	*815
Maps available for inspection at the Township Hall, 701 Freeport Road, Harmar, Pennsylvania. Send comments to Mr. Frederick Domaratz, Chairman of the Township of Harmar Board of Supervisors, 701 Freeport Road, Cheswick, Pennsylvania 15024.					
Pennsylvania	Heidelberg (Borough) Allegheny County.	Tributary A to Chartiers Creek.	At confluence with Chartiers Creek to approximately 0.49 mile upstream of confluence.	None	*787
Maps available for inspection at the Borough Hall, 1631 East Railroad Street, Heidelberg, Pennsylvania. Send comments to Ms. Denise Breen, President of the Borough of Heidelberg Council, 1631 East Railroad Street, Heidelberg, Pennsylvania 15106.					
Pennsylvania	Homestead (Borough) Allegheny County.	Monongahela River	Approximately 600 feet downstream of Pittsburgh Homestead Bridge.	None	*737
			Approximately 4,000 feet upstream of Pittsburgh Homestead Bridge.	None	*737
Maps available for inspection at the Borough Hall, 1705 Maple Street, Homestead, Pennsylvania. Send comments to Mr. John Cornelius, Manager of the Borough of Homestead, P.O. Box 448, Homestead, Pennsylvania 15120.					
Pennsylvania	Jefferson (Borough) Allegheny County.	Lick Run	Approximately 400 feet upstream of Cochrans Mill Road.	None	*963
			At downstream side of Curry Hollow Road.	None	*985
		Monongahela River	Approximately 3,700 feet downstream of Glassport Highway Bridge.	None	*747
			At confluence of Perry Mill Run	*751	*752
		Lobbs Run	At confluence with Monogahela River	*751	*752
			Approximately 100 feet upstream of Walton Road.	*751	*752
Maps available for inspection at the Borough Hall, 925 Old Clairton Road, Jefferson, Pennsylvania. Send comments to Mr. Pat Capolupo, President of the Borough of Jefferson Council, 925 Old Clairton Road, Clairton, Pennsylvania 15025.					
Pennsylvania	Kilbuck (Township) Allegheny County.	Lowries Run	Approximately 3,300 feet downstream of the approximate center of the multiple lanes of Interstate 279.	None	*798
			Approximately 2,600 feet downstream of the approximate center of the multiple lanes of Interstate 279.	None	*802
Maps available for inspection at the Township Hall, 343 Eicher Road, Kilbuck, Pennsylvania. Send comments to Mr. Timohy Frew, Chairman of the Township of Kilbuck Board of Supervisors, 343 Eicher Road, Kilbuck, Pennsylvania 15237–1012.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Pennsylvania	Leetsdale (Borough) Allegheny County.	Big Sewickley Creek	At a point approximately 250 feet downstream of Ohio River Boulevard.	*712	*711
			At a point approximately 250 feet upstream of Beaver Road.	*715	*711

Maps available for inspection at the Borough Hall, 85 Broad Street, Leetsdale, Pennsylvania.

Send comments to Mr. James F. Shaughnessy, President of the Borough of Leetsdale Council, 85 Broad Street, Leetsdale, Pennsylvania 15056–1109.

Pennsylvania	Lincoln (Borough) Allegheny County.	Monongahela River	Approximately 0.23 mile upstream from the Glassport Highway Bridge.	*747	*748
			At the confluence with Wylie Run	*749	*750
		Boston Hollow Run	Approximately 0.56 mile upstream of Pitt Street Tributary.	None	*866
			Approximately 0.59 mile upstream of Pitt Street Tributary.	None	*868
		Wylie Run	At confluence with the Monongahela River.	*748	*750
			Approximately 0.25 mile upstream of Mill Hill Road.	None	*859

Maps available for inspection at the Borough Hall, Port View Road, Lincoln, Pennsylvania.

Send comments to The Honorable Florence Swarntack, Mayor of the Borough of Lincoln, R.D. #4, Box 120–B, Elizabeth, Pennsylvania 15037.

Pennsylvania	Luzerne (Township) Fayette County.	Monongahela River	Approximately 1.8 miles downstream of confluence of Rush Run (at downstream corporate limits).	*773	*775
			Approximately 3.6 miles upstream of confluence of Hereford Hollow (at upstream corporate limits).	*787	*789

Maps available for inspection at the Luzerne Township Building, 415 Hopewell Road, Brownsville, Pennsylvania.

Send comments to Mr. William Baker, Chairman of the Luzerne Township Board of Supervisors, 415 Hopewell Road, Brownsville, Pennsylvania 15417.

Pennsylvania	McCandless (Town) Allegheny County.	Girty's Run	Approximately 0.67 mile upstream of Three Degree Road.	None	*1,092

Maps available for inspection at the Town Hall, Zoning and Planning Office, 9955 Grubbs Road, McCandless, Pennsylvania.

Send comments to Mr. Tobias M. Cordek, Manager of the Town of McCandless, 9955 Grubbs Road, Wexford, Pennsylvania 15090.

Pennsylvania	McKeesport (City) Allegheny County.	Monongahela River	At McKeesport-Duquesne Bridge	*743	*744
			Approximately 0.45 mile downstream of Mansfield Bridge.	*745	*746
		Youghiogheny River	At confluence with Monongahela River	*744	*745
			Approximately 500 feet upstream of 15th Avenue.	*744	*745

Maps available for inspection at the Building Inspector's Office, 201 Lysle Boulevard, McKeesport, Pennsylvania.

Send comments to The Honorable Lou Washowich, Mayor of the City of McKeesport, 201 Lysle Boulevard, McKeesport, Pennsylvania 15132.

Pennsylvania	Monessen (City) Westmoreland County.	Monongahela River	Approximately 0.5 mile upstream of the Donora-Monessen Bridge.	*759	*760
			Approximately 1,025 feet upstream of North Charleroi Bridge.	*760	*762

Maps available for inspection at the City Hall, 100 Third Street, Monessen, Pennsylvania.

Send comments to The Honorable Robert H. Leone, Mayor of the City of Monessen, 100 Third Street, Monessen, Pennsylvania 15062.

Pennsylvania	Monongahela (City) Washington County.	Monongahela River	Approximately 1.1 miles downstream of Monongahela City Bridge.	*754	*755
			Approximately 0.9 mile upstream of Monongahela Highway.	*755	*756
		Digeon Creek	At confluence with Monongahela River	*755	*756
			Upstream corporate limit	*755	*756

Maps available for inspection at the Monongahela City Hall, 449 West Main Street, Monongahela, Pennsylvania.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to The Honorable John Moreschi, Mayor of the City of Monongahela, 449 West Main Street, Monongahela, Pennsylvania 15063.					
Pennsylvania	Monroeville (Municipality) Allegheny County.	Turtle Creek	At the confluence of Lyons Run	None	*832
			Approximately 1.48 miles upstream of confluence of Abers Creek.	None	*866
Maps available for inspection at the Engineering Office, 2700 Monroeville Boulevard, Monroeville, Pennsylvania.					
Send comments to Ms. Mary Ann Nau, Manager of the Municipality of Monroeville, 2700 Monroeville Boulevard, Monroeville, Pennsylvania 15146.					
Pennsylvania	Moon (Township) Allegheny County.	McClarens Run	At confluence with Montour Run	None	*867
			Approximately 0.34 mile upstream of Hilton Inn Drive.	None	*920
		Montour Run	Approximately 500 feet upstream of Montour Railroad.	None	*719
			At confluence of McClarens Run	None	*867
Maps available for inspection at the Building Inspector's Office, 1000 Beaver Grade Road, Moon, Pennsylvania.					
Send comments to Mr. George Semich, Chairman of the Township of Moon Board of Supervisors, Municipal Center, 1000 Beaver Grade Road, Moon, Pennsylvania 15108.					
Pennsylvania	Munhall (Borough) Allegheny County.	Monongahela River	At a point approximately 0.76 mile upstream of Pittsburgh Homestead Bridge.	None	*737
			At a point approximately 1,250 feet downstream of Rankin Bridge.	None	*739
Maps available for inspection at the Borough Hall, 1900 West Street, Munhall, Pennsylvania.					
Send comments to Mr. Robert C. Eberhart, Manager of the Borough of Munhall, 1900 West Street, Munhall, Pennsylvania 15120.					
Pennsylvania	New Stanton (Borough) Westmoreland County.	Belson Run	At downstream corporate limits with Hempfield.	None	*1,043
			At upstream corporate limits with Hempfield (near Sandworks Road).	None	*1,133
Maps available for inspection at the Borough Municipal Building, 451 West Center Avenue, New Stanton, Pennsylvania.					
Send comments to Mrs. Sally J. Taubken, New Stanton Council President, P.O. Box 237, New Stanton, Pennsylvania 15672.					
Pennsylvania	Nicholson (Township) Fayette County.	Monongahela River	At the confluence of Cats Run	*797	*798
			Approximately 1,100 feet downstream of the confluence of Georges Creek.	*801	*800
Maps available for inspection at the Nicholson Township Building, R.D. 2, Smithfield, Pennsylvania.					
Send comments to Mr. John Black, Chairman of the Township of Nicholson Board of Supervisors, Township Building, R.D. 2, Box 95, Smithfield, Pennsylvania 15478.					
Pennsylvania	North Braddock (Borough) Allegheny County.	Monongahela River	At a point approximately 700 feet downstream of Lock & Dam No. 2.	None	*740
			At a point approximately 250 feet downstream of Port Perry Bridge.	None	*741
Maps available for inspection at the Borough Hall, 600 Anderson Street, North Braddock, Pennsylvania.					
Send comments to The Honorable Raymond L. McDonough, Mayor of the Borough of North Braddock, 600 Anderson Street, North Braddock, Pennsylvania 15104.					
Pennsylvania	North Huntingdon (Township) Westmoreland County.	Brush Creek	Just upstream of confluence of Bushy Run.	None	*917
			Upstream side of second crossing of CONRAIL.	None	*929
Maps available for inspection at the North Huntingdon Township Hall, 11279 Center Highway, North Huntingdon, Pennsylvania.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to Mr. Eugene Walczyk, Chairman of the Board of Commissioners for the Township of North Huntingdon, 11279 Center Highway, North Huntingdon, Pennsylvania 15642.					
Pennsylvania	North Versailles (Township) Allegheny County.	Monongahela River	At a point approximately 0.55 mile upstream of Port Perry Bridge.	*741	*742
			At a point approximately 0.70 mile downstream of McKeesport-Duquesne Bridge.	*742	*743
Maps available for inspection at the Township Municipal Center, 1401 Greensburg Avenue, North Versailles, Pennsylvania.					
Send comments to Mr. Edward McGuire, Chairman of the Township of North Versailles, Board of Supervisors, 1401 Greensburg Avenue, North Versailles, Pennsylvania 15137.					
Pennsylvania	Penn Hills (Municipality) Allegheny County.	Thompson Run	Approximately 0.46 mile downstream of South McCully Drive.	None	*839
			Approximately 600 feet upstream of Union Railroad culvert opening (upstream side).	None	*962
Maps available for inspection at the Planning Department, 12245 Frankstown Road, Penn Hills, Pennsylvania.					
Send comments to The Honorable William DeSantis, Mayor of the Municipality of Penn Hills, 12245 Frankstown Road, Pittsburgh, Pennsylvania 15235.					
Pennsylvania	Penn (Township) Westmoreland County.	Lyons Run	At Pleasant Valley Road (L.R. 64089)	None	*915
			Approximately 1.1 miles upstream of Pleasant Valley Road.	None	*981
		Brush Creek	Upstream side of most upstream crossing of State Route 766.	None	*1,100
			Approximately 125 feet upstream of the most upstream crossing of State Route 766.	None	*1,101
Maps available for inspection at the Township Building, Municipal Court, Harrison City, Pennsylvania.					
Send comments to Mr. Bill Schaffer, Chairman of the Township of Penn, P.O. Box 452, Harrison City, Pennsylvania 15636.					
Pennsylvania	Pittsburgh (City) Allegheny County.	Monongahela River	Approximately 200 feet downstream of South Tenth Street Bridge.	*730	*731
			Approximately 1.11 miles upstream of Pittsburgh Homestead Bridge.	*737	*738
		Spring Garden Run	Approximately 0.29 mile downstream of Beech Street (Mount Pleasant Road).	None	*906
		Becks Run	At the confluence with the Monongahela River.	*733	*734
			Approximately 0.32 mile upstream of Beck Run Road (most upstream crossing).	None	*819
Maps available for inspection at the Department of City Planning, 4th Floor Civic Building, 200 Ross Street, Pittsburgh, Pennsylvania.					
Send comments to The Honorable Tom Murphy, Mayor of the City of Pittsburgh, 512 City County Building, Pittsburgh, Pennsylvania 15219.					
Pennsylvania	Port Vue (Borough) Allegheny County.	Youghiogheny River	Approximately 0.12 mile upstream of West 5th Avenue.	*744	*745
			Approximately 500 feet upstream of 15th Avenue.	*744	*745
Maps available for inspection at the Borough Hall, 1191 Romine Avenue, Port Vue, Pennsylvania.					
Send comments to Mr. Orlando DiMarco, President of the Borough of Port Vue Council, 1191 Romine Avenue, Port Vue, Pennsylvania 15133.					
Pennsylvania	Plum (Borough) Allegheny County.	Pucketa Creek	Just upstream of State Route 366	None	*784
			At county boundary	None	*852
Maps available for inspection at the Planning Department, 4575 New Texas Road, Plum, Pennsylvania.					
Send comments to Mr. Al Flickinger, President of the Borough of Plum Council, 4575 New Texas Road, Plum, Pennsylvania 15239.					
Pennsylvania	Rankin (Borough) Allegheny County.	Monongahela River	At Rankin Bridge	*738	*739

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Borough Hall, 320 Hawkins Avenue, Rankin, Pennsylvania.					
Send comments to Mr. Pete Veltre, President of the Borough of Rankin Council, 320 Hawkins Avenue, Rankin, Pennsylvania 15104.					
Pennsylvania	Salem (Township) Westmoreland County.	Crab Tree Creek	Approximately 0.3 mile downstream of U.S. Route 119.	None	*990
			Approximately 130 feet upstream of L.R. 64054.	None	*1,037
Maps available for inspection at the Township Municipal Building, Congruity Road, Greensburg, Pennsylvania.					
Send comments to Mr. Frank Pavlovich, Chairman of the Township of Salem Board of Supervisors, Municipal Building, R.D. #4, Greensburg, Pennsylvania 15601.					
Pennsylvania	Scottdale (Borough) Westmoreland County.	Jacob's Creek (Lower Reach).	Approximately 0.5 mile upstream of 5th Avenue.	*1,035	*1,031
			Upstream Borough of Scottdale corporate limits.	*1,035	*1,036
		Stauffer Run	Confluence with Jacob's Creek	*1,035	*1,036
			Approximately 100 feet downstream of Chestnut Street.	*1,035	*1,036
Maps available for inspection at the Scottdale Borough Hall, 10 Mt. Pleasant Road, Scottdale, Pennsylvania.					
Send comments to The Honorable Eugene J. Beran, Mayor of the Borough of Scottdale, 600 Eleanor Avenue, Scottdale, Pennsylvania 15683.					
Pennsylvania	Sewickley (Township) Westmoreland County.	Youghiogheny River Tributary.	At the corporate limits with Borough of Sutersville.	None	*864
			Approximately 100 feet downstream of corporate limits with Borough of Sutersville.	None	*860
Maps available for inspection at the Municipal Building, Marshill Road, Irwin, Pennsylvania.					
Send comments to Mr. F. Regisvanyo, Chairman of the Board of Supervisors, P.O. Box 28, Herminie, Pennsylvania 15637.					
Pennsylvania	South Fayette (Township).	Robinson Run	Approximately 1.13 miles downstream of Union Avenue.	None	*888
			At the downstream side of Mevey Street	None	*922
Maps available for inspection at the Township Municipal Building, 515 Millers Run Road, South Fayette, Pennsylvania.					
Send comments to Mr. C. Kenneth Chambon, President of the Township of South Fayette Board of Commissioners, 515 Millers Run Road, Morgan, Pennsylvania 15064.					
Pennsylvania	Swissvale (Borough) Allegheny County.	Monongahela River	Approximately 1.11 miles upstream of Pittsburgh Homestead Bridge.	None	*738
			Approximately 0.61 mile downstream of Rankin Bridge.	None	*738
Maps available for inspection at the Borough Hall, 7560 Roslyn Street, Swissvale, Pennsylvania.					
Send comments to Mr. Thomas J. Esposito, Manager of the Borough of Swissvale, 7560 Roslyn Street, Swissvale, Pennsylvania 15218.					
Pennsylvania	Tarentum (Borough) Allegheny County.	Bull Creek	Approximately 50 feet downstream of State Route 28.	None	*758
			Approximately 0.57 mile upstream of State Route 28.	None	*774
Maps available for inspection at the Borough Building, 304 Lock Street, Tarentum, Pennsylvania.					
Send comments to Mr. Larry Yeasted, President of the Borough of Tarentum Council, 304 Lock Street, Tarentum, Pennsylvania 15084.					
Pennsylvania	Unity (Township) Westmoreland County.	Slate Creek	Approximately 1,700 feet upstream of U.S. Route 30.	*1,141	*1,142
			Approximately 1,200 feet upstream of U.S. Route 30.	*1,135	*1,142
Maps available for inspection at the Unity Township Municipal Building, R.D. 3, Latrobe, Pennsylvania.					
Send comments to Mr. Merle L. Musick, Code Enforcement Officer for the Township of Unity, R.D. 3, Box 526K, Latrobe, Pennsylvania 15650.					
Pennsylvania	Upper St. Clair (Township) Allegheny County.	Painters Run	Approximately 200 feet downstream of Power Hill Road.	None	*846

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 400 feet upstream of Painters Run Road.	None	*869

Maps available for inspection at the Township Municipal Building, 1820 McLaughlin Run Road, Upper St. Clair, Pennsylvania.

Send comments to Mr. Charles Molzer, President of the Township of Upper St. Clair Board of Commission, 1820 McLaughlin Run Road, Upper St. Clair, Pennsylvania 15241.

Pennsylvania	Washington (Township) Fayette County.	Monongahela River	At downstream corporate limits	*763	*765
			At upstream corporate limits (approximately 0.6 mile upstream of the confluence of Little Redstone Creek).	*765	*767
		Little Redstone Creek	At confluence with Monongahela River	*764	*767
			Approximately 670 feet downstream of State Route 206 bridge.	*766	*767

Maps available for inspection at the Washington Township Offices, 1390 Fayette Avenue, Belle Vernon, Pennsylvania.

Send comments to Mr. Earnest Legg, Chairman of the Washington Township Board of Supervisors, 229 Long Avenue, Belle Vernon, Pennsylvania 15012.

Pennsylvania	Washington (Township) Westmoreland County.	Pucketa Creek	Approximately 725 feet downstream of State Route 380.	None	*919
			Approximately 0.4 mile upstream of Ashbaug Road.	None	*1,071
		Pine Run (Upper Reach)	Approximately 0.6 mile upstream of Chamber Road (Pine Run Road).	None	*987

Maps available for inspection at the Washington Township Municipal Building, 285 Pine Run Church Road, Apollo, Pennsylvania.

Send comments to Mr. Herbert J. Coulter, Chairperson of the Board of Supervisors, 285 Pine Run Church Road, Apollo, Pennsylvania 15613.

Pennsylvania	West Brownsville (Borough) Washington County.	Monongahela River	Approximately 20 feet downstream of confluence of Lily Run.	*769	*773
			Approximately 1,300 feet downstream of the Brownsville Bridge.	*771	*775

Maps available for inspection at the West Brownsville Borough Building, 235 Main Street, West Brownsville, Pennsylvania, or at the home of Mr. Jack J. Sabo, West Brownsville Secretary, 615 Woodlawn Avenue, West Brownsville, Pennsylvania.

Send comments to The Honorable Joseph A. DeSalvo, Mayor of the Borough of West Brownsville, 625 Middle Street, West Brownsville, Pennsylvania 15417.

Pennsylvania	West Elizabeth (Borough) Allegheny County.	Monongahela River	At State Route 51	*749	*750
			Approximately 0.76 mile upstream of State Route 51.	*749	*750

Maps available for inspection at the Borough Building, Corner of 5th & Lincoln, West Elizabeth, Pennsylvania.

Send comments to Mr. John Nikolic, President of the Borough of West Elizabeth Council, 308 Border Street, West Elizabeth, Pennsylvania 15088.

Pennsylvania	West Homestead (Borough) Allegheny County.	Monongahela River	Approximately 650 feet upstream of Glenwood Bridge.	*735	*736
			Approximately 600 feet downstream of Pittsburgh Homestead Bridge.	*736	*737

Maps available for inspection at the Borough Engineer's Office, 401 West 8th Avenue, West Homestead, Pennsylvania.

Send comments to Mr. William Stasko, President of the Borough of West Homestead Council, 401 West 8th Avenue, West Homestead, Pennsylvania 15120.

Pennsylvania	West Mifflin (Borough) Allegheny County.	Monongahela River	Approximately 0.29 mile upstream of Rankin Bridge.	*738	*739
			Approximately 0.78 mile downstream of Glassport Bridge.	*746	*747
		Streets Run	Approximately 840 feet downstream of Tributary No. 1.	None	*807
			Approximately 1.34 miles upstream of Tributary No. 2.	None	*977

Maps available for inspection at the Borough Hall, 4733 Greenspring Avenue, West Mifflin, Pennsylvania.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Send comments to Mr. Kenneth Ruffing, President of the Borough of West Mifflin Council, 4733 Greenspring Avenue, West Mifflin, Pennsylvania 15122.					
Pennsylvania	Whitaker (Borough) Allegheny County.	Monongahela River	At a point approximately 0.24 mile downstream of Rankin Bridge.	None	*739
			At a point approximately 0.29 mile upstream of Rankin Bridge.	None	*739
Maps available for inspection at the Borough Hall, 125 Grant Street, Whitaker, Pennsylvania.					
Send comments to Mr. Eugene Ratay, President of the Borough of Whitaker Council, 125 Grant Street, Whitaker, Pennsylvania 15120.					
Pennsylvania	White Oak (Borough) Allegheny County.	Crooked Run	Approximately 250 feet downstream of Pennsylvania Avenue.	None	*788
			At 5th Avenue	None	*799
Maps available for inspection at the Borough Municipal Building, 2280 Lincoln Way, White Oak, Pennsylvania.					
Send comments to Ms. Margaret Kadar, President of the Borough of White Oak Council, 2280 Lincoln Way, White Oak, Pennsylvania 15131.					
Pennsylvania	Wilkins (Township) Allegheny County.	Thompson Run	At downstream side of Factory Entrance Drive.	*754	*755
			At downstream side of Union Railroad	*766	*767
Maps available for inspection at the Township Hall, 110 Peffer Road, Wilkins, Pennsylvania.					
Send comments to Mr. Michael Madden, President of the Township of Wilkins Board of Commission, 110 Peffer Road, Turtle Creek, Pennsylvania 15145.					
South Carolina	Lexington County (Unincorporated Areas).	Senn Branch	Approximately 200 feet downstream of Epharata Drive.	*225	*224
			Just upstream of Hebron Drive	None	*301
		Tributary SM-3	A point approximately 100 feet downstream of Edmund Highway (Route 302).	*175	*176
			Approximately 0.4 mile upstream of dam at Lexington Drive.	None	*214
		Stoop Creek	Approximately 70 feet upstream of Fairway Lane.	*201	*200
			Approximately 200 feet downstream of Interstate Highway 26.	*211	*210
Maps available for inspection at the Lexington County Administration Building, Planning and Development Office, 212 South Lake Drive, Lexington, South Carolina.					
Send comments to Mr. Ed Parlar, Lexington County Administrator, 212 South Lake Drive, Lexington, South Carolina 29072.					
Tennessee	Decherd (City) Franklin County.	Wagner Creek	Approximately 800 feet upstream of Sharp Springs Road.	*893	*894
			At confluence of Bluespring Branch	None	*960
		Bluespring Branch	At confluence with Wagner Creek	None	*960
			Approximately 1.59 miles upstream of confluence with Wagner Creek.	None	*994
Maps available for inspection at the Decherd City Hall, 1301 West Main Street, Decherd, Tennessee.					
Send comments to Mr. Michael Foster, Decherd City Administrator, P.O. Box 488, Decherd, Tennessee 37324.					
Tennessee	Franklin County (Unincorporated Areas).	Wagner Creek	At upstream side of Old Cowan Road	None	*950
			Approximately 2.2 miles upstream of Old Cowan Road.	None	*993
		Bluespring Branch	At confluence with Wagner Creek	None	*960
			Approximately 2.2 miles upstream of confluence with Wagner Creek.	None	*1,008
		Sink Hole Area	Near the City of Decherd (north of Floyd Street).	None	*948
Maps available for inspection at the Franklin County Courthouse Annex, 110 South High Street, Winchester, Tennessee.					
Send comments to Mr. George Fraley, Franklin County Executive, One North Jefferson Street, Winchester, Tennessee 37398.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Tennessee	Lynchburg-Moore County Metropolitan Government.	East Fork Mulberry Creek	Approximately 200 feet downstream of Louse Creek Road.	None	*738
			Approximately 0.5 mile upstream of Tennessee Highway 55.	None	*828
		Price Branch	At confluence with East Fork Mulberry Creek.	None	*775
			Approximately 1.85 miles upstream of confluence with East Fork Mulberry Creek.	None	*825
Maps available for inspection at the Metro Courthouse, Public Square, Lynchburg, Tennessee.					
Send comments to Mr. Carl B. Payne, Lynchburg-Moore County Metropolitan Executive, Lynchburg-Moore County Metropolitan Government, P.O. Box 206, Lynchburg, Tennessee 37352.					
Tennessee	Polk County (Unincorporated Areas).	Hiwassee River	Approximately 1.8 miles downstream of Chestvee Creek confluence.	None	*711
			Approximately 0.42 mile upstream of CSX Transportation bridge.	None	*714
		Ocoee River	Approximately 100 feet upstream at the confluence with Hiwassee River.	None	*714
			Immediately downstream of Ocoee Dam #1.	None	*742
Maps available for inspection at the Polk County Courthouse, Main Street, Benton, Tennessee.					
Send comments to Mr. Hoyt T. Firestone, Polk County Executive, P.O. Box 128, Benton, Tennessee 37307.					
Tennessee	Winchester (City) Franklin County.	Wagner Creek	Approximately 800 feet upstream of Sharp Springs Road.	*893	*894
			Approximately 1,300 feet upstream of Old Winchester-Decherd Road.	*919	*918
Maps available for inspection at the Winchester City Hall, 7 South High Street, Winchester, Tennessee.					
Send comments to The Honorable David Bean, Mayor of the City of Winchester, 7 South High Street, Winchester, Tennessee 37398.					
West Virginia	Rivesville (Town) Marion County.	Monongahela River	A point approximately 0.49 mile downstream of Prickett Run (downstream corporate limit).	*867	*866
			Approximately 600 feet upstream of confluence of Prickett Run.	*867	*868
Maps available for inspection at the Town Hall, 142 Main Street, Rivesville, West Virginia.					
Send comments to The Honorable Richard Valentine, Mayor of the Town of Rivesville, Town Hall, 142 Main Street, Box 45, Rivesville, West Virginia 26588.					
West Virginia	Mercer County (Unincorporated Areas).	Brush Creek	Approximately 0.4 mile downstream of the U.S. Route 460 bridge.	*2,396	*2,395
			At the downstream side of County Route 19/33.	*2,413	*2,414
		South Fork	Approximately 900 feet upstream of County Route 71/6.	*2,416	*2,415
			Approximately 600 feet downstream of confluence of Middle Fork.	*2,442	*2,443
Maps available for inspection at the Mercer County Courthouse, Courthouse Square, Princeton, West Virginia.					
Send comments to Mr. John Rapp, President of the Mercer County Commission, P.O. Box 5469, Princeton, West Virginia 22740.					

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

Dated: September 14, 1994.

Robert F. Shea,

Acting Associate Director for Mitigation.

[FR Doc. 94–23224 Filed 9–19–94; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 152

RIN 3067–AC31

The Arson Prevention Act of 1994—State Grants

AGENCY: The United States Fire Administration (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would identify the eligibility criteria and procedures for States or consortia of States to apply for arson related grants, if funds are appropriated to support this activity. The proposed rule would detail the evaluation criteria and anti-arson goals that the awards are targeted to support. The intent of this proposed

rule is to notify interested parties how FEMA intends to administer this program, and to invite comments on the proposed procedures.

DATES: We invite your comments on this proposed rule and ask that you send any comments on or before November 4, 1994.

ADDRESSES: Send your written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472, (facsimile) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Kuntz, United States Fire Administration, 16825 South Seton Ave., Emmitsburg, MD. 21727, (301) 447–1271, (facsimile) (301) 447–1102.

SUPPLEMENTARY INFORMATION: The Arson Prevention Act of 1994 (Pub. L. 103–254) amends the Fire Prevention and Control Act of 1974 (15 U.S.C. 2220) to authorize competitive grants to States or consortia of States, for programs relating to arson research, prevention, and control. In anticipation of appropriations being made to fund the authorized grants, and contingent upon the availability of appropriations, FEMA is publishing proposed rules to indicate how it would administer the grant program.

National Environmental Policy Act

This proposed rule is excluded from the requirements of 44 CFR Part 10, Environmental Consideration, as having minimal or no effect on environmental quality. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the proposed rule would relate to the procedures that FEMA would follow to administer a statutorily mandated grant program, and would have no direct effect on small business or governmental entities. The proposed rule is not expected (1) To affect adversely the availability of grants to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, nor (3) to create and additional burden on small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Paperwork Reduction Act

This proposed rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12866, Regulatory Planning and Review

Promulgation of this proposed rule is required by statute, 15 U.S.C. 2221 et seq. To the extent possible under the statutory requirements of 15 U.S.C. 2221 et seq. this proposed rule adheres to the principles of regulation set forth in this Executive Order.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 152

Administrative practice and procedure, Firefighters, Fire prevention, Grant programs, Reporting and recordkeeping requirements.

Accordingly, FEMA proposes to add Part 152 to 44 CFR Subchapter C to read as follows:

PART 152—STATE GRANTS FOR ARSON RESEARCH, PREVENTION, AND CONTROL

Subpart A—Purpose, Scope, Definitions

Sec.
152.1 Purpose.
152.2 Scope.
152.3 Definitions.

Subpart B—Competitive State Grants

152.4 Grant goals.
152.5 State qualification criteria.
152.6 Grant application procedures.
152.7 Available funds and application submission.
152.8 Competitive evaluation criteria.
152.9 Reporting requirements.

Subpart C—Administration

152.10 Extensions.
152.11 Technical assistance.
152.12 Consultation and cooperation.
152.13 Audits.
152.14 Penalties.

Authority: 15 U.S.C. 2221; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Subpart A—Purpose, Scope, Definitions

§ 152.1 Purpose.

This part establishes the uniform administrative rules under which States or consortia of States will request consideration for competitive arson research, prevention and control grant award(s), and details the associated administrative procedures which will be required of applicants and recipients.

§ 152.2 Scope.

This part applies to all States or consortia of States requesting competitive consideration of their respective proposals, and all those States or consortia of States actually awarded arson grants under this authority.

§ 152.3 Definitions.

Administrative costs means those actual expenses incurred by a grantee to oversee and execute the specific administrative provisions of the grant award, including as appropriate the provision of grant related monitoring services and reporting requirements, and the nominal purchase of necessary equipment and expendable supplies to support the administration of the grant.

Administrator means the Administrator of the United States Fire Administration.

Grantee means the State, consortia of States, or State and consortia of States identified as recipients of grant awards under this part.

Prevention and Control means the aggressive intervention strategies, methods, and materials developed or relied upon to minimize the occurrence and effects of arson.

Program Costs means the actually incurred expenses related to the development, delivery, training, research or other activities proposed and subsequently authorized by the grant award and other appropriate controls.

Reporting Methodology is the means by which a jurisdiction provides arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) programs.

Research means the application of conventional scientific and statistical methods to assess a particular issue, application methodology, intervention or mitigation strategy in an effort to advance the collective scientific body of knowledge related to the nation's arson problem.

Resources means tangible capability enhancements including but not limited to the purchase of program related equipment, services, materials, and expendable supplies.

Responsible Official means the individual specifically authorized to act as the accountable Agent of the State for

purposes of administering the grants awarded under this part.

State means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

State Consortia means a cooperative and collective group of more than one State, (or State equivalents as noted above).

Subpart B—Competitive State Grants

§ 152.4 Grant goals.

Grant applications for these grant awards must promote one or more of the following 10 goals:

(a) To improve the training by States leading to professional certification of arson investigators in accordance with nationally recognized certification standards. Certification of arson investigators is to be accomplished in accordance with State guidelines, by appropriate State authorities.

(b) To provide resources for the formulation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

(c) To combat fraud as a cause of arson, and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

(d) To provide for the management of arson squads including:

(1) Training courses for fire departments in arson case management including standardization of investigative techniques and reporting methodology;

(2) The preparation of arson unit management guides; and

(3) The development and dissemination of new public education materials relating to the arson problem; proposals should address all three subactivities in support of the management of an arson squad.

(e) To combat civil unrest as a cause of arson, and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

(f) To combat juvenile arson, such as juvenile fire setter counseling programs and similar intervention programs, *and* to advance research at the State and local levels on the prevention of juvenile arson.

(g) To combat drug-related arson, and to advance research at the State and local levels on the causes and prevention of drug-related arson.

(h) To combat domestic violence as a cause of arson, and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

(i) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

(j) To improve the capability of firefighters to identify and combat arson through expanded training programs, including:

(1) Training courses at the State fire academies; and

(2) Innovative courses at the (National Fire) Academy and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

(k) Proposals addressing goals in paragraphs (a), (i), and (j) of this section would be encouraged to rely, at least in part on training course materials and offerings currently available through the National Fire Academy (NFA). Proposals should specifically identify which training components would be utilized and how they would be delivered. In the event Course content, other than that available from the NFA is proposed, the applicant will include copies of the proposed training materials with the proposal.

(l) In addition, applicants should make specific reference in their proposal(s) as to those efforts being made to provide improved and more widely available arson training courses which demonstrate particular emphasis on the needs of volunteer firefighters.

§ 152.5 State qualification criteria.

Each State or consortium of States will demonstrate by appropriate means and provide such assurances as are deemed adequate by the Administrator that the State, or consortium of States:

(a) Will obtain at least 25 percent of the cost(s) funded by the grant, in cash or in kind, from non-Federal sources.

(1) State's contribution. Applicants will identify the source and amount of their respective contribution (in cash or in kind) in the work plan and budget detail sections of the application.

(2) Cash contributions will be sourced or certified by responsible authority to be derived entirely from non-Federal sources.

(3) In kind contributions will be specifically detailed and clearly demonstrate the type, nature, value and quantity of the contribution offered to satisfy this requirement. The applicant(s) may offer current staff in support of the contribution requirement, in so far as the offering would not effect the restriction against decreasing the prior levels of spending detailed in paragraph (b) of this section.

(4) In kind contributions will also be sourced and certified to be derived from non-Federal sources.

(b) Will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-federal sources for arson research, prevention, and control programs. The applicant(s) will provide a concise overview of the level of funding dedicated to these areas for each of the two previous fiscal years. This information will be included in the grant file and is subject to post audit reviews. The applicant's responsible official will provide appropriate certification that the recipient is cognizant of this condition of award, and that no diminution of funding is to result in such anti-arson efforts in the event of a grant award. Violation of this grant award condition may subject the recipient to termination of the grant, and forfeiture of unused portions of grant funds, and other applicable administrative or criminal sanctions.

(c) Will use no more than 10 percent of the funds provided under the grant for administrative costs of the programs. Actual administrative cost incurred, not to exceed 10 percent for the funds provided, may be funded through the grant. It is recognized that the administrative costs may exceed the allocation limit, in such cases the additional expense will be born by the recipient. Excess administrative costs will *not* be considered part of the recipients required "contribution" as noted in paragraph (a) of this section; and

(d) Is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System (NFIRS) or the Uniform Crime Reporting (UCR) program.

(1) The State, or consortia of States, will provide, as part of the application process, such information as will describe its current efforts to ensure that all local jurisdictions will provide data to NFIRS or UCR.

(2) This description should include the current level of local jurisdiction participation in each of the respective data collection programs. It should detail the State's reporting criteria, and data collection requirements, and statutory reporting mandates, if applicable. It should specifically identify the constructive efforts (both incentives and penalties to local jurisdiction's participation) underway to achieve complete reporting, and identify the actions, if any, to be taken under the

proposed grant to achieve the participation target; and

(e) Has a policy to promote actively the training of its firefighters in cardiopulmonary resuscitation (CPR). The applicant(s) may demonstrate their fulfillment of this requirement by providing a true copy of the policy with the proposal, or by such other means as would reasonably attest to the applicant's active promotion of CPR training for all firefighters.

§ 152.6 Grant application procedures.

(a) Applicants, both singularly and in consortia, must format their proposals so as to assure the grant goal(s) identified in § 152.4 are clearly addressed and that the work plan descriptions of the level of effort, program activity, and program budgets are specific to each of the selected target goals.

(1) The legislation directs that awards be made in support of each of the ten (10) goals enumerated in § 152.4. The competitive evaluation of the proposals will be done on a goal by goal basis, and the grant awards will be made accordingly. In effect, all of the proposals received that address, for example § 152.4(a), will be reviewed against the competitive evaluation criteria detailed in § 152.8 in relation to achieving that goal. The best overall proposal will be the recipient of the award. Each of the other proposals offered in support of each of the other goals will likewise be assessed. The State or consortia of States may submit proposals addressing more than one of the goals. Applicants must however insure that the proposal detail is separable in its entirety, goal by goal. States, or consortia of States, applying for the competitive grants available under this section will comply with and are bound by all of the applicable provisions of 44 CFR parts 13 and 14 with respect to the Uniform Administrative Requirements for Grants to State Governments, and the Administration of Grants: Audits of State Governments.

(2) [Reserved]

(b) The application will identify the requestor's status as a:

(1) State; or

(2) Consortium of States, (detailing each of the States in the consortium).

(c) The application will specifically identify both the responsible State organizational element (e.g., the Office of the State Fire Marshal) and the responsible Official/Individual who will administer the grant in the event of an award. Grant requests from consortia of States will include this information for each of the States, and will identify which one of these responsible Officials will serve as the grant's administrative coordinator with USFA.

(d) The information provided will include the following:

(1) The applicant's complete organizational title;

(2) The applicant's complete mailing address;

(3) The name and title of the State's designated responsible Official;

(4) The responsible Official's complete mailing address; and

(5) The responsible Official's telephone and facsimile numbers.

(e) The application will indicate specifically which of the 10 grant goals in § 152.4 the proposed grant activities are intended to address. Consortia proposals may propose that each of the consortia States address a particular goal or group of goals singularly, or the States may approach the selected goals, in part or in whole, collectively.

(f) The application will provide specific work plans which detail the means by which the applicant(s) intends to pursue the selected goal's attainment through the grant. The work plan will include the overall level of effort envisioned as a result of the proposed grant's implementation, the specific tasks and time lines to be accomplished, the resources both human and material that will be applied to the effort (including the means by which the utilization of these resources will be accounted for), and the means and methods that will be utilized to assess and evaluate the accomplishment of the targeted goals.

(g) Each applicant will submit a detailed grant program budget which addresses, by goal specific reference, how the grant funds, both administrative and programmatic, will be disbursed. The grant proposal budget element will specifically distinguish between "administrative costs" and "program costs" consistent with the requirements noted herein. No more than 10 percent of the funds provided under the grant will be used for the administrative costs of the program. This restriction does not preclude the applicant(s) from proposing a greater level of effort or resource dedication to administrative activity, it simply limits the costs to be supported through the grant funding. Each of the States in a consortium may request support for actual administrative costs of no more than 10 percent of its respective program expenses.

§ 152.7 Available funds and application submission.

(a) Funds may be appropriated in Fiscal Year 1995 to support grant awards addressing the ten (10) goals of § 152.4. No grant awards would be made in Fiscal Year 1995 or future years unless and until funds are appropriated.

(b) Reasonable efforts will be made to award a grant addressing each of the enumerated goals in an expeditious manner. Upon completion of the initial competitive evaluations and the resulting grant awards, any goal(s) yet unattended will be identified and may become the subject of a second round of applications solicitation, consideration and grant award(s). Grant proposals should be formatted to address specifically the incremental use of the currently available (FY 1995) funds, and target the possible use of FY 1996 funds if made available, as logical programmatic extensions or replications of the activities proposed and supported by FY 1995 funds.

(c) Following the comment period and the publishing of the final rule incorporating these procedures, a formal announcement of grant availability will be issued in the **Federal Register**. Applicants will be afforded a period of not less than 30 and not more than 45 days, following the formal announcement, to submit applications. It is anticipated that the initial grant awards will be made during the first quarter of calendar year 1995. In the event awards are not made in support of each of the ten goals, a second Notice of Availability, addressing the unattended goals, may be published in the **Federal Register** and awards will be targeted to occur before September 30, 1995.

§ 152.8 Competitive evaluation criteria.

Each grant application/program proposal received will be competitively assessed against the following criteria:

(a) The degree to which the proposal is seen to address the targeted goal or each goal in a combination of goals;

(b) The scope and effect of the proposed initiative in relation to the proposed program cost;

(c) The degree to which the proposed activity supports a "model program initiative" suitable for replication in other jurisdictions;

(d) The degree to which the proposed activity demonstrates an effective and efficient integration of a variety of program resources;

(e) The degree to which the proposed activity could sustain itself upon the completion of the grant performance period;

(f) The degree to which the proposed activity would target intervention strategies addressing high risk groups, properties, or specific conditions.

(g) The degree to which the activity proposed would produce a lasting anti-

arson program, initiative, or other such appropriate outcome;

(h) The degree to which the proposed activity promotes the introduction of new technology, innovative techniques, or non-traditional approaches to reduce the nation's arson problem;

(i) The degree to which the proposed activity relies upon the development of inter-governmental, inter-organizational, or community involving "partnerships" to promote goal attainment; and

(j) The degree to which the proposed activity supports the enhanced ability to collect arson data.

§ 152.9 Reporting requirements.

(a) Each State, or consortium of States, which is the recipient of a grant under this authority, by acceptance of the award, agrees to provide to the satisfaction of the Administrator and in timely fashion, any and all such documentation as may be requested or required to detail the methods and amounts of grant funds disbursement and such other recordkeeping, retention of records and the additional provision of information by the Grantee as may be required by the awarding Agency and applicable regulation.

(b) The reporting requirements will consist of primarily the two following types:

(1) Quarterly progress and financial status reports; and

(2) Final progress report and financial status report. The final progress report will include a summary evaluation of the program related activities under the grant. It will identify the evaluation methodology and the assessment values applied to critique the grant's effectiveness in relation to achieving the targeted goal(s).

Subpart C—Administration

§ 152.10 Extension.

The Administrator has discretionary authority to extend the duration of grants made under this regulation for one or more additional periods. Grant recipients desiring an extension of the grant performance period, will request such extensions in writing at least sixty (60) days prior to the expiration of the grant period. The request will include the reason for the requested extension, a description of the effect(s) on the program if the extension is not granted, and a statement that no additional federal funds would be necessary to support the grant activities during the extension period. Grant extension requests may not be utilized to request additional funding.

§ 152.11 Technical assistance.

The Administrator shall provide technical assistance to States in carrying out the program(s) funded by grants under the Act. This assistance will consist of providing the customary and usual information on the application process, deadlines, program and financial reporting requirements, and related grant program activities support. This provision is not intended to suggest that USFA will provide other than grant related support and technical assistance. Grant proposals should not suggest or rely upon other program related services, staff support or monies from USFA to be any part of the proposed grant activities, except as provided herein.

§ 152.12 Consultation and cooperation.

The Administrator would consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

§ 152.13 Audits.

In accordance with applicable regulations, all the grants awarded under part 152 of 44 CFR and all records of the recipient would be subject to audit by appropriate Federal Emergency Management Agency staff or other responsible authority.

§ 152.14 Penalties.

The recipient designated responsible official or others who provide information or documentation to federal officials in connection with the activities or funds authorized by or expended through these grants are subject to, among other laws, the criminal penalties of 18 U.S.C. 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements. Such actions are punishable by the imposition of a fine not to exceed $10,000.00 or imprisonment for not more than five (5) years, or both. Such a violation may also subject the responsible official to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: September 14, 1994.

James L. Witt,

Director.

[FR Doc. 94–23304 Filed 9–19–94; 8:45 am]

BILLING CODE 6718–26–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–100, RM–8509]

Radio Broadcasting Services; Okmulgee, Nowata and Pawhuska, Oklahoma

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed jointly by Integrated Broadcasting Company, Inc., requesting the substitution of Channel 231C1 for Channel 231C2 at Okmulgee, Oklahoma, and the modification of Station KTHK(FM)'s license to specify operation on the higher class channel, and by KRIG, Inc., requesting the substitution of Channel 286C3 for Channel 232A at Nowata, Oklahoma, and the modification of Station KRIG(FM)'s license to specify operation on the higher class channel or alternatively to substitute Channel 285A for Channel 232A at Nowata and the modification of Station KRIG(FM)'s license to specify the alternate Class A channel. To accommodate the allotment of Channel 286C3 to Nowata, the Commission also proposes to substitute Channel 280A for unoccupied and unapplied-for Channel 285A at Pawhuska, Oklahoma. Should no interest be expressed in the use of Channel 280A at Pawhuska, the Commission alternatively proposes to delete Channel 285A at Pawhuska without replacement. In accordance with Section 1.420(g), the licenses of Stations KTHK(FM) and KRIG(FM) can be modified as proposed without affording interested persons an opportunity to submit competing expressions of interest or requiring the petitioners to demonstrate the availability of an additional equivalent higher class channel.

DATES: Comments must be filed on or before Nov. 7, 1994, and reply comments on or before November 22, 1994.

ADDRESSES: Federal Communications Commission, Washington D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark N. Lipp, Esq., Mullin, Rhyne, Emmons and Topel, P.C., 1225 Connecticut Avenue, Suite 300, Washington, D.C. 20036 (Counsel to Integrated Broadcasting Company, Inc.), and Lawrence N. Cohn, Cohn & Marks, 1333 New Hampshire Avenue, N.W.,

Suite 600, Washington, D.C. 20036–1573 (Counsel to KRIG, Inc.)

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: Channel 231C1 can be allotted to Okmulgee in compliance with the Commission's minimum distance separation requirements at Station KTHK(FM)'s presently licensed site, at coordinates 35–50–02 North Latitude and 96–07–28 West Longitude. Channel 286C3 can be allotted to Nowata with a site restriction of 13.6 kilometers (8.4 miles) northwest, at coordinates 36–46–13; 95–45–17, to avoid a short-spacing to the construction permit site of Station KBXT, Channel 287C3, Bixby, OK, and to accommodate KRIG, Inc.'s desired transmitter site. Channel 285A can be allotted to Nowata at Station KRIG's presently licensed site, at coordinates 36–44–35; 95–45–17. Channel 280A can be allotted to Pawhuska, OK, with a site restriction of 8.4 kilometers (5.2 miles) northwest, at coordinates 36–44–00; 96–23–00.

This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94–100, adopted September 8, 1994, and released September 15, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–23207 Filed 9–19–94; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 59, No. 181
Tuesday, September 20, 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 COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Survey of Manufactures.

Form Number(s): MA–1000(L), MA–1000(S), MA–1000(B).

Agency Approval Number: 0607–0449.

Type of Request: Revision of a currently approved collection.

Burden: 197,000 hours.

Number of Respondents: 63,000.

Avg Hours Per Response: 3 hours and 8 minutes.

Needs and Uses: The Census Bureau conducts the Annual Survey of Manufactures (ASM) to provide key measures on manufacturing activity during intercensal years. Federal agencies use the ASM's results as benchmarks for their statistical programs, including the Federal Reserve Board's Index of Industrial Production, the Bureau of Economic Analysis' estimates of the gross domestic product, and the International Trade Administration's "Industrial Outlook" publication. Within the Census Bureau, ASM data are used to benchmark and reconcile our monthly and quarterly data on manufacturing production and inventories.

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–93271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

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

Dated: September 14, 1994.

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–23249 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–07–F

Bureau of the Census

Census Advisory Committee of the Professional Associations; Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The meeting will convene on October 20–21, 1994 at the Bureau of the Census, Conference Center, Federal Building 3, Suitland, Maryland.

The committee is composed of 36 members appointed by the presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the chairman of the board of the American Marketing Association. It advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The agenda for the meeting on October 20 that will begin at 9 a.m. and end at 5:15 p.m. is:

- Introductory remarks by the Acting Director, Bureau of the Census;
- 2000 census update;
- Economic and Agriculture Censuses update;
- Census Bureau responses to committee recommendations;
- Annual Survey of Manufactures and Census Comparability;
- Program for the Society of Journalists;
- Elimination of the Area Sample and Expanded Use of Administrative Records;
- 2000 census content determination;
- Bureau constraints (policy and others) that affect customer-oriented strategies;
- Update on intercensal small area income and poverty estimates program;
- Reengineering the economic censuses and surveys; and
- Integrated coverage measurement.

The agenda for the April 15 meeting that will begin at 9 a.m. and adjourn at 12:15 p.m. is:

- Worker establishment characteristics data base;
- Congress-as-a-customer;
- Living Situation Survey and 1994 Coverage Test;
- Review of Office of Management and Budget standards on race and ethnicity;
- Develop recommendations and special interest activities; and
- Closing session.

The meeting is open to the public, and a brief period is set aside on October 21 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel, room 2419, Federal Building 3, Suitland, Maryland (mailing address: Washington, DC 20233), telephone: (301) 763–5410—TDD (301) 763–4056.

Dated: September 13, 1994.

Harry A. Scarr,

Acting Director, Bureau of the Census.

[FR Doc. 94–23162 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–07–P

[Docket Number 940841–4241]

Investment Plans Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of termination and consideration.

SUMMARY: Notice is hereby given that the Bureau of the Census is proposing

to replace the quarterly Plant and Equipment (P&E) Survey with a new semiannual Investment Plans Survey (IPS). Capital investments by businesses are a key indicator of U.S. economic performance. This change would improve the quality of intrayear data on U.S. business investment and provide comparability between intrayear investment surveys and the more detailed Annual Capital Expenditures Survey (ACES).

The P&E Survey was terminated after second quarter 1994 P&E results were released on September 8, 1994. Results for the first phase of the new IPS would be released in February 1995 and would include preliminary estimates of total 1994 expenditures for structures and equipment and planned 1995 spending for selected industry categories. Results for the second phase would be released in September 1995 and would include revised estimates of planned 1995 spending. The IPS results for future years would be released on this semiannual schedule.

The IPS methods and content have been coordinated with those of the ACES and results from this new indicator survey will be fully consistent with results from the ACES. However, because the scope and detail of the new IPS are different from the present P&E Survey, IPS results will not be directly comparable to previously released P&E Survey data.

DATES: Comments concerning this proposal should be submitted in writing by October 20, 1994 to receive consideration.

ADDRESSES: Director, Bureau of the Census, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: Charles Funk, Agriculture and Financial Statistics Division, Bureau of the Census, Washington, D.C. 20233, on (301) 763–7180.

SUPPLEMENTARY INFORMATION: This proposed survey was submitted to the Office of Management and Budget on July 18, 1994 for approval in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended. This was announced in the **Federal Register** on July 21, 1994. Copies of the material submitted are made available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Authority: Title 13 United States Code, Sections 131 and 182.

Dated: September 14, 1994.

Harry A. Scarr,

Acting Director, Bureau of the Census

[FR Doc. 94–23277 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–07–P

Foreign-Trade Zones Board

[Order No. 704]

Grant of Authority for Subzone Status, Peavey Electronics Corporation (Electronic Audio and Acoustical Products), Meridian, MS, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Vicksburg/Jackson Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 158, for authority to establish special-purpose subzone status at the electronic audio and acoustical products manufacturing facilities (9 sites) of the Peavey Electronics Corporation in the Meridian, Mississippi, area, was filed by the Board on August 19, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 47–93, 58 FR 46627, 9–2–93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 158B) at the plant sites of the Peavey Electronics Corporation in the Meridian, **Mississippi, area, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including §400.28.**

Signed at Washington, DC, this 12th day of September 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 94–23251 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–834]

Postponement of Preliminary Antidumping Duty Determination: Disposable Pocket Lighters From the People's Republic of China ("PRC")

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

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Vincent Kane, Office of Countervailing Investigations, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–0167 and 482–2815, respectively.

Postponement

We have determined that this investigation is extraordinarily complicated due to the large number of producers and resellers. We have also determined that respondent parties to the proceeding are cooperating in this investigation. Accordingly, pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended, ("the Act") and 19 CFR 353.15(b), we are postponing the date of the preliminary determination in this investigation until no later than December 5, 1994.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: September 13, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–23252 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–301–801]

Preliminary Determination of Sales at Less Than Fair Value: Fresh Cut Roses From Colombia

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

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: James Maeder or James Terpstra, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3330, or (202) 482–3965.

Preliminary Determination

We preliminarily determine that fresh cut roses (roses) from Colombia are

being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930 (the Act), as amended. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation on March 7, 1994 (59 FR 11771, March 14, 1994), the following events have occurred.

On March 31, 1994, the U.S. International Trade Commission (ITC) issued an affirmative preliminary determination.

On April 19, 1994, the Department decided to collect constructed value (CV) information from all respondents in addition to home market or, where appropriate, third country sales information (*See* the April 19, 1994, memorandum from the team to Barbara R. Stafford).

On May 5, 1994, the Department issued sales and cost questionnaires to the following 16 Colombian companies: Agricola Benilda; Agrorosas S.A.; Flores La Fragancia S.A.; Flores Mocari S.A.; Grupo Andes; Grupo Bojaca; Caicedo Group; Grupo Clavecol; Grupo Floramerica; Grupo Intercontinental; Grupo Papagayo; Grupo Prisma; Grupo Sabana; Grupo Sagaro; Grupo Tropicales; and Rosex LTDA. These companies accounted for approximately 40 percent of the exports of the subject merchandise during the period of investigation (POI). Although the Department "normally will examine not less than 60 percent of the dollar value or volume of the merchandise sold" during the POI, 19 CFR 353.42(b)(1), due to limited administrative resources the Department chose to examine less than 60 percent (*See* the May 2, 1994, memorandum from the team to Barbara R. Stafford).

On June 24, 1994, the Floral Trade Council, petitioner in this investigation, requested a postponement of the preliminary determination until September 12, 1994, pursuant to 19 CFR 353.15(c) (1993). As we found no compelling reason to deny the request, the Department granted this request on June 28, 1994 (59 FR 34409, July 5, 1994).

On June 24, 1994, the Department relieved all respondents except Caicedo Group from the requirement of reporting sales of roses imported and/or sold as part of bouquets (*See* the June 24, 1994, memorandum from the team to Barbara R. Stafford). On this same date, the Department also instructed respondents to report monthly-average price data for the U.S. market, home market, and where appropriate, third country markets (*See* the June 24, 1994, memorandum from the team to Barbara R. Stafford).

Also on June 24, 1994, the Department determined that eight of the respondents (Agricola Benilda; Flores La Fragancia S.A.; Grupo Bojaca; Caicedo Group; Grupo Floramerica; Grupo Intercontinental; Grupo Papagayo; and Grupo Prisma) had viable home markets and were instructed to report home market sales data as the basis for foreign market value (FMV).

In addition, the Department determined that four of the respondents (Grupo Clavecol; Grupo Sabana; Grupo Sagaro and Grupo Tropicales) did not have viable home markets and instructed the respondents to report third country sales data as a potential basis for FMV (*See* the June 24, 1994, memorandum from the team to Barbara R. Stafford). However, since respondents argued that third country markets were fundamentally different from the U.S. market, it was decided that the final basis for FMV for these last four respondents (either third country sales or CV) would not be determined until more information was received (*See* the "Third Country Sales Versus Constructed Value" section of this notice for further discussion).

The Department also instructed four of the respondents (Agrorosas S.A.; Flores Mocari S.A.; Grupo Andes; and Rosex LTDA) to report CV as the basis for FMV as the volume of sales in neither the home market nor third countries was adequate.

On June 29, 1994, one of the four respondents in the second category above, Grupo Sagaro, submitted an amendment to its questionnaire response. In that amendment, Grupo Sagaro stated that, based on further review, it did have a viable home market. After reviewing the new sales information, the Department agreed and on July 8, 1994, we instructed Grupo Sagaro to base its FMV on home market sales.

Respondents submitted responses to the Department's sales and cost questionnaires in May and July 1994. The Department issued deficiency sales and cost questionnaires in June, July, August and September 1994. Respondents submitted their responses to these deficiency sales and cost questionnaires in June and August 1994. Agricola Benilda submitted a comprehensive revision of its sales and cost information on September 8, 1994. Agrorosas S.A. submitted minor pre-verification corrections on September 9, 1994.

On July 5, 1994, petitioner requested that the Department reject home market sales as a basis for FMV for nine of the respondents for which the home market was viable. Petitioner stated that these sales were not in the ordinary course of trade. On July 11, 1994, the Department issued supplemental questionnaires to determine if the sales reported were in the ordinary course of trade. On July 25, 1994, the respondents provided their responses to these supplemental questionnaires.

On July 28, 1994, petitioner alleged that the nine respondents which had viable home markets sold roses in the home market at prices below their cost of production (COP). Petitioner also alleged that Grupo Tropicales sold roses in one of its two third country markets, Argentina, at prices below its COP.

On August 22, 1994, the Department instructed Rosex to file a consolidated response with Rosas Sausalito and Induflora. This response is due on September 12, 1994. For our preliminary determination we based our analysis on only Rosex's data.

On September 8, 1994, the Department initiated COP investigations against the nine respondents with viable home markets and against Argentine sales for Grupo Tropicales (*See* the September 8, 1994, memorandum from Richard W. Moreland to Barbara R. Stafford).

Based on information obtained from the respondents which had viable home markets, the Department determined on September 9, 1994, that home market sales were in the ordinary course of trade and, therefore, could be used in the Department's analysis (*See* the September 9, 1994, memorandum from the team to Barbara R. Stafford).

On September 12, 1994, the Department decided to base FMV for Grupo Clavecol, Grupo Sabana and Grupo Tropicales on third country sales (*See* the September 12, 1994, memorandum from the team to Barbara R. Stafford). For a further discussion, see the "Third Country Sales" section of this notice.

Scope of Investigation

The products covered by this investigation are fresh cut roses, including sweethearts or miniatures, intermediates, and hybrid teas, whether imported as individual blooms (stems) or in bouquets or bunches. Roses are classifiable under subheadings 0603.10.6010 and 0603.10.6090 of the *Harmonized Tariff Schedule of the United States* (*HTSUS*). The *HTSUS* subheadings are provided for convenience and customs purposes. The

written description of the scope of this investigation is dispositive.

Period of Investigation

The Department initiated this investigation using our standard six-month POI from September 1, 1993, to February 28, 1994. On March 30 and April 11, respondents submitted comments on the POI. On April 5, 1994, petitioner also submitted comments on the POI. On April 14, 1994, the Department altered the POI to calendar year 1993 because of the seasonal nature of sales and production in the rose industry (*See* the April 14, 1994, memorandum from the team to Richard W. Moreland).

In addition, for purposes of price-to-price comparisons, we are basing FMV on two six-month periods: January 1, 1993, through June 30, 1993; and July 1, 1993, through December 31, 1993. For a further discussion of these periods, see the September 12, 1994, concurrence memorandum.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise by the following respondents: (1) Agricola Benilda; (2) Grupo Intercontinental; (3) Grupo Prisma and (4) Grupo Andes.

In assigning BIA, the Department applies a two-tiered methodology based on the degree of respondent's cooperation. In the first tier, the Department normally assigns higher margins (*i.e.*, margins based on more adverse assumptions) for those respondents which did not cooperate in an investigation or which otherwise impeded the proceeding. If a respondent is deemed non-cooperative, the Department bases the preliminary margin for the relevant class or kind of merchandise on the higher of: (1) The highest margin in the petition or (2) the highest calculated margin of any respondent within that country that supplied adequate responses for the relevant class or kind of merchandise.

In the second tier, the Department assigns lower margins to those respondents who substantially cooperate in an investigation. These margins are based on the higher of: (1) The highest calculated margin for any respondent within the country that supplied adequate information for the relevant class or kind of merchandise or (2) the average margin of the margins in the petition (*See, e.g., Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany*, (54 FR 18992, May 3, 1989)).

The Department's two-tiered methodology for assigning BIA has been upheld by the U.S. Court of Appeals for the Federal Circuit (*See Allied-Signal Aerospace Co.* v. *United States*, 996 F.2d 1185 (Fed. Cir. 1993); *See also Krupp Stahl AG* v. *United States*, 822 F. Supp. 789 (CIT 1993)).

For Agricola Benilda, Grupo Intercontinental and Grupo Prisma, we have determined that these respondents' original and deficiency questionnaire responses were unusable for the preliminary determination because they contained significant deficiencies (*See* the September 12, 1994, memorandum from David L. Binder to Barbara R. Stafford). In addition, Agricola Benilda submitted substantial revisions to its sales and cost information on September 8, 1994.

However, because Agricola Benilda, Grupo Andes, Grupo Intercontinental and Grupo Prisma responded to our requests for information, we find that these respondents have been substantially cooperative for purposes of this preliminary determination. Accordingly, we used as second-tier BIA for these respondents the average of the margins contained in the petition, which is 55.94 percent. This margin is higher than the highest margin calculated for any respondent in this investigation.

Furthermore, we have issued supplemental deficiency letters to Agricola Benilda, Grupo Intercontinental and Grupo Prisma. If these respondents submit adequate and timely responses to these letters, we will conduct verification for these respondents and will consider their information for purposes of the final determination.

For Grupo Andes, we have determined that this respondent has failed to respond adequately to the Department's deficiency questionnaire and failed to inform the Department in a timely manner that it had sufficient sales of export-quality roses in the home market to deem the home market viable. While Grupo Andes stated that its home market was not viable, analysis of its deficiency response has indicated that its home market is, in fact, viable.

Grupo Andes' failure to correctly indicate that its home market was, in fact, viable constitutes a material error: the determination of what basis in which to make price comparisons is central to the entire dumping analysis.

While Andes has substantially cooperated in this investigation, the history of its responses indicates that the information reported was highly unreliable, and its failure to report home market sales was a fundamental error. Because of the serious errors in Andes' reporting, we would have needed a materially new response. We find that there is insufficient time prior to verification in which to analyze such a response and any possible supplemental responses. For these reasons we will not be conducting verification for this respondent and will also base the margin for Grupo Andes in the final determination on cooperative BIA (*See* the September 9, 1994, memorandum from David L. Binder to Barbara R. Stafford).

Such or Similar Comparisons

We have determined that all roses covered by this investigation comprise two categories of "such or similar" merchandise: culls and export-quality roses. None of the respondents reported sales of culls in the United States. Therefore, no comparisons in this such or similar category were made. Regarding export quality roses, where possible, we made comparisons of identical merchandise. Where there were no sales of identical merchandise in the home market or third country market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Form (*e.g.*, as part of a bouquet, an individual stem, etc.); (2) type (*e.g.*, hybrid tea, sweetheart, etc.); (3) color; (4) stem length; and (5) variety. We did not make any adjustments for differences in the physical characteristics of the merchandise because respondents reported no cost differences between the products.

Fair Value Comparisons

To determine whether sales of roses from Colombia to the United States were made at less than fair value, we compared the United States price (USP) to the FMV for all non-BIA respondents, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For sales by all non-BIA respondents except Floramerica, we based USP on purchase price, in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when exporter's sales price (ESP) methodology was not otherwise indicated.

In addition, for all non-BIA respondents, where sales to the first unrelated purchaser took place after importation into the United States, we

based USP on ESP, in accordance with section 772(c) of the Act.

For all U.S. prices, we used weighted-average monthly U.S. prices (*See* the September 12, 1994, concurrence memorandum).

During the POI, some of the respondents paid commissions to related parties in the United States. We determined that these commissions were directly related to the sales under consideration. We also tested these commissions for these respondents to determine whether they were paid at arm's length using the criteria set forth in the Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Belgium (56 FR 56359, November 4, 1991). Where we found that they were paid at arm's length, we deducted them from USP. However, we found that respondents used these commissions as a mechanism for reimbursing their related parties for their actual expenses. Accordingly, in order to avoid double-counting, where the actual expenses of the related party were less than the commissions, we deducted only the commissions. Where the commissions were less than the actual expenses, we also deducted the amount by which the actual expenses exceeded the commissions (*See* the September 12, 1994, concurrence memorandum).

Finally, for those respondents who had related parties in the United States and did not report inventory carrying costs on their ESP sales, we calculated these costs for these respondents using an inventory carrying period of seven days. This is the maximum amount of time which may transpire between the time a rose is cut and when it must be sold to the ultimate customer, according to a public report by Harry K. Tayama, PhD., submitted by respondents in this investigation. For companies with sales to unrelated parties, we accepted that inventory carrying costs were included in U.S. credit expenses.

We made company-specific adjustments, as discussed below:

1. Agrorosas S.A.

For Agrorosas, U.S. purchase price was based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. and Colombian indirect selling expenses, brokerage and handling charges, commissions, U.S. import duties, direct selling expenses, and credit expenses.

2. Flores La Fragancia S.A.

For Flores La Fragancia S.A., we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight and air freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, credit expenses and U.S. and Colombian indirect selling expenses including inventory carrying costs.

3. Flores Mocari S.A.

For Flores Mocari S.A., we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight and U.S. import duties.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, credit expenses and other direct selling expenses. Also, as described above, we deducted the greater of related party commissions or indirect selling expenses.

4. Grupo Bojaca

For Grupo Bojaca, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, brokerage and handling and credit expenses.

5. Caicedo Group

For Caicedo Group, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, U.S. import duties, and U.S. inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, Columbian Flower Council (CFC) fee, foreign inland freight, air freight, U.S. import duties, U.S. inland freight, repacking expenses, and credit expenses. Also, as described above, we deducted the greater of related party commissions or indirect selling expenses.

6. Grupo Clavecol

For Grupo Clavecol, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts and foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. brokerage and handling charges, credit expenses and U.S. and Colombian indirect selling expenses including inventory carrying costs. Because Clavecol did not adequately support its reported interest rate, we used the highest public interest rate on the record in the companion investigation of roses from Ecuador which is a ranged value for a U.S. subsidiary of an Ecuadoran rose producer, Guaisa, of 10 percent (*See* the September 12, 1994, concurrence memorandum and the September 9, 1994, memorandum to the file).

7. Grupo Floramerica

For Grupo Floramerica, we calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, brokerage and handling, United States Department of Agriculture inspection fees, warranty expenses including billing credits, promotional fees, credit expenses and U.S., Panamanian and Colombian indirect selling expenses including inventory carrying costs.

8. Grupo Papagayo

For Grupo Papagayo, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight and other expenses.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, U.S. inland freight, brokerage and handling charges, Colombian indirect selling expenses including inventory carrying costs, direct selling expenses including credit, other expenses, and commissions paid to unrelated parties.

9. Grupo Sabana

For Grupo Sabana, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions,

where appropriate, for discounts, foreign inland freight, air freight and U.S. import duties.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, U.S. import duties and credit expenses. Also, as described above, we deducted the greater of related party commissions or indirect selling expenses.

10. Grupo Sagaro

For Grupo Sagaro, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties and credit expenses.

11. Grupo Tropicales

For Grupo Tropicales, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight and air freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, air freight, credit expenses, other direct selling expenses, and U.S. and Colombian indirect selling expenses including inventory carrying costs.

12. Rosex LTDA

For Rosex LTDA, we calculated purchase price based on packed, f.o.b. prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, air freight, U.S. import duties, brokerage and handling and credit expenses.

Foreign Market Value

In calculating FMV, wherever there were no sales of comparable merchandise in the home market or third country markets, we based FMV on CV. In addition, in accordance with 19 CFR 353.58, for price to price comparisons, we compared U.S. sales to home market or third country sales made at the same level of trade, where possible.

We have three different bases for FMV: (1) Home market sales; (2) third country sales; and (3) constructed value. Each is discussed separately below:

Home Market Sales

In order to determine whether there were sufficient sales of fresh cut roses in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of export quality roses to the volume of third country sales of export quality roses in accordance with section 773(a)(1)(A) of the Act. Based on this comparison, we determined that nine of the 16 respondents had viable home markets. The nine companies were: Agricola Benilda; Flores La Fragancia S.A.; Grupo Bojaca; Caicedo Group; Grupo Floramerica; Grupo Intercontinental; Grupo Papagayo; Grupo Prisma and Grupo Sagaro. However, we did not use home market sales for Agricola Benilda, Grupo Intercontinental, Grupo Prisma or Grupo Andes because we based the margin for these companies on BIA. In addition, we based Grupo Andes' margin on BIA because we found that it had misrepresented its home market as nonviable (*See* the "Best Information Available" section of this notice for a further discussion).

Because petitioner's allegations, when considered in light of the information on the record, gave the Department "reasonable grounds to believe or suspect" that the nine respondents with known viable home markets were selling roses in Colombia at prices below their COP, the Department initiated COP investigations to determine whether these respondents had home market sales that were made at less than their respective COPs (*See* the September 8, 1994, memorandum from Richard W. Moreland to Barbara R. Stafford). Respondents requested that we depart from our normal practice and interpret our COP analysis in such a manner as to either accept or reject all sales. We denied this request as unreasonable (*See* the September 12, 1994, concurrence memorandum).

In keeping with our past practice involving perishable agricultural products where we found less than 50 percent of a respondent's sales of roses were at prices below the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities (*See Certain Fresh Winter Vegetables From Mexico* 45 FR 20512 (1980)). Where we found between 50 and 90 percent of a respondent's sales of a given product were at prices below the COP, and the below cost sales were made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales for that product and calculated FMV based on CV.

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of a respondent's cost of cultivation, general expenses, and packing. We calculated CV based on the sum of a respondent's cost of cultivation, plus general expenses, profit and U.S. packing. For general expenses, which includes selling and financial expenses (SG&A), we used the greater of the reported general expenses or the statutory minimum of ten percent of the cost of cultivation. For profit, we used the greater of the weighted-average third country profit during the POI or the statutory minimum of eight percent of the cost of cultivation and general expenses, in accordance with section 773(e)(B) of the Act.

For all respondents, we corrected the calculation of interest expense for COP to remove the offset to this expense. This reduction to interest expense is only applicable for CV calculations. Interest expense for all respondents was corrected to a per-unit amount. Further, for all respondents we based the amortization expense upon the amounts normally recorded by each company in its usual record keeping. We rejected adjustments that companies made to the amortization expense solely for purposes of this investigation. We also made specific adjustments to respondents' COP and CV data as described below:

1. Flores La Fragancia S.A.

For Flores La Fragancia S.A., we: (1) Corrected the calculation of greenhouse plastic amortization to reflect the methodology normally used by the company; (2) corrected the reported "material for greenhouse frames" to agree with the underlying schedules provided in the response; (3) corrected the reported net financing costs to agree to the underlying schedules; and (4) corrected for a mathematical error in the calculation of SG&A expenses.

2. Grupo Bojaca

For Grupo Bojaca, we corrected the reported general and administrative (G&A) expense amount to reflect the amount reported in the company's financial statement.

3. Caicedo Group

For Caicedo Group, we included the expenses associated with a freeze which occurred during the POI, and removed the effect of erroneous crop adjustment amounts (*i.e.*, capitalizing more costs than the total accumulated amount) reported in the COP calculation.

4. Grupo Papagayo

For Grupo Papagayo, we removed the effect of erroneous crop adjustment amounts (*i.e.*, capitalizing more costs than the total accumulated amount) reported in the COP calculation.

In order to calculate FMV, we made company-specific adjustments as described below:

1. Flores La Fragancia S.A.

For Flores La Fragancia S.A., we calculated FMV based on delivered prices to unrelated customers in the home market.

For home market price to purchase price comparisons, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses. We deducted home market packing costs and added U.S. packing costs.

For home market price to ESP comparisons, we deducted the weighted-average home market indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1) (*See* the September 12, 1994, concurrence memorandum). We deducted home market packing costs and added U.S. packing costs.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average home market indirect selling expenses, including inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

2. Grupo Bojaca

For Grupo Bojaca, more than 90 percent of Grupo Bojaca's home market sales were found to be at prices below their COP. Therefore, in accordance with section 773(c) of the Act we disregarded all home market sales and calculated FMV based on CV.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we deducted the weighted-average home market indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

3. Caicedo Group

For Caicedo Group, we calculated FMV based on delivered prices to unrelated customers in the home market. We excluded from our analysis home market sales that were ultimately exported.

For home market price to purchase price comparisons, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses and CFC fee. We deducted home market packing costs and added U.S. packing costs.

For home market price to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted the weighted-average home market indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1). We deducted home market packing costs and added U.S. packing costs.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses and CFC fee.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average home market indirect selling expenses, including inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For comparisons involving ESP sales, we revised U.S.-incurred indirect selling expense to: (a) Include sales to local vendors in the calculation of the indirect selling expense ratio and (b) deduct U.S. inland freight expenses that were reported as indirect selling expenses.

4. Grupo Floramerica

For Grupo Floramerica, more than 90 percent of Grupo Floramerica's home market sales were found to be at prices below their COP. Therefore, in accordance with section 773(c) of the Act we disregarded all home market sales and calculated FMV based on CV.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average home market indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

5. Grupo Papagayo

For Grupo Papagayo, more than 90 percent of its home market sales were found to be at prices below their COP. Therefore, we disregarded all home market sales and calculated FMV based on CV.

Due to the deficiencies found in respondent's reported home market sales data, we disallowed home market inland freight, packing costs, indirect selling expenses, and imputed credit from the dumping margin calculation for purposes of the preliminary determination.

On September 9, 1994, Agrorosas submitted a letter containing some pre-verification corrections pertaining to its sales and cost data. Given the limited time available to the Department to examine the newly submitted information, this information is not used in the preliminary determination dumping margin. However, the newly submitted information will be subject to verification and will be considered in the final determination of this investigation.

For CV to purchase price comparisons, we made circumstances of sales adjustment for direct selling. We also added U.S. commissions.

No deductions were made for CV to ESP comparisons due to disallowing home market indirect selling expenses from the margin calculation.

6. Grupo Sagaro

For Grupo Sagaro, more than 90 percent of its home market sales were found to be at prices below their COP. Therefore, in accordance with section 773(c) of the Act we disregarded all home market sales and calculated FMV based on CV.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses and commissions. We also deducted from CV the weighted-average home market indirect selling expenses up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Third Country Versus Constructed Value

On March 30, 1994, counsel for 14 of the 16 respondents requested that the Department reject third-country sales and rely instead on constructed value as the basis for FMV.

The Department's normal preference, based on its regulations, is to utilize third-country sales rather than constructed value when there is a viable third country market. See 19 CFR 353.48(b). Respondents have urged departure from this practice, citing *Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review* 55 FR 20491 (May 17, 1990)(*Flowers*). The Department determined in *Flowers* that departure from our normal practice was warranted after an analysis of three unusual factors present in that case. Respondents argue that the facts in this investigation present even more compelling reasons to reject third-country sales than were present in *Flowers*. In determining whether the circumstances in this case are such that it should fall under the exception established in *Flowers*, we have analyzed the information presented in light of the three factors set forth in *Flowers*: (1) Negative correlation of price and volume movements between markets; (2) peak to non-peak comparisons; and (3) the perishability of the subject merchandise.

As a threshold matter, we note that the record in this case is different from *Flowers* in that European markets play a relatively less important role in our analysis. In *Flowers*, the Department's analysis focused solely on a comparison of the U.S. market with European markets as the vast majority of third country markets under consideration were in Europe. The Department did not evaluate conditions in other markets. In this case, and the companion investigation in Ecuador, respondents reported significant sales to Argentina and Canada, as well as Europe. Respondents in this case have submitted additional information for all the relevant markets—Europe, Canada, and Argentina. However, it is not clear that the information submitted up to this point supports respondents' assertion that sales in the third country markets should not be compared to U.S. sales in this case.

Negative Correlation Factor

In *Flowers*, the Department found a negative correlation between price and volume movements in the United States and European markets. This negative correlation indicated that price differences between markets could either mask or exaggerate dumping. The Department determined that the negative correlation was caused by a number of elements, including: (1) The greater price and volume volatility of the U.S. market; (2) the sporadic, gift-giving nature of U.S. demand; (3) respondents' lack of access to the European auctions (the main distribution point for flowers in Europe), and (4) differing peak price periods.

Respondents argue that, in this case, there is similar evidence of a negative correlation of price and volume movements between the U.S. and third country markets. In support of their position, respondents have submitted several reports. A 1994 report by Professor Tayama analyzes, among other things, the consumption patterns for roses in the United States, Europe, Canada and Argentina, and compares seasonal and holiday purchasing patterns in the markets. Tayama asserts that both Europe and Canada have mature and relatively stable markets because both markets are supply driven (*i.e.*, in times of peak production as supply increases, prices go down). In contrast, Tayama claims that' the U.S. market is demand driven—the majority of sales are made for Valentine's Day when demand increases and prices rise. With regard to Argentina, Tayama states that roses are grown for home consumption and imports occur mainly during the winter months, as in Europe. Moreover, Tayama asserts, Argentina has a different seasonal and holiday pattern from the United States. No market, he states, has the extraordinary demand for roses that exists in the U.S. market on Valentine's Day.

Petitioners have countered Tayama's assertions with an August 10, 1994, submission which contains, among other things, a report by *Roses Inc.*, an association of U.S. rose producers. The *Roses Inc.* report raises questions about the conclusions in the Tayama report, asserting that: 1) there is a global market for roses which is driven by demand everywhere; and 2) key holiday periods are actually very similar between the United States and Europe—specifically that the highest prices in both the United States and Europe occur in February. Thus, we are not in a position to conclude that the Tayama report provides a sufficient basis to determine that comparison of U.S. sales to third country sales is inappropriate.

In support of the conclusions drawn in the Tayama report, respondents submitted the 1994 *Fresh Cut Roses: Issues in the Estimation of Dumping in the U.S. Market* (Botero Report) which contains a statistical analysis of the United States, European, and Canadian markets and seeks to demonstrate the lack of correlation between price movements in the third country and U.S. markets. The Botero Report provides three types of statistical analyses which, according to respondents, support their contention that third country prices should not be used due to the "different equilibrium conditions" of these markets as compared to the U.S. market for roses. First, Botero analyzes price movements within the United States, Europe and Canada, from which he concludes that different market forces are at work (*i.e.*, price and quantity movements within Europe and Canada are negatively correlated and price and quantity movements within the United States are positively correlated). Second, Botero analyzes price and quantity movements across markets and concludes that there is no correlation between the U.S. market and either the European or Canadian markets. Third, he estimates the price cycles for roses in the U.S., European and Canadian markets and concludes that "the seasonal patterns of the two markets [U.S. and European, U.S. and Canadian] are different and therefore monthly price comparisons do not reflect price discrimination." Botero asserts that these test results demonstrate that prices in these third country markets should not be compared to prices in the U.S. market to determine price discrimination.

We have reviewed the Botero Report and have concerns regarding the data and the statistical parameters used to perform the statistical analysis on European, Canadian and U.S. rose prices. For example, Dr. Botero's relied on prices that may not be comparable. U.S. prices for a single hybrid tea variety rose were compared to European prices for all hybrid tea variety roses; and U.S. import prices, rather than U.S. domestic prices, were compared to European domestic prices. These comparisons may be inappropriate—we have no basis to conclude that a single hybrid tea rose is representative of all hybrid tea roses, or that U.S. import prices are representative of U.S. domestic prices. Moreover, Dr. Botero's F-test results appear to be invalid. Dr. Botero apparently used the incorrect degrees of freedom—(k,n–2) instead of (k–1,n–2). More importantly, Dr. Botero appears to have misread the "F Table": he reported the value of $F_{n-2,k}$ at the 99 percent confidence level, rather than $F_{k-1,n-2}$ at the 99 percent confidence level. Finally, Dr. Botero provided no

explanation of his use of a 99 percent confidence level.

In light of these questions, the Department, at this stage, finds the information on the record inconclusive as to whether the third country and U.S. markets are negatively correlated. We intend to further evaluate the Botero Report for purposes of making our final determination. Further details relating to this issue are set forth in the September 12, 1994, memorandum to Barbara Stafford.

Peak to Non-Peak Factor

Third country sales in *Flowers* were not made over the entire year. They were made only in peak months. The record established that Colombian growers had little access to the European auction system and were only able to export flowers to Europe during those months when domestic supply was low. On the other hand, the Colombian growers targeted 80 percent of their production to the U.S. market and made sales to the United States in every month. As a result, the Department determined that it was unable to make contemporaneous sales comparisons in all months and would be required to compare low-value U.S. sales in off-peak months with high-value third country sales in peak months.

The circumstances on the record in this case are somewhat different. One of the three companies reporting third country sales has year-round sales to a single third country market, while the other two companies have third country sales in every month in the markets selected by the Department pursuant to § 353.49(c). Therefore, it appears that the Department may have sufficient contemporaneous sales in the aggregate for all twelve months of the POI. Further, the Department has based FMV on two six-month averages; the use of such averages also should reduce any potential for distortion.

Perishability Factor

The third factor considered in *Flowers* was related to the role of perishability on production and sale. This factor included: (1) The extreme perishability of the subject merchandise; (2) the inability of producers to control short-term production; and (3) the inability to store or make alternative use of the product. The Department found that the respondents planned 80 percent of their production around the U.S. market and sold excess production in markets in which they did not necessarily plan to sell. These factors combined to create a "chance element" to third country sales which raised the concern that any observed price differences would be unrelated to dumping.

We note that there are substantial similarities between flowers and roses. First, roses, like flowers, are extremely perishable. Second, rose growers have relatively greater, though still minor, control over short-term production than flower growers because of their ability to pinch back buds. Third, as with flowers, roses cannot be stored and we note that there are only very minor alternative uses (*e.g.*, drying). While some respondents are able to sell a small percentage of their production to markets other than the United States as a regular part of their business plan, which reduces to some extent the "chance" element to selling excess production, we note that this was also true with some companies in *Flowers*. See *Methodological Issues Concerning Colombian Cut Flowers*, Sparks Commodities, Inc. 1989.

In view of the questions raised above, we conclude that, for the purpose of the preliminary determination, the evidence at this stage is not sufficient to justify departure from our normal practice of reliance on third country prices. However, we intend to revisit this issue in our final determination in light of further information and analysis with regard to the three factors set out in *Flowers* as well as any other facts that might be relevant on this issue.

Third Country Sales

For three of the 16 respondents, the home market was not viable; therefore, we based FMV on third country sales (*See* the September 12, 1994, memorandum from the team to Barbara R. Stafford). These three companies and their selected third country markets were: Grupo Clavecol (Argentina and Canada); Grupo Sabana (Canada); and Grupo Tropicales (Argentina and Germany). In accordance with 19 CFR 353.49(c), we selected for two of these respondents more than one third country because a single third country did not meet the Department's viability standards.

In accordance with 19 CFR 353.49, we selected the appropriate third country market(s) for each respondent based on the following criteria: similarity of merchandise sold in the third country to the merchandise exported to the United States, the volume of sales to the third country, and the similarity of market organization and development between the third country and U.S. markets. For a complete discussion of the selection of third country market(s), see the June 24, 1994, memorandum from the team to Barbara R. Stafford.

Based on petitioner's allegations that Grupo Tropicales was selling roses in Argentina at prices below its COP, and information on the record, the Department had a reasonable basis to suspect or believe that sales were made below cost and therefore initiated a COP investigation to determine whether Grupo Tropicales had Argentine sales that were made at prices less than their COP. Although Grupo Tropicales also had third country sales to Germany, we did not initiate a COP investigation on these sales because they were not included in petitioner's COP allegation (*See* the September 8, 1994, memorandum from Richard W. Moreland to Barbara R. Stafford).

For a discussion of our COP test methodology, see the "Home Market Sales" section above. We made no adjustments to the COP and CV data submitted by Grupo Tropicales.

In order to calculate FMV, we made company-specific adjustments as described below:

1. Grupo Clavecol

For Grupo Clavecol, we calculated FMV based on delivered prices to unrelated customers in Argentina and Canada.

For third country to purchase price comparisons, we made deductions for foreign inland freight, air freight, and brokerage and handling, where applicable. Pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses. We deducted third country packing costs and added U.S. packing costs.

For third country to ESP comparisons, we made deductions, where appropriate, for foreign inland freight, air freight and brokerage and handling. We also deducted the weighted-average Argentine and Canadian indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1). We deducted third country packing costs and added U.S. packing costs.

2. Grupo Sabana

For Grupo Sabana, we calculated FMV based on delivered prices to unrelated customers in Canada.

For third country price to purchase price comparisons, we made deductions for Canadian inland freight, air freight, Canadian import duties, U.S. brokerage and Colombian inland freight. Pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made

circumstance of sale adjustments, where appropriate, for credit expenses. We deducted third country packing costs and added U.S. packing costs.

For third country price to ESP comparisons, we made deductions, where appropriate, for Canadian inland freight, air freight, Canadian import duties, Canadian brokerage and Colombian inland freight. In addition, we made deductions for credit and direct selling expenses in Canada. We also deducted the weighted-average Canadian and Colombian indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1). We deducted third country packing costs and added U.S. packing costs.

3. Grupo Tropicales

For Grupo Tropicales, we calculated FMV based on delivered prices to unrelated customers in Argentina and Germany.

For third country price to purchase price comparisons, we made deductions for foreign inland freight. Pursuant to section 773(a)(4)(B) and 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for credit expenses. We deducted third country packing costs and added U.S. packing costs.

For third country price to ESP comparisons, we made deductions, where appropriate, for foreign inland freight. In addition, we made deductions for credit. We also deducted the weighted-average Argentine and German indirect selling expenses, including, where appropriate, inventory carrying costs, up to the amount of the indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1). We deducted third country packing costs and added U.S. packing costs.

Constructed Value

For three of the 16 respondents, we calculated FMV based directly on CV, in accordance with section 773(e) of the Act, because these respondents did not have adequate sales in either the home market nor in any third country markets during the POI. These three companies were: Agrorosas S.A.; Flores Mocari S.A. and Rosex LTDA. We calculated CV based on the sum of respondent's cost of cultivation, plus general expenses, profit and U.S. packing. For general expenses, we used the greater of the reported general expenses or the statutory minimum of ten percent of the cost of cultivation. For profit, we used the greater of the weighted average third country profit during the POI or the statutory minimum of eight percent of the cost of cultivation and total SG&A expenses, in accordance with 19 CFR 353.50(a)(2).

For these respondents, we based the amortization expense upon amounts normally recorded by each company in their usual record keeping. We rejected adjustments that companies made to the amortization expense solely for purposes of this investigation. We also made specific adjustments to respondents' CV data as described below:

1. Agrorosas S.A.

For Agrorosas S.A., we did not consider the minor pre-verification correction filed on September 9, 1994 for the preliminary determination. This data will be fully analyzed for our final determination.

2. Flores Mocari S.A.

For Flores Mocari S.A., we revised the calculation of interest expense to express the expense as a per-unit amount.

3. Rosex LTDA

For Rosex LTDA, we also revised the calculation of interest expense to express the expense as a per unit amount.

In order to calculate FMV, we made company-specific adjustments as described below:

1. Agrorosas S.A.

For CV to purchase price comparisons, we made circumstances of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses and commissions. We also deducted from CV the weighted-average U.S. indirect selling expenses up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

2. Flores Mocari S.A.

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average U.S. indirect selling expenses, including inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

3. Rosex LTDA

For CV to purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV to ESP comparisons, we made deductions, where appropriate, for credit expenses and commissions. We also deducted from CV the weighted-average home market indirect selling expenses up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Currency Conversion

Regarding transactions in third country currencies, we made currency conversions based on the official exchange rates in effect during the month of the U.S. sales as certified by the Federal Reserve Bank.

Because certified exchange rates for Colombia were unavailable from the Federal Reserve, we made currency conversions for expenses denominated in Colombian pesos based on the official monthly exchange rates in effect on the dates of the U.S. sales as published by the International Monetary Fund.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Critical Circumstances

In the petition, petitioner alleged that "critical circumstances" exist with respect to importation of roses. However, we did not initiate a critical circumstances investigation because, since roses are extremely perishable, it is not possible to accumulate an inventory of roses in order to evade a potential antidumping duty order. Therefore, we determined that an allegation that critical circumstances exist is without merit (*See* the September 12, 1994, concurrence memorandum).

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of fresh cut roses from Colombia, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The

weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Margin percent
Agrorosas	4.93
Grupo Papagayo (and its related farms Agricola Papagayo, Inversiones Calypso S.A., Omni Flora Farms Inc., and Perci S.A.)	8.02
Flores Mocari S.A. (and its related farms Cultivos Miramonte and Devor Colombia)	13.86
Grupo Sabana (and its related farms Flore de la Sabana S.A. and Roselandia S.A.)	34.35
Flores la Frangancia	27.60
Grupo Benilda (and its related farms Agricola La Maria S.A., Agricola La Celestina Ltda., and Agricola Benilda Ltda.)	55.94
Grupo Clavecol (and its related farms Claveles Colombianos Ltda., Sun Flowers Ltda., Fantasia Flowers Ltda., Splendid Flowers Ltda.)	4.58
Floramerica Group (and its related farms Floramerica S.A. (Santa Lucia and Santa Barbara Farms), Jardines de Colombia Ltda., Flores Las Palmas Ltda., Cultivos del Caribe Ltda., Jardines del Valle Ltda., and Cultivos San Nocolas Ltda.)	10.55
Rosex (and its related farms Rosex Ltda. (La Esquina and Paraiso Farms), Induflora Ltda., and Rosas Sausalito Ltda.)	13.96
Grupo Sagaro (and its related farms Flores Sagaro S.A. and Las Flores S.A.)	5.26
Grupo Tropicales (and its related farms Rosas Colombianas Ltda., Happy Candy Ltda., Mercedes Ltda., and Flores Tropicales Ltda.)	50.96
Grupo Prisma (and its related farms Flores del Campo Ltda., Flores Prisma S.A., Flores Acuarela S.A., Flores el Pincel S.A., Rosas del Colombia Ltda., Agropecuaria Cuernavaca Ltda.)	55.94
Grupo Bojaca (and its related farms Agricola Bojaca Ltda., Universal Flowers, and Plantas y Flores Tropicales Ltda. (Tropifora))	21.21
Andes Group (and its related farms Flores Horizonte, Cultivos Buenavista, Flores de los Andes, and Inversiones Penasblancas)	55.94
Caicedo Group (and its related farms Agrobosque, Productos el Rosal S.A., Productos el Zorro S.A., Exportaciones Bochia S.A.—Flora Ltda., Flores del Cauca, Aranjuez S.A., Andalucia S.A., Inverfloral S.A., and Great America Bouquet)	29.60
Grupo Intercontinental (and its related farms Flora Intercontinental and Flores Aguablanca)	55.94
All Others	33.87

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry, before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 17, 1994, and rebuttal briefs no later than October 24, 1994. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 25, 1994, at 9:30 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice in the **Federal Register**. Request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentation will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: September 12, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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(A–331–801)

Preliminary Determination of Sales at Less Than Fair Value: Fresh Cut Roses From Ecuador

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

EFFECTIVE DATE: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1776.

PRELIMINARY DETERMINATION: We preliminarily determine that fresh cut roses (roses) from Ecuador are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930 (the Act), as amended. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation on March 7, 1994 (59 FR 11771, March 14, 1994), the following events have occurred.

On March 31, 1994, the U.S. International Trade Commission (ITC) issued an affirmative preliminary determination.

On April 13, 1994, three companies, the Caicedo Group, Hilsea Investments Ltd. (Hilsea), and Quitoflores, requested that they be excluded from any potential antidumping duty order issued as a result of this investigation. Due to constraints on the Department's administrative resources, we were unable to investigate companies requesting to be excluded from the potential order or requesting to receive a questionnaire on a voluntary basis (*See* the May 2, 1994, memorandum from the team to Barbara R. Stafford).

On April 19, 1994, the Department decided to collect constructed value (CV) information from all respondents in addition to home market or, where appropriate, third country sales information (*See* the April 19, 1994, memorandum from the team to Barbara R. Stafford).

On May 5, 1994, the Department issued sales and cost questionnaires to the following four Ecuadorian companies: Arbusta-Agritab (Arbusta), Inversiones Floricola S.A. (Floricola),

Florin S.A. (Florinsa), and Guanguilqui Agro Industrial S.A. (Guaisa). These companies accounted for approximately 40 percent of the exports of the subject merchandise during the period of investigation (POI). Although the Department "normally will examine not less than 60 percent of the dollar value or volume of the merchandise sold" during the POI, 19 CFR 353.42 (b)(1), due to the limited administrative resources, the Department chose to examine less than 60 percent (*See* the May 3, 1994, memorandum from David L. Binder to Richard W. Moreland).

On June 7, 1994, the Department relieved all respondents from the requirement of reporting sales of roses imported and/or sold as part of bouquets (*See* the June 7, 1994, memorandum from the team to Barbara R. Stafford).

On June 14, 1994, the Department selected the appropriate third country markets for all four of the respondents (*See* the June 14, 1994, memorandum from the team to Barbara R. Stafford). However, since respondents argued that third country markets were fundamentally different from the U.S. market, it was decided that the final basis for foreign market value (FMV) for the respondents (either third country sales or CV) would not be determined until more information was received (*See* the "Third Country Sales Versus Constructed Value" section of this notice for further discussion).

On June 24, 1994, the Floral Trade Council, petitioner in this investigation, requested a postponement of the preliminary determination until September 12, 1994, pursuant to 19 CFR 353.15(c) (1994). The Department granted this request on June 28, 1994 (59 FR 34409, July 5, 1994).

Also, on June 24, 1994, the Department instructed respondents to report monthly-average price data for the U.S. and third country markets (*See* the June 24, 1994, memorandum from the team to Barbara R. Stafford).

On July 25, 1994, Floricola, one of the four respondents, submitted an amendment to its questionnaire response. In that amendment, Floricola stated that, based on further review, it did not have viable third country markets.

Respondents submitted responses to the Department's sales and cost questionnaires in May, June, and July 1994. Hilsea also submitted a voluntary response to section A on May 26, 1994. Because the Department determined that it did not have the administrative resources to accept voluntary responses, Hilsea's response was returned on June 3, 1994.

The Department issued deficiency sales and cost questionnaires in June, July, August, and September 1994. Respondents submitted their responses to these deficiency sales and cost questionnaires in June and August 1994. Responses to the September deficiency letters are due later this month.

On September 12, 1994, the Department decided to base FMV for Arbusta and Guaisa on third country sales (*See* the September 12, 1994, memorandum from the team to Barbara R. Stafford). For a further discussion, see the "Third Country Versus Constructed Value" section of this notice.

Scope of Investigation

The products covered by this investigation are fresh cut roses, including sweethearts or miniatures, intermediates, and hybrid teas, whether imported as individual blooms (stems) or in bouquets or bunches. Roses are classifiable under subheadings 0603.10.6010 and 0603.10.6090 of the *Harmonized Tariff Schedule of the United States* (*HTSUS*). The *HTSUS* subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Period of Investigation

The Department initiated this investigation using our standard six-month POI from September 1, 1993, to February 28, 1994. On April 5, 1994, petitioner submitted comments on the POI. On April 11, 1994, respondents also submitted comments on the POI. On April 14, 1994, the Department altered the POI to calendar year 1993 because of the seasonal nature of sales and production in the rose industry (*See* the April 14, 1994, memorandum from the team to Richard W. Moreland).

In addition, for purposes of price-to-price comparisons, we are basing FMV on two six month periods: January 1, 1993, through June 30, 1993, and July 1, 1993, through December 31, 1993. For further discussion of these periods, see the September 12, 1994, concurrence memorandum.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise by Florinsa.

In assigning BIA, the Department applies a two-tier methodology based on the degree of respondent's cooperation. In the first tier, the Department normally assigns higher margins (*i.e.*, margins based on more adverse assumptions) for those respondents which did not cooperate in an investigation or which otherwise impede the proceeding. If a respondent is deemed as non-cooperative, the Department bases the preliminary margin for the relevant class or kind of merchandise on the higher of: (1) the highest margin in the petition or (2) the highest calculated margin of any respondent within the country that supplied adequate responses for the relevant class or kind of merchandise.

In the second tier, the Department assigns lower margins to those respondents who substantially cooperate in an investigation. These margins are based on the higher of: (1) The highest calculated margin for any respondent within that country that supplied adequate information for the relevant class or kind of merchandise or (2) the average margin of the margins in the petition (*See, e.g.*, Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (May 3, 1989)).

The Department's two-tiered methodology for assigning BIA has been upheld by the U.S. Court of Appeals for the Federal Circuit (*See Allied-Signal Aerospace Co.* v. *United States*, 996 F.2d 1185 (Fed. Cir. 1993); *See also Krupp Stahl AG* v. *United States*, 822 F. Supp. 789 (CIT 1993)).

We have determined that Florinsa's original and deficiency questionnaire responses were unusable for the preliminary determination because they contain significant deficiencies (*See* the September 12, 1994, memorandum from David L. Binder to Barbara R. Stafford). However, because Florinsa responded to our requests for information, we find that it has been substantially cooperative for purposes of this preliminary determination. Accordingly, we used as second-tier BIA for this respondent the average of the margins contained in the petition, which is 84.72 percent. This margin is higher than the highest margin calculated for any respondent in this investigation.

Furthermore, we have issued a supplemental deficiency letter to Florinsa. If this respondent submits an adequate and timely response to this letter, we will conduct verification for Florinsa and will consider its information for purposes of the final determination.

Such or Similar Comparisons

We have determined that all roses covered by this investigation comprise two categories of "such or similar"

merchandise: culls and export-quality roses. None of the respondents reported sales of culls in the United States. Therefore, no comparisons in this such or similar category were made. Regarding export quality roses, where possible, we made comparisons of identical merchandise. Where there were no sales of identical merchandise in the home market or third country market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) form (*e.g.*, as part of a bouquet, an individual stem, etc.), (2) type (*e.g.*, hybrid tea, sweetheart, etc.), (3) color, (4) stem length, and (5) variety. We did not make any adjustments for differences in the physical characteristics of the merchandise because respondents reported no cost differences between the varieties.

Fair Value Comparisons

To determine whether sales of roses from Ecuador to the United States were made at less than fair value, we compared the United States price (USP) to the FMV for all non-BIA respondents, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For sales by Arbusta and Guaisa, we based USP on purchase price, in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when exporter's sales price (ESP) methodology was not otherwise indicated.

In addition, for Arbusta, Guaisa, and Floricola, where sales to the first unrelated purchaser took place after importation into the United States, we also based USP on ESP, in accordance with section 772(c) of the Act.

During the POI, each of the respondents paid commissions to related parties in the United States. We determined that these commissions were directly related to the sales under consideration. We also tested these commissions for these respondents to determine whether they were paid at arm's length using the criteria set forth in the Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Belgium (56 FR 56359, November 4, 1991). Where we found that they were paid at arm's length, we deducted them from USP. However, we found that respondents used these commissions as a mechanism for reimbursing their related parties for their actual expenses. Accordingly, in order to avoid double-counting, where the actual expenses of the related party were less than the commissions, we deducted only the commissions. Where the commissions were less than the actual expenses, we also deducted the amount by which the actual expenses exceeded the commissions (*See* the September 12, 1994, concurrence memorandum).

In addition, each of the respondents classified credits related to quality problems with the merchandise as warranty expenses. However, because these quality-related credits functioned as price reductions, we reclassified them as such.

Finally, none of the respondents reported inventory carrying costs on their ESP sales. Accordingly, we calculated these costs using an inventory carrying period of seven days, which, due to the perishable nature of the product, is the maximum amount of time that can transpire between the time a rose is cut and when it must be sold to the ultimate customer, according to a public report by Harry K. Tayama, Ph.D., submitted in the companion investigation on fresh cut roses from Colombia and placed, as well, on the public record for this investigation.

For all U.S. prices, we used monthly USPs, because we determined that monthly prices are representative of the transactions under investigation (*See* the September 12, 1994, concurrence memorandum).

We made company-specific adjustments, as follows:

1. Arbusta

For Arbusta, we calculated purchase price based on packed F.O.B. Quito prices to unrelated customers. In accordance with section 772(d)(2)(A) of the Act, we made deductions, where appropriate, for foreign inland freight. We also made deductions for export taxes imposed by the government of Ecuador, in accordance with section 772(d)(2)(B) of the Act.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for quality-related credits, foreign inland freight, export taxes, air freight, U.S. customs duties, U.S. brokerage and handling expenses, U.S. inland freight, and credit expenses. Also, as described above, we deducted the greater of related party commissions or indirect selling expenses.

Arbusta failed to report foreign inland freight expenses for a small number of transactions in its ESP sales listing. As BIA for these expenses, we assigned the highest freight amount for any other of Arbusta's ESP transactions.

Regarding export taxes, Arbusta did not report these taxes in its sales listing. Because the taxes are included in the USP, we, therefore, calculated them based on the formula given in Arbusta's response.

Arbusta calculated U.S. customs duties for its sales agents in Miami on the basis of sales volume. Because these duties were incurred on the basis of sales value, we recalculated them accordingly.

Arbusta calculated credit expenses using an interest rate based, in part, on loans taken outside the POI. Therefore, we revised the interest rate to reflect only POI-related borrowings and recalculated credit expenses using this revised rate.

Regarding indirect selling expenses in Ecuador, we based these expenses on BIA because Arbusta did not report them in its sales listing. As BIA, we included the per unit expense reported in Arbusta's calculation of CV. However, because Arbusta did not include the indirect selling expenses of one of its four related farms, as an additional BIA amount, we divided the expenses of the other three related farms by three and added this to the total expense amount.

Regarding indirect selling expenses incurred by Arbusta's related party in New York, we determined that Arbusta's calculations contained a number of errors. Accordingly, we based these expenses on BIA. As BIA, we used the single highest amount reported for any sales transaction by this related party.

Regarding indirect selling expenses incurred by Arbusta's other U.S. related parties, Arbusta reported monthly indirect selling expenses instead of a yearly average. Accordingly, we recalculated the expenses reported for one of these parties as a percentage of annual sales value. However, the expenses reported for the other related party appeared to pertain to another expense, unrelated to indirect selling expenses. Therefore, we based the calculation of this expense on BIA for sales through this company. As BIA, we applied the annual percentage noted above.

2. Floricola

For Floricola, we calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for quality-related credits, including billing and other credits, foreign inland freight, export taxes imposed by the government of Ecuador, air freight, U.S. customs duties, U.S. Department of Agriculture inspection fees, U.S. inland

freight, and credit expenses. We also made deductions for U.S., Panamanian, and Ecuadorian indirect selling expenses, including inventory carrying costs and brokerage and handling expenses, because these services were performed in-house.

Floricola did not report export taxes. Because it is clear from other questionnaire responses that all exporters pay this tax and that the tax is included in the USP, as BIA, we calculated it using the formula provided in Arbusta's response.

3. Guaisa

For Guaisa, we calculated purchase price based on packed F.O.B. Quito prices to unrelated customers. We made deductions, where appropriate, for quality-related credits and foreign inland freight. We also made deductions for export taxes imposed by the government of Ecuador. We corrected respondent's inaccurate foreign inland freight calculation by reallocating truck maintenance expenses over the entire POI.

We calculated ESP based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for quality-related credits, foreign inland freight, air freight, U.S. customs duties, U.S. brokerage and handling expenses, and credit expenses. Also, as described above, we deducted the greater of related party commissions or indirect selling expenses.

Guaisa reported that it earned a rebate, as well as six free round-trip tickets, from its air freight carrier based on its volume of sales to the United States during the POI. We deducted the rebate from Guaisa's air freight calculations. However, because it is not clear that the airline tickets affect air freight costs, we did not adjust air freight for the value of these tickets.

Finally, Guaisa did not include the administrative expenses of its U.S. sales subsidiary in its calculation of U.S. indirect selling expenses. Moreover, Guaisa included employee commissions in its indirect selling expenses. Because the U.S. subsidiary is solely a sales organization, we reclassified its administrative expenses as indirect selling expenses, and included these expenses in our calculations. In addition, we reclassified employee commissions as commission expenses and made a separate adjustment for them.

Foreign Market Value

In calculating FMV, wherever there were no sales of comparable merchandise in the home market or third country markets, we based FMV on CV. In addition, in accordance with 19 CFR 353.58, for price-to-price comparisons, we compared U.S. sales to third country sales made at the same level of trade, where possible.

In order to determine whether there were sufficient sales of fresh cut roses in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of export quality roses to the volume of third country sales of export quality roses in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determined that none of the three non-BIA respondents had a viable home market.

For sales made by Arbusta and Guaisa, we based FMV on third country sales or CV, when there were no third country sales of comparable merchandise. In accordance with 19 CFR 353.49(c), we selected for these respondents more than one third country because a single third country did not meet the Department's viability standards.

In accordance with 19 CFR 353.49(b), we selected the appropriate third country markets for Arbusta and Guaisa based on the following criteria: similarity of merchandise sold in the third country to the merchandise exported to the United States, the volume of sales to the third country, and the similarity of market organization between the third country and U.S. markets. For a complete discussion of the selection of third country markets, see the June 14, 1994, memorandum from the team to Barbara R. Stafford.

For all transactions made by Floricola, we based FMV on CV in accordance with sections 773(a)(2) and (e) of the Act, because it did not have sufficient sales of such or similar merchandise in the home market or in any third country markets during the POI. Additionally, we based FMV on CV for a portion of Arbusta's and Guaisa's transactions, because these sales had no matches of such or similar merchandise in the third country markets in the same period as the sales made in the United States. For a further discussion, see the "Third Country Sales Versus Constructed Value" section of this notice.

For all CV transactions, for general expenses, which includes selling and financial expenses (SG&A), we used the greater of the reported general expenses or the statutory minimum of ten percent of the cost of cultivation. For Arbusta's and Guaisa's profit, we used the greater of the weighted-average third country profit during the POI or the statutory minimum of eight percent of the cost of cultivation and general expenses, in accordance with section 773(e)(B) of the Act. For Floricola, we based profit on the statutory minimum of eight percent of the cost of cultivation and total general expenses, in accordance with section 773(e)(B) of the Act. We based the amortization expense upon amounts normally recorded by each company in their usual recordkeeping. We rejected adjustments that respondents made to the amortization expense solely for purposes of this investigation. We also made specific adjustments to respondents' CV data as described below:

1. Guaisa

For Guaisa, we 1) reallocated general and administrative expenses among products based upon the area under cultivation; 2) removed the effect of a special adjustment made to eliminate the costs associated with a severe windstorm; and 3) reallocated financial expenses among products based upon the area under cultivation.

2. Floricola

For Floricola, we removed the reported net interest income credit from the CV calculation because we only allow interest income to offset the interest expense.

In order to calculate FMV, we made company-specific adjustments as follows:

1. Arbusta

For Arbusta, we based FMV on packed prices to unrelated customers in Argentina and Germany.

For third country price-to-purchase price comparisons, we deducted post-sale home market movement charges from FMV under the circumstance-of-sale provision of 19 CFR 353.56. This adjustment included home market inland freight. Pursuant to 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses.

For third country price-to-ESP comparisons, we made deductions for foreign inland freight and credit expenses. We also made a deduction for inventory carrying costs based on an inventory carrying period of seven days, as was done for the calculation of USP. We disallowed Arbusta's claimed indirect selling expense adjustment because Arbusta failed to provide an adequate narrative description or a worksheet showing its calculations.

We recalculated credit expenses using Arbusta's POI short-term interest rate as discussed in the "United States Price" section of this notice.

For all price-to-price comparisons, we deducted third country packing costs

and added U.S. packing costs, in accordance with section 773(a)(1) of the Act. We recalculated packing expenses in both markets to exclude depreciation on one of Arbusta's packing facilities. In addition, we recalculated these expenses on an annual basis because Arbusta's monthly calculations contained adjusting entries which were not properly matched with the month in which the expense was incurred.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average third country market indirect selling expenses, including inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2). We added U.S. packing expenses, in accordance with section 773(a)(1) of the Act.

2. Guaisa

For Guaisa, we based FMV on packed prices to unrelated customers in Germany and Sweden.

For third country price-to-purchase price comparisons, we deducted quality-related credits. We also deducted post-sale home market movement charges from FMV under the circumstance-of-sale provision of 19 CFR 353.56. This adjustment included foreign inland freight. Pursuant to 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses and commissions paid to an unrelated party. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

For third country price-to-ESP comparisons, we made deductions for foreign inland freight, credit expenses and commissions paid to an unrelated party. We also deducted the weighted-average third country indirect selling expenses, up to the amount of the greater of related party commissions or indirect selling expenses, including invoice carrying costs, incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1) (*See* the September 12, 1994, concurrence memorandum). Inventory carrying costs were based on an inventory carrying period of seven days, as was done for the calculation of USP.

Regarding credit expenses, Guaisa incorrectly calculated the credit period for certain third country transactions. In addition, Guaisa calculated its short-term interest rate based on borrowings from related parties. Accordingly, as BIA, we used the shortest credit period reported for any third country sale. We then recalculated Guaisa's third country and U.S. purchase price credit expenses using its interest rate paid to unrelated parties.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted from CV the weighted-average third country market indirect selling expenses, including inventory carrying costs, up to the amount of the greater of related party commissions or indirect selling expenses, including indirect carrying costs, incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2). We added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

3. Floricola

For Floricola, we based FMV on CV. The CV includes the cost of materials and cultivation of the merchandise exported to the United States, plus SG&A expenses, profit, and packing. We used U.S. selling expenses in our CV calculation instead of using Floricola's home market selling expenses. For the final determination, however, we will revisit the issue of the appropriate selling expenses for use in Floricola's CV calculation.

We deducted credit expenses. We also deducted U.S. indirect selling expenses, including inventory carrying costs, in accordance with 19 CFR 353.56(b)(1) (*See* the September 12, 1994, concurrence memorandum).

We also added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

Third Country Versus Constructed Value

On March 30, 1994, counsel for 14 of the 16 Colombian respondents in the companion investigation on fresh cut roses from Colombia requested that the Department reject third-country sales and rely instead on constructed value as The basis for FMV. We considered this issue for this case as well.

The Department's normal preference, based on its regulations, is to utilize third-country sales rather than constructed value when there is a viable third country market. See 19 CFR 353.48(b). Respondents have urged departure from this practice, citing Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review 55 FR 20491 (May 17, 1990) (*Flowers*). The Department determined in *Flowers* that departure from our normal practice was warranted after an analysis of three unusual factors present in that case. Respondents argue that the facts in this investigation present even more compelling reasons to reject third-country sales than were present in *Flowers*. In determining whether the circumstances in this case are such that it should fall under the exception established in *Flowers*, we have analyzed the information presented in light of the three factors set forth in *Flowers*: 1) negative correlation of price and volume movements between markets; 2) peak to non-peak comparisons; and 3) the perishability of the subject merchandise.

As a threshold matter, we note that the record in this case is different from *Flowers* in that European markets play a relatively less important role in our analysis. In *Flowers*, the Department's analysis focused solely on a comparison of the U.S. market with European markets as the vast majority of third country markets under consideration were in Europe. The Department did not evaluate conditions in other markets. In this case, and the companion investigation in Colombia, respondents reported significant sales to Argentina and Canada, as well as Europe. Respondents in this case have submitted additional information for all the relevant markets—Europe, Canada, and Argentina. However, it is not clear that the information submitted up to this point supports respondents' assertion that sales in the third country markets should not be compared to U.S. sales in this case.

Negative Correlation Factor

In *Flowers*, the Department found a negative correlation between price and volume movements in the United States and European markets. This negative correlation indicated that price differences between markets could either mask or exaggerate dumping. The Department determined that the negative correlation was caused by a number of elements, including: 1) the greater price and volume volatility of the U.S. market; 2) the sporadic, gift-giving nature of U.S. demand; 3) respondents' lack of access to the European auctions (the main distribution point for flowers in Europe); and 4) differing peak price periods.

Respondents argue that, in this case, there is similar evidence of a negative correlation of price and volume

movements between the U.S. and third country markets. In support of their position, respondents have submitted several reports. A 1994 report by Professor Tayama analyzes, among other things, the consumption patterns for roses in the United States, Europe, Canada and Argentina, and compares seasonal and holiday purchasing patterns in the markets. Tayama asserts that both Europe and Canada have mature and relatively stable markets because both markets are supply driven (*i.e.*, in times of peak production as supply increases, prices go down). In contrast, Tayama claims that the U.S. market is demand driven—the majority of sales are made for Valentine's Day when demand increases and prices rise. With regard to Argentina, Tayama states that roses are grown for home consumption and imports occur mainly during the winter months, as in Europe. Moreover, Tayama asserts, Argentina has a different seasonal and holiday pattern from the United States. No market, he states, has the extraordinary demand for roses that exists in the U.S. market on Valentine's Day.

Petitioners have countered Tayama's assertions with an August 10, 1994, submission which contains, among other things, a report by *Roses Inc.*, an association of U.S. rose producers. The *Roses Inc.* report raises questions about the conclusions in the Tayama report, asserting that: 1) there is a global market for roses which is driven by demand everywhere; and 2) key holiday periods are actually very similar between the United States and Europe—specifically that the highest prices in both the United States and Europe occur in February. Thus, we are not in a position to conclude that the Tayama report provides a sufficient basis to determine that comparison of U.S. sales to third country sales is inappropriate.

In support of the conclusions drawn in the Tayama report, respondents submitted the 1994 *Fresh Cut Roses: Issues in the Estimation of Dumping in the U.S. Market* (Botero Report) which contains a statistical analysis of the United States, European, and Canadian markets and seeks to demonstrate the lack of correlation between price movements in the third country and U.S. markets. The Botero Report provides three types of statistical analyses which, according to respondents, support their contention that third country prices should not be used due to the "different equilibrium conditions" of these markets as compared to the U.S. market for roses. First, Botero analyzes price movements within the United States, Europe and Canada, from which he concludes that different market forces are at work (*i.e.*, price and quantity movements within Europe and Canada are negatively correlated and price and quantity movements within the United States are positively correlated). Second, Botero analyzes price and quantity movements across markets and concludes that there is no correlation between the U.S. market and either the European or Canadian markets. Third, he estimates the price cycles for roses in the U.S., European and Canadian markets and concludes that "the seasonal patterns of the two markets [U.S. and European, U.S. and Canadian] are different and therefore monthly price comparisons do not reflect price discrimination." Botero asserts that these test results demonstrate that prices in these third country markets should not be compared to prices in the U.S. market to determine price discrimination.

We have reviewed the Botero Report and have concerns regarding the data and the statistical parameters used to perform the statistical analysis on European, Canadian and U.S. rose prices. For example, Dr. Botero relied on prices that may not be comparable. U.S. prices for a single hybrid tea variety rose were compared to European prices for all hybrid tea variety roses; and U.S. import prices, rather than U.S. domestic prices, were compared to European domestic prices. These comparisons may be inappropriate—we have no basis to conclude that a single hybrid tea rose is representative of all hybrid tea roses, or that U.S. import prices are representative of U.S. domestic prices. Moreover, Dr. Botero's F-test results appear to be invalid. Dr. Botero apparently used the incorrect degrees of freedom—(k,n-2) instead of (k-1,n-2). More importantly, Dr. Botero appears to have misread the "F Table": he reported the value of $F_{n-2,k}$ at the 99 percent confidence level, rather than $F_{k-1,n-2}$ at the 99 percent confidence level. Finally, Dr. Botero provided no explanation of his use of a 99 percent confidence level.

In light of these questions, the Department, at this stage, finds the information on the record inconclusive as to whether the third country and U.S. markets are negatively correlated. We intend to further evaluate the Botero Report for purposes of making our final determination. Further details relating to this issue are set forth in the September 12, 1994, memorandum to Barbara Stafford.

Peak to Non-Peak Factor

Third country sales in *Flowers* were not made over the entire year. They were made only in peak months. The record established that Colombian growers had little access to the European auction system and were only able to export flowers to Europe during those months when domestic supply was low. On the other hand, the Colombian growers targeted 80 percent of their production to the U.S. market and made sales to the United States in every month. As a result, the Department determined that it was unable to make contemporaneous sales comparisons in all months and would be required to compare low-value U.S. sales in off-peak months with high-value third country sales in peak months.

The circumstances on the record in this case are somewhat different. One of the three companies reporting third country sales has year-round sales to a single third country market, while the other two companies have third country sales in every month in the markets selected by the Department pursuant to § 353.49(c). Therefore, it appears that the Department may have sufficient contemporaneous sales in the aggregate for all twelve months of the POI. Further, the Department has based FMV on two six-month averages; the use of such averages also should reduce any potential for distortion.

Perishability Factor

The third factor considered in *Flowers* was related to the role of perishability on production and sale. This factor included: 1) the extreme perishability of the subject merchandise; 2) the inability of producers to control short-term production; and 3) the inability to store or make alternative use of the product. The Department found that the respondents planned 80 percent of their production around the U.S. market and sold excess production in markets in which they did not necessarily plan to sell. These factors combined to create a "chance element" to third country sales which raised the concern that any observed price differences would be unrelated to dumping.

We note that there are substantial similarities between flowers and roses. First, roses, like flowers, are extremely perishable. Second, rose growers have relatively greater, though still minor, control over short-term production than flower growers because of their ability to pinch back buds. Third, as with flowers, roses cannot be stored and we note that there are only very minor alternative uses (*e.g.*, drying). While some respondents are able to sell a small percentage of their production to markets other than the United States as a regular part of their business plan, which reduces to some extent the "chance" element to selling excess

production, we note that this was also true with some companies in *Flowers*. See Methodological Issues Concerning Colombian Cut Flowers, Sparks Commodities, Inc. 1989.

In view of the questions raised above, we conclude that, for the purpose of the preliminary determination, the evidence at this stage is not sufficient to justify departure from our normal practice of reliance on third country prices. However, we intend to revisit this issue in our final determination in light of further information and analysis with regard to the three factors set out in *Flowers* as well as any other facts that might be relevant on this issue.

Currency Conversion

Because certified exchange rates for Ecuador were unavailable from the Federal Reserve, we made currency conversions for expenses denominated in Ecuadorian sucres based on the official monthly exchange rates in effect on the dates of the U.S. sales as published by the International Monetary Fund.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Critical Circumstances

In the petition, petitioner alleged that "critical circumstances" exist with respect to importation of roses. However, we did not initiate a critical circumstances investigation because, since roses are extremely perishable, it is not possible to accumulate an inventory of roses in order to evade a potential antidumping duty order. Therefore, we determined that an allegation that critical circumstances exist is without merit (*See* the September 12, 1994, concurrence memorandum).

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of fresh cut roses from Ecuador, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Margin percent
Arbusta-Agritab (and its related farms Agrisabe, Agritab, and Flaris)	39.85
Florin S.A. (and its related farms Cuentas En Participacion Florinsa-Ertego (Florinsa Cotopaxi) and Exflodec)	84.72
Guanguilqui Agro Industrial S.A. (and its related farm Indipasisa)	20.60
Inversiones Floricola S.A. (and its related farm Flores Mitad Del Mundo S.A.)	10.34
All others	49.76

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry, before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 17, 1994, and rebuttal briefs no later than October 24, 1994. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 25, 1994, at 9:30 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice in the **Federal Register**. The request should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: September 12, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–23196 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Marine Mammals

[I.D. 082994C]

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application to modify permit no. 813 (P523).

SUMMARY: Notice is hereby given that Mr. Adam S. Frankel, University of Hawaii at Manoa, Department of Oceanography, 1000 Pope Road, Honolulu, HI 96822, has requested a modification to Permit No. 813.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, NMFS, NOAA, U.S. Department of Commerce, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 813, issued on February 1, 1993 (58 FR 7548) and modified on August 2, 1993 (58 FR 42300), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the

Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Permit No. 813 authorizes the Permit Holder to potentially harass up to 1000 humpback whales (*Megaptera novaeangliae*) during the course of playback experiments and photo-identification/observational studies through September 30, 1994. The Permit Holder requests an additional one year extension of the Permit; authorization to conduct the research off the island of Kauai rather than Hawaii; and authorization to conduct playback experiments on sperm whales (*Physeter macrocephalus*)

Dated: September 2, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–23254 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, sec. 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on October 3, 1994 from 8:30 a.m. to 12:30 p.m. in the lower-level hearing room of the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. The agenda will consist of:

Agenda

I. Introductory Remarks, Commissioner Joseph B. Dial;
II. Discussion of Summit on Risk Management in American Agriculture;
III. Update on the United States Department of Agriculture—Options Pilot Program;
IV. A panel discussion on IRS regulations regarding hedging transactions;
V. The Illinois Farm Bureau's START PROGRAM;
VI. Discussion of complex agricultural derivatives;
VII. The Iowa Study Group's revenue assurance plan;
VIII. Updates on dual trading/audit trail and exemptive petitions;
IX. Presentation by the National FFA Foundation;
X. Other Committee business; and
XI. Closing Remarks by Commissioner Joseph B. Dial.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the fifth renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Joseph B. Dial, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Agricultural Advisory Committee c/o Kimberly N. Griles, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Griles in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC, on September 15, 1994.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–23269 Filed 9–19–94; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces. The purpose of the meeting is to review the operational missions, roles and functions of the United States Coast Guard. This meeting will be open to the public.

DATES: September 20, 1994, 12:30 p.m. until 1:30 p.m.

ADDRESSES: Room 5E673, Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Commander Gregg Hartung, Director for Public Affairs, Commission on Roles and Missions, 1100 Wilson Boulevard, Suite 1200F, Arlington, Virginia 22209; telephone (703) 696–4250.

SUPPLEMENTARY INFORMATION: Seating will be limited. Individuals desiring to attend should arrive at the River Entrance to the Pentagon no later than 12:15.

Extraordinary circumstances created by scheduling and coordination conflicts compel notice of this meeting to be posted in less than the 15-day requirement.

Dated: September 14, 1994.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–23159 Filed 9–19–94; 8:45 am]

BILLING CODE 5000–4–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: The Commission on Roles and Missions of the Armed Forces will meet in closed session from 1:30 p.m. until 6:30 p.m. on September 20, 1994.

The Commission meeting will consist of a briefing from the Secretary of the Navy, the Chief of Naval Operations and the Commandant of the Marine Corps discussing assigned functions and operational capabilities of the United States Navy and United States Marine Corps. Material to be presented and discussed will consist of both classified and unclassified information in a format that makes it impractical to separate the two.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–453, as amended (5 U.S.C. App II (1988)), it has been determined that this Commission on Roles and Missions meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1988), and that, accordingly, this meeting will be closed to the public.

SUPPLEMENTARY INFORMATION: Extraordinary circumstances created by scheduling and coordination difficulties compel notice of this meeting to be posted in less than the 15-day requirement.

Dated: September 14, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–23160 Filed 9–19–94; 8:45 am]

BILLING CODE 5000–4–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces. The Commission will meet in open session from 10:00 a.m. until 1:50 p.m., and in closed session from 2:00 p.m. until 4:00 p.m. The purpose of the meeting will be to select issues for future development and analysis by the Commission. During the closed portion of the meeting, the Commission will consider issues that will involve the discussion of classified information. In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–453, as amended (5 U.S.C. App II (1988)), it has been determined that these portions of the Commission on Roles and Missions meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that, accordingly, the meeting will be closed to the public during these times.

DATES: September 23, 1994, 10:00 a.m. until 4:00 p.m.

ADDRESSES: Suite 1200F, 1100 Wilson Boulevard, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Commander Gregg Hartung, Director for Public Affairs, Commission on Roles and Missions, 1100 Wilson Boulevard, Suite 1200F, Arlington, Virginia 22209; telephone (703) 696–4250.

SUPPLEMENTARY INFORMATION: Seating will be limited. Individuals desiring to attend should arrive at the Commission offices (Suite 1200F, 1100 Wilson Boulevard, Arlington, Virginia) no later than 9:45 a.m. for an escort to the meeting room.

Extraordinary circumstances created by scheduling and coordination conflicts compel notice of this meeting to be posted in less than the 15-day requirement.

Dated: September 14, 1994.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–23161 Filed 9–19–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Office of Administrative Law Judges; Intent to Compromise Consolidated Claims; Maine Department of Education

AGENCY: Department of Education.

ACTION: Notice of Intent to Compromise Consolidated Claims.

SUMMARY: The U.S. Department of Education (the Department) intends to compromise consolidated claims against the Maine Department of Education (the State), in a consolidated appeal which is now pending before the Department's Office of Administrative Law Judges (the OALJ), Docket Nos. 92–88–R (ACN: 01–93245) and 92–105–R (ACN: 01–13035–G), under authority of § 452(j)(1) of the General Education Provisions Act (GEPA) (20 U.S.C. 1234a(j)(1) (1988)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before November 4, 1994.

ADDRESSES: Comments should be addressed to Adina Kole, Esq. or Daphna Crotty, Esq., Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue, SW, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Adina Kole, Esq. at (202) 401–8316 or Daphna Crotty, Esq. at (202) 401–8292. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The consolidated claims in question arose from two organization-wide audits of the Maine Department of Education, conducted by the Maine Department of Audit for the periods between July 1, 1987 and June 30, 1988 (ACN: 01–93245) and July 1, 1988 and June 30, 1989 (ACN: 01–13035–G). The audits were conducted pursuant to the Single Audit Act of 1984 and Office of Management and Budget Circular No. A–128.

In reviewing the State's administration of programs under the Individuals with Disabilities Education Act (Part B) (formerly the Education of the Handicapped Act) for the period between July 1, 1987 and June 30, 1988, the auditors found that the State's administrative costs under the Part B program exceeded the allowable maximum by $354,211.63. The auditors determined that, due to the differences between State and Federal fiscal years, $65,325 of this amount had previously been questioned in the June 30, 1987 audit report. Consequently, for the period between July 1, 1987 and June 30, 1988, the auditors questioned administrative costs in the amount of $288,886 (the difference between $354,211 and $65,325). Additionally, during this same State fiscal year, the auditors found that the State had charged personnel costs to various Federal programs for employees who had not worked exclusively on those programs, questioning $77,700 in Part B personnel costs.

On October 14, 1991, the Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS), issued a program determination letter (PDL) stating that the administrative cost finding had been addressed in a previous PDL (dated March 27, 1991) and that the personnel finding was not being sustained due to insufficient information in the audit report. However, upon further review and follow-up by the Department's Regional Inspector General for Audit with staff of the State Auditor's office and upon review of their workpapers, it was determined that there was no support for the charging of 100 percent of two employees' time to several different Part B programs. On June 29, 1992, the Assistant Secretary for OSERS issued a Program Redetermination Letter (PRDL) seeking recovery of $311,840 in fiscal year (FY) 1987 funds.

In reviewing the State's administration of programs under Part B and under the Carl D. Perkins Vocational and Applied Technology Education Act (the Perkins Act), for the period between July 1, 1988 and June 30, 1989, the auditors found that under the Part B program the State incurred $50,580 in administrative costs in excess of the allowable maximum. Additionally, the auditors determined that personnel costs for a number of employees who did not work exclusively for the Handicapped-State Grant Program funded under Part B, and the Vocational Education Basic Grants Program funded under the Perkins Act, were charged entirely to those Federal programs. In total, the auditors questioned $133,140 in personnel costs incurred in the period between July 1, 1988 and June 30, 1989.

On August 25, 1992 the Assistant Secretary for OSERS and the Assistant Secretary for the Office of Vocational and Adult Education (OVAE) issued a joint PDL seeking recovery of $140,852 in FY 1989 funds. Of that total, $90,272 was disallowed in a joint finding between the Assistant Secretaries for OSERS and OVAE, related to salary charges under Part B and the Perkins Act. Specifically, the Assistant Secretaries determined that in FY 1989, $44,832 awarded under Part B and $45,440 awarded under the Perkins Act had been used by the State to pay administrative salaries without the required supporting documentation.

On July 29, 1992, the State filed a timely request for review of the Assistant Secretary for OSERS' determination in the PDL for ACN: 01–93245, with the Office of Administrative Law Judges (OALJ). Upon joint motion by the parties, on March 16, 1992, the Administrative Law Judge (ALJ) assigned to this matter stayed the proceeding for purposes of mediation. On September 25, 1992, the State filed a timely request for review of the Assistant Secretaries for OSERS' and OVAE's determinations in the PDL for ACN: 01–13035–G. Upon joint motion by the parties, on October 22, 1992, the ALJ stayed the proceeding for purposes of mediation, and consolidated the two cases. On March 12, 1993, the ALJ granted a Joint Motion to Stay the Proceedings for Settlement Discussions, filed by the parties.

In the course of ensuing settlement discussions, the State submitted documentary evidence not previously seen by the auditors relevant to both the Part B excess administrative cost and the personnel salaries issues raised under the Part B and Perkins Act programs. As a result of settlement discussions, the parties tentatively agreed to a settlement under which the State would repay a total of $125,635 to the Department in full resolution of all issues.

With regard to the Part B excess administrative costs determinations contained in both PDLs, during mediation and settlement discussions the State was able to demonstrate that it had expended $12,863.27 of excess administrative costs in FY 1987, and $55,817.84 of excess administrative costs in FY 1988, for a total of $68,681.11 in excess administrative costs. Under the tentative Settlement Agreement, the State will submit revised SF–269s to the Department reflecting its reconciliation of certain administrative costs expenditures for FYs 1987 and 1988.

With regard to both Assistant Secretaries' determinations of unsupported charging of personnel salaries, in the course of mediation and settlement discussions the State submitted documentation not seen by the auditors demonstrating to the Assistant Secretary for OSERS that the majority of two salaries questioned in the PDL for ACN: 01–93245 were properly expended under Part B. Additionally, the State agreed that its charging of a $44,832 salary to the FY 1989 Part B grant was erroneous. The State proposed to offset the improper salary charges with what it believed to be allowable administrative expenditures that had not previously been charged to the Part B grant but that had been incurred during the fiscal years at issue in these audits.

On June 14, 1994, the Assistant Secretary for OSERS filed a Notice of Withdrawal of Claims and Reduction of Amount in Dispute covering disallowances in the June 29, 1992 PRDL for ACN: 01–93245 and in the August 25, 1992 PDL in ACN: 01–13015–G, in which the Assistant Secretary reduced the Part B claims in this consolidated appeal to $45,272 for the June 29, 1992 PRDL and to $115,046 for the August 25, 1992 PDL. The latter total included disallowances under the Perkins Act for which no reduction of claim was included in the June 14, 1994 Notice. As a result of the June 14, 1994 withdrawal notice, the disallowances for both cases totalled $160,318.

Under the tentative Settlement Agreement negotiated between the parties, the State has agreed to repay $125,635 to the Department in full resolution of the issues raised in both the PRDL and the PDL. Of this amount, $45,272 would be in full settlement of the claims under Part B contained in the June 29, 1992 PRDL. And, $80,363 would be in full settlement of the claims under Part B and under the Perkins Act contained in the August 25, 1992 PDL. Of this amount, $63,664 settles the Part B disallowance and $16,699 settles the Perkins Act disallowance.

In addition to the repayment of funds, the State has agreed to submit to the Department revised Financial Status Reports for fiscal years 1987 through 1993 reflecting proper coding of excess administrative costs to the grants during each of the years within that period. The State has also provided an assurance in the tentative Settlement Agreement that it will not shift excess administrative expenditures forward, to fiscal years after FY 1992, that are related to disallowances either in the June 29, 1992 PRDL or in the August 25, 1992 PDL. Finally, the State has certified in the tentative Settlement Agreement that it is currently in compliance with all requirements of the statutes and regulations pertaining to the practices and procedures that gave rise to the disallowances in question in this consolidated appeal.

In accordance with the authority provided in 20 U.S.C. 1234a(j)(1), given the documentation submitted by the State, the certification and assurances provided by the State, and the estimated litigation risks and costs of proceeding through the appeal process, the Department has determined that it would not be practical or in the public interest to continue litigation of this case. Rather, under the authority provided in 20 U.S.C. 1234a(j)(1), the Department has determined that a compromise of this claim for $125,635 would be appropriate. The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Adina Kole, Esq. or Daphna Crotty, Esq., at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j)(2).

Dated: September 15, 1994.

Donald R. Wurtz,

Chief Financial Officer.

[FR Doc. 94–23245 Filed 9–19–94; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 20, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process

would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: September 15, 1994.

Ingrid Kolb,

Acting Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Existing
Title: Application for Grants Under the Endowment Challenge Grant Program
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 300
Burden Hours: 900
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This application form provides instructions and information necessary for eligible institutions of higher education to submit a request for an award under the Endowment Challenge Grant Program. The information submitted by applicants will be used by ED to determine the acceptability of the application, the rank order of the application, and the amount of the grant award.

[FR Doc. 94–23244 Filed 9–19–94; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent to Award Renewal Grant to Southeastern Consortium for Minorities in Engineering (SECME)

AGENCY: Department of Energy (DOE).

ACTION: Notice of Intent.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(5), it is making a discretionary financial assistance renewal award based on the criteria set forth at 10 CFR 600.7(b)(2)(i) (B) and (D) to SECME, Atlanta, GA., under Amendment A001 to Grant Number DE–FG01–93MI10270. The purpose of the award is to continue to develop an educational and training program for middle and high school students, teachers and school administrators in the District of Columbia public schools. The projects goal is to increase the number of minority students who are academically prepared to enter college and complete studies in engineering, mathematics and science. The period of performance will be extended two (2) years October 1, 1994–September 30, 1996. The total estimated cost of this budget period (10/1/94–9/30/95) is $150,000 which will be provided by DOE—there is no cost sharing.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rosemarie Marshall, HR–531.11, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The proposed renewal grant will provide funding to SECME, which is a pre-college program designed to increase the number of minority students who are academically prepared to enter and complete studies in engineering, mathematics, and science. SECME is a nonprofit organization organized in 1975 by the engineering deans of six Southeastern universities. SECME is proposing to expand its consortium network by establishing the SECME school systems model in the District of Columbia, with the development of 16 school programs in four schools systems in DC covering the northwest, northeast, southwest and southeast areas. The University of the District of Columbia's College of Engineering will serve as SECME's 33rd member university and work with SECME school programs throughout the targeted region. The University's role is vital to the success of the program. The University's support to the schools will be through Saturday School Engineering Workshops and school visits from engineering faculty consultants who provide information on additions to school curricula, on-going curriculum enrichment, and university-level preparatory courses.

The program is meritorious because by increasing the pool of minority students who are prepared to enter and complete studies in the scientific technical fields, the competitiveness and prosperity of the American workforce will be significantly enhanced in the years ahead. The project will assist teachers in formulating ways to enrich their instructional programs through the use of curriculum materials and computer applications and help them develop motivational guidance for their students. The DOE knows of no other entity which is conducting or is planning to conduct such an activity.

Based on the evaluation of relevance to the accomplishment of a public purpose, it is determined that the application represents a beneficial method to ensure precollege students' success in courses which are prerequisite to technical education and careers. Through this project, students will be better prepared to enroll in and succeed in university-level engineering, mathematics, and science programs.

Michael B. Raizen,

Contracting Officer, Operations Branch A–1, Office of Placement and Administration.

[FR Doc. 94–23243 Filed 9–19–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER94–1168–001, et al.]

Vesta Energy Alternatives Company, et al.; Electric Rate and Corporate Regulation Filings

September 13, 1994.

Take notice that the following filings have been made with the Commission:

1. Vesta Energy Alternatives Company

[Docket No. ER94–1168–001]

Take notice that on August 15, 1994, Vesta Energy Alternatives Company (VEA) filed certain information as required by the Commission's July 8, 1994 letter order in Docket No. ER94–1168–000. Copies of VEA's informational filing are on file with the Commission and are available for public inspection.

2. Niagara Mohawk Power Corporation

[Docket No. ER94–1462–000]

Take notice that on August 29, 1994, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an executed Certificate of Concurrence by PowerNet G.P. (PowerNet). This Certificate of Concurrence is intended to satisfy PowerNet's filing requirements due to the Exchange Unit Provision in NMPC's Power Sales Tariff, and is being submitted to FERC as a supplement to the filing (of a Service Agreement) that Niagara Mohawk made on July 15, 1994.

NMPC renews its request for an effective date of July 18, 1994. NMPC

has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PowerNet.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER94–1558–000]

Take notice that on August 16, 1994, Pacific Gas and Electric Company (PG&E) tendered for filing the ENRON–PG&E Enabling Agreement between ENRON Power Marketing, Inc. (ENRON) and PG&E. The Enabling Agreement document's terms and conditions for the purchase, sale or exchange of economy energy and surplus capacity which the Parties agree to make available to one another at defined control area border interconnection points.

Copies of this filing have been served upon ENRON and the California Public Utilities Commission.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Illinova Power Marketing, Inc.

[Docket No. ER94–1475–000]

Take notice that on August 26, 1994, Illinova Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. American Power Exchange, Inc.

[Docket No. ER94–1578–000]

Take notice that on September 9, 1994, American Power Exchange, Inc. (APEX) tendered for filing pursuant to 18 CFR Part 385, an amended petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. National Power Exchange Corporation

[Docket No. ER94–1593–000]

Take notice that on September 1, 1994, National Power Exchange Corporation tendered for filing revised FERC Electric Rate Schedule No. 1.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Carolina Power & Light Company

[Docket No. ER94–1618–000]

Take notice that on August 31, 1994, Carolina Power & Light Company (CP&L) tendered for filing a letter requesting that "Exhibit A's" for the Chadbourn Peacock and Edwards Delivery Points be made supplements to Rate Schedule No. 128, and included as a part of the filing submitted on August 3, 1994, in lieu of the "Exhibit A's" for these delivery points filed on August 3, 1994, and in addition that Exhibit A for the Laurel Road Delivery Point be made a supplement to Rate Schedule No. 128.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Delmarva Power & Light Company

[Docket No. ER94–1628–000]

Take notice that on September 6, 1994, Delmarva Power & Light Company (Delmarva) of Wilmington, Delaware, filed under the provisions of Section 205 of the Federal Power Act a twenty-year power supply contract (the Service Agreement) under which Delmarva will provide all requirements service to the Town of Clayton, Delaware (Clayton). Delmarva states that the Service Agreement supersedes Delmarva's Rate Schedule No. 64 under which Clayton currently receives service.

Delmarva, with Clayton's concurrence, requests a waiver of the 60-day notice requirement and an effective date as allowed for by the terms of the Service Agreement that commences with the date prior to November 6, 1994, that Clayton actually begins taking all requirements service from the Company. Alternatively, Delmarva asks for an effective date of November 6, 1994, which is sixty days after the filing date.

The Service Agreement provides for the continuation of the requirements service previously furnished Clayton under Rate Schedule No. 64, but changes certain terms and conditions. The chief differences between the Service Agreement and Rate Schedule No. 64 are that the Service Agreement provides for all requirements service as a change from the partial requirements service Clayton was receiving, establishes a new rate for Clayton which is below the level of the rate currently charged Clayton and below the settlement rate previously established for Clayton in Docket No. ER92–236–000, and provides for future adjustments to the Clayton rate based on changes in the level of Delmarva's retail rates. The Service Agreement has a twenty year term.

Delmarva states that the filing has been posted and has been served upon the affected customer and the Delaware Public Service Commission.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER94–1629–000]

Take notice that on September 6, 1994, Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), tendered for filing letter agreements concerning fuel accounting procedures at the Robert W. Scherer Steam Electric Generating Plant. The letter agreements set forth the effect of the revised procedures on (i) the Amended and Restated Unit Power Sales Agreement dated February 18, 1982, between FPL and Southern Companies (with the exception of Savannah Electric and Power Company); (ii) the Unit Power Sales Agreement dated July 20, 1988, between FPL and Southern Companies; (iii) the Transition Energy Agreement dated as of December 31, 1990, between FPL and Southern Companies; (iv) the Amended and Restated Unit Power Sales Agreement dated May 19, 1982, between JEA and Southern Companies (with the exception of Savannah Electric and Power Company); (v) the Unit Power Sales Agreement dated August 17, 1988, between JEA and Southern Companies; (vi) the Transition Energy Agreement dated as of December 31, 1990, between JEA and Southern Companies; (vii) the Unit Power Sales Agreement dated July 19, 1988, between FPC and Southern Companies; and (viii) the Unit Power Sales Agreement dated December 8, 1990, between Tallahassee and Southern Companies.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Portland General Electric Company

[Docket No. ER94–1630–000]

Take notice that on September 7, 1994, Portland General Electric Company (PGE) tendered for filing a rate schedule for PGE to provide electric power to the customers of other entities during emergencies and operating contingencies.

Copies of the filing were served upon the list of entities including all proposed customers under this tariff, appearing on the Certificate of Service attached to the filing letter.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER94-1632-000]

Take notice that on August 22, 1994, Northeast Utilities Service Company (NUSCO), tendered for filing, on behalf of The Connecticut Light and Power Company, Holyoke Water Power Company (including Holyoke Power and Electric Company), and Public Service Company of New Hampshire (together, the NU System Companies), a refund report and a Notice of Termination for the System Power Sales Agreement (Agreement) with Hudson Light and Power Department (Hudson). The System Power Sales Agreement was terminated in accordance with its terms.

NUSCO requests that the Agreement be terminated as of November 1, 1994, NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Agreement and the affected state utility commissions.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. The Montana Power Company

[Docket No. ER94-1634-000]

Take notice that on September 8, 1994, The Montana Power Company (Montana) tendered for filing as a change in rate schedule, Revision No. 1 of Exhibit E to its General Transfer Agreement, dated as of May 27, 1988, with the Bonneville Power Administration (Rate Schedule FERC No. 175).

A copy of the filing was served upon the Bonneville Power Administration.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. The Montana Power Company

[Docket No. ER94-1635-000]

Take notice that on September 8, 1994, The Montana Power Company (Montana), tendered for filing as a change in rate schedule, Revisions No. 1, 2 and 3 of Exhibit C, and Revision No. 1 of Exhibit D to its Transmission Agreement, dated as of May 27, 1988, with the Bonneville Power Administration.

A copy of the filing was served upon the Bonneville Power Administration.

Comment date: September 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER94-1641-000]

Take notice that on September 9, 1994, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Enron Power Marketing, Inc. (Enron) dated September 7, 1994, providing for certain transmission services to Enron.

Copies of this filing were served upon Enron and the New York State Public Service Commission.

Comment date: September 27, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-23183 Filed 9-19-94; 8:45 am]

BILLING CODE 6717-01-P

[Project No. 2535]

South Carolina Electric & Gas Company; Intent To Conduct Public Scoping Meetings

September 14, 1994.

The Federal Energy Regulatory Commission (FERC) has received an application for license of the Stevens Creek Hydroelectric Project, FERC No. 2535. The project is located in Edgefield and McCormick Counties, South Carolina and Columbia County, Georgia, 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.

Scoping Meetings

The FERC staff will conduct two scoping meetings. An evening scoping meeting is primarily for public input while a morning meeting will focus on resource agency concerns. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the EA. Staff will visit the project site prior to the meetings to become more familiar with the project and its operation.

Both scoping meetings will be held on Wednesday, October 12, 1994, in the Savannah Rapids Pavilion, 3300 Evans to Lock Road, Martinez, Ga. The first meeting will be held from 9:00 a.m.–12:00 p.m. and will focus primarily on issues of concern to resource agencies. The second meeting will be held from 7:00 p.m.–10:00 p.m. and will focus primarily on issues of concern to the general public.

Prior to the meetings, a scoping document will be mailed to the list of interested parties. The scoping document identifies resource issues to be addressed in the EA. Copies of the scoping document will also be available at the scoping meetings or can be obtained by writing: FERC—Stevens Creek Project, c/o Tom Dupuis, CH2M HILL, P.O. Box 2090, Milwaukee, Wisconsin 53201-2090.

Objectives

At the scoping meetings the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) determine the relative depth of analysis for issues to be addressed in the EA; (3) identify resource issues that are not important and do not require detailed analysis; (4) solicit from the meeting participants all available information, especially quantified data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures

The meetings will be recorded by a stenographer and all statements (oral and written) thereby become a part of the formal record of the Commission proceedings. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Participants at the public meetings are asked to keep oral comments brief and concise.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record. In addition, written scoping comments

may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, until November 12, 1994.

All written correspondence should clearly show the following caption on the first page: Stevens Creek EA, Project No. 2535.

All those that are formally recognized by the Commission as intervenors in the licensing proceeding are asked to refrain from engaging staff or its contractor in discussions of the merits of the projects outside of any announced meetings.

Further, 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 is on the official service list.

For further information, please contact John Blair (202) 219–2845.

Lois D. Cashell,

Secretary.

[FR Doc. 94–23184 Filed 9–19–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–338–002]

El Paso Natural Gas Co.; Tariff Filing

September 14, 1994.

Take notice that on September 12, 1994, El Paso Natural Gas Company (El Paso), tendered for filing and acceptance pursuant to Part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act a Statement of Rates tariff sheet to its Third Revised Volume No. 2 Tariff.

El Paso states that the tendered tariff sheet was inadvertently omitted from its July 29, 1994, filing at Docket No. RP94–338–000, which the Commission approved by letter order dated August 25, 1994.

El Paso states that the tendered tariff sheet, proposed to become effective August 1, 1994, provides for a decrease of $.0013 per dth in El Paso's currently effective take-or-pay Throughput Surcharge due to the removal of the unamortized portion of certain ineligible costs resulting from the Commission's Order Affirming Initial Decision and Order on Rehearing issued concurrently on June 16, 1994, at Docket No. RP90–81–000, et al., and Docket No. RP91–26–000, et al., (June 16th Orders) respectively.

El Paso states that it is requesting waiver of the notice requirement of Section 154.22 of the Commission Regulations pursuant to Section 154.51 to permit the tendered tariff sheet to become effective on August 1, 1994, in order to be consistent with the date the Commission accepted the other affected tariff sheets containing the decrease in the Throughput Surcharge. Furthermore, no party will be harmed by the waiver of the notice requirement, since the result will be a decrease in rates.

El Paso states that copies of the filing were served upon all its Volume No. 2 tariff customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before September 21, 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 the filing are on file with the Commission and are available for public inspection in the Public Reference Room

Lois D. Cashell,

Secretary.

[FR Doc. 94–23185 Filed 9–18–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–187–000, et al.]

Equitrans, Inc.; Rescheduling of informal settlement conference

September 14, 1994.

Take notice that the informal conference originally scheduled in this proceeding for Tuesday, September 13, 1994, has been rescheduled. The new date for the conference is Tuesday, September 20, 1994, at 10:00 a.m. The purpose of the conference is to explore the possible settlement of the above-referenced docket. The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E. Washington, DC, 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Hollis J. Alpert at (202) 208–0783 or Arnold H. Meltz at (202) 208–2161.

Lois D. Cashell

Secretary.

[FR Doc. 94–23186 Filed 9–19–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–037]

Frontier Gas Storage Co.; Sale Pursuant to Settlement Agreement

September 14, 1994.

Take notice that on September 9, 1994, Frontier Gas Storage Company (Frontier), % Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Washington, D.C. 20004, in compliance with the provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000 et al., submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of 1,000,000 MMBtu of Frontier's gas storage inventory on an "in place" basis to Western Gas Resources, Inc. (Western Gas).

Under Subpart (b) of Ordering Paragraph (G) of the Commission's February 13, 1985, Order, Frontier is "authorized to consummate the proposed sale in place unless the Commission issues an order within 20 days after expiration of such notice period either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter. Deliveries of gas sold in place shall be made pursuant to a schedule to be set forth in an exhibit to the executed service agreement."

Any person desiring to be heard or to make a protest with reference to said tariff sheet filing should, within ten days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (825 North Capitol Street, N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. 94–23187 Filed 9–19–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85-221-038]

Frontier Gas Storage Co.; Sale Pursuant to Settlement Agreement

September 14, 1994.

Take notice that on September 9, 1994, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Washington, D.C. 20004, in compliance with the provisions of the Commission's February 13, 1985, Order in Docket No. CP82-487-000 et al., submitted an executed Service Agreement under Rate Schedule LVS-1 providing for the possible sale of up to a daily quantity of 35,000 MMBtu of Frontier's gas storage inventory on an "as metered" basis to Western Gas Resources, Inc. (Western Gas).

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory, fourteen days after filing the executed agreement with the Commission, and may continue making such sale unless the Commission issues an order either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter.

Any person desiring to be heard or to make a protest with reference to said tariff sheet filing should, within ten days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. 94-23188 Filed 9-19-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-47-000]

MIGC, Inc.; Proposed Changes in FERC Gas Tariff

September 14, 1994

Take notice that on September 12, 1994, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 4, proposed to become effective October 1, 1994.

MIGC states that the instant filing is being submitted to reflect Annual Charge Adjustment unit charges applicable to transportation services during the fiscal year commencing October 1, 1993.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All Such petitions or protests should be filed on or before September 21, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-23189 Filed 9-19-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-768-000]

Northern Natural Gas Co.; Request Under Blanket Authorization

September 14, 1994.

Take notice that on September 9, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP94-768-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point to accommodate increased natural gas deliveries to an existing customer under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install a Town Border Station for Bridgeport, Wisconsin, in Crawford County to provide natural gas deliveries to Wisconsin Natural Gas Company (WNG), a local distribution company. Northern states that the end-users would be new commercial and residential customers. Northern estimates that the peak day and annual quantities would be 360 and 41,000 MMBtu, respectively. Northern advises that WNG would make a contribution in aid of construction for the total cost of installing the facilities, estimated to be $54,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94-23190 Filed 9-19-94 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-341-001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 14, 1994.

Take notice that on September 12, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to its FERC Gas Tariff, with a proposed effective date of August 1, 1994:

Substitute First Revised Sheet No. 223

Texas Gas states that the revised tariff sheet is being filed to comply with the Commission Order dated August 26, 1994, in Docket No. RP94-341-000, which requires Texas Gas to revise its tariff language which limits waiver of the nine-month limitation to only those costs discussed in the Order and incorporate the necessary reporting requirements.

Texas Gas notes that copies of the filing are being mailed to Texas Gas' affected customers and interested state commissions and are being served on all parties in Docket No. RP94-125 (Texas Gas' initial filing to recover Account No. 191 costs) and Docket No. RP94-341-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E.,

Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before September 21, 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–231 Filed 9–19–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5063–1]

Announcement of a Request for Pre-Proposals From Minority Academic Institutions To Conduct Hazardous Substance Research, Technology Transfer and Training in Cooperation With EPA's Hazardous Substance Research Centers

AGENCY: Environmental Protection Agency.

ACTION: Publication of a request for pre-proposals and correction of deadline for receipt of pre-proposals.

SUMMARY: On August 31, 1994 (59 FR 44985), EPA published a notice, signed by the acting Assistant Administrator for Research and Development, announcing the availability of a document requesting pre-proposals from Minority Academic Institutions (MAIs) for participation in the Hazardous Substance Research Centers (HSRCs) Program. EPA has corrected the deadline for submissions of pre-proposals from October 15 to October 21. For the convenience of the public, EPA is publishing the full text of the document in this notice. EPA will also continue to make the document available separately.

The purpose of the request for pre-proposal is to set forth the eligibility and submission requirements, evaluation criteria and schedule for establishing hazardous substance research, technology transfer and training activities at MAIs, in cooperation with the five HSRCs, as authorized by section 311(d) of Superfund, and as amended by section 209 of the Superfund Amendments and Reauthorization Act of 1988. These activities will be competitively awarded.

The U. S. Environmental Protection Agency (EPA) recognizes that minority academic institutions (MAIs) are underrepresented in research and other activities relating to hazardous substance management. To improve this situation, EPA is making funds available to enhance the ability of MAIs to participate in research, technology transfer, training, and academic development activities in collaboration with EPA's five HSRCs. The program rationale and design, areas of interest, eligibility requirements, and other important information are described in the document, which is published in full under SUPPLEMENTARY INFORMATION.

DATES: All pre-proposals must be received by October 21, 1994.

ADDRESSES: Send pre-proposals to the appropriate contact points listed in Table 1 under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Dr. Dale Manty, Director, Hazardous Substance Research Centers Program, Office of Exploratory Research (8703), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202–260–7454).

SUPPLEMENTARY INFORMATION:

Program Announcement and Solicitation for Minority Academic Institution (MAI) Participation in Hazardous Substance Research Centers (HSRC) Program; Pre-proposal for MAI Participation in the HSRC Program

The U. S. Environmental Protection Agency (EPA) is concerned that minority academic institutions (MAIs) are underrepresented in research and other activities relating to hazardous substance management. To improve this situation, EPA announces the availability of funds to enhance the ability of MAIs to participate in research, technology transfer, training, and academic development activities in collaboration with EPA's five University Hazardous Substance Research Centers (HSRCs). The program rationale and design, areas of interest, eligibility requirements, and other important information are described below.

The process begins with submission of an original and eight copies of pre-proposals from MAIs to one of the five EPA HSRCs. An administrative review will be made by the Center Director, in consultation with the EPA National HSRC Program Director. Eligible applications will then be reviewed for relevance and quality by each Center's Director, Science Advisory Committee, and Technology Transfer and Training Advisory Committees. Successful applicants will be invited to submit full proposals.

Hazardous Substance Problems

One of the important environmental issues facing our civilization is the management of hazardous substances from manufacture to treatment and disposal. Since 1980, over 40,000 hazardous waste sites have been discovered, more than 1,000,000 underground storage tanks are estimated to be leaking, and more than 250,000 industrial and waste storage or treatment facilities are subject to permit requirements of the Resource Conservation and Recovery Act. A National Priorities List for cleanup of the worst of these sites has been established by EPA. This list, plus similar state lists, total more than 5,000 sites. Such sites are causing contamination of air, soil, and ground and surface water. There is a growing recognition of the risks such contamination inflicts upon ecological communities. Conventional methods of determining, cleaning up, and managing these problems are proving inadequate to achieve desired levels of clean-up. The HSRC Program is fueled by a strong desire to develop better, cheaper, faster, and safer methods to assess and clean up these sites. EPA priorities for addressing these problems include development of new methods to assess and remediate sites, decrease the production and use of hazardous substances, and train a new generation of hazardous substance managers.

General Description

Under Section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9660(d), EPA has established five Hazardous Substance Research Centers. In 1994, Congress provided EPA with funds to encourage MAIs to participate in the HSRCs' research and training and technology transfer activities. These funds will be provided through a Federal Assistance Agreement with each HSRC, which in turn will establish sub-contracts with MAIs. If additional funds become available, additional qualified applicants may be funded. The MAI is expected to contribute a 20% match of non-federal resources. These resources may come from State, local, foundation, individual, or private sector contributions and may include in-kind contributions. No Federal funds provided for this program may be used to purchase, build, or renovate any buildings or to purchase land. Up to 15% of the funds will be available to encourage HSRC researchers to collaborate in joint projects with MAI researchers.

Hazardous Substance Research Center Program

EPA has competitively established five Hazardous Substance Research Centers to provide:

- Short- and long-term research on the manufacture, disposal, clean-up, and management of hazardous substances;
- Dissemination of research information and findings; and
- Training, technology transfer, and technical outreach and support to benefit organizations, communities, and individuals involved with hazardous substances.

Research supported by the HSRCs covers all relevant scientific and technological subjects except human health effects research (toxicology, dose-response epidemiology, etc.). Each HSRC is headed by a Center Director who is responsible for managing each Center. The Director is the intellectual leader and guide for the Center. A Technology Transfer and Training Director oversees training and commercial application of Center projects. Each of the five HSRCs serves the States within two adjoining pairs of Federal Regions. All five collaborate to form a National Hazardous Substance Research Centers Program. Each center has its own Science Advisory Committee and Technology Transfer and Training Advisory Committee which regularly review the progress of ongoing work and recommend funding of new proposals.

Availability of Funds

$3.5 million will be available for award under the terms described below.

Submission and Eligibility Requirements

U.S. MAIs in good standing with the Federal government may submit pre-proposals. Applications must include a written certification that the applicant is a minority academic institution. The applicant's eligibility as an MAI will be confirmed on the basis of enrollment data in the Integrated Postsecondary Education Data System (IPEDS) Fall Enrollment Survey, provided by postsecondary institutions, through the National Center for Education Statistics, to the Office for Civil Rights, U.S. Department of Education. The terms "accredited," "minority," and "minority institution" are set forth in 34 CFR 637.4(b).

To be considered for an award, an original pre-proposal and eight copies must be submitted to the most appropriate HSRC, as provided in the table. The pre-proposals are due at these contact points no later than 4:00 p.m. local time on Friday, October 21, 1994. Applicants are encouraged to submit their pre-proposal as soon as possible to provide for maximum opportunities to coordinate with appropriate HSRC staff and researchers. Receipt of pre-proposals will be acknowledged for those applicants providing a mailing address label. Each pre-proposal must include the information requested in the sample format at the end of this announcement. The proposed activity shall be described in up to two pages addressing the evaluation criteria. A summary budget for up to an 18 month period shall be included. HSRC research projects range from approximately $25,000–$75,000 per year. Each Center, upon reviewing the pre-proposals, shall invite submission of full proposals. All applicants will be notified of the review results.

TABLE 1.—HSRC POINTS OF CONTACT

Center	Address	Director/MAI Coordinator	Phone
Send an Original and Eight Copies of the Pre-Proposal to Any of the Following Centers:			
Northeast	New Jersey Institute of Technology, 323 Martin Luther King Jr. Blvd., Newark, NJ 07102.	Dick Magee, Director, Mary Jane Pohero, Coordinator.	(201) 596–5883
Great Lakes/Mid-Atlantic.	Dept. of Civil and Environmental Engineering, 2340 C G Brown Building, University of Michigan, Ann Arbor, MI 48109–2125.	Walt Weber, Director, Pat Miller, Coordinator.	(517) 353–9718
Great Plains/Rocky Mountains.	Kansas State University, Ward Hall, Manhattan, KS 66506–2502.	Larry Erickson, Director, Stan Grant, Coordinator.	(913) 532–4313
South and Southwest.	3418 CEBA Bldg., Louisiana State University, Baton Rouge, LA 70803–5083.	Louis Thibodeaux, Director, David Constant, Coordinator.	(504) 388–6770
Western Region	Department of Civil Engineering, Stanford University, Stanford, CA 94305–4020.	Perry McCarty, Director, Jim Leckie, Coordinator.	(415) 723–8574

Program Orientation and Training

All MAI program participants and administrative officials will meet initially with the EPA National Program Director, Center Directors, and other Center and EPA personnel to initiate the program. Requirements for record keeping, laboratory and site safety, quality assurance, etc., will be presented to program participants. All MAI research and faculty participants will meet with Center Directors and other appropriate personnel in the latter part of their first year to review the progress of the program. Requests for funds to support participation in these meetings shall be included in each minority participation project.

Pre-Proposal Evaluation

The first step in the review and selection process is an administrative review to determine eligibility and appropriateness. For each Center, the following evaluation criteria will be used to evaluate pre-proposals:

- Short- and long-term benefits to the Minority Academic Institution;
- Benefits to principal investigator professional development;
- Benefits to student academic development;
- Level of participation by minority individuals;
- Compatibility with HSRC interests;
- Leverage of resources;
- Quality of work proposed; and
- Potential impact of proposed activity.

Areas of Interest

Pre-proposals are encouraged in one or more of the following areas but will be considered in other areas as well. It is recognized that some pre-proposals will incorporate elements from several areas of interest, such as a cooperative research program that includes faculty and/or student enhancement. These pre-proposals are also encouraged and will be evaluated on the strength of the consolidated pre-proposal.

Cooperative Research Programs

It is expected that most of the funds distributed under this solicitation will

support cooperative research projects which pair MAI investigators with HSRC investigators. The goals of a cooperative research project are to enhance the research capabilities of the minority institution, promote significant interaction among the Center and MAIs, and lead to a continuing collaboration among the investigators. Given the time constraints of the program, preference will be given to projects that build on existing Center projects. New projects developed in collaboration with Center investigators, however, can be proposed. A potential investigator is strongly encouraged to review the current projects and activities of the Centers and contact Center personnel prior to submission of a pre-proposal. Examples of project collaboration include periodic exchanges of researcher-in-residence at an MAI or HSRC facility, co-investigation of a research topic, and joint supervision of research students. The specific nature of the collaboration will be defined by the investigators. Necessary travel funds to provide for this collaboration shall be built into the project pre-proposal. Pre-proposals are encouraged in the following broad HSRC research themes:

- Thermal treatment/incineration;
- Bioremediation;
- Contaminated sediment and dredge material;
- Mine wastes and contaminated soils; and
- Remediation of contaminated groundwater.

It is suggested that interested proponents review the Abstracts of HSRC Research Activities (following) and contact the most appropriate HSRC from Table 1 for further information about specific personnel and research opportunities.

Faculty Enhancement

The goal of the faculty enhancement component is to provide hazardous substance research opportunities to promote professional growth of MAI faculty. A companion goal is to strengthen the hazardous substance research programs at their home institutions. Specifically, the program is intended to:

- Enhance research expertise and abilities;
- Expand the knowledge-base in hazardous substance management research;
- Provide hands-on experience with modern equipment and instrumentation; and
- Help faculty develop linkages for future collaborative research.

Activities to be supported include:

- Academic-year sabbaticals (1–2 semesters);
- Summer research visits (minimum of 10 weeks); and
- Short-term faculty interactions (1–2 weeks).

Faculty must be tenured or in a tenure-track position at an MAI to maximize potential benefits to the home institution. For institutions without formal tenure systems, faculty holding a long-term or permanent position shall be eligible.

Student Enhancement

MAIs are encouraged to develop pre-proposals which will provide internship programs for undergraduate and graduate students. The goal of the student enhancement component is to motivate students toward advanced study and careers in hazardous substance management by providing research and training opportunities at HSRC universities. Proposed projects should provide undergraduates with an experience that fosters interest in pursuing graduate education and research. Projects for graduate students should promote a greater understanding of the role of science and engineering in providing solutions to hazardous substance related problems. The following selection criteria apply:

- Undergraduate students should have completed one or more years of an academic program in a discipline with an environmental focus. Graduate students should be pursuing a Masters or Ph.D. in an environmental discipline.
- Pre-proposals should demonstrate a plan for guiding students to the timely completion of research projects.
- MAIs should describe a student selection process that examines student academic records and recommendations and also includes the potential student impact of selection into the program (e.g., high potential "underachievers", etc.).

The Center Director will assist in placing students into appropriate projects. Selections will be based on the strengths of the proposed program and its ability to impact participants rather than the merits of individual students.

Technology Transfer and Training

There are a number of opportunities for MAIs to participate in the technology transfer and training activities of the HSRCs. These opportunities may take a variety of forms, for example: cooperative ventures with existing HSRC programs; development of new programs to assist in the development and commercialization of research technologies to better manage hazardous substances; and training or education to communities, governmental decision makers, industry, faculty, and students.

Pre-proposals are solicited in the following areas:

- Training to provide working knowledge of new technologies;
- Train-the-trainer courses for managing hazardous substance problems in minority and other communities;
- Training and assistance to MAIs to provide technical outreach and education to communities affected by hazardous substances; and unique environmental circumstances including environmental justice, risk assessment and communication, hazardous substance information, and education;
- Practitioner-in-Residence Program, bringing a technical expert to assist faculty and students at MAIs to identify opportunities and develop programs, etc.

All technology transfer and training pre-proposals shall define target audience, beneficiaries, and the nature of the training activities.

Abstracts of HSRC Research

Northeast Hazardous Substance Research Center (NHSRC)

The NHSRC serves EPA Regions 1 and 2. New Jersey Institute of Technology (NJIT) is the lead institution in a seven member consortium formed to establish the Center. Members include Massachusetts Institute of Technology, Princeton University, Rutgers University, Stevens Institute of Technology, Tufts University and the University of Medicine and Dentistry of New Jersey.

The Center's research programs focus on development and demonstration of treatment and remediation technologies in three broad areas: incineration/thermal methods; in-situ methods; and biological/chemical/physical methods. The Center also conducts a companion technology transfer and training program. Active research areas include:

- Incineration/Thermal Treatment.

—Combustion modeling
—Chlorocarbon destruction kinetics
—Catalytic oxidation
—Flue gas scrubbing
—Two-stage combustion
—Microwave treatment and low-energy plasma

- Characterization and Monitoring.

—Fiber optic sensors
—Continuous emissions monitoring (CEM) of stack gases
—GC–IC/MS for field applications
—CEM for Volatile Organic Compounds (VOCs) in groundwater

—Micro-sensors for metals
—Laser-based monitors

• In-situ Remediation.

—Anaerobic/aerobic bioremediation
—Electro-osmosis processes
—Pneumatically enhanced soil vapor extraction
—Soil flushing and in-situ vitrification

• Ex-situ Treatment Processes.

—Separation processes
—Hollow fiber liquid membranes
—Biotreatment and reactor design
—Solidification/stabilization
—Biofilters

• Technology Transfer and Training.

—Environmental risk communication
—Pollution prevention
—Environmental justice
—Public education concerning risks
—Technology demonstrations

Great Lakes/Mid-Atlantic Center (GLMAC)

The Great Lakes and Mid-Atlantic Center for Hazardous Substance Research has responsibility for coordinating the hazardous substance research and technology transfer activities within EPA Regions 3 and 5. The University of Michigan is the lead institution of the Center. Michigan State University and Howard University are the other consortium members. Center research focuses on problems associated with environmental contamination by organic chemicals. It addresses such problems by attempting to define and refine remediation technologies that are effective, environmentally compatible and cost-effective. Current projects address in-situ remediation schemes which integrate biological processes with chemical and physicochemical technologies in the following focus areas:

• Bioremediation of PCB contaminated soils.

—Development of genetically engineered organisms
—Design of engineered systems for field applications

• Bioremediation of carbon tetrachloride contaminated groundwater and soil.

—Introduction of and maintenance of a population of carbon tetrachloride degrading organisms in the field

• Bioventing for remediation of vadoze zone soils.

—Delineation of underlying fundamental processes
—Identification of rate controlling mechanisms

• Introduction of surfactants for groundwater remediation.

—Principles controlling the dissolution and mobilization of non-aqueous phase liquids

• Site characterization and sample analysis.

—Improved methods for sample collection and analysis
—Improved methods of field characterization

In addition to research, the Center has a training and technology transfer program that is designed to complement Center research. Activities include publication of synergos, a periodical research report; production of educational videotapes; organization of conferences and seminars; and providing assistance to communities affected by hazardous waste sites.

South/Southwest Hazardous Substance Research Center

The South and Southwest Hazardous Substance Research Center is a consortium led by Louisiana State University and includes Georgia Institute of Technology and Rice University. The overall research mission of the Center is to provide short and long-term investigations into the management of hazardous substance problems associated with the Center's focus area–contaminated sediments and dredged materials–as well as problems unique to EPA Regions 4 and 6. The Center is also responsible for training and technology transfer activities including: community outreach programs; one-day regulatory update conferences; a quarterly newsletter and technical briefs; an annual symposium and report; and demonstration and transfer of technologies developed from Center activities.

Most of the Center research activities are focused on problems with contaminated sediment (CS) and dredged material (DM). The CS and DM of concern contain organics, metals and conventional pollutants as environmental contaminants both in the water column and on the bottom of rivers, bayous, lakes, harbors, estuaries, freshwater wetlands and adjoining regions of the continental shelf. Projects in the CS/DM focus examine source characterization, contaminant transport and transformation processes, ecological effects and human exposure to chemicals in contaminated sediments and dredged materials. Specific research projects are currently supported in the areas of:

• Mobility of radium sediments;

• Contaminant migration from sediment disposal facilities;

• Contaminant exchange between sediments and the overlying water via biological and physicochemical processes;

• Biotransformation of contaminated sediments;

• Plant enzyme mediated remediation of TNT contaminated soils;

• In-situ monitoring of volatile hydrocarbons; and

• Dynamics of pollutant-sediment reactions.

Great Plains/Rocky Mountain Center

Kansas State University leads the twelve institution consortium representing EPA Regions 7 and 8. Participating universities are Montana State University, South Dakota State University, Utah State University, Haskell Indian Nations University, Lincoln University and the Universities of Iowa, Missouri, Montana, Nebraska, Utah and Wyoming. The Center was established in 1989 to conduct research in identification, treatment and reduction of hazardous substances resulting from agriculture, forestry, mineral and mining processing and other concerns of regional interest.

The two regions have diverse interests resulting from the grouping of mineral-rich states with those whose principal industries are agricultural, both crop land and animal husbandry. The Center's mission is focused on contaminated soils and mining wastes.

The diversity of interests and the large geographic area are further reflected in the Center's training and technology program. Much of the Center's efforts support activities which reach large audiences with minimum resources. The Center provides a repository for printed, visual, audial and photographic materials related to hazardous substance research. The quarterly newsletter, *HazTech Transfer*, is disseminated nationally to more than 5000 addresses. The Community Technical Outreach program serves clients across the region pair where hazardous substances have become a special concern. A special program to provide public environmental information and education related hazardous substances is also underway. The Center is developing a special environmental seminar program to serve the consortium campuses and the general public in the ten states of EPA Regions 7 and 8. Current projects include:

• Soil and water contamination by heavy metals associated with mining wastes and other industrial activities;

• Soil and groundwater contamination by organic chemicals from various industrial sources;

• Improved technologies and methods for characterization and analysis of contaminated soil;

• Innovative treatment technologies for remediation of contaminated soil and groundwater; and

• Waste minimization and pollution prevention methods and technologies.

Western Region Center

The Western Region Hazardous Substance Research Center is a cooperative activity between Stanford University and Oregon State University to address critical hazardous substance problems in EPA Regions 9 and 10. The objective of the Center is to promote—through fundamental and applied research—the development of alternative and advanced physical, chemical and biological processes for treatment of hazardous substances in the surface and subsurface environments. Groundwater cleanup and site remediation, with a strong emphasis on biological approaches, represent the major focus of Center activities.

The Center's personnel collectively represent an integrated research team representing four different schools (engineering, earth sciences, medicine and veterinary medicine) and various disciplines (microbiology, chemistry, hydrogeology, hydrology, chemical engineering, civil engineering and medicine).

The technology transfer program is focused upon field remediation of innovative technology. Training in field sampling and instrumentation are available. A program of providing technical assistance to communities affected by hazardous waste sites is being conducted. Topics of interest include:

• Bioremediation.
—Co-metabolism of chlorinated aliphatic compounds
—Anaerobic degradation of aromatic compounds
—Aerobic degradation of anaerobic metabolic products

• Fate and Transport.
—Sorption
—Physical movement
—Volatilization
—Abiotic transformation

• Treatment Technologies.
—In-situ bioremediation
—In-situ recirculation
—Air sparging

• Site Characterization and Transport Modeling.
—Geological sampling
—Hydrogeology
—Geostatistics

• Heavy Metal Remediation.
—Lead
—Chromium
—In-situ leaching

HSRC Minority Academic Institution Program Pre-Proposal Submission Format

Applicant Information

Name of Institution

Department

Name and Telephone of Contract Person on Matters Involving This Submission

HSRC to Which Submitting

Date

Address (city, county state & zip code)

Address (if different than above)

HSRC Collaborator(s)

Areas of Proposed Participation (Please Indicate All That Apply)

Cooperative Research Program

• Thermal/incineration research
• Bioremediation
• Contaminated sediment, soils or groundwater
• Other (specify)_____

Student Enhancement

• Undergraduate Internship
• Graduate/Doctoral Internship
• Other (specify)_____

Faculty Enhancement

• Academic-year Sabbatical
• Summer research visit
• Short-term faculty interations
• Other (specify)_____

Technology Transfer and Training

• New technology training
• Minority populations education project(s) expansion/training
• Train-the-trainers: hazardous substance management
• Practitioner-in-Residence Program
• Other (specify)_____

Project Title

Amount Requested
$ _____

Additional Information

In order to be considered for the HSRC Minority Academic Institution Program, applicants must submit the following documentation:

1. Proof of Minority Academic Institution status on the basis of enrollment data in the Integrated Postsecondary Education Data System (IPEDS) Fall Enrollment Survey, provided by postsecondary institutions, through the National Center for Education Statistics, to the Office for Civil Rights, U.S. Department of Education as set forth in 34 C.F.R. § 637.4(b) (7–1–93 Ed.).

2. A maximum two-page description of Proposed Activity incorporating the following criteria:

• Short- and long-term benefits to minority academic institution
• Benefits to Principal Investigator's professional development
• Compatibility with HSRC interests
• Leverage of resources
• Quality and potential impact of proposed activity

3. A statement from an Authorized Representative of the minority institution stating that, to the best of their knowledge and belief, all data in the submission are true and correct, the document(s) have been duly authorized by the governing body of the applicant and the applicant will comply with necessary assurances if the pre-proposal results in an award. The name, title and phone number for this Representative should be provided.

Dr. Dale Manty,

Director, Hazardous Substance Research Centers Program.

[FR Doc. 94–23148 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5074–7]

New Mexico; Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of New Mexico for full program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes

may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribe permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

On July 20, 1994, New Mexico applied for a determination of adequacy under section 4005 of RCRA. EPA has reviewed New Mexico's MSWLF application and has made a tentative determination that all portions of New Mexico's MSWLF permit program are adequate to assure compliance with the revised MSWLF Criteria. New Mexico's application for program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has scheduled a public hearing on this determination and will hold the hearing if a sufficient number of people express interest in participating in the hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice. If a public hearing is held, it will take place on the date given below in the "DATES" section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "CONTACTS" section below.

DATES: All comments on New Mexico's application for a determination of adequacy must be received by the close of business on October 20, 1994. If a public hearing is held, it will be scheduled for November 4, 1994 in Santa Fe, New Mexico. State of New Mexico officials will participate in the hearing, if held by EPA.

ADDRESSES: Copies of New Mexico's application for adequacy determination are available during normal business hours for inspection and copying at the following addresses: New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico, Mr. Gerald Silva, 505–827–2775; USEPA Region 6 Library, 1445 Ross Avenue, Dallas, Texas, Becky Weber, 214–665–6760. Written comments should be sent to USEPA Region 6, Becky Weber (6H-HW), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Becky Weber, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, 214–665–6760.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an adequate program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of New Mexico

On July 20, 1994, New Mexico submitted an application for adequacy determination. EPA has reviewed New Mexico's application and has tentatively determined that all portions of New Mexico's Subtitle D program will ensure compliance with the revised Federal Criteria.

On July 8, 1994, the Solid Waste Management Regulations (EIB/SWMR–4) were adopted by the Environmental Improvement Board. As required by the New Mexico State Rules Act, NMSA 1978, Section 14–4–5 (1988 Repl. Pamp.), EIB/SWMR–4 was filed with the New Mexico State Records Center and Archives on July 18, 1994, and will be in effect thirty days after filing or August 17, 1994. NMSA 1978, Section 74–1–9.G. EIB/SWMR–4 was scheduled to be published in the New Mexico Register on July 30, 1994.

EPA has tentatively determined that New Mexico's application is consistent with the Federal Criteria and will make a final determination of adequacy after the amended regulations become effective.

The public may submit written comments on EPA's tentative determination until October 20, 1994. Copies of New Mexico's application are available for inspection and copying at the location indicated in the "ADDRESSES" section of this notice. If there is sufficient public interest, the Agency will hold a public hearing on its tentative determination on November 4, 1994 at 10 a.m. at the New Mexico Environment Department in Santa Fe, New Mexico. Comments can be submitted as transcribed from the discussion of the hearing or in writing at the time of the hearing.

EPA will consider all public comments on its tentative determination received during the public comment period and during the public hearing, if held. Issues raised by those comments may be the basis for a determination of inadequacy for New Mexico's program. EPA's final determination notice will include a summary of the reasons for the final determination and a response to all major comments.

New Mexico's solid waste program is not enforceable on Indian lands.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As

EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 94–23240 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5073–7]

Draft NPDES General Permit for Offshore Oil and Gas Operations on the Outer Continental Shelf (OCS) and State Waters of Alaska: Arctic NPDES General Permit

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft NPDES General Permit.

SUMMARY: The Regional Administrator, Region 10, is proposing to issue a draft National Pollutant Discharge Elimination System (NPDES) general permit for oil and gas stratigraphic test and exploration wells on the Alaskan Outer Continental Shelf and contiguous state waters. The proposed Arctic general permit will authorize offshore oil and gas stratigraphic test and exploration wells in the federal and state waters of the Beaufort and Chukchi Seas. Development and production wells are not authorized to discharge by this general permit.

Unlike previous general permits for the Beaufort and Chukchi Seas, the Arctic general permit will cover a geographic area not defined by specific state and federal lease sale tracts. Rather, the area of coverage includes the following:

—Federal waters of the Beaufort Sea and Chukchi Sea planning basins as defined by the Minerals Management Service (MMS) (see U.S. Dept. of the Interior, 1992), and

—State waters contiguous to the landward boundary of the Beaufort and Chukchi Sea planning basins.

The permit will authorize discharges from exploratory operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) included in previous general permits issued by EPA for the Beaufort and Chukchi Seas. This includes federal lease sales 71, 87, 97, and 109; and state lease sales 36, 39, 43, and 43A, Federal/State lease sale BF; and "contiguous state lease sales" which were covered by the modification for the Beaufort Sea II NPDES general permit (54 FR 39574, September 27, 1989). Additional lease sale areas not previously covered by a permit will include, but are not limited to, the following: MMS federal lease sales 124 and 126; and state lease sales 65 and 68.

A brief description of the basis for the conditions and requirements of the proposed permit is given in the fact sheet published below.

PUBLIC COMMENT PERIOD: Interested persons may submit written comments on the draft general permit to the attention of the Director, Water Division, at the address below. All comments should include the name, address, and telephone number of the commenter and a concise statement of the exact basis of any comment and the relevant facts upon which it is based. Comments must be received by the regional office by November 21, 1994.

PUBLIC HEARING: Public hearings on the proposed general permit are tentatively scheduled to be held in Anchorage and Barrow, Alaska. The Barrow hearing will be held at the North Slope Borough Assembly Chambers on November 2, 1994, from 12 p.m. to 3 p.m. The Anchorage hearing will be held at the Federal Building, Room 137, 710 "C" Street, Anchorage, Alaska on November 3, 1994, from 12 p.m. until 4 p.m. Persons interested in making a statement at the hearing must contact Debra Packard at the address below or at (206) 553–1266 by 4:00 p.m. on October 24, 1994.

Either or both of the public hearings will be cancelled if insufficient interest is expressed in them. Interested persons can contact Debra Packard at (206) 553–1266 during the hours of 8:30 a.m. and 4 p.m. PDT on October 25, 1994, to confirm that the hearings will take place. At the hearings, interested persons may submit oral or written statements concerning the draft general permit.

ADMINISTRATIVE RECORD: The administrative record for the draft permit is available for public review at EPA, Region 10, at the address listed below.

ADDRESSES: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section WD–137, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Anne Dailey or Eileen Hileman, both of Region 10, at the address listed above or telephone (206) 553–2110 or (206) 553–6513, respectively. Copies of the draft general permit and today's publication will be provided upon request.

FACT SHEET

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations [40 CFR 122.28(a)(2)], EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

—Involve the same or substantially similar types of operations;

—Discharge the same types of wastes;

—Require the same effluent limitations or operating conditions;

—Require similar monitoring requirements; and

—In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations [40 CFR 122.28(c)(1)], the Regional Administrator shall issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas for which separate permit conditions are required, such as areas of environmental concern, a separate individual or general permit may be required by the Regional Administrator. The Regional Administrator has determined that exploratory oil and gas facilities operating in the area described in this general NPDES permit are more appropriately controlled by a general permit than by individual permits.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by

applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director"). A source located within a general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedure Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under Section 309 of the Act.

II. Covered Facilities and Nature of Discharges

A. Types of Discharges Authorized

The proposed general permit will authorize the following discharges from exploratory offshore oil and gas operations: Drilling mud and drilling cuttings; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; mud, cuttings, and cement at the seafloor; and test fluids. Drilling muds and cuttings are the major pollutant sources discharged from exploratory operations. Further description of discharges are given in Part V below. When issued, the proposed general permit will establish effluent limitations, standards, prohibitions, and other conditions on the authorized discharges from the facilities covered.

B. Types of Facilities Covered

The general permit proposed today authorizes the discharge of specific operational wastewaters from offshore exploratory oil and gas operations located in federal and state waters. In order to be authorized to discharge under this permit, the operator of such exploratory operations must be registered with EPA as the NPDES permittee. Development and production operations are not covered by this general permit. Exploratory operations are defined as those operations involving the drilling of wells to determine the nature of potential hydrocarbon reserves. Exploration facilities covered by this general permit are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). Under the proposed permit, the number of wells from which discharges may occur is limited to a maximum of five at a single site.

C. Areas Covered

The area of coverage under previous general permits for offshore oil and gas activities in Alaska was linked directly to federal or state lease sales. For a variety of reasons, EPA is now planning to tie the area of coverage to MMS planning basins and all contiguous state waters. This method of defining the area of coverage will ensure that all areas likely to be leased during the term of this general permit will be covered. While the planning basins are generally larger than the specific sale areas offered for lease by MMS, discharges under this permit would occur in only those areas successfully leased. EPA believes that this is a more practicable way of addressing the area of coverage. Hence, areas covered by the proposed Arctic NPDES general permit include the Beaufort Sea and Chukchi Sea planning basins as defined by MMS (U.S. Department of the Interior, 1992), and state waters contiguous to the landward boundary of the Beaufort Sea and Chukchi Sea planning basins. The general permit does not authorize discharges into any wetlands adjacent to the territorial waters of Alaska or from facilities in the Onshore or Coastal Subcategories as defined in 40 CFR Part 435.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 306, 307, 308, 401, 402, 403, and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), 33 U.S.C. 1311, 1314 (b), (c), and (e), 1316, 1317, 1318 and 1361; 86 Stat. 816, Public Law 92–500; 91 Stat. 1567, Public Law 95–217; 101 Stat. 7, Public Law 100–4 ("the Act" or "CWA"), and the U.S. Coast Guard regulations (33 CFR Part 151), provide the basis for the permit conditions contained in the permit. The general requirements of these Sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Section V of this fact sheet.

A Technology-Based Effluent Limitations

1 BPT Effluent Limitations

The Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) on April 13, 1979 (44 FR 22069).

BPT effluent limitations guidelines require "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation requires that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines [40 CFR 435.11(d)]. The BPT guidelines for sanitary waste require that the concentration of chlorine be maintained as close to 1 milligrams/liter as possible in discharges from facilities housing ten or more persons. For facilities continuously staffed by nine or fewer persons or only intermittently staffed by any number of persons, the BPT guideline for sanitary waste require no discharge of floating solids. A "no floating solids" guideline also applies to domestic waste.

2. BAT and BCT Effluent Limitations

As soon as practicable but in no case later than March 31, 1989, all permits are required by Section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) and nonconventional pollutants through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (Ph, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) for offshore oil and gas operations were proposed on August 26, 1985 (50 FR 34592) and signed on January 15, 1993 (58 FR 12454, March 4, 1993). The new guidelines were established under the authority of Sections 301(b), 304, 306, 307, 308, and 501 of the Act. The new guidelines were also established in response to a Consent Decree entered on April 5, 1990

(subsequently modified on May 28, 1992) in *NRDC* v. *Reilly*, D. D.C. No. 79–3442 (JHP) and are consistent with EPA's Effluent Guidelines Plan under Section 304(m) of the CWA (57 FR 41000, September 8, 1992). This permit incorporates BAT and BCT effluent limitations based upon the BAT and BCT effluent limitations guidelines.

New Source Performance Standards (NSPS) are not incorporated in this general permit. Per the guidelines, NSPS are not applicable to exploratory oil and gas operations (58 FR 12457, March 4, 1993). Exploratory operations are defined in the preamble to the guidelines as "new dischargers" (rather than "new sources") on the basis that they do not constitute "significant site preparation". NSPS do apply to certain development and production, but not exploratory, operations.

This will be the first oil and gas general permit issued by Region 10 incorporating the new effluent limitation guidelines. Offshore exploratory oil and gas wastestreams for which there are new BAT and BCT effluent guidelines include: Drilling fluids and cuttings, deck drainage, sanitary waste, and domestic wastes. This permit incorporates BAT and BCT effluent limitations from the guidelines for the aforementioned wastestreams (see also Sections IV and V below). Based upon EPA's best professional judgement, limitations on test fluids have been established to reflect guidelines applicable to produced water.

The new effluent guidelines do not specifically address other wastestreams controlled by this permit (e.g., desalination unit wastes; blowout preventer fluid; boiler blowdown; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; and muds, cuttings, cement at seafloor). In the absence of effluent limitation guidelines for these wastestreams, permit conditions must be established using Best Professional Judgement (BPJ) procedures (40 CFR Sections 122.43, 122.44, and 125.3). As with previous oil and gas general permits issued by Region 10, this permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgement.

As required by Section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory drilling operations are well known to the Agency. Region 10 has issued numerous general and individual permits for exploratory oil and gas operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory drilling operations.

With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations based on installation of control equipment. BAT permit limitations based on the newly issued guidelines can be achieved through product substitution for drilling muds and cuttings. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated by the Agency where the guidelines are applicable. A discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by Section 304(b)(4)(B) of the Act, the same factors as in BAT are considered in determining BCT permit conditions, with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test", BCT effluent limitations are set equal to BPT.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR part 125, subpart M), and section 403 of the Act are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal." (45 FR 65942, October 3, 1980)

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The Director has concluded that there is sufficient information to determine that exploratory oil and gas facilities operating under the effluent limitations and conditions in this general permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines as long as discharge does not occur shoreward of the 5 meter isobath (Tetra Tech, 1994a) as discussed in Section V.B.4. of this fact sheet. Conditions imposed under Section 403(c) of the Act are discussed in Section V.B.4. below.

C. State of Alaska Standards and Limitations

All dischargers to State waters must ensure compliance with water quality standards and with limitations imposed by the state as part of its certification of NPDES permits under Section 401 of the Act. The state waters of the Beaufort and Chukchi Seas have been classified by the Alaska Department of Environmental Conservation (ADEC) as marine waters with water use classes 2A through 2D (water supply; water recreation; growth and propagation of fish, shellfish, other aquatic life, and wildlife; and harvesting for consumption of raw mollusks or other raw aquatic life). In the best professional judgement of Region 10, the requirements and discharge limitations in the proposed permit will ensure compliance with the state water quality standards.

In issuing this permit, EPA has considered Alaska's antidegradation policy (18 AAC 70.010(c)). The exploratory discharges authorized under

this proposed permit are expected to have minimal impact because:

—The relatively short duration of exploratory activities,
—The intermittent nature of the discharges,
—The limited areal extent of the discharges relative to the total area of coverage, and
—The controls placed on the discharges via the proposed NPDES permit.

Given the above, and since the project is not expected to result in any violations of state water quality criteria, EPA believes the project complies with the state's antidegradation policy.

D. Section 308 of the Clean Water Act

Section 308 of the Act and 40 CFR 122.44(i) authorizes the Director to require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed in the table below in Section V.

IV. Summary of New or Changed Permit Conditions

This section of the fact sheet is intended to provide readers with a brief summary of the parts of the general permit which are substantively different from the previous general permits for offshore oil and gas exploratory activities in the Beaufort and Chukchi Seas. For detailed discussion of the requirements and their bases, please refer to Section V of this fact sheet. Many of the new and changed requirements are a consequence of the final Effluent Limitations Guidelines and New Source Performance Standards for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category promulgated by EPA (see 40 CFR part 435, subpart A).

Drilling Muds and Drilling Cuttings

—Combination of wastestreams: In accordance with the guidelines, drilling muds, drilling cuttings and washwater have been combined into a single discharge wastestream called drilling fluids and drilling cuttings (Discharge 001). Washwater had previously been combined with drilling cuttings in a separate wastestream but washwater is now covered as an intrinsic component of the drilling muds and cuttings wastestream.
—Discharge prohibitions: Under Section 403(c) of the Act, discharge of drilling muds and cuttings is prohibited to waters shallower than 5 meters depth in accordance with computer modeling done in preparation for this proposed permit. Previously discharge had been prohibited in waters shallower than 2 meters.
—Toxicity limit: A toxicity limit of a minimum of 30,000 ppm suspended particulate phase (SPP) has been applied to the discharge in accordance with the guidelines.
—Oil content: In accordance with the guidelines, EPA has eliminated the 10% by weight maximum oil limitation on cuttings in favor of the no free oil limitation.
—Barite: EPA has maintained the limitations on the mercury and cadmium content of stock barite but has eliminated the case-by-case waiver option present in previous permits. This waiver option has been eliminated to ensure consistency with the effluent guidelines.
—Mud Plan: EPA has included a requirement that a mud plan be developed by operators to encourage operators to estimate in advance the toxicity of the drilling muds and cuttings to ensure compliance with the toxicity limitation. The individual NPDES permit recently issued to Arco Alaska for operations in Cook Inlet contains a similar requirement.
—Area and Seasonal Restrictions: In addition to several continued restrictions, based on Section 403(c) of the Act the proposed permit also prohibits discharges within 3 miles of Kasegaluk Lagoon and its passes.
—Environmental monitoring: The requirements for environmental monitoring are more specific and detailed. These changes reflect the current level of specificity present in other NPDES permits issued by Region 10.

Domestic Wastes

—Garbage ("All other domestic waste"): Under the Coast Guard Regulations, discharges of garbage, including plastics, are prohibited with one exception. Victual or food waste can be discharged with restrictions. This requirement reflects the new offshore guidelines (58 FR 12506, March 4, 1993). Several definitions have been included to clarify this new effluent parameter.

Test Fluids

—Oil and grease: Per EPA's best professional judgement and the new guidelines, the oil and grease limitation on test fluids has been made more stringent. The limitations are now 29 mg/l monthly average and 42 mg/l daily maximum.

Discharge Limitations for All Wastestreams

—Rubbish, Trash and Other Refuse: As proposed the permit will prohibit the discharge of "garbage" including food wastes within 12 nautical miles of nearest land. With restrictions, comminuted food waste may be discharged further than 12 nautical miles from nearest land. Under the proposed permit these limitations, which are already effective under the Coast Guard regulations, will be incorporated into the Arctic general permit for consistency purposes.

Best Management Practice Plan Requirement

—The proposed general permit requires permittees to develop and implement a Best Management Practices (BMP) Plan which prevents or minimizes the generation of pollutants, their release, and potential release from the permitted facilities to the waters of the United States.

V. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) evaluation of the Ocean Discharge Criteria for discharges, assuming conditions in (1) and (2), above, were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in sections B. through G. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit conditions	Statutory basis
Drilling Muds and Drilling Cuttings:	
Toxicity limit	BAT.
No diesel	BAT.

Discharge and permit conditions	Statutory basis
Cadmium & mercury in barite	BAT.
No free oil	BAT, BCT.
No oil-based muds & cuttings	BAT, BCT.
Chemical analysis	Section 308.
Inventory of added substances	Section 308.
Monitoring volume discharged	Section 308.
Mud plan	Section 308.
Flow rate limitations	Section 403(c).
Depth related limitations	Section 403(c).
Area and seasonal requirements	Section 403(c).
Environmental monitoring requirements	Sect. 403(c), WQS.
Deck Drainage:	
No free oil	BAT, BCT, BPT.
Monitor flow rate	Section 308.
Sanitary Wastes:	
No floating solids	BCT.
Chlorine (facilities > 10 people)	BCT.
Monitor flow rate	Section 308.
Domestic Wastes:	
No foam	BAT.
No floating solids	BCT.
All other domestic waste (garbage)	BCT.
Monitor flow rate	Section 308.
Miscellaneous Discharges (as defined in permit):	
No free oil	BCT.
Monitor flow rate	Section 308.
Test Fluids:	
pH	BCT.
No free oil	BCT.
Oil and grease limit	BAT/BPJ.
No discharge oil-based fluids	BAT.
Monitor volume	Section 308.
All Discharges:	
No floating solids, foam or oily waste	BCT.
Surfactants, dispersants, and detergents	BAT.
Rubbish, trash and other refuse	BCT.
Other toxic/non-conventional pollutants	BAT/BCT.
Best Management Practices Plan	402(a)(1).

B. Drilling Muds and Drill Cuttings

The term "drilling fluid" generally includes all compositions of fluids used to aid the production and removal of cuttings (particles from geological formations) from a borehole in the earth. The essential functions of drilling fluids are:

—To carry cuttings to the surface,
—To cool and clean drill bit,
—To reduce friction in the borehole,
—To maintain pressure balance between formation and borehole in uncased sections of hole, and
—To assist in collection and interpretation of information available from cuttings, cores, electrical logs, etc.

All drilling fluids fall into one of three classes: gas-based (e.g., mist or foam), water-based, or oil-based. When the main component of the drilling fluid is liquid (i.e., water or oil), it is referred to as "mud". All of Region 10's previous permits address only the discharge of muds, as gas fluids are not used in Alaskan offshore or coastal drilling operations. As discussed below in subsections 1 and 2, the discharge of oil-based muds (with oil as the continuous phase and water as the dispersed phase) is prohibited because they do not comply with the no free oil limitation.

The Agency understands that non-petroleum hydrocarbon organic liquids are being developed as an alternate to gas, water or hydrocarbon (e.g., diesel or mineral) oil-based drilling muds. The Agency invites comments on the applicability and feasibility of such muds to exploratory drilling operations in the offshore Arctic.

1. BCT Limitations on Drilling Muds and Cuttings

Free oil and oil-based muds: No discharge of free oil is permitted from the discharge of drilling mud and drill cuttings, based upon the guidelines. The technology basis for this limitation is substitution of water-based drilling fluids in place of oil-based muds, non-petroleum oil-containing additives, and minimization of the use of mineral oil. When this substitution is not possible, the guidelines contemplated that the technology basis was also transportation and discharge onshore. Free oil is being regulated under BAT as an "indicator" pollutant for the control of toxic pollutants. Although it is not a listed conventional pollutant, as is oil and grease, free oil is also limited as a surrogate for oil and grease under BCT.

The discharge of oil-based drilling fluids is prohibited since discharge of oil-based fluids would violate the effluent limitations of no discharge of free oil.

Compliance with the free oil limitation will be monitored by use of the Static Sheen Test (see 40 CFR part 435, appendix 1 to subpart A) daily and before bulk discharges. Region 10 has required the use of the Static Sheen Test in previous permits because visual observation of the discharge for sheen upon the receiving water will not prevent violations of the standard. This test is also appropriate for the harsh weather and extended periods of darkness common in Alaska.

Previous Region 10 permits have contained an oil content limitation on drill cuttings. However, this approach has been rejected in favor of the no free oil limitation contained in the guidelines. As discussed at 56 FR 10682 and 56 FR 10685 (March 13, 1991), the

Agency rejected an oil content limitation based on cuttings washing treatment technologies because limitations on other parameters (diesel oil, free oil, and toxicity) are sufficient to reduce toxics from drilling wastes. Because the no free oil limitation is more stringent than the 10% by weight limitation on the oil content of cuttings, this change does not invoke antibacksliding provisions (see 40 CFR 122.44(l)(2)).

2. BAT Limitations on Drilling Muds and Cuttings

Toxicity: Region 10 is proposing to incorporate an effluent toxicity limit of minimum 96-hour LC_{50} of 30,000 ppm suspended particulate phase (SPP) on discharged drilling muds and cuttings. This limit is designed to be a technology-based control on toxicity, as well as toxic and nonconventional pollutants. The 30,000 ppm SPP limitation is based on the Agency's evaluation that it constitutes an economically and technically achievable level of performance and is both technologically feasible and economically achievable and reflects BAT level of control (U.S. EPA, 1993a) on a national basis. This limitation is present in the general permit for the Western Gulf of Mexico (57 FR 54652, November 19, 1992). The toxicity limit is also present in a recently issued individual NPDES permit for ARCO Alaska operations in Cook Inlet.

The purpose of this limitation is to encourage the use of water-based or other low toxicity drilling fluids and additives. This toxicity criterion became BAT when the final effluent guidelines were signed January 15, 1993 (58 FR 12469, March 4, 1993).

The toxicity limit is an end-of-pipe discharge limit; and represents a different approach to controlling this wastestream than has been applied in previous general permits issued by Region 10. When the Region issued its first general permits under the proposed guidelines, it developed a case-by-case approach to limiting the toxicity of discharged mud/additive systems as BPJ determination of BAT until guidelines could be promulgated. Region 10 used the 30,000 ppm SPP value as a criterion in evaluating available bioassay data for the proposed discharges. The process of evaluating each mud/additive system with respect to the discharge toxicity constituted BPJ determination of BAT. Since the guidelines have now been promulgated with a toxicity limitation for drilling muds and cuttings, Region 10 will be discontinuing the mud preapproval process in favor of the end-of-pipe limitation.

Compliance with the drilling mud toxicity limit will be determined by using the Drilling Fluids Toxicity Test (see appendix 2 to subpart A of part 435, 58 FR 12507, March 4, 1993). At a minimum, monitoring is to be done on a monthly basis for each well. When the end-of-well is reached, a final bioassay analysis will be required (see Part II.A.1.k. of permit). The last monthly bioassay may constitute the end-of-well bioassay. If a mineral oil pill is required (Part II.A.1.g. of permit), the mud shall be sampled for bioassay prior to application of the pill *and* after removal of the pill. Complete bioassay reports are required as part of the regulatory record for each well.

Diesel oil: The discharge of drilling muds and cuttings which have been contaminated by diesel oil is prohibited by the Agency, in accordance with the offshore oil and gas effluent guidelines (58 FR 12469, March 4, 1993). The prohibition on the discharge of diesel oil has been part of all of the general NPDES permits issued by Region 10 for the Offshore and Coastal Subcategories. Diesel oil, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

Mercury and Cadmium in Barite: In accordance with the offshore oil and gas effluent guidelines (58 FR 12469, March 4, 1993), the proposed permit contains limitations of 1 mg/kg mercury and 3 mg/kg cadmium in barite. Barite is a major constituent of drilling muds. These restrictions on drilling fluid influent are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals in the drilling fluid effluent, since these metals can occur as contaminants in some sources of barite. The justification for the limitation under BAT is product substitution or transportation and disposal of the waste onshore. That is, operators can substitute "clean" barite, which meets the above limitations, for contaminated barite, which does not meet the limitations. Numerous offshore exploratory wells and the production wells drilled under permits previously issued by Region 10 have been drilled subject to this requirement. Chemical analyses have shown that the barite used has not exceeded the limitations. Further discussion on the mercury and cadmium limits in barite is presented in the offshore oil and gas guidelines (58 FR 12479–80, March 4, 1993) and in the development document (U.S. EPA, 1993a).

EPA has eliminated a waiver provision for the barite limits which was in the previous permits. The waiver stipulated that if a permittee was unable to comply with the barite limitations due to the lack of availability of barite which meets the limitation, then the permittee could request a case-by-case waiver allowing the discharge of barite which exceeded the limits (53 FR 37858, September 28, 1988). As a part of the effluent guidelines development, EPA investigated the availability of domestic and foreign supplies of barite to meet the cadmium and mercury limits. The Agency also considered the potential for the increased demand for clean barite stocks resulting from this rule to cause a rise in the cost of barite. (See the Development Document (U.S. EPA, 1993a) and the Economic Impact Analysis (U.S. EPA, 1993d) for detailed discussion on the availability and economic availability.) EPA concluded that "there are sufficient supplies of barite capable of meeting the limits of this rule to meet the needs of offshore drilling operations (58 FR 12480, March 4, 1993). Hence, the waiver provision has not been included in this proposed general permit.

3. Section 308 Documentation and Monitoring Requirements for Muds and Cuttings

The following reporting and discharge monitoring requirements are based on Section 308 of the Act and 40 CFR 122.44(i). These requirements serve to determine compliance with, or the possible future need for, effluent limitations in the permit.

—Chemical analysis
—Chemical inventory
—Monitoring volume discharged
—Mud plan

The requirement of a mud plan is new and is explained below. The first three requirements have been present in previous NPDES general permits for all coastal and offshore operations in Region 10. The chemical analysis requirement has been expanded to require analysis of total recoverable metal concentration, in addition to total metal concentration. Analyses are to be conducted on split samples. This requirement has been included to enable the Agency to better evaluate the impact of metals in the mud discharges.

Mud Plans: As previously noted, Region 10 plans to discontinue

authorization of mud/additive systems. Instead EPA is shifting the responsibility of case-by-case evaluations from the Region to the operator. Resources do not allow Region 10 to continue to perform case-by-case evaluations or to issue discharge authorizations for each drilling mud/additive system. Hence, the proposed permit contains a requirement that the permittee develop, have on-site, and available upon request a plan for discharge of drilling muds and additives (hereafter called "mud plan"). This requirement is analogous to analyses that the region has been performing in development of drilling mud authorizations.

The basis for the mud plan requirement is Section 308(a)(A) of the Act which provides that EPA may require the permittee to establish and maintain records and/or reports that will assist the Region to determine compliance with other requirements and effluent limitations of the permit. The mud plan is one component of the Best Management Practices Plan (see Part II.F.4.d.(4) of the permit). The mud plan requirement is also based upon the Pollution Prevention Act and its policy of prevention, reduction, recycling, and treatment of wastes (PPA Section 102(b)) through measures which include process modification, materials substitution, and improvement of management (PPA Section 107(b)(3)).

The goal of requiring development of a mud plan is to ensure that personnel on-site are knowledgeable about the information needed and the methods required to formulate the mud/additive systems in order to meet the effluent toxicity limit. Simply put, the mud plan is intended to be a written guide to planning for, and using, a mud/additive system in compliance with the permit.

Region 10's case-by-case approach to evaluating discharge of mud/additive systems coupled with use of worst case cumulative toxicity estimates as bases for authorization, has been conducive to the discharge of muds with lower toxicity than elsewhere in the OCS. To date Alaskan operators have demonstrated that thorough planning and evaluation of mud/additive systems with respect to possible cumulative toxicity does consistently result in discharge of muds that are less toxic than the 30,000 ppm SPP limit.

The mud plan is intended to demonstrate that the discharged mud/additive system for the well in question will meet the effluent limit of 30,000 ppm SPP based on the following decision criteria:

—Estimates of worst case cumulative discharge toxicity (either calculated or actual toxicity test results);
—Estimates of toxicity of discharged mud when a mineral oil pill has been used; and
—Use of less toxic alternatives where possible.

The mud plan shall also include a clearly stated procedure for dealing with situations in which additives not originally planned for are needed at the "last minute." This procedure should enable drilling and mud personnel to determine whether an additive or mud component may be added to the circulating mud system without significant effect upon the discharge toxicity. Criteria for reaching this type of "last minute" additive decision shall be clearly specified in the mud plan.

In addition to developing the mud plan, the operator is also required to certify that the mud plan is complete, on-site, and available upon request (see Part II.A.1.f. of the permit).

Certification is due no later than submission of their written notice of intent to commence discharge (see Part I.C. of the permit).

4. Section 403(c) Requirements for Muds and Cuttings

Depth-related Restrictions: Additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the environment. The area of coverage includes water depths from 5 to about 3,000 meters deep. Discharge rate limitations on total muds and cuttings have been established in the ocean discharge criteria evaluation process in order to allow adequate dispersion of the discharges. These maximum rates are:

—No discharge in waters less than 5 meters deep,
—500 bbl/hr for discharges into waters greater than 5 meters but not more than 20 meters in depth,
—750 bbl/hr for discharges into waters greater than 20 meters but not more than 40 meters in depth, and
—1,000 bbl/hr for discharges into waters greater than 40 meters in depth.

These limits are necessary because for any given discharge rate, the dilution of drilling muds and cuttings is not as great in shallow waters as in deeper waters. However, at any particular water depth, greater dilution close to the discharge point will be achieved with a lower discharge rate. These maximum rates will ensure that the water quality standards will not be exceeded at the edge of the 100 meters mixing zone (Tetra Tech, 1994a).

Previous permits have allowed the discharge of drilling muds and cuttings between 2 and 5 meters depth. However, computer modeling of the dispersion of the drilling muds conducted for this permit in 2–5 meters depth did not perform adequately (Tetra Tech, 1994a). The maximum depth of mud accumulation for these cases was 10–20 times greater than the water depth. Mud accumulations of this magnitude would effectively bury the drilling mud outfall, making any calculation of dilution values meaningless. Accordingly, EPA is proposing zero discharge of muds and cuttings in waters less than 5 meters deep.

Areal Restrictions: Discharge of muds and cuttings are prohibited in the following four areas:

(a) Between the shore (mainland and barrier islands) and the 5 meters isobath,

(b) within 1000 meters of river mouths or deltas during unstable or broken ice or open water conditions,

(c) Within 1000 meters of the Stefansson Sound Boulder Patch, and

(d) Within 3 miles of Kasegaluk Lagoon or the passes of Kasegaluk Lagoon.

For the specific requirements, see Parts II.A.3. of the permit. In accordance with 40 CFR 125.123 (c), the Director has prohibited these discharges because the Region has determined they may cause unreasonable degradation of the marine environment. Prohibition (a) has changed from previous permits as described in the previous section of this fact sheet. Prohibitions (b) and (c) are contained in the previous Beaufort Sea NPDES general permits (49 FR 23734, June 7, 1984 and 53 FR 37846, September 28, 1988). This is the first time that a provision concerning Kasegaluk Lagoon has been included in a general permit for offshore oil and gas exploration since the area has never been covered by an NPDES permit for exploratory oil and gas operations.

With regard to (a) and (b) above, EPA has extensively studied the nearshore zone of the Alaskan Beaufort Sea in several Ocean Discharge Criteria Evaluations (Tetra Tech, 1994a; Jones & Stokes, 1983, 1984). These evaluations have clearly shown that these nearshore areas provide important feeding and migratory habitat for a large number of species including fish, waterfowl, and mammals. Further, these areas provide essential feeding and preferred habitat for species of major importance for subsistence and commercial fisheries.

Concerning (c) above, the proposed permit does not authorize discharges within 1000 meters of the Stefansson Sound Boulder Patch as defined by Dunton et al. (1982). The "Patch" is a

rare and unique biological community that is susceptible to adverse effects caused by discharged drilling muds and cuttings.

As noted in (d) above, the proposed permit restricts activity near Kasegaluk Lagoon and its barrier island system. Specifically discharge is prohibited within Kasegaluk Lagoon and in the waters within 3 miles of the following passes intensively used by the beluga whales: Kukpowruk Pass, Akunik Pass, Utukok Pass, Icy Cape Pass, and Alokiakatat Pass. This restriction is in accordance with the North Slope Borough's Coastal Management Program (NSB, 1988). The NSB recognizes Kasegaluk Lagoon as a Candidate Area Meriting Special Attention (AMSA) and imposes the above restrictions.

Kasegaluk Lagoon extends for approximately 140 miles along the Chukchi Sea coast. About 90 miles of the lagoon is south of Icy Cape and the rest is north of Icy Cape. Kasegaluk Lagoon is located in state waters of the Chukchi Sea and provides important habitat for spotted seals and beluga whales. Beluga whales are known to feed, calve and may molt in this lagoon (North Slope Borough, 1988; Frost and Lowry, 1993; Tetra Tech, 1994a). Spotted seals also calve in Kasegaluk Lagoon (NSB, 1988). The lagoon also provides important feeding, migrating, and rearing areas for marine and anadromous fish, as well as migratory birds.

Kasegaluk Lagoon, the barrier islands, and the nearshore waters seaward of the barrier islands are an important subsistence area for the villagers of Point Lay (NSB, 1988). Subsistence activities that occur seasonally in the Kasegaluk Lagoon Candidate AMSA area include egg gathering, waterfowl hunting, sealing, fishing, walrus hunting, and whaling for belugas. This proposed permit and the Borough's management program recognizes the importance of the area for marine mammals, seabirds, and subsistence activities.

Environmental Monitoring: Environmental monitoring is required in two areas which are of particular concern to Region 10: discharge of drilling muds and cuttings below-ice to water depths shallower than 20 meters and within 1000 meters of an area of biological concern (i.e., a unique biological community or habitat). The Director has determined that controlled discharges to these areas, in accordance with 40 CFR 125.123(a) and the limitations and conditions in the draft permit, will not cause unreasonable degradation of the marine environment. Environmental monitoring is required to verify that discharges to these areas will not produce conditions in the future that would lead to unreasonable degradation.

C. Deck Drainage (Discharge 002)

Deck drainage includes all waste resulting from deck washings, spillage, rainwater, and run-off from gutters and drains including drip pans and work areas. Oil and grease are the primary pollutants identified in deck drainage. In addition to oil, various other chemicals used in drilling operations may be present. Specific conventional, toxic, and non-conventional pollutants found in deck drainage are controlled by the prohibition on the discharge of free oil. Deck drainage discharges are not continuous and can vary significantly in volume.

Free oil: EPA is controlling pollutants found in deck drainage by the prohibition on the discharge of free oil. This limit is the current BPT level of control and is also the appropriate level of control under BCT and BAT. No free oil is permitted from the discharge of deck drainage in accordance with the offshore oil and gas effluent guidelines (58 FR 12506, March 4, 1993). Deck drainage was subject to this limitation in the previous permits issued by Region 10 and past practices have not resulted in violations of this limit.

Compliance with the free oil limitation for deck drainage will be by visual observation for a sheen on the receiving water as mandated by the offshore oil and gas guidelines (58 FR 12506, March 4, 1993), except under the conditions described below. The Static Sheen Test will also be required for the monitoring of deck drainage during unstable or broken ice and stable ice conditions. Use of the Static Sheen Test will prevent a violation of the free oil limitation in those discharges most likely to be contaminated with oil. This would not be possible with an after-the-fact visual observation of a sheen on the receiving water. This requirement is similar to requirements in the Region's previous permits and will not result in any additional costs to the industry.

Flow Rate: Flow rate is required to be estimated monthly. The basis for this requirement is Section 308 of the Act.

D. Sanitary Wastes (Discharge 003)

The sanitary wastes from offshore oil and gas facilities are made up of human body wastes from the toilets and urinals. The volume and concentrations of these wastes vary widely with time, occupancy, platform characteristics, and operational status (U.S. EPA, 1993a).

Floating Solids: The prohibition on floating solids is mandated by the offshore oil and gas guidelines for facilities intermittently manned or continuously manned by fewer than 10 persons (58 FR 12470, March 4, 1993). This requirement does not specifically apply to facilities continuously manned by 10 or more persons (however, the method of compliance with the residual chlorine limit effectively limits floating solids for these facilities). Since previous permits for exploratory operations in the Beaufort and Chukchi Seas have prohibited the discharge of floating solids for all facilities regardless of staffing, Region 10 is continuing the requirement in this permit based upon antibacksliding provisions [40 CFR 122.44(l)(2)]. This BCT prohibition on the discharge of floating solids is equivalent to the current level of control for sanitary wastes in previous permits.

Residual Chlorine: Chlorine is regulated by the Agency in the offshore oil and gas effluent guidelines as a conventional pollutant. Chlorine is added to the wastestream to control fecal coliforms in the discharge. Facilities continuously manned by 10 or more persons are required to have a residual chlorine content of 1 milligram per liter (and maintained as close to the limit as possible). This limitation has been in previous Region 10 permits and is in the proposed permit as well.

For facilities with fewer than 10 persons or intermittently staffed by any number of persons (i.e., M91M facilities), the proposed permit prohibits the discharge of floating solids only, with no chlorine limitation.

E. Domestic Wastes (Discharge 004)

Domestic wastes refers to materials discharged from sinks, showers, laundries, safety showers, eyewash stations, and galleys. Because domestic wastes do not contain fecal coliform, chlorination is not required.

Floating Solids: Under BCT, EPA is prohibiting the discharge of floating solids. The limitation is included in the offshore oil and gas guidelines (58 FR 12487, March 4, 1993) and is equivalent to the current level of control for sanitary wastes in the previous permits.

Visible Foam: Discharges of visible foam are prohibited under BAT in the offshore oil and gas guidelines (58 FR 12487, March 4, 1993). This limitation is equivalent to the current level of control for domestic wastes in existing permits and past practices have not resulted in violations of this limitation.

All other domestic waste: This permit includes requirements limiting the discharge of all other domestic waste (garbage) as included in U.S. Coast Guard regulations at 33 CFR part 151. These limitations are a new feature in

EPA offshore oil and gas permits for Beaufort and Chukchi Seas operators and reflect the offshore oil and gas effluent guidelines (58 FR 12487, March 4, 1993). The requirements on garbage are currently included in the most recent reissuance of the Western Gulf of Mexico general permit (57 FR 54654, November 19, 1992).

As proposed, the reissued permit will prohibit the discharge of garbage including food wastes within 12 nautical miles from nearest land. Comminuted food waste which is able to pass through a screen with a mesh size no larger than 25 mm (approximately 1 inch) may be discharged 12 or more nautical miles from nearest land. Incineration ash and non-plastic clinkers that can pass through a 25 mm mesh screen may be discharged beyond 3 miles from nearest land, otherwise ash and non-plastic clinkers can only be discharged beyond 12 nautical miles from nearest land.

Since this BCT limitation already exists in Coast Guard regulations and other NPDES permits, it will not result in any additional compliance cost, or additional non-water quality environmental impacts. There are no incremental costs associated with the limitation.

F. Miscellaneous Discharges:

Desalination unit wastes (005), blowout preventer fluid (006), boiler blowdown (007), fire control system test water (008), non-contact cooling water (009), uncontaminated ballast water (010), uncontaminated bilge water (011), excess cement slurry (012), and mud, cuttings, and cement at the seafloor (013).

No free oil: Region 10 has determined that no free oil shall be discharged. The no free oil limitation is Region 10's best professional judgement determination of BPT controls for these discharges. Compliance with the free oil limitation for miscellaneous discharges will be by visual observation for a sheen on the receiving water, except for bilge water under the conditions described below. All of these discharges have been subject to this limitation in the previous permits issued by Region 10 and past practices have not resulted in violations of this limit.

G. Discharge 014 (Test Fluids)

Limited volumes of formation waters which are encountered during testing of the well are authorized for discharge as test fluids. Formation waters are encountered during well testing and are similar in composition to produced waters.

Free oil: As previously discussed, no discharge of free oil is permitted from discharges authorized by this permit. In previous general permits, Region 10 has determined that the BCT effluent limitations guideline of no discharge of free oil from the discharge of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including test fluids. The no free oil limitation is Region 10's best professional judgement determination of BCT controls for the test fluids discharge. Operators have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. In accordance with Section 308, the Static Sheen Test will be required for the monitoring of test fluids.

Oil and grease: Although oil and grease is a conventional pollutant subject to BCT, it also serves as BAT (i.e., as an indicator of toxic pollutants) for produced water. Specifically, the toxic pollutants which are controlled by limiting oil and grease include phenol, naphthalene, ethylbenzene, and toluene (U.S. EPA 1993a). EPA has determined that it is not technically feasible to control these toxic pollutants individually so that the limitation on oil and grease controls discharge these pollutants in produced water at the BAT level (U.S. EPA 1993a).

The promulgated BAT for oil and grease in produced water as 29 mg/l monthly average and 42 mg/l daily maximum based upon the improved operating performance of gas flotation technology (58 FR 12506, March 4, 1993). Based upon the chemical similarity of test fluids and produced water, Region 10 Agency has determined that it is reasonable to apply the produced water provisions to test fluids. Accordingly, the proposed permit limits on oil and grease in test fluids are 29 mg/l monthly average and 42 mg/l daily maximum.

pH: The pH of discharged test fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In Region 10's best professional judgement, this limitation appropriately equals a BPT level of control. No more stringent standard has been identified by the Region at this time. Therefore, Region 10 is setting a BCT effluent limitation for the pH of test fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.2 pH unit will not occur beyond the edge of the 100-meter mixing zone [40 CFR § 125.121(c)]. This requirement has been and is routinely complied with by operations under previous BPT permits and thus, reflects no cost incremental to BPT.

H. Other Discharge Limitations

No Floating Solids, or Visible Foam, or Oily Wastes: Region 10 has determined that the BCT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Operators have been subject to a visible foam limit and an oily waste limit in previous permits issued by Region 10 and past practices have not resulted in violations.

Surfactants, Dispersants, and Detergents: The draft permit contains a provision that the discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the Minerals Management Service. These products contain primarily nonconventional pollutants. This provision previously appeared in the permits for the Beaufort Sea, Chukchi Sea, Norton Sound, Bering Sea, and Cook Inlet.

Rubbish, Trash, or Other Refuse: The discharge of any solid material not authorized by this permit (as described above) is prohibited. This permit includes limitations set forth by the U.S. Coast Guard in 33 CFR part 151 for domestic waste disposal from all fixed or floating offshore platforms and associated vessels engaged in exploration of seabed mineral resources. These limitations, as specified by Congress apply to all navigable waters of the United States.

This permit prohibits the discharge of "garbage" including food wastes, within 12 nautical miles from nearest land. Comminuted food waste (able to pass through a screen with a mesh size larger than 25 mm, approximately 1 inch) may be discharged from operations located 12 nautical miles or more from land. Graywater, drainage from dishwater, shower, laundry, bath and washbasins are not considered "garbage" within the meaning of the Coast Guard regulations. Incineration ash and non-plastic clinkers that can pass through a 25 mm mesh screen may be discharged greater than 3 miles from the nearest land; otherwise, ash and non-plastic clinkers can only be discharged beyond 12 nautical miles from nearest land.

Other Toxic and Non-conventional Compounds: Under the proposed permit, prohibitions on discharges of the following pollutants are retained: halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The

class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and sodium dichromate contain chromium, also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the general permits for the Beaufort Sea, Chukchi Sea, Norton Sound, Bering Sea, and Cook Inlet.

I. Best Management Practice Plan Requirement

It is national policy that, whenever feasible, pollution should be prevented or reduced at the source, that pollution which cannot be prevented should be recycled in an environmentally safe manner, and that disposal or release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner (Pollution Prevention Act of 1990, 42 U.S.C. 13101). Section 402(a)(1) authorizes EPA to include miscellaneous requirements in permits on a case-by-case basis which are deemed necessary to carry out the provisions of the Act. Best Management Practices (BMPs), in addition to numerical effluent limitations, are required to control or abate the discharge of pollutants in accordance with 40 CFR 122.44(k).

Pursuant to Section 402(a)(1) of the Clean Water Act and Region 10 policy (EPA Region 10, 1992), development and implementation of a Best Management Practices Plan is included as a condition of this NPDES general permit.

The proposed general permit requires the development and implementation of a BMP Plan which prevents or minimizes the generation of pollutants, their release, and/or potential release from the facility to the waters of the United States through normal operations and ancillary activities. Relevant operations and activities include material storage areas, site runoff, storm water, in-plant transfer, process and material handling areas, loading or unloading operations, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

In addition to developing and implementing the BMP Plan, the operator is also required to certify that the BMP Plan is complete, on-site, and available upon request (see Part II.F.1. of the permit). Certification is required no later than submission of their written notice of intent to commence discharge (see Part I.C. of the permit). These certification requirements are similar to the requirements for a mud plan.

The BMP Plan must be amended whenever there is a change in the facility or in the operation of the facility which materially increases the potential for an increased discharge of pollutants. The BMP Plan will become an enforceable condition of the permit; a violation of the BMP Plan is a violation of the permit.

VI. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of Section 311. However, this permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by Section 311 of the Act.

B. Endangered Species Act

The Endangered Species Act (ESA) allocates authority to and administers requirements upon Federal agencies regarding endangered species of fish, wildlife, or plants and habitat of such species that have been designated as critical. Its implementing regulations (50 CFR Part 402) require EPA to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. [40 CFR 122.49(c)].

In compliance with Section 7 of the ESA, an endangered species list was requested by EPA and received from both the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) for the affected area. The following threatened, endangered and/or candidate species are reported to potentially occur in the vicinity of the discharges associated with oil and gas operations proposed by the permit: arctic peregrine falcon, spectacled eider, stellars eider, and bowhead whale.

A draft biological evaluation was prepared by Tetra Tech under contract to EPA to determine whether the discharges authorized by this proposed general permit are likely to adversely affect any endangered or threatened species or its critical habitat (Tetra Tech, 1994b). Based upon the available information, it is not expected that the exploratory oil and gas permitted discharges and related activities will not adversely affect any of the listed species or their habitat.

EPA has informally consulted with the USFWS and the NMFS pursuant to Section 7 consultation of the Endangered Species Act. The EPA shared the draft biological evaluation with USFWS at their request. Comments raised by the USFWS have been addressed. EPA has forwarded the revised document to both Services for their review. EPA will consider the Services' comments in developing the final permit.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this general permit are consistent with local and state Coastal Management Plans. The proposed permit and consistency determination will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the general permit may be issued.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

Since state waters are involved in the proposed general permit area, the provisions of Section 401 of the Act apply. In accordance with 40 CFR 124.10(c)(1), public notice of the draft permit has been provided to the State of Alaska agencies having jurisdiction over fish, shellfish, and wildlife resources (see section II.C. above).

F. Executive Order 12866

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 USC 3501 *et seq.* Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the environmental monitoring requirements pursuant to Section 403(c) of the Clean Water Act in Part II.B.4 of this permit are similar to the monitoring requirements that were approved by OMB for the previously issued Beaufort

Sea II and Chukchi Sea general permits (September 28, 1988, 53 FR 37846) and the modification of the Beaufort Sea II NPDES general permit (September 27, 1989, 54 FR 39574). The final general permit will explain how the information collection requirements respond to any OMB or public comments.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 USC 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 *et seq.* (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: August 31, 1994.

Chuck Clarke,

Regional Administrator, Region 10.

VII. References

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[FR Doc. 94–23419 Filed 9–19–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2]

A Petition for Reconsideration of Actions in Rulemaking Proceedings

September 15, 1994.

A Petition for reconsideration has been filed with respect to the Commission's Order listed below. The full text of this document is available for viewing and copying in Room 616, 1919 M Street, NW., Washington, DC, by contacting Donna Viert ((202) 418–1725). In addition, copies may be purchased from the Commission's copy contractor, ITS, Inc. ((202) 857–3800). Oppositions to this petition for reconsideration must be filed by October 5, 1994. *See* Section 1.4(b) of the Commission's Rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Specifications as to Pleadings and Documents; Amendment of Section 1.49 of the Commission's Rule (FCC 94–181).

Filed By: David B. Popkin on August 10, 1994.

Action by the General Counsel.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–23208 Filed 9–19–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Holland America Line—Westours, Inc. (d/b/a Holland America Line) and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessels:
NIEUW AMSTERDAM
NOORDAM
ROTTERDAM

Holland America Line—Westours, Inc. (d/b/a Holland America Line), HAL Shipping Ltd. and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: WESTERDAM

Holland America Line—Westours, Inc. (d/b/a Windstar Cruises), Wind Star Limited, Windstar Sail Cruises Limited and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: WIND STAR

Holland America Line—Westours, Inc. (d/b/a Holland America Line), HAL Cruises Limited, Wind Surf Limited and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: VEEDAM

Holland America Line—Westours, Inc. (d/b/a Windstar Cruises), Wind Spirit Limited, Windstar Sail Cruises Limited and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: WIND SPIRIT

Dated: September 14, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–23170 Filed 9–19–94; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Holland America Line—Westours, Inc. (d/b/a Holland America Line) and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessels: *Nieuw Amsterdam, Noordam, Rotterdam*

Holland America Line—Westours, Inc. (d/b/a Windstar Cruises), Wind Star Limited and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: *Wind Star*

Holland America Line—Westours, Inc. (d/b/a Windstar Cruises), Wind Spirit Limited and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: *Wind Spirit*

Dated: September 14, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–23171 Filed 9–19–94; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Kloster Cruise Limited (d/b/a Norwegian Cruise Line), 95 Merrick Way, Two Alhambra Plaza, Coral Gables, Florida 33134

Vessel: WINDWARD

Dated: September 14, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–23172 Filed 9–19–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

BB&T Financial Corporation, 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 October 21, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. BB&T Financial Corporation, Wilson, North Carolina and BB&T Financial Corporation of Virginia, Virginia Beach, Virginia; to acquire 100 percent of the voting shares of Commerce Bank, Virginia Beach, Virginia.

In connection with this application BB&T Financial Corporation of Virginia had applied to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Bank, Virginia Beach, Virginia.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Sun Belt Bancshares Corporation, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Conroe, Conroe, Texas.

2. Woodforest Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of SunBelt Bancshares Corporation, Conroe, Texas, and thereby indirectly acquire National Bank of Conroe, Conroe, Texas.

3. Woodforest Holdings Corporation, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Conroe, Conroe, Texas.

Board of Governors of the Federal Reserve System, September 14, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–23209 Filed 9–19–94; 8:45 am]

BILLING CODE 6210–01–F

Bellevue State Bank Employee Stock Ownership Plan et al.; Formations of, Acquisitions by, or Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Company

The companies listed in this notice have 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 companies have 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 October 21, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Bellevue State Bank Employee Stock Ownership Plan, Bellevue, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Bellevue Service Company, Bellevue, Iowa, and thereby indirectly acquire Bellevue State Bank, Bellevue, Iowa.

In connection with this application, Bellevue State Bank Employee Stock Ownership Plan, Bellevue, Iowa has also applied to acquire Bellevue Insurance Agency, Bellevue, Iowa, and thereby engage in the sale of credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Superior Holdings, Inc., Scottsdale, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of De Anza Holding Corporation, Sunnyvale, California, and thereby indirectly acquire De Anza Bank, Sunnyvale, California.

In connection with this application, Superior Holdings, Inc., has also applied to engage in continuing mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y

Board of Governors of the Federal Reserve System, September 14, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–23210 Filed 9–19–94; 8:45 am]

BILLING CODE 6210–01–F

First of America Bank Corporation, et al.; Acquisitions of Company Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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 October 21, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First of America Bank Corporation, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of Presidential Holdings Corporation, Sarasota, Florida, and its wholly-owned subsidiary, Presidential Bank, FSB, Sarasota, Florida, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) 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, Minneapolis, Minnesota; to acquire Metropolitan Financial Corporation, Minneapolis, Minnesota, and thereby indirectly acquire Metropolitan Federal Bank FSB, Fargo, North Dakota, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y; MFC Insurance Corporation, Minneapolis, Minnesota, and thereby engage in the sale of life insurance and fixed and variable annuities pursuant to 12 U.S.C. 1843(c)(8)(G) and § 225.25(b)(8)(vii) of the Board's Regulation Y, and the sale of securities and other investment products, including fixed and variable annuities, pursuant to § 225.25(b)(15) of the Board's Regulation Y and *Norwest Corporation*, 76 Federal Reserve Bulletin 1058 (1990); Equity Title Services, Inc., Edina, Minnesota, to thereby engage in title insurance activities pursuant to 12 U.S.C. 1843(c)(8)(G) and § 225.25(b)(8)(vii) of the Board's Regulation Y and real estate settlement and closing services pursuant to *Norwest Corporation*, 76 Federal Reserve Bulletin 1058 (1990); Rocky Mountain Management Information Services, Inc., Minneapolis, Minnesota, which owns 10 percent of WYNEB Financial, Limited Liability Company, Cheyenne, Wyoming to thereby engage in commercial real estate lending activities pursuant to § 225/25(b)(1) of the Board's Regulation Y; Rocky Mountain Insurance and Investment Corporation, Minneapolis, Minnesota to thereby engage in the sale of life insurance and fixed and variable annuities pursuant to 12 U.S.C. 1843(c)(8)(G) and § 225.25(b)(8)(vii) of the Board's Regulation Y and the sale of securities and other investment products, including fixed and variable annuities, pursuant to § 225.25(b)(15) of the Board's Regulation Y and *Norwest Corporation*, 76 Federal Reserve Bulletin 873 (1990).

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Stratford Bancshares, Inc., Stratford, Texas and Stratford Bancshares of Delaware, Inc., Dover, Delaware; to acquire Panhandle Management Corporation, Dumas,

Texas, and thereby indirectly acquire 94.25 percent of North Plains Savings and Loan Association, Dumas, Texas, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–23211 Filed 9–19–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 506]

Grants For Violence-Related Injury Prevention Research; Notice of Availability of Funds for Fiscal Year 1995

Introduction

The Centers for Disease Control and Prevention (CDC) announces applications are being accepted for Violence-Related Injury Prevention Research Grants for fiscal year (FY) 1995. 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 to reduce morbidity and mortality and improve the quality of life. This announcement is related to the area of Violent and Abusive Behavior (To order a copy of Healthy People 2000, see the Section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under Sections 301, 391–394 of the Public Health Service Act (42 U.S.C. 241, 280b–280b–3). Program regulations are set forth in Title 42 CFR Part 52.

Eligible Applicants

Eligible applicants include all non-profit and for-profit organizations. Thus State, and local health departments, other State and local governmental agencies, universities, colleges, research institutions, and other public and private organizations, including small, minority and/or woman-owned businesses are eligible for these research grants. Current holders of CDC injury control research projects are eligible to apply.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Availability of Funds

Approximately $1.0 million may be available in FY 1995 to fund approximately 3 to 5 grants. The amount of funding actually available may vary and is subject to change. New grant awards will not exceed $300,000 per year (including both direct and indirect costs). Grant applications that exceed the $300,000 per year cap will be returned to the investigator as non-responsive. Research grant supplements will generally be no more than $75,000 (including both direct and indirect costs). New awards are expected to begin on or about September 1, 1995. Awards will be made for a 12-month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress demonstrated by investigators at work-in-progress monitoring workshops, the achievement of workplan milestones reflected in the continuation application, and the availability of Federal funds. In addition, continuation awards will be eligible for increased funding to offset inflationary costs depending upon the availability of funds.

Purpose

The purposes of this program are to:

A. Build the scientific base for the prevention of injuries and deaths due to violence in the following three priority areas: interpersonal youth violence, youth suicide, and firearm injuries as delineated in Injury Control in the 1990s: A National Plan for Action. Atlanta: Centers for Disease Control and Prevention, 1993 and Healthy People 2000;

B. Identify effective strategies to prevent violence-related injuries;

C. Expand the development and evaluation of current and new intervention methods and strategies for the primary prevention of violence-related injuries;

D. Encourage professionals from a wide spectrum of disciplines such as medicine, health care, public health, criminal justice, and behavioral and social sciences, to undertake research to prevent and control injuries from interpersonal violence and suicidal behavior.

Program Requirements

The following are applicant requirements:

A. A principal investigator who has conducted research, published the findings, and has specific authority and responsibility to carry out the proposed project.

B. Demonstrated experience in conducting, evaluating, and publishing injury control research on the applicant's project team.

C. Effective and well-defined working relationships within the performing organization and with outside entities which will ensure implementation of the proposed activities.

D. An explanation of how research findings could lead to the development of injury control interventions within 3–5 years of project start-up. Furthermore, how the research findings might be disseminated and implemented through organizations (such as public health agencies) or systems, both public and private.

E. The ability to carry out injury control research projects.

F. The overall match between the applicant's proposed theme and research objectives, and the program priorities as described under the heading "Programmatic Interests" and in Injury Control in the 1990s: A National Plan for Action. Atlanta: Centers for Disease Control and Prevention, 1993, and Healthy People 2000.

Note: Grant funds will not be made available to support the provision of direct care services.

Eligible applicants may enter into contracts, including consortia agreements (as set forth in the PHS Grants Policy Statement) as necessary to meet the requirements of the program and strengthen the overall application.

Programmatic Interests

The grants should concentrate on the need to prevent the morbidity, mortality, and disability which results from interpersonal violence and suicidal behavior, in order to reduce their devastating social and economic impact on the nation. Applicants are encouraged to propose research which either: (1) Rigorously evaluates the outcomes of violence prevention strategies currently in use, or (2) identifies modifiable risk factors which can lead to the development of effective interventions. Examples of possible projects listed under the priority areas below are by no means exhaustive, and innovative approaches are encouraged. Because of time constraints, comments were not solicited from the general

public regarding funding priorities and special considerations.

(1) *Evaluating the outcomes of violence prevention strategies:*

In *prevention*, there is specific interest in research which evaluates the effectiveness of interventions in preventing violent injuries or reducing their impact and develops the basic sciences of injury (i.e., social and behavioral science, biomechanics, and epidemiology). This research might evaluate one or more different approaches to implementing a specific intervention strategy. In addition, there is a need to examine intervention strategies for which evidence of effectiveness is either sparse or totally lacking. Interventions chosen for evaluation should have a significant potential for reduction in violent injury morbidity, mortality, disability, or cost. Special consideration will be given to grants which target populations at high risk for violence-related injuries and their consequences, including adolescents, women, and children, racial and ethnic minorities, urban residents, and people with low incomes.

Prevention strategies for *youth suicide* whose effectiveness should be assessed include:

- school or community "gatekeeper" training;
- screening for high-risk youth;
- peer support programs;
- suicide education of the general population;
- crisis centers and hotlines;
- limiting access to lethal means of suicide, such as firearms, prescription drugs, and high places;
- intervention after a suicide or attempted suicide to prevent imitation due to the effects of "contagion".

Interventions which should be evaluated for their effectiveness in preventing firearm injuries are listed below:

- firearm design modifications to reduce the lethality of firearms and ammunition, loading indicators, and safety mechanisms to prevent accidental discharge;
- statutory interventions (e.g., prohibiting carrying firearms in public, increasing sentences for felony gun use, or owner liability for firearm injury);
- imposing waiting periods and limits on the number of guns which can be purchased within a specified time period;
- taxing firearm and/or ammunition purchases;
- increased gun dealer fees and restrictions;
- metal detectors in schools;
- firearm licensure system (e.g., restricting youth access to firearms, owner-registration regulations, etc.);
- storage containers which limit unauthorized access to weapons and ammunition;
- disrupting illegal gun markets through localized street-level tactics currently used against illegal drug markets, and neighborhood-oriented police coordination with residents and community-based organizations;
- public education campaigns to change weapon storage practices.

Examples of interpersonal youth violence interventions which deserve further evaluation include:

- mentoring programs which provide positive adult role models for high-risk youth;
- public information campaigns which dramatize the unacceptability and enormous social and economic cost of violence, while promoting alternatives to violence as a means of conflict resolution;
- environmental changes such as improved lighting, protective landscaping, or closed-circuit television monitoring;
- legal sanctions restricting youth access to alcohol;
- job training and work experiences;
- sports and recreational activities which offer young people opportunities to spend time in a structured and purposeful environment;
- parent training to increase parental support for non-violent behavior by youths.

(2) *Identifying modifiable risk factors:*

In *epidemiology*, there is programmatic interest in analytic research that identifies mechanisms, causes, or risks of injury which might lead to new or more effective interventions against the four types of violence highlighted in this announcement. Examples of *potentially modifiable risk factors* which should be examined for each area are listed below:

Youth Suicide

- impact of acute exposure to alcohol and chronic alcohol abuse on suicidal behavior among youth;
- possible relationship between sexual orientation and suicidal behavior among youth;
- impact of accessibility to lethal means (e.g., guns, medications) upon youth suicide;
- relationship between a history of physical and/or sexual abuse and suicidal behavior among youth;

Firearm Injuries

- risk of firearm injury vs. the protective value of firearms;
- motives and sources of gun acquisition by adolescents;
- role of firearms in protecting people from injuries;

Interpersonal Youth Violence

- role of social and economic factors (e.g., unemployment, poverty, family dysfunction, and racism) in contributing to violent behavior;
- early childhood experiences of violence, as a victim or witness, related to later development of violent behavior patterns;
- link between television and media portrayals of violence and the development of attitudes which lead to violent behavior as an acceptable method of settling conflict;
- influence of alcohol or other drug use upon victimization and perpetration of violent behavior;
- role of academic performance, athletics or other extracurricular activities as a protective factor for violent behavior;
- history of prior victimization as a predictor of risk for future homicide/assault perpetration or victimization.

Also of interest is research that more accurately defines the cost of violent injuries and the cost effectiveness or prevention effectiveness of interventions. Cost analysis should be included in the plans, where appropriate, to evaluate an intervention(s) that addresses one of the three priority areas of violence-related injury research previously outlined, (i.e., youth suicide, firearm injuries, and interpersonal youth violence). A more complete discussion of methodologies for assessing cost analysis is presented in, A Framework for Assessing the Effectiveness of Disease and Injury Prevention, (CDC, Morbidity and Mortality Weekly Report, March 27, 1992, Volume 41, Number RR–3, pages 5–11). (To receive information on these reports see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Evaluation Criteria

Upon receipt, applications will be screened by CDC staff for completeness and responsiveness as outlined under the previous heading, Program Requirements (A–F). Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration. Applications which are complete and responsive may be subjected to a preliminary evaluation by a peer review group to determine if the application is of sufficient technical and scientific merit to warrant further review (triage); the CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization. Those applications judged to be competitive will be further

evaluated by a dual review process. Awards will be made based on priority score ranking by the Injury Research Grants Review Committee (IRGRC), programmatic priorities and needs by the Advisory Committee for Injury Prevention and Control, and the availability of funds.

A. The first review will be a peer review to be conducted on all applications. Factors to be considered will include:

1. The specific aims of the research project, i.e., the broad long-term objectives, the intended accomplishment of the specific research proposal, and the hypothesis to be tested;

2. The background of the proposal, i.e., the basis for the present proposal, the critical evaluation of existing knowledge, and specific identification of the injury control knowledge gaps which the proposal is intended to fill;

3. The significance and originality from a scientific or technical standpoint of the specific aims of the proposed research, including the adequacy of the theoretical and conceptual framework for the research;

4. For competitive renewal and supplemental applications, the progress made during the prior project period. For new applications, (optional) the progress of preliminary studies pertinent to the application;

5. The adequacy of the proposed research design, approaches, and methodology to carry out the research, including quality assurance procedures, plan for data management, and statistical analysis plan;

6. The extent to which the evaluation plan will allow for the measurement of progress toward the achievement of the stated objectives;

7. Qualifications, adequacy, and appropriateness of personnel to accomplish the proposed activities;

8. The degree of commitment and cooperation of other interested parties (as evidenced by letters detailing the nature and extent of the involvement);

9. The reasonableness of the proposed budget to the proposed research and demonstration program;

10. Adequacy of existing and proposed facilities and resources.

B. The second review will be conducted by the Advisory Committee for Injury Prevention and Control. The factors to be considered will include:

1. The results of the peer review;

2. The significance of the proposed activities in relation to the objectives stated in Injury Control in the 1990s: A National Plan for Action. Atlanta: Centers for Disease Control and Prevention, 1993 and Healthy People 2000;

3. National needs;

4. Overall distribution among:

• the three priority areas of violence-related injury research: youth suicide, firearm injuries, and interpersonal youth violence;

• the major disciplines of violence-related injury prevention: social and behavioral science, biomechanics, and epidemiology;

• populations addressed (e.g., adolescents, racial and ethnic minorities, the elderly, children, urban, rural);

5. Budgetary considerations (e.g., preference may be given to applicants who submit proposals requesting funding for research projects of one to two year's duration);

6. Additional consideration may be given to those applicants who provide evidence of an active training program or mentoring program for inexperienced minority injury researchers ("junior investigators").

C. Continued Funding:

Continuation awards made after FY 1995, but within the project period, will be made on the basis of the availability of funds and the following criteria:

1. The accomplishments reflected in the progress report of the continuation application indicate that the applicant is meeting previously stated objectives or milestones contained in the project's annual workplan and satisfactory progress has been demonstrated through monitoring presentations or work-in-progress workshops;

2. The objectives for the new budget period are realistic, specific, and measurable;

3. The methods described will clearly lead to achievement of these objectives;

4. The evaluation plan will allow management to monitor whether the methods are effective; and

5. The budget request is clearly explained, adequately justified, reasonable and consistent with the intended use of grant funds.

D. Supplementary Funding:

Competing Supplemental grant awards may be made when funds are available, to support research work or activities *not previously approved* by the Injury Research Grants Review Committee (IRGRC). Applications should be clearly labelled to denote their status as requesting *supplemental funding support*. These applications will be reviewed by the IRGRC and the secondary review group.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372, entitled Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.136.

Application Submission and Deadlines

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Officer (whose address is reflected in section B, "Applications"). It should be postmarked no later than two months prior to the planned submission deadline, (e.g., December 13 for January 13 submission). The letter should identify the announcement number, name the principal investigator, and specify the priority area of violence-related injury research (i.e., youth suicide, firearm injuries, and interpersonal youth violence) addressed by the proposed project. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and will ensure that each applicant receives timely and relevant information prior to application submission.

B. Applications

Applicants should use Form PHS–398 and adhere to the ERRATA Instruction Sheet for Form PHS–398 contained in the Grant Application Kit. Please submit an original and five copies, on or before January 13, 1995 to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305.

C. Deadlines

1. Applications shall be considered as meeting a deadline if they are either:

A. Received at the above address on or before the deadline date, or

B. Sent on or before the deadline date to the above address, and received in time for the review process. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings

2. Applications which do not meet the criteria above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional information, call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 506. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical information may be obtained from Lisa Tamaroff, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, Georgia 30305, telephone (404) 842–6796. Programmatic technical assistance may be obtained from Ted Jones, Project Officer, Extramural Research Grants Branch, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), Mailstop K–58, 4770 Buford Highway, NE., Atlanta, Georgia 30341–3724, telephone (404) 488–4824.

Please refer to Announcement 506 when requesting information or submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Copies of *Injury Control in the 1990s: A National Plan for Action.* Atlanta: Centers for Disease Control and Prevention, 1993 and *A Framework for Assessing the Effectiveness of Disease and Injury Prevention,* (CDC, *Morbidity and Mortality Weekly Report,* March 27, 1992, Volume 41, Number RR–3, pages 5–11) may be obtained by calling (404) 488–4334.

Information for obtaining the suggested readings, *Violence and the Public's Health, Understanding and Preventing Violence,* and *Violence in America: A Public Health Approach,* is included on a separate sheet with the application kit.

Dated: September 14, 1994.

Deborah L. Jones,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Mary Ellen Bloodworth,

Certifying Officer.

[FR Doc. 94–23198 Filed 9–19–94; 8:45 am]

BILLING CODE 4163–18–P

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Times and Dates: 9 a.m.–5 p.m., October 6, 1994. 9 a.m.–1 p.m., October 7, 1994.

Place: Hotel Washington, 515 15th Street and Pennsylvania Avenue, NW, Washington, DC 20004–1099.

Status: Closed 9 a.m.–5 p.m., October 6; Open 9 a.m.–1 p.m., October 7.

Purpose: The board reviews research activities to provide guidance on the quality, timeliness, and efficiency of the Institute's programs.

Matters To Be Discussed: The agenda will include personnel and organizational issues relating to the transition of the NIOSH headquarters to Washington, DC, and research, training, and toxicology reviews. This meeting will convene in closed session from 9 a.m. to 5 p.m. on October 6, 1994, to discuss subject matter relating solely to the internal personnel rules and practices of NIOSH. This portion of the meeting will be closed to the public in accordance with the provisions set forth in Section 552b(c)(2), Title 5 U.S.C., and the Determination of the Acting Associate Director for Policy Coordination, CDC, pursuant to Public Law 92–463.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Lemen, Ph.D., Executive Secretary, BSC, NIOSH, and Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D–35, Atlanta, Georgia 30333, telephone (404) 639–3773.

Dated: September 14, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–23200 Filed 9–19–94; 8:45 am]

BILLING CODE 4163–19–M

Implications of Recent Legionnaires' Disease Outbreak on Cruise Ship—Public Meeting

The National Center for Environmental Health (NCEH) and the National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), announce the following meeting.

Name: Implications of Recent Legionnaires' Disease Outbreak on Cruise Ship—Public Meeting.

Time and Date: 9 a.m.–4:30 p.m., Monday, October 17, 1994.

Place: CDC, Building 1, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open.

Supplementary Information: An epidemiologic investigation of a recent outbreak of Legionnaires' disease among passengers of a cruise ship indicated that the source of the infection was aerosolized water from the recreational spa system. This meeting between CDC and the cruise-ship industry, recreational-spa industry, private and academic consultants, and other interested parties will review the circumstances of that outbreak, the current requirements for spa sanitation, and what future actions may be advisable to prevent similar outbreaks.

For a period of 15 days following the meeting, through November 1, the official record of the meeting will remain open so that additional material or comments may be submitted and made part of the record of the meeting. The meeting will be open to the public for participation, comment, and observation, limited only by space available.

For Further Information Contact: Thomas O'Toole, Deputy Chief, Special Programs Group (F29), NCEH, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–7073.

Dated: September 14, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–23199 Filed 9–19–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94N–0318]

Medical Devices; Alternatives to Silicone Breast Implants; Notice of Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public scientific workshop to discuss draft guidance for manufacturers concerning testing requirements for alternatives to breast prostheses containing silicone.

DATES: The public workshop will be held on October 21, 1994, 8:15 a.m. to 6 p.m. Public participation will take the form of written questions that may be submitted at the meeting. Written comments regarding the workshop may be submitted by December 2, 1994.

ADDRESSES: The public workshop will be held at the Omni Shoreham Hotel, 2500 Calvert St. NW., Washington, DC 20028. Advance registration, including a $40.00 registration fee, is required. A registration form may be obtained by contacting Sociometrics, Inc., 8300 Colesville Rd., suite 550, Silver Spring, MD 20910, 301–608–2151 or 1–800–729–0890 (FAX 301–608–3542). Written comments regarding the workshop may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John J. Langone or Mary Elizabeth Jacobs, Center for Devices and Radiological Health (HFZ–113), Food and Drug Administration, 12709 Twinbrook Pkwy., Rockville, MD 20852, 301–443–2911 or 301–443–7115, respectively (FAX 301–594–6775).

SUPPLEMENTARY INFORMATION: FDA recognizes that many women needing or wanting breast implants would like to have a safe and effective alternative to breast prostheses containing silicone. In addition, potential manufacturers of these medical devices would like to know the agency's views on testing requirements for alternative breast implants intended for reconstruction and/or augmentation. The purpose of the scientific workshop is to provide a forum for FDA to present draft guidance concerning alternative breast prostheses testing requirements. Among the major topics planned for discussion are developments in biomaterials, chemical characterization of materials, mechanical testing, preclinical biological testing, clinical testing, quality of life considerations, requirements for investigational device exemptions and premarket approval applications, and postmarket-epidemiological issues. The workshop will include discussion and an exchange of information by invited scientific authorities.

Dated: September 12, 1994.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 94–23152 Filed 9–19–94; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Office of the Assistant Secretary for Health; Privacy Act of 1974; Altered System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of altered system of records for the attached 67 Privacy Act systems of records. The purpose of the alteration is to add a new routine use.

DATES: PHS invites interested parties to submit comments on the proposed routine use on or before October 20, 1994. PHS has sent a Report of Altered System of Records to the Congress and to the Office of Management and Budget (OMB) on September 6, 1994. The new routine use will be effective 40 days after the date of publication unless PHS receives comments that would result in a contrary determination.

ADDRESSES: Please submit comments to: PHS Privacy Act Officer, Room 17–45, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301–443–2055.

Comments received will be available for inspection at this same address from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: The PHS Privacy Act Officer at the address listed above.

The telephone number listed above is not toll free.

SUPPLEMENTARY INFORMATION: PHS is proposing to add a new routine use to the 67 Privacy Act systems of records listed below. This routine use will permit the disclosure of information from these systems to certain individuals who are working in various PHS components but who do not have the status of agency employees and, in many instances, do not receive pay from the office that employs them. Examples of such categories of individuals are:

PHS volunteers engaged under 42 U.S.C. 217b.

Student volunteers engaged under 5 U.S.C. 3511.

Job Corps enrollees engaged under the Job Training Older American Community Service Employment Act enrollees.

Individuals working under a personal services contract.

Since some offices that use these workers wish to have them perform functions that entail access to records in Privacy Act systems of records, the question arose whether these workers can be considered employees for purposes of the Privacy Act. PHS has decided to promulgate a new routine use rather than rely on the protection of subsection (b)(1) of the Privacy Act.

The proposed new routine use is compatible with the purpose of the data collection, since the disclosures are being made for the very purpose for which the information was collected, i.e., to carry out the particular agency or program function for which the specific system of records was established.

The records will continue to be adequately protected, since the individuals to whom the information will be disclosed work under the supervision of agency employees. They must observe the same safeguards that agency employees do in the maintenance of Privacy Act records.

Dated: September 7, 1994.

Wilford J. Forbush,

Director, Office of Management.

09–25–0001 Clinical Research: Patient Records, HHS/NIH/NHLBI.

09–25–0010 Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI.

09–25–0011 Clinical Research: Blood Donor Records, HHS/NIH/CC.

09–25–0012 Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.

09–25–0014 Clinical Research: Student Records, HHS/NIH/CC.

09–25–0015 Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS.

09–25–0016 Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS.

09–25–0026 Clinical Research: Nervous System Studies, HHS/NIH/NINDS.

09–25–0028 Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.

09–25–0031 Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.

09–25–0036 Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/Chartered Advisory Committee), HHS/NIH/DRG and HHS/NIH/CMO.

09–25–0037 Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.

09–25–0038 Clinical Research: Patient Data, HHS/NIH/NIDDK.

09–25–0039 Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK.

09–25–0040 Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK.

09–25–0041 Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK.

09–25–0044 Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR.

09–25–0046 Clinical Research. Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.

09–25–0053 Clinical Research. Vision Studies, HHS/NIH/NEI.

09–25–0057 Clinical Research. Burkitt's Lymphoma Registry, HHS/NIH/NCI.

09–25–0060 Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

09–25–0067 Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI.

09–25–0069 NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

09–25–0074 Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI.

09–25–0077 Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI.

09–25–0078 Administration: Consultant File, HHS/NIH/NHLBI.

09–25–0091 Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI.

09–25–0093 Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI.

09–25–0099 Clinical Research: Patient Medical Records, HHS/NIH/CC.

09–25–0100 Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS.

09–25–0105 Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD.

09–25–0106 Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD.

09–25–0108 Personnel: Guest Researchers/Student Scientists/Special Volunteers/Scientists Emeriti, HHS/NIH/DPM.

09–25–0112 Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

09–25–0118 Contracts: Professional Services Contractors, HHS/NIH/NCI.

09–25–0126 Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

09–25–0128 Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS.

09–25–0129 Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD.

09–25–0130 Clinical Research: Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NICI.

09–25–0134 Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

09–25–0142 Clinical Research. Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

09–25–0143 Biomedical Research. Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

09–25–0145 Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI.

09–25–0148 Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD.

09–25–0154 Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0156 Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.

09–25–0158 Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

09–25–0160 United States Renal Data System (USRDS), HHS/NIH/NIDDK.

09–25–0161 Administration: NIH Consultant File, HHS/NIH/DRG.

09–25–0165 National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.

09–25–0201 Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.

09–25–0202 Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA.

09–25–0203 National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

09–25–0205 Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.

09–25–0211 Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA.

09–25–0212 Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

09–20–0112 Fellowship Program and Guest Researcher Records, HHS/CDC/PMO.

09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/NCID.

09–20–0163 Applicants for National Center for Health Statistics Technical Assistance, HHS/CDC/NCHS.

09–20–0164 Health and Demographic Surveys Conducted in Probability Samples of the United States Population, HHS/CDC/NCHS.

09–20–0165 Health Manpower Inventories and Surveys, HHS/CDC/NCHS.

09–20–0166 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages, and Divorces Occurring in the United States During Each Year, HHS/CDC/NCHS.

09–20–0167 Health Resources Utilization Statistics, HHS/CDC/NCHS.

09–20–0168 Curricular Vitae of Consultants to the National Center for Health Statistics, HHS/CDC/NCHS.

09–20–0169 Users of Health Statistics, HHS/CDC/NCHS.

09–17–0001 Health and Medical Records, HHS/IHS/OHP.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The following routine use should be added as the last routine use in all systems listed above:

"Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions."

* * * * *

[FR Doc. 94–23153 Filed 9–19–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–94–3816; FR–3772–N–01]

Single Family Property Disposition Sales Program for Public Safety Employees

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: Today, HUD is announcing a sales initiative under the Single Family Property Disposition Regulations that is designed to enhance the quality of life and make more homeownership opportunities available to employees who are charged with the responsibility of ensuring the safety and well-being of residents in the community. Under this

effort, HUD will allow governmental entities to purchase HUD-owned properties for resale to their public safety employees, such as police officers, firefighters and emergency medical technicians. These properties will be occupied by the public safety employees as their primary residences. Assisting local governments by making properties available for purchase by public safety employees will further the Department's objective of creating a safe and decent housing environment for all American families.

DATES: September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Ann M. Sudduth, Director, Single Family Property Disposition Division, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708–0740; Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

I. Background

HUD's regulations at 24 CFR part 291, Disposition of HUD-Acquired Single Family Property, allow the Secretary to sell properties to governmental entities.

On October 20, 1993, the Department published an interim rule, which subsequently became effective on November 19, 1993, amending certain provisions of part 291 to allow for a greater flexibility in fluctuating market situations and to provide greater opportunities for affordable housing to families and to State and local governments or nonprofit organizations serving low- and moderate-income families.

A major goal of the Department is to use its resources in a manner that enhances the general well-being of American communities. Promoting safe neighborhoods is a critical component of the Nation's housing policy.

The Department wants to assist these kinds of efforts. Accordingly, it will utilize its authority under 24 CFR part 291 to make single family properties nationwide available for this purpose.

II. Requirements for Purchase of Properties

Only a unit of state or local government may purchase properties under this program. Governmental entities will receive a discount of 30 percent for those properties which are uninsurable and located in revitalization areas. Insurable properties in revitalization areas will be offered at a discount of 10 percent. It is anticipated that this discount will be passed on to the public safety employee.

Governmental entities purchasing properties under this program should establish a means to ensure that its intent is not abused by the potential purchaser, the public safety employee. The public safety employee should be required to occupy the property as his or her principal residence for at least one year from the date of HUD's closing. Exceptions may be granted by the governmental entity to this occupancy requirement.

III. Participation in this Program

Properties will be sold to governmental entities through competitive bidding or direct sale. Interested governmental entities should contact the local HUD Field Office in their jurisdiction for information on this program.

Dated: September 13, 1994.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 94–23238 Filed 9–19–94; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Technical/Agency Draft Recovery Plan for *Aristida chasae*, *Vernonia proctorii* and *Lyonia truncata* var. *proctorii* for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces availability for public review of a technical/agency draft recovery plan for *Aristida chasae*, *Vernonia proctorii*, *Lyonia truncata* var. *proctorii*. These three species are endemic to Puerto Rico and known only from the southwestern part of the island. The species are threatened by agricultural, residential and tourist development. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 21, 1994 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Ms. Susan Silander, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received are available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622, Telephone: 809/851–7297.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened species or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Aristida chasae, *Vernonia proctorii* and *Lyonia truncata* var. *proctorii* are known only from the southwestern part of the island of Puerto Rico. *A. chasae*, an endemic grass, is known from two areas: The Cabo Rojo National Wildlife Refuge in Cabo Rojo and the Sierra Bermeja hills in Cabo Rojo and Lajas, *V. proctorii and L. truncata* var. *proctorii*, two small shrubs, are known only from upper slopes of the Sierra Bermeja hills. All three species are threatened in these hills by residential, agricultural and tourist development. Wildfires, a frequent occurrence in the dry southwest scrub forests, also threatened these species, particularly in the Sierra Bermeja. *A. chasae* may also be threatened by competition from introduced grass species.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1531.

Dated: September 13, 1994.

James P. Oland,

Field Supervisor.

[FR Doc. 94–23163 Filed 9–19–94; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AZ–020–00–4333–04; AZA–25486, 25487, 25489, 25490]

Notice of Availability of Draft Wilderness Management Plan and Environmental Assessment; Notice of Public Comment Period; Notice of Public Meetings

AGENCY: Lower Gila Resource Area, Bureau of Land Management, Interior.

ACTION: The Draft Maricopa Complex Wilderness Management Plan and Environmental Assessment is available for public review and comment. Two open public meetings will be held to facilitate and record public comment. Written comments will also be accepted through November 2, 1994.

SUMMARY: (1) Scope of Proposed Action and Alternatives: The draft plan covers the management of four Wilderness Areas: the Sierra Estrella, the North Maricopa Mountains, South Maricopa Mountains and the Table Top for a period of ten years. The environmental assessment document describes the impacts of the proposed action and three alternatives.

(2) Geographic Areas Involved: Four separate wilderness areas, totaling 173,000 acres in the Lower Sonoran Desert of Southwestern Arizona, southern Maricopa and western Pinal Counties, within a 45 mile radius of Gila Bend, Arizona and 12 to 45 miles south of the metropolitan Phoenix. Other towns in the vicinity are Maricopa, Stanfield, Casa Grande, Avondale and Buckeye, Arizona.

(3) Summary of Proposed Actions: Seventy nine miles of former vehicle ways reclaimed; 16 miles converted to pedestrian and/or equestrian trails. Four access routes shortened. Seventeen vehicle barriers constructed. Four new trails and seven trailheads established and two existing trails and trailheads improved and maintained. Signs, enlarged parking areas, and minimal camping facilities provided at some trailheads. Two vehicle safety shoulders created along Interstate 8. Trail and human encounter standards adopted, maps and other information provided. Commercial recreation outfitters and guides permitted. Six wildlife water catchments and associated fencing modified, and along with two others, maintained. One new pump installed in a wildlife water well. Transplants of desert bighorn sheep and aircraft telemetry following allowed. Installation of new wildlife catchments to be evaluated on a case-by-case basis. Animal damage control allowed. Five earthen livestock water tanks abandoned. Thirteen livestock control fences maintained. Coordination with multi-jurisdictional law enforcement and search and rescue agencies and organizations improved. Five thousand seven hundred and sixty acres of State of Arizona surface and subsurface inholdings acquired plus some access easements. New grazing standards established. All wildfire suppressed but related activities restricted. Reduction in low-level civilian aircraft flights encouraged. Twenty nine instances of motorized/mechanized use allowed annually over 9 years dropping to 18 per year thereafter, to: maintain 8 livestock fences, modify 6 wildlife catchments, maintain and haul water to these and two other catchments, respond to life-threatening emergencies, rescue sick livestock, pursue felons or major game violators, and census or track wildlife. Response actions if monitoring standards are exceeded are identified.

(4) Proposed Restrictions: No campfires, charcoal fires, wood gathering or wood cutting, and other surface disturbances. Pets prohibited on one trail; horses on another. No camping within 200 feet or sight of the established trails, five day camping limit of stay at trailheads. Some pack stock activity restrictions.

(5) Summary of Alternatives: A visitor use and wildlife enhancement alternative with additional hiking and/or riding trails and wildlife developments; a naturalness enhancement alternative without maintained trails, with most developments removed, and 10 instances of low level aircraft use occurring yearly for wildlife census; and a no action alternative maintaining the status quo.

(6) Kind and Extent of Public Involvement Provided: Two open public meetings will be held to record comments on the draft proposals. These will be held in Gila Bend and Phoenix, Arizona at the following times and locations:

Wednesday, September 28, 1994, 6 p.m.–9 p.m., Gila Bend Community Center, 202 Euclid Ave., Gila Bend, Arizona.

Monday, October 3, 1994, 6 p.m.–9 p.m., Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona.

Written comments on the draft plan and environmental assessment will be accepted through November 2, 1994. Comments should be sent to the address identified below. Comments received at that address, which are postmarked on or before November 2, 1994, will be considered in the development of the final plan.

ADDRESSES: Copies of the draft plan and environmental assessment are available by contacting the Bureau of Land Management, Phoenix District, Lower Gila Resource Area, 2015 W. Deer Valley Road, Phoenix, Arizona, 85027. Written comments regarding these documents should be mailed to this address. Address your written request to the attention of John Jamrog. Requests for the document may also be made by phoning the Phoenix District Office at (602) 780–8090.

FOR FURTHER INFORMATION CONTACT: John Jamrog, Bureau of Land Management, Phoenix District, Lower Gila Resource Area, Telephone 602–780–8090.

SUPPLEMENTARY INFORMATION: These four areas were added to the Wilderness Preservation System by Public Law 101–628, of November 28, 1990, known as the Arizona Desert Wilderness Act of 1990. The management and use of these areas is directed by this law, the Federal Land Policy and Management Act of 1976 and the Wilderness Act of 1964. All four areas share similar natural characteristics and generally are subject to the same type and amounts of uses.

Dated: September 14, 1994.

William T. Childress,

Acting District Manager.

[FR Doc. 94–23201 Filed 9–19–94; 8:45 am]

BILLING CODE 4310–32–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 10, 1994. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written

comments should be submitted by October 5, 1994.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

Arizona

Pima County

Santa Cruz Catholic Church, 1220 S. Sixth Ave, Tucson, 94001196

Santa Cruz County

Tubac Townsite Historic District (Tubac Settlement MPS), Roughly bounded by Tubac and Plaza Rds. and Presidio Dr., Tubac. 94001195

California

Los Angeles County

Hotel Glendale, 701 E. Broadway, Glendale, 94001197

Iowa

Johnson County

Cannon, Wilbur D. and Hattie, House, 320 Melrose Ave., Iowa City, 94001198

Louisiana

Calcasieu Parish

Cathedral of the Immaculate Conception, 935 Bilbo St., Lake Charles, 94001201

Jefferson Davis Parish

Fenton, Silas J., House, 409 Second St., Fenton, 94001200

Pennington, S.A., House, 1003 Second St., Elton, 94001199

Maryland

Baltimore Independent City

Building at 235 North Gay Street (Cast Iron Architecture of Baltimore MPS), 235 N. Gay St., Baltimore, 94001202

Missouri

Boone County

Payne, Moses U., House, 201 N. Roby Farm Rd., Rocheport vicinity, 94001204

Linn County

Plum Grove School, County Rd. 350, ⅜ mi. N of jct. with County Rd. 346, Laclede vicinity, 94001203

Pike County

Goodman—Stark House, 601 N. Third St., Louisiana, 94001205

Utah

Box Elder County

Howard Hotel (Brigham City Private Commercial and Industrial Development MPS), 35 S. Main St., Brigham City, 94001209

Davis County

Clark Lane Historic District, 207–399 W. State and 33 N. 200 W. Farmington, 94001208

Utah County

American Fork Cemetery Rock Hall, 600 N. 100 E. American Fork, 94001207

Utah State Training School Amphitheater and Wall (Public Works Buildings of Utah MPS), Roughly 845 E. 700 N, American Fork, 94001206

Wisconsin

Lafayette County

Main Street Historic District, Roughly bounded by Main, Ann, Louisa and Wells Sts., Darlington, 94001210

Waukesha County

Mukwonago High School, 308 Washington Ave., Mukwonago, 94001211

Winnebago County

Security Bank, 903 Oregon St., Oshkosh, 94001212

[FR Doc. 94–23278 Filed 9–19–94; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–33 (Sub-No. 86)]

Union Pacific Railroad Company—Abandonment—in Morgan County, CO (Julesburg Subdivision)

The Commission has issued a certificate authorizing Union Pacific Railroad Company (UP) to abandon its line of railroad known as the Julesburg Subdivision, extending from milepost 81.10 near Union to the end of the line at milepost 98.78 near Ft. Morgan, a distance of approximately 17.68 miles in Morgan County, CO. The abandonment was granted subject to: (1) The condition that UP keep intact all of the right-of-way underlying the track, including bridges, trestles, culverts, and tunnels, and retain the line intact and not sell any portion thereof, for a period of 180 days from the effective date of this decision to enable any State or local government agency or other interested person to negotiate the acquisition of the right-of-way for public use; (2) the condition that UP retain its interest in and take no steps to alter the historic integrity of line in its entirety (except for rails, ties, and related appurtenances, which may be salvaged) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (3) the condition that UP, prior to conducting any salvage operations, contact the U.S. Army Corps of Engineers, Omaha District, to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344; and (4) the employee protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The abandonment certificate will become effective October 20, 1994, unless the Commission finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and UP no later than 10 days after publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Office of Proceedings, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: September 14, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons and Morgan.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–23219 Filed 9–19–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32566]

Missouri Pacific Railroad Company and South Kansas and Oklahoma Railroad Company—Joint Relocation Project Exemption—In Kansas

On August 19, 1994, Missouri Pacific Railroad Company (MP) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad in a joint project with the South Kansas and Oklahoma Railroad Company (SKOL). The joint project involves: (1) A haulage agreement under which SKOL will haul MP cars over its trackage, as MP's agent, between Winfield and Coffeyville, KS;[1] (2) overhead trackage rights to MP over SKOL rail lines known as: (a) The Moline Subdivision from milepost 248.1 near Winfield to milepost 127.7 near Chanute; (b) the Tulsa Subdivision from milepost 127.7 near Chanute to milepost 155.8 near Cherryvale; and (c) the Coffeyville Subdivision from milepost 155.8 (also milepost 0.0) near Cherryvale to milepost 16.9 near Coffeyville,[2] a total distance of approximately 165.4 miles; and (3) an abandonment by MP of its Wichita Branch from milepost 387.00 near Yates

[1] Car haulage is a private arrangement between carriers. It does not require Commission approval. *See Burlington N.R. Co.—Exemption—Joint Project to Relocate a Line of Railroad Between Tulsa and Muskogee, OK*, Finance Docket No. 31293 (ICC served July 19, 1988).

[2] There is an equation in the trackage mileposts at Cherryvale, where milepost 155.8 equals 0.0 at the same point.

Center to milepost 453.20 near El Dorado, in Woodson, Greenwood and Butler Counties, KS, a distance of approximately 66.20 miles.[3] The transaction was expected to be consummated on or after August 26, 1994.

The joint relocation project will result in an alternate route with no disruption of rail service for MP's customers.[4] As indicated, SKOL will haul MP's cars over its lines between Winfield and Coffeyville, KS, pursuant to a haulage agreement. MP, in turn, will retain access to its customers via the trackage rights granted by SKOL. According to MP, the relocation of its operations will not generate new traffic, extend rail service into new territory, or impact or change the competitive situation of the rail carriers in the area. The project is expected to result in satisfactory and cost-effective rail operations in the area, as well as effective use of rail assets.

The Commission will exercise jurisdiction over the abandonment component of a relocation project, and require separate approval or exemption, only where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. *See, generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation over BN*, 4 I.C.C.2d 95 (1987). The Commission has determined that line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.& I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the embraced incidental trackage rights component requires no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer, Missouri Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, Nebraska 68179.

Decided: September 13, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–23217 Filed 9–19–94; 8:45 am]

BILLING CODE 7035–01–P

[3] The non-agency stations at Toronto (milepost 399.5) and Eureka (milepost 420.7) are within the incidental abandonment.

[4] Ranch Aid, Inc., a shipper located at Eureka, KS, has informed MP that it has no present or future need for MP's rail service.

[Finance Docket No. 32551]

San Mateo County Transit District—Purchase Exemption—Southern Pacific Transportation Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343–11345 San Mateo County Transit District's (SamTrans) purchase from the Southern Pacific Transportation Company (SP) of a rail line, known as the Dumbarton Branch, located in Alameda and San Mateo Counties, CA, and extending from milepost 26.16 at Redwood Junction, to milepost 36.99 at Newark, a distance of approximately 10.83 route miles. The purchase complements a multipart transaction that assertedly will allow the Peninsula Corridor Joint Powers Board, of which SamTrans is a member agency, and SamTrans to conduct rail passenger commuter service on the San Francisco Peninsula without disrupting SP's freight and intercity passenger operations. The exemption is subject to standard employee protective conditions.

DATES: This exemption is effective on October 20, 1994. Petitions to stay must be filed by September 30, 1994, and petitions to reopen must be filed by October 11, 1994.

ADDRESSES: Send pleadings referring to Finance Docket No. 32551, to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: David J. Miller, 333 Market Street, Suite 230, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: September 8, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons and Morgan.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–23218 Filed 9–19–94; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. 388 (Sub-No. 7)]

Intrastate Rail Rate Authority—Illinois

AGENCY: Interstate Commerce Commission.

ACTION: Extension of certification.

SUMMARY: By decision served August 22, 1989, the State of Illinois, through the Illinois Commerce Commission (Illinois), was certified to regulate intrastate rail rates, classifications, rules, and practices for a five-year period ending on September 20, 1994. Pursuant to a request from Illinois, the certification will be extended for 90 days so that Illinois can make a final assessment of whether to continue its railroad regulatory program and prepare an application for recertification.

DATES: Illinois' certification is extended to December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green (202) 927–5269 or Beryl Gordon (202) 927–5610. [TDD for hearing impaired: (202) 927–5721]

Decided: September 14, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–23216 Filed 9–19–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

North Carolina State University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–046. *Applicant:* North Carolina State University,

Raleigh, NC 27695-7212. *Instrument:* Submersible Profiling Spectroradiometer and High Resolution In-water Deck Cell. *Manufacturer:* Satlantic Inc., Canada. *Intended Use:* See notice at 59 FR 23696, May 6, 1994. *Advice Received From:* The Naval Research Laboratory, July 21, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (February 18, 1994). *Reasons:* The foreign instrument provides: (1) full compliance with all NASA protocols for the SeaWiFS satellite, (2) designed-in and operational free-fall deployment capability, (3) an off-ship deck cell and (4) 24-bit resolution with autoranging. The Naval Research Laboratory advises that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time of order.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–23197 Filed 9–19–94; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances: Established 1994 Aggregate Production Quota

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of established 1994 aggregate production quota.

SUMMARY: This notice establishes a 1994 aggregate production quota for 3,4-methylenedioxy-N-ethylamphetamine, a substance in Schedule I of the Controlled Substances Act (CSA).

EFFECTIVE DATE: This order is effective upon September 20, 1994.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator pursuant to 59 FR 23637 (May 6, 1994).

On July 19, 1994, a notice of the proposed 1994 aggregate production quota for 3,4-methylenedioxy-N-ethylamphetamine, a Schedule I controlled substance, was published in the **Federal Register** (59 FR 36784). All interested persons were invited to comment on or object to this proposed aggregate production quota on or before August 18, 1994. No comments or objections were received.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by § 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator, pursuant to 59 FR 23637 (May 6, 1994), the Deputy Administrator hereby orders that the 1994 aggregate production quota for the following controlled substance, expressed in grams of anhydrous base, be established as follows:

Basic class	Established 1994 quota (in grams)
3,4-Methylenedioxy-N-ethylamphetamine	5

Dated: September 13, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94–23237 Filed 9–19–94; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Notice of Submission of Proposed Information Collections to OMB

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed information collections submitted to OMB for approval.

SUMMARY: The National Archives and Records Administration (NARA) is giving notice that the proposed collections of information described in this notice have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act and 5 CFR part 1320. Public comment is invited on these collections.

DATES: Comments should be submitted by October 20, 1994.

ADDRESSES: Copies of the proposed information collections and supporting documentation can be obtained from the Policy and Program Analysis Division (NAA), 8601 Adelphi Road, College Park, MD 20740–6001. Telephone requests may be made to (301) 713–6730, extension 226.

Written comments should be sent to Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard at (301) 713–6730.

The following proposed information collections have been submitted to OMB:

1. Request Pertaining to Military Records (SF 180)

Description: The information collection is the information that must be provided when requesting

information from or copies of documents from a military service record stored at the National Personnel Records Center (NPRC) to allow NPRC to locate the record and respond to the request. Standard Form 180 is the principal form used to obtain information, but other forms and letters may be used.

Purpose: The information is used to locate the requested record and to determine the releasability of the record under Department of Defense rules.

Frequency of response: On occasion. Approximately 10 percent of respondents are asked to complete an additional form to allow NPRC to search alternative sources to supply the requested information.

Number of respondents: 713,400.

Reporting hours per response: 5 to 30 minutes.

Annual reporting burden hours: 209,616.

2. Customer Comment Forms

Description: The information collection is a comment form available in NARA research rooms and museums for customers to provide comments, suggestions, and complaints on NARA services. This is an expansion of a currently approved information collection in use in the Washington, DC, area.

Purpose: The information collection will help NARA to judge the efficacy of researcher and other visitor services, consider changes suggested by users, plan future services, and improve our performance.

Frequency of response: On occasion.

Number of respondents: 1,925.

Reporting hours per response: 5 minutes.

Annual reporting burden hours: 160.

3. National Historical Publications and Records Commission, Subvention Grant Guidelines and Application

Description: The information collection is a grant application prepared by university and other non-profit presses applying to the NHPRC grant program for subvention of part of the costs of manufacturing and distributing volumes published by NHPRC-supported documentary editorial projects.

Purpose: The information is used to determine eligibility of the applicant and evaluate the suitability of the proposed project for support.

Frequency of response: On occasion. On the average, a press submits two subvention applications per year.

Number of respondents: 10.

Reporting hours per response: 9 hours.

Annual reporting burden hours: 180.

4. National Historical Publications and Records Commission, Annual Sales Reports for Subvention Grants

Description: The information collection is a sales report made by a nonprofit press which has received a grant from the NHPRC to subvent part of the costs of manufacturing and distributing documentary volumes that have been produced by editorial projects for which the NHPRC has provided support.

Purpose: The information is used by the NHPRC to evaluate the success of a volume and to help determine the number of copies in the first printing of subsequent volumes in a series.

Frequency of response: Annually for three years. On the average, a press has two on-going subvention grants and therefore submits two sales reports per year.

Number of respondents: 30.

Reporting hours per response: 2 hours.

Annual reporting burden hours: 120.

Dated: September 12, 1994.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 94–23226 Filed 9–19–94; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Florida Power Corp.; Environmental Assessment and Finding of No Significant Impact

Docket No. 50–302

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. DPR–72, issued to Florida Power Corporation, (the licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant, located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action:

The proposed action is in accordance with the licensee's application dated June 7, 1993, as supplemented March 28, 1994, for exemption from certain requirements of Title 10 Code of Federal Regulations Part 50 (10 CFR 50), Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Section III. 0, "Oil collection system for reactor coolant pump." The exemption would allow installation of a new reactor coolant pump motor with an oil collection system which is capable of collecting oil leakage from all potential pressurized and unpressurized leakage sites except for four potential oil leakage sites. The four potential leakage sites are: the anti-reverse device (ARD) vents, upper oil supply lines from the lift pump to the ARD, lower motor leak detection system piping, and lower guide bearing thermocouple wells.

The Need for the Proposed Action:

10 CFR 50, Appendix A, "General Design Criteria for Nuclear Power Plants," Criterion 3, "Fire protection," specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions." 10 CFR 50, Appendix R, sets forth fire protection features required to satisfy the general design Criterion 3 of the Commission's regulations. Pursuant to 10 CFR 50, Appendix R, Section III. 0, the RCP shall be equipped with an oil collection system which "* * * shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems."

As part of its design improvements program to enhance motor reliability and simplify maintenance activities, the licensee proposed to replace the existing RCP motors with a new motor and implement, a re-designed RCP lube oil system. As a result of physical interferences and other design difficulties, four specific sites in the RCP motor lube oil system could not accommodate an oil collection system for collecting potential oil leakage. An exemption from 10 CFR 50, Appendix R, Section III. 0, is required to permit the four specific sites in the RCP lube oil systems without an oil collection system, and thus, exclude them from leakage protection.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the licensee's application.

Section III. 0 of Appendix R to 10 CFR Part 50 states that: "The oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accident conditions and that there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake [SSE]. Such collection systems shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems.

Leakage shall be collected and drained to a vented closed container that can hold the entire lube oil system inventory."

The RCP motor lube oil system, with its pumps and associated piping, supplies oil to several parts of the RCP. The existing RCP lube oil system includes a high pressure and an induced flow system. The high pressure system consists of two independent pumps, and associated piping, and supplies oil, among other components, to the ARD. The induced flow system is driven by the rotation of the RCP motor and provides lube oil to the thrust bearings, guide bearings, and to the ARD.

The new oil lubricating system would contain approximately 200 gallons of oil and would include several design features such as spray shields, series of drip and drain pans and piping, and a lube oil collection system tank. The new system eliminated one of the two lift pumps and its components which should result in a decrease in the number of potential leakage sites. The oil collection system would be capable of collecting lube oil from all possible pressurized and unpressurized leak sites except for the four specific locations. Of the four potential leakage sites, ARD vents and lower RCP motor leak detection system piping do not contain oil under routine operating conditions. The upper oil supply lines from the lift pump to the ARD are pressurized only during a brief period of motor startups and shutdowns. The lower guide bearing thermocouple wells are passive in nature. Additionally, in the new design, vents would be equipped with demisters and filters to prevent lube oil mist from escaping to the atmosphere. If leakage were to occur during normal plant operations, the oil would channel to the drain pan. Any lube oil leak which may not have been fully captured could potentially run down the RCP motor onto hot Reactor Coolant System surfaces. However, the flammability characteristics of the oil, flashpoint of 452 °F, and an auto ignition temperature of 500 °F – 7 °F, that would be used in the lube oil system, reduce the likelihood that the oil will readily ignite upon coming in contact with hot RCS piping surfaces. Additionally, if the oil leak became ignited, the fire would be localized in the area of the leakage and detected by the thermal fire detectors.

Fire protection features for the RCP motors include three temperature heat detectors with 190 °F setpoints located over each RCP. Any localized fire in the area due to oil leakage would be detected by the thermal fire detectors and would provide an alarm function in both the reactor building and annunciate in the main control room. Additional indications of a potential RCP fire would also be provided by control room alarms on low level oil, low oil pressure or high vibrations. If an RCP fire alarm is received in the main control room, it is expected that the control room operators would evaluate any alarm associated with the RCP and its lube oil system and initiate fire brigade entry into the reactor building to investigate and fight the fire. The reactor building is equipped with an internal firefighting standpipe hose station system and fire extinguishers are appropriately distributed throughout the structure. RCP firefighting would be accomplished by using either portable fire extinguishers or water from a hose stream or a combination of both. Access to the four RCPs for firefighting can be accomplished by making entry into the "D" rings.

The existing Crystal River Unit 3 RCP motor lube oil system is a non-seismic system. The new RCP lube oil system and lube oil collection systems would be seismically qualified to withstand an SSE. Therefore, if an SSE were to occur, the system is not expected to fail.

Based on the design features of the new RCP motors and the fact that their lube oil system and associated lube oil collection systems are seismically designed to withstand an SSE, there is reasonable assurance that the RCP lube oil system will not present a major fire hazard.

The staff concludes, based on its evaluation, that potential oil leakage from the specific four sites in the RCP lube oil system will not present a major fire hazard and that the current level of fire protection is sufficient to mitigate the consequences of a fire in the area of these potential leakage sites. In addition, the staff concludes that it is not expected that these potential leakage sites will fail during an SSE. On that basis, the staff finds that the licensee's proposed design of the RCP motor lube oil collection system provides an equivalent level of fire safety to that required by the provisions of Appendix R, section III.0, and, therefore, is acceptable.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact. With regard to potential non-radiological impacts, the proposed change does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statement, dated May 1973, related to operation of Crystal River Unit 3.

Agencies and Persons Consulted

The NRC staff consulted with the State of Florida regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated June 7, 1993, and March 28, 1994, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the local public document room located at Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 6th day of September 1994.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Acting Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–23203 Filed 9–19–94; 8:45 am]

BILLING CODE 7590–01–M

Docket Nos. 50–327 and 50–328

Tennessee Valley Authority Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Tennessee Valley Authority, (licensee) for amendments to Facility Operating License Nos. DPR–77 and DPR–79 issued to the licensee for operation of the Sequoyah Nuclear Plant Units 1 and 2, located in Soddy Daisy, Tennessee.

Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on November 10, 1993 (58 FR 59757).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to remove the fire protection special reporting requirements.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated October 20, 1994, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C., by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, and to the Office of the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1993, and (2) the Commission's letter to the licensee dated

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C., and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 13 day of September, 1994.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Region II Reactors, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–23206 Filed 9–19–94; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 5, 1994, Room T–2E13, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, October 5, 1994—2:00 p.m. until the conclusion of business.*

The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: September 14, 1994.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 94–23204 Filed 9–19–94; 8:45 am]

BILLING CODE 7590–01–M

Staff Meetings Open to the Public; Final Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: This statement presents the policy that the Nuclear Regulatory Commission (NRC) staff will follow in opening meetings between the NRC staff and one or more outside persons to public observation. This policy statement also announces central agency services available to the public for obtaining schedules for the staff meetings that are open to public attendance. Implementing guidance will be issued to the NRC staff as a management directive. The policy statement relates only to meetings involving the NRC staff and does not affect existing regulations that apply to public attendance at meetings such as Commission meetings, advisory committee meetings, and enforcement conferences.

EFFECTIVE DATE: November 1, 1994.

ADDRESSES: Management Directive 3.5 and copies of comments received on the proposed policy statement are available for inspection at the NRC Public Document Room, 2120 L St., NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone: (301) 504–1881.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC first published its policy for open staff meetings in the **Federal Register** on June 28, 1978 (43 FR 28058). On September 14, 1993 (58 FR 48080), the NRC published for public comment a proposed policy statement entitled "Staff Meetings Open to the Public" in the **Federal Register** that would supersede the policy statement of 1978 (58 FR 48080). The NRC requested comments on the proposed policy statement and on comments submitted previously by the American Mining Congress that were made in response to an interim NRC policy statement similar to the policy statement that was proposed.

II. Summary of Public Comments on the Proposed Policy Statement and NRC Responses

General Comments

In late 1993, the NRC received 13 letters with comments on the proposed policy statement on "Staff Meetings Open to the Public." These comments were from the following organizations: the American Mining Congress; two law firms, Winston & Strawn and Newman & Holtzinger, P.C.; and seven utilities, including Texas Electric, Yankee Atomic Electric Company, Commonwealth Edison Company, Florida Power Corporation, Georgia Power Company, Virginia Electric and Power Company, and Southern Nuclear Operating Company; the Nuclear Management and Resources Council, the State of New Jersey Department of Environmental Protection and Energy, and Ohio Citizens for Responsible Energy, Inc. (OCRE). Two of these commenters, Georgia Power Company and Virginia Electric and Power Company, endorsed the comments of the Nuclear Management and Resources Council.

Two commenters endorsed the proposed policy statement. The other commenters either objected to the proposed policy statement or expressed their preference for retaining the 1978 policy statement. Several endorsed the general concept of opening staff meetings. Most offered suggestions for improving the proposed policy statement should it be adopted by the Commission.

Impact on the Quality of Public Meetings

The principal concern expressed was that having the public present during meetings with the NRC staff would have an adverse impact on the quality of those meetings. Several commenters indicated that the presence of the public at meetings with the NRC staff would unnecessarily complicate NRC and licensee discussions, would adversely affect the candor of those discussions (because the public would likely misunderstand and misconstrue the content of conversations), and would generally have an adverse effect on open communications between the NRC and licensees.

The NRC has been conducting public meetings for nearly 15 years under the 1978 policy statement. Since September 1992, the Office of Nuclear Reactor Regulation, the Office for Analysis and Evaluation of Operational Data, and the regional offices have operated under an interim policy similar to the proposed policy statement. The NRC has not found that meetings open to the public under the 1978 policy statement or under the 1992 Interim Policy Statement have substantially interfered with the NRC staff's ability to accomplish its meeting goals or that the presence of public observers adversely affected its ability to communicate openly with licensees and other participants. Even though the NRC recognizes that having meetings open to public observation exposes the participants to the risk that information may be misunderstood or misconstrued, the NRC has not, in its many years of public meetings, found that risk to be of sufficient concern to outweigh the public confidence gained in the NRC's regulatory programs that comes from public observation of NRC staff meetings with outside persons.

Policy Expansion

Several commenters viewed the presumption that all staff meetings are open for public observation unless they fall into one of the exemptions detailed in the proposed policy statement as representing a significant extension of the agency policy on open staff meetings over that published in the 1978 policy statement. They also argue that the extension adds little to existing opportunities for public participation.

The NRC agrees that the proposed policy statement would result in more meetings being open to the public than would have been under the 1978 policy statement. The 1978 policy covered only meetings between the NRC and parties to proceedings. The proposed policy statement reflects NRC's longstanding practice of providing the public with the fullest information practicable on its activities and of conducting business in an open manner. Evolving agency practice since 1978 has resulted in additional types of meetings being open to the public that are not covered by the 1978 policy statement. These include meetings with licensees on technical issues, with licensee senior management on Systematic Assessment of Licensee Performance reports, and with licensees on exit meetings for special team inspections or by accident investigation and diagnostic evaluation teams. In addition, NRC has open meetings with trade organizations and with public interest groups regarding policy and technical issues and the agency's regulatory responsibilities. The policy statement codifies current practice by establishing uniform guidelines for the staff.

Definition of a Public Meeting

Several commenters offered suggestions for refining the definition of "public meeting." Several commenters suggested that the type of individuals attending a meeting should be a determinant of whether the meeting is open to the public. One commenter suggested limiting public meetings to those where a decision-maker was attending. Other commenters suggested limiting public meetings only to those where technical staff were in attendance or where only a project manager and one or more license representatives were present. The NRC strongly believes that the subject matter of the meeting, or the administrative burden of opening the meeting, rather than the type of participant in attendance, should be the determining criterion for deciding if a meeting should be considered open for public observation.

One commenter expressed concern that the policy does not apply to state and local governments, including agreement states. The policy statement does apply to those entities as provided for in Section C.1. of the policy statement.

A commenter suggested language be included to establish a presumption that meetings between the NRC staff and outside parties be open. The NRC believes its policy statement clearly announces a policy of openness and establishes only a limited number of necessary exemptions. The NRC believes the policy statement provides meaningful opportunities for the public to be informed of NRC activities without unduly affecting open and candid discussions between licensees and the NRC staff or interfering with the NRC staff's ability to exercise its regulatory and safety responsibilities without undue administrative burden.

Other commenters suggested that the definition of a public meeting specifically exclude all meetings other than "face to face meetings," that is, exclude meetings using electronic communications, such as telephone conference calls or teleconferencing. The NRC agrees that the definition of a public meeting is not intended to include conversations using electronic communications and has modified the definition to clarify that meetings covered by this policy statement are those where participants are physically present at a single meeting site.

One commenter suggested that the definition of a public meeting be limited to one in which public interest has been expressed or where the NRC has reason to believe there is substantial public interest. The use of this type of criterion would require that the NRC judge what is of significant interest to a wide range of groups that have varied interests. The NRC does not presume to judge for these varied groups what meetings they may

consider to be of significant interest. The NRC believes that it is the responsibility of members of the public, not the NRC, to decide if they are interested in attending a staff meeting.

Several commenters suggested that the public's role at open staff meetings be clearly limited to that of observers. The preamble of the proposed policy statement clearly states that staff meetings open to the public would be open only to observation. However, in response to this concern, the NRC has amended the definition of a public meeting to include the phrase, "open to public observation."

Several commenters suggested that the policy statement include specific ways to limit public participation, such as permitting members of the public to ask questions only at the conclusion of a meeting or requiring them to submit written comments or questions. The policy statement is not intended to address the role of the public beyond that of observation. However, the NRC recognizes that some meetings open under the policy statement may warrant a greater degree of public participation. If participation beyond that of observation is allowed for a particular meeting, a description of the degree of participation will be specified when the meeting is announced and at the outset of the meeting by the senior NRC official participating in the meeting.

One commenter asked that NRC prohibit members of the public from interrupting meetings to pursue a personal agenda or raise public policy issues. The NRC recognizes the concern outside persons may have regarding this possibility. As above, the NRC staff will indicate the ground rules for a public meeting at the beginning of a meeting and adhere to those rules throughout the meeting.

The suggestion that the term "encounter" in the definition of a public meeting be changed to "meeting" was rejected. Had this suggestion been accepted, the definition would have read, "A public meeting is a formal meeting, * * *" phrasing that does not comply with the logical terms of a definition.

Exemptions

In reviewing the comments regarding the exemptions and scope of the policy statement, the NRC staff recognizes that exemption "g" should be clarified. The phrase, "Is a general information exchange" has been added to the exemption. Furthermore, guidance has been provided to the staff at the end of Section C.2 as follows: "Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action. However, should a meeting involving a general information exchange be closed and should discussions during such a meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting."

Several commenters suggested that the policy statement contain additional specific exemptions for closing a meeting. For example, one commenter suggested closing meetings that are administrative in nature, that are held to discuss scheduling or constraints associated with licensee actions, or that are held to review material submitted to the NRC by licensees. The NRC believes that these types of meetings will be exempt to the extent the definition of a public meeting encompasses only meetings where substantive issues are discussed. Also, exemption "g" as rewritten covers those types of meetings because they are held only for the exchange of information.

Several commenters suggested closing meetings for the exchange of preliminary, unverified information; meetings held within a licensee's protected areas; and meetings between NRC Resident Inspectors and licensees. The NRC believes that these types of meetings are already exempted by the policy statement in that the first type would be closed under exemption "f," and second and third types would be closed under exemption "h."

One commenter suggested that exemptions "f," "g," and "h" need to be refined to preserve NRC's flexibility to carry out its health and safety responsibilities without being unduly inhibited by the expanded openness policy. Another commenter believed these exemptions were too broad. NRC believes exemption "f" is sufficiently focused to be clearly interpreted. Exemptions "g" and "h" have been refined and the NRC believes that the policy statement has sufficient flexibility to ensure that NRC meets its safety and regulatory responsibilities. The policy statement clearly enunciates this flexibility in stating, "[t]his policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate." The commenter specifically requested that the term "substantially" be deleted from exemption "h." The NRC agrees because the NRC will not open a meeting if the NRC staff believes the administrative burden will interfere with the efficient performance of its safety and regulatory responsibilities and exemption "h" has been broadened to specifically exclude meetings held as an integral part of an NRC inspection.

One commenter interpreted the provision in exemption "f" in the policy statement as a means to exempt meetings convened to solve potential problems, such as reclamation proposals or enforcement matters. The NRC does not agree with this interpretation. The exemption addresses meetings that could result in the inappropriate disclosure and dissemination of "preliminary, unverified information." The purpose of this exemption is not to close all meetings for which preliminary information, proposals, or concerns are discussed, but to specifically ensure that agency licensees and applicants will not be inhibited in bringing preliminary, unverified information to the attention of the NRC.

The NRC staff believes that this reasoning applies to another commenter who believes that meetings between the staff and licensees, where technical issues or approaches to emerging issues are discussed, should also be classified as "preliminary" in nature and not open to the public.

Meeting Arrangements

Several commenters raised issues regarding arrangements for public meetings. One recommended that public recording and transcription of meetings be prohibited. The NRC does not believe it should limit public attendees when they want to record or transcribe proceedings which they have a right to attend. This type of a prohibition would be difficult to enforce and would infringe upon an established practice of media representatives and others who routinely record public proceedings for their convenience and subsequent use.

One commenter suggested that "outside parties" be consulted before announcing a meeting open to public observation because they may wish to submit proprietary, personal, or other confidential information prior to the meeting. Another suggested that the NRC staff inform the "outside parties" if a meeting will be a public meeting. This is the current NRC practice; however, the NRC will include a provision in its implementing management directive emphasizing that the NRC staff should make outside persons aware when a meeting will be a public meeting. This practice will allow the outside persons to raise concerns regarding confidential information before a meeting.

Several commenters expressed the concern that essential or urgent

meetings would not be scheduled promptly enough because of the need to provide "ten days advanced notice." This provision is intended to ensure that when the NRC staff deems that a meeting should be a public meeting there is sufficient time to provide adequate public notice of the meeting. When a meeting is deemed essential and adequate public notice cannot be provided, exemption "h" of the policy statement would apply because trying to provide notice would constitute an administrative burden that could interfere with the NRC staff's efficient execution of its safety and regulatory responsibilities; however, limited notice would still be provided using available telephone and electronic bulletin board systems.

Another commenter noted that its experience has been that some past public meetings noticed in the **Federal Register** were published on the day of the meeting or published so close to the date of the meeting that public attendance was impossible. The NRC recognizes that delays may occur because of the requirement to publish a notice of the meeting in the **Federal Register**. Consequently, the NRC did not adopt publication in the **Federal Register** as the principal mechanism for announcing public staff meetings. The NRC will announce public meetings through a toll-free telephone recording, a toll-free electronic bulletin board, weekly distribution of public meeting announcements to the Press, and by posting meeting announcements in the NRC Public Document Room.

One commenter suggested that minutes of closed meetings be prepared when substantive regulatory issues are raised in a closed meeting or when minutes of the closed meeting can be prepared and released to the public. The NRC recognizes that closed meetings may involve discussions regarding substantive regulatory matters, such as those involving preliminary, unverified information; meetings may also be closed because of the administrative burden of opening the meeting for public observation. The NRC does not believe it is necessary to require in the policy statement the preparation of meeting minutes or summaries of closed meetings. However, current NRC practice, when appropriate, is to make publicly available summaries of non-public meetings. This practice will continue.

Duration of Policy

One commenter suggested that any revised policy adopted by the NRC be limited to a two-year trial basis similar to that approved for open enforcement conferences. Another commenter suggested that the policy statement should be limited to a period necessary to determine if there is sufficient interest to justify the expense of opening routine meetings to the public. The NRC believes that its long-term experience with open meetings justifies opening staff meetings and that this practice has resulted in significant benefits to the public. Thus the NRC does not believe its policy should be limited for any particular period of time.

Costs

Several commenters expressed concern regarding expenditures that would be required by the NRC and licensees to accommodate public observation of meetings. Two commenters expressed concern that additional expenditures would be incurred without commensurate benefits; for example, that public meetings may be held with no public attendance. Should this happen, these commenters suggested that these types of meetings be added as exemptions because no public interest in them would have been demonstrated. Others believed that the proposal should be abandoned because it would affect fee assessments under the agency's 100-percent user fee policy, resulting in a net loss in regulatory effectiveness and with no public benefit. The NRC does not envision more than a nominal increase in expenditures because the meetings in question will be held with or without public attendance, and are usually held at NRC facilities and meetings at licensee facilities are normally held in a facility readily accessible to the public. NRC's costs associated with operating the toll-free telephone line and the public-access electronic bulletin board are minimal and, to a great extent, offset by consolidating several current meeting notice telephone systems into one. Press notices of public meetings will be included in the agency's Weekly Press Release Compilation. Concerns related to fee assessments are routinely addressed as part of rulemakings for 10 CFR Parts 170 and 171. In February 1994, the NRC issued the "Report to the Congress on the U.S. Nuclear Regulatory Commission's Licensee Policy Review Required by the Energy Policy Act of 1992" that addresses concerns raised regarding the NRC licensee fee policy.

American Mining Congress Comments

The NRC invited public comment on concerns that had been submitted by the American Mining Congress (AMC) on the September 1992, Interim Policy Guidance that had been used by the NRC Office of Nuclear Reactor Regulation, the Office for Analysis and Evaluation of Operational Data, and the NRC regional offices. The AMC stated that the proposed policy was generally responsive to its concerns. AMC's additional comments and the concerns of other commenters who referenced AMC's concerns are addressed in the preceding analysis of comments in Section II of this document.

III. Discussion of the Policy

The purpose of revising the open meeting policy is to further the goal of providing meaningful opportunities for the public to be informed of NRC activities without unduly affecting open and candid discussions between licensees and the NRC staff or interfering with the NRC staff's ability to exercise its regulatory and safety responsibilities without undue administrative burden. The policy also provides guidance to the NRC staff concerning the types of meetings that should be open to public observation. The open meeting policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate.

The open meeting policy excludes meetings where the expressed intent is not to discuss substantive issues that are directly associated with NRC's regulatory and safety responsibilities. Meetings that would not need to be open could include training, conferences, and association meetings where both NRC staff and applicant/licensee officials participate. The open meeting policy also excludes meetings or interviews between NRC staff and licensee staff or management personnel that occur during the performance of an NRC inspection. The policy also excludes meetings the NRC staff has with its own employees, contractors, and consultants, other Federal agencies where the matter does not relate to a specific activity for which NRC has oversight, and with representatives of foreign governments and State and local representatives on matters other than those relating to specific NRC licensing or regulatory actions involving individual NRC licensees.

Exemptions to the policy will permit meetings to be closed to ensure that classified, commercial or financial proprietary, safeguards, personal privacy, and investigative information protected by statute or otherwise requiring protection is not disclosed to the public. Other exemptions are provided to ensure that the NRC staff has sufficient flexibility to efficiently carry out its responsibilities.

A meeting to discuss preliminary, unverified information is not an open meeting under the policy. The purpose of this exemption is to ensure that licensees and applicants are not inhibited in bringing to the Commission information that is not verified or sufficiently analyzed to draw firm conclusions. It also ensures that discussions about potential implications of this type of information occur candidly and openly without fear that it may be misunderstood by the public as fact or as final conclusions.

A meeting that is an information exchange having no direct, substantive connection to a specific NRC decision or action is not an open meeting under this policy. The purpose of this exemption is to ensure that routine administrative matters relating to regulatory activities can be carried out efficiently. For example, drop-in visits or similar management meetings between senior executives of a utility licensed to operate a nuclear power plant and the Executive Director for Operations, Regional Administrators, or other senior NRC managers are generally closed meetings because they typically consist of a general exchange of information not directly related to any regulatory action or decision. Furthermore, meetings to discuss schedules for NRC actions, or the status of an applicant's or licensee's activities would not be open under this exemption. Meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open under this provision because they may lead to specific regulatory action.

The final exemption is for meetings where the administrative burden associated with public attendance could interfere with the NRC staff's efficient execution of its safety and regulatory responsibilities. This exemption ensures that the NRC staff has the discretion to have a needed meeting on short notice where adequate public notice cannot be provided without placing an undue burden on the agency. The meeting could be necessary because of an urgent issue that needs addressing or where the opportunity becomes available on short notice to meet with an official of the applicant or licensee that would benefit the NRC staff person in carrying out his or her duties. The meeting also might be in a location that does not have the facilities to easily accommodate the public, such as within a plant's protected area, because these meetings would require an undue administrative burden to establish access authorization for members of the public. For example, an NRC manager may visit a facility on short notice or without any notice for purposes other than meeting with licensee officials. These purposes may include but are not limited to monitoring and assessing the performance of NRC subordinates, touring the facility, or independently assessing licensee performance. During such a trip, he or she may visit licensee officials and may discuss substantive regulatory issues with them. Opening such a meeting to the public would constitute an undue administrative burden and could impede the efficient executions of the NRC's safety and regulatory responsibilities.

The public meeting notice system planned for providing public notice of all NRC staff meetings open to the public will have a toll-free telephone recording and a public-access electronic bulletin board for announcing meeting notice information. Open staff meetings will also be announced by a weekly press release as well as being posted in the agency's Public Document Room, as is the current practice.

IV. Commission Policy Statement on Staff Meetings Open to the Public

A. Purpose

This statement presents the policy that the Nuclear Regulatory Commission (NRC) staff will follow in opening meetings between the NRC staff and one or more outside persons to public observation. The policy continues NRC's longstanding practice of providing the public with the fullest information practicable on its activities and of conducting business in an open manner, while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. This policy also announces central agency services available to the public for obtaining schedules for the staff meetings that are open to public attendance. Implementing guidance will be issued to the NRC staff as a management directive. This meeting policy is a matter of NRC discretion and may be departed from as NRC convenience and necessity may dictate.

B. Definition

A public meeting is a planned, formal encounter open to public observation between one or more NRC staff members and one or more outside persons physically present at a single meeting site, with the expressed intent of discussing substantive issues that are directly associated with the NRC's regulatory and safety responsibilities.

An outside person is any individual who is not:

a. An NRC employee;
b. Under contract to the NRC;
c. Acting in an official capacity as a consultant to the NRC;
d. Acting in an official capacity as a representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except when the agency is subject to NRC regulatory oversight);
e. Acting in an official capacity as a representative of a foreign government;
f. Acting in an official capacity as a representative of a State or local government (except when specific NRC licensing or regulatory matters are discussed).

C. Applicability and Exemptions

1. This policy applies solely to NRC staff-sponsored and conducted meetings and not to meetings conducted by outside entities that NRC staff members might attend and participate in. It does not apply to the Commission or offices that report directly to the Commission. Similarly, it does not apply to meetings between the NRC staff and representatives of State governments, including Agreement State representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission, that is, matters other than specific NRC licensing or regulatory actions involving specific licensees. Also, the policy is not intended to apply to or supersede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. For example, 10 CFR Part 7 specifically addresses public attendance at advisory committee meetings; and 10 CFR Part 9, Subpart C, addresses public attendance at Commission meetings. The policy also does not negate existing Memoranda of Understanding, procedural agreements, or other formal agreements or requirements regarding the accessibility of the public to observe or participate in meetings between NRC and its licensees or any other entities. In addition, the policy does not apply to meetings involving enforcement matters under 10 CFR Part 2, Appendix C nor to settlement conferences.

2. In general, meetings between the NRC staff and outside persons will be classified as public meetings unless the NRC staff determines that the subject matter to be discussed—

a. Is specifically authorized by an Executive Order to be kept secret in the interests of national defense or foreign policy (classified information) or specifically exempted from public disclosure by statute;

b. Contains trade secrets and commercial or financial information (proprietary information);

c. Contains safeguards information;

d. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

e. Is related to a planned, ongoing, or completed investigation and/or contains information compiled for law enforcement purposes;

f. Could result in the inappropriate disclosure and dissemination of preliminary, unverified information;

g. Is a general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action;

h. Indicates that the administrative burden associated with public attendance at the meeting could result in interfering with the NRC staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

It is important to note that whether or not a meeting should be open for public attendance is dependent primarily on the subject matter to be discussed, not who outside nor who within the NRC staff is participating (e.g., staff level versus senior management).

Also note that meetings between staff and licensees or trade groups to discuss technical issues or licensee performance would normally be open because they may lead to a specific regulatory decision or action. However, should a meeting involving a general information exchange be closed and should discussions during such a meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed in a closed meeting and propose discussing the issues in a future open meeting.

D. Notice to the Public

1. Normally, meeting announcement information is to be provided by the staff to the agency's meeting announcement coordinator at least ten days in advance of the date of the meeting so that adequate notice can be made to the public.

Public notice will be provided through the Weekly Compilation of Press Releases and posting in the NRC headquarter's Public Document Room, 2120 L Street (Lower Level) NW., Washington, DC. The public may obtain a schedule of agency staff meetings on a toll-free telephone recording at 800–952–9674 and on a toll-free electronic bulletin board at 800–952–9676.

2. Meetings which are scheduled for the next 60 calendar days will be announced to the public. Meeting announcements will include the date, time, and location of the meeting, as well as its purpose, the agency and outside organizations in attendance, and the name and telephone number of the agency contact for the meeting. Information about canceled, rescheduled, and open meetings scheduled on short notice will be updated daily or as needed by its posting at the agency Public Document Room, on the telephone recording, and on the electronic bulletin board.

Dated at Rockville, MD, this 14th day of September 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–23205 Filed 9–19–94; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filing and Information Services, 450 5th Street, N.W., Washington, D.C. 20549.

New Mutual Funds Prospectuses Telephone Survey—File No. 270–394.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to execute a telephone research survey. The survey will attempt to assess the public's understanding of mutual funds and other financial matters. The results will enable the Commission to better understand the level of investor comprehension of mutual fund prospectuses and financial issues. The mutual fund comprehension telephone survey is estimated to require a total of 16.66 burden hours. The burden hour per participant will be .16 hours or 10 minutes.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: September 12, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23227 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34665; File No. SR–DTC–94–07]

September 13, 1994.

Self-Regulatory Organization; the Depository Trust Company; Order Approving Proposed Rule Change Establishing the Stock Loan Income-Tracking System

On May 6, 1994, The Depository Trust Company ("DTC") submitted a proposed rule change (File No. SR–DTC–94–07) 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 June 22, 1994, to solicit comment from interest persons.[2] This order approves the proposal.

I. Description of the Proposal

The purpose of the proposed rule change is to establish the stock loan income-tracking system that will eliminate the need for participants to track income distributions on their securities that are the subject of outstanding stock loans. The current DTC procedures enable participants to identify stock loan related deliver orders through the use of reason codes. Proper allocation of income payments arising from the securities that are the subject of these loans currently rests entirely with the lending and borrowing participants because DTC allocates income to participants to whom the securities are credited on the relevant entitlement date (*i.e.*, the borrowing participants). Lending participants recover income that DTC has allocated to borrowing participants either through DTC's securities payment order service or through some other mutually agreed upon arrangement by the participants.

[1] 15 U.S.C. § 78s(b) (1988).

[2] Securities Exchange Act Release No. 34218 (June 15, 1994), 59 FR 32252 [File No. SR–DTC–94–07] (notice of proposed rule change).

The proposed rule change will facilitate participants' processing of income attributable to securities that are the subject of outstanding stock loans. The proposed stock loan income-tracking system will track and monitor participants' stock loan related deliver orders; will net the share amounts by participant and CUSIP; and will automatically credit income distributions to the proper participant on income payment date. To execute these functions, DTC will create a special stock loan memo account which will maintain a daily net balance of loan obligations for each stock loan counterparty of each participant.

The proposed rule change provides that a party from whom distributions are due to be transferred may unilaterally halt all future distribution transfers by giving a letter of instructions to DTC two or more business days in advance and by giving a copy to the counterparty. DTC will notify the counterparty participant of any action taken by DTC based on the instructions. DTC will not assess the parties legal obligations to each other.[3]

If a participant's account is being transferred to another participant due to a merger or acquisition, DTC will move the transferring participant's open stock loan positions to the transferee participant.

If a participant is about to retire, DTC first will verify that the participant has closed out all its entitlements and obligations for future distributions created by stock loans. If DTC has ceased acting on behalf of a participant, DTC will determine which other DTC participants are stock loan counterparties and will adjust those participants' stock loan memo account positions in order to balance the elimination of DTC's obligations to and entitlements from the terminated participant.

Before the stock loan income-tracking system is implemented, DTC will provide a means for participants to load DTC's stock loan data base with information about currently outstanding stock loans. Deliveries with a stock loan reason code made after implementation will automatically be added to this data base.

II. Discussion

The Commission believes that the proposal is consistent with the Act and in particular Section 17A of the Act.[4] Sections 17A (b)(3)(A) and (F) of the Act[5] require that each clearing agency be organized and its rules be designed to assure the safeguarding of funds in the custody or control of the clearing agency or for which it is responsible. Moreover, in Section 17A(a)(1)(B) of the Act, Congress set forth its findings that new data processing and communication techniques create the opportunity for more efficient, effective, and safe procedures for clearing and settlement.[6]

The stock loan income tracking system is an automated system which will eliminate inefficient income processing by stock loan counterparties. Because DTC receives data related to stock loan income attributions in the normal course of its operations, DTC is in a good position to process such data and to maintain appropriate records of the rights and obligations of its participants to the income related to stock loan activity. In addition to being well situated for the centralized processing function, because DTC processes all data through its automated facilities, there should be uniform treatment of the data as opposed to the current system whereby stock loans income attributions are handled differently by each involved DTC participants. The Commission believes that the stock loan income tracking system should improve the efficiency of the income transfer and record keeping.

Additional, the stock loan income tracking system is being implemented consistently with DTC's obligation to safeguard securities and funds in its custody or control. In addition to DTC normal safety measures, DTC has built into the system risk reduction measures such as provisions for the termination of future DTC obligations upon a participant's voluntary or involuntary termination of its membership.

III. Conclusion

For the reasons stated above, the Commission finds that DTC's proposal is consistent with Section 17A of the Act.[7]

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–DTC–94–07) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23165 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[3] If the participant submitting the letter of instructions is in fact still legally obligated, the noninstructuring counterparty may seek to enforce its right to receive future distributions outside of DTC.

[4] 15 U.S.C. § 78q–1 (1988).

[5] 15 U.S.C. § 78q–1(b)(3)(A) and (F) (1988).

[6] 15 U.S.C. § 78q–1(a)(1)(B) (1988).

[7] 15 U.S.C. § 78q–1 (1988).

[8] 15 U.S.C. § 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–34664; File No. SR–NYSE–94–01]

Self-Regulatory Organizations; NYSE Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to New Organizational Structures for Members

September 13, 1994.

I. Introduction

On February 22, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's Constitution and rules to allow the admission of entities with new organizational structures as members.

The proposed rule change was noticed for comment in Securities Exchange Act Release No. 34390 (July 15, 1994), 59 FR 37278 (July 21, 1994). No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The NYSE is amending NYSE Rule 311(f) to permit entities with new organizational structures to qualify for admission to Exchange membership. Specifically, the NYSE is amending its rules to permit the Exchange to approve as a member organization, entities that have characteristics essentially similar to corporations, partnerships, or both. For example, the amendment permits the Exchange, it its discretion, and on such terms and conditions as the Exchange may prescribe, to approve business trusts,[3] limited liability companies[4] or other organizational structures as member organizations so long as the characteristics of the entity in question are essentially similar to those of corporations or partnerships. Currently, memberships on the Exchange can be owned by individuals, partnerships, and corporations. The noncorporate or partnership entities

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The term "business trust" is generally used to describe a trust in which the managers are principals, and the shareholders are cestuis que trust. The essential attribute is that property is placed in the hands of trustees who manage and deal with it for use and benefit of beneficiaries. *Black's Law Dictionary* 180 (5th ed. 1979).

[4] A limited liability company ("LLC") has characteristics similar to both corporations and partnerships. For example, the liability of LLC members is limited to their capital contributions, but, if properly formed and managed, an LLC is treated as a partnership for tax purposes.

would have to be structured in such a format that would qualify as a broker or dealer registered with the SEC pursuant to the Act, as this is a prerequisite to becoming an Exchange member organization.[5]

The Exchange believes that the rule change is consistent with Section 6(b)(2) of the Act[6] in that it permits registered brokers or dealers to become member organizations of the Exchange. The Exchange also believes that the rule change also is consistent with Section 6(b)(5) of the Act,[7] in that it broadens the types of entities which the Exchange may approve as a member organization and therefore avoids possible unfair discrimination, and with Section 6(b)(8) of the Act,[8] in that it serves to remove possible burdens on competition resulting from organizational structure not necessary or appropriate in furtherance of the purposes of the Act.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[9] Specifically, the Commission believes the amendment is consistent with Section 6(b)(2)[10] of the Act, which requires the rules of an exchange, subject to the provisions of Section 6(c) of the Act,[11] to ensure that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of the exchange and any person may become associated with a member thereof.

The NYSE currently allows individuals, partnerships, and corporations to become members of the Exchange.[12] The amendment would enable entities with new organizational structures similar to corporations and partnerships to become Exchange members and be included in the Exchange's definition of a member organization. As in the case of a partnership or corporation applying for membership, the new entity will be subject to all other requirements for membership approval.

The Commission believes that the amendment to NYSE Rule 311(f) reasonably balances the Exchange's interest in having the flexibility to approve entities with new organizational structures for Exchange membership, with the regulatory interests in protecting the financial and structural integrity of a member organization. For example, although the amendment permits the Exchange to approve business trusts, limited liability companies, or other organizational structures with characteristics of corporations or partnerships as member organizations, the NYSE will review each Exchange member organization application on a case-by-case basis, and prior to approving any such organization for membership, the Exchange must be satisfied that: (1) The Exchange would legally have appropriate jurisdiction over such an entity; and (2) the permanency of the entity's capital is consistent with that required of other member organizations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSE–94–01) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23228 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[5] *See* Article I, Section 3 (i) and (j) of the NYSE's Constitution.

[6] 15 U.S.C. § 78f(b)(2) (1988).

[7] 15 U.S.C. § 78f(b)(5) (1988).

[8] 15 U.S.C. § 78f(b)(8) (1988).

[9] 15 U.S.C. § 78f(1988).

[10] 15 U.S.C. § 78f(b)(2) (1988).

[11] 15 U.S.C. § 78f(c) (1988).

[12] Article I, Section 3 of the NYSE's Constitution and NYSE Rule 2 state that the term "member organization" includes "member firms" and "member corporations." The term "member firm" is defined as a partnership. The NYSE Board of Directors has interpreted the use of the word "includes" in this Constitutional provision and Exchange rule as illustrative, and not restrictive. Therefore, the NYSE does not believe it necessary to amend Article I, Section 3 of its Constitution, nor NYSE Rule 2 to allow additional entities to be included in the term "member organization." *See* letter from Bruno Lederer, Associate General Counsel, NYSE, to Sandra Sciole, Senior Counsel, Division, dated August 22, 1994.

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–20547; 811–4287]

The Pierpont Capital Appreciation Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont Capital Appreciation Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 461 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942–0567, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end management investment company. On April 25, 1985, applicant filed a notification of registration pursuant to section 8(a) and a registration statement on Form N–1A pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on June 20, 1985 and its initial public offering commenced shortly thereafter.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and

the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 16, 1993, pursuant to the Reorganization, The U.S. Small Company Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On July 18, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Capital Appreciation Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23229 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20548; 811–4288]

The Pierpont Equity Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont Equity Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 461 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942–0567, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end management investment company. On April 25, 1985, applicant filed a notification of registration pursuant to section 8(a) and a registration statement on Form N–1A pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on June 20, 1985 and its initial public offering commenced shortly thereafter.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 16, 1993, pursuant to the Reorganization, The Selected U.S. Equity Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On July 18, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Equity Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23230 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC-20549; 811-6000]

The Pierpont International Equity Fund, Inc.; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont International Equity Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 461 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942-0567, or Barry D. Miller, Senior Special Counsel, (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end management investment company. On February 21, 1990, applicant filed a notification of registration pursuant to section 8(a) and a registration statement on Form N-1A pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on May 30, 1990 and its initial public offering commenced shortly thereafter.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of directors approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of directors attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On October 3, 1993, pursuant to the Reorganization, the Non-U.S. Equity Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On October 3, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont International Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Maryland law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-23231 Filed 9-19-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20553; 811-5274]

The Pierpont Bond Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont Bond Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 451 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942-0567, or Barry D. Miller, Senior Special Counsel, (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end

management investment company. On August 5, 1987, applicant filed a notification of registration pursuant to section 8(a) and a registration statement on Form N–1A pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on January 20, 1988 and its initial public offering commenced on March 11, 1988.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 9, 1993, pursuant to the Reorganization, the U.S. Fixed Income Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On July 11, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Bond Fund series (the "Successor Fund") of the Pierpoint Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23166 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20550; 811–3453]

The Pierpont Money Market Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont Money Market Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 461 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942–0567, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end management investment company. On April 22, 1982, applicant filed a notification of registration pursuant to section 8(a) of the Act. On August 4, 1982, applicant filed a registration statement on Form N–1 pursuant to section 8(b) of the Act and a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective and its initial public offering commenced on October 1, 1982.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 9, 1993, pursuant to the Reorganization, The Money Market Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On July 11, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Money Market Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the

aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23167 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20551; 811–4076]

The Pierpont Tax Exempt Bond Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 [the "Act").

APPLICANT: The Pierpont Tax Exempt Bond Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 461 Fifth Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942–0567, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS:

1. Applicant, a Massachusetts business trust, is an open-end management investment company. On July 20, 1984, applicant filed a notification of registration pursuant to section 8(a) and a registration statement on Form N–1A pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on October 2, 1984, and its initial public offering commenced shortly thereafter.

2. At meetings on January 29, March 17 and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 9, 1993, pursuant to the Reorganization, the Tax Exempt Bond Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. On July 11, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Tax Exempt Bond Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23168 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20552; 811–3816]

The Pierpont Tax Exempt Money Market Fund; Notice of Application for Deregistration

September 13, 1994.

AGENCY: Seurities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Pierpont Tax Exempt Money Market Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 25, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1994, and should be

accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 461 Fifth Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 942–0567, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end management investment company. On August 16, 1983, applicant filed a notification of registration pursuant to section 8(a) of the Act. On July 1, 1983, applicant filed a registration statement on Form N–1 pursuant to section 8(b) of the Act and a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective on September 9, 1983 and its initial public offering commenced shortly thereafter.

2. At meetings on January 29, March 17, and June 24, 1993, applicant's board of trustees approved a plan of reorganization, termination and deregistration of applicant (the "Reorganization"). Under the Reorganization, applicant would be converted from a stand-alone structure to a master-feeder, series structure. As stated in the resolutions of the board of trustees attached at exhibit E to the application, applicant's board determined that the Reorganization was in the best interests of applicant, and the interests of the existing shareholders would not be diluted as a result.

3. Proxy materials relating to the Reorganization were furnished to applicant's shareholders on or about April 29, 1993, and were filed with the SEC on May 5, 1993. At a meeting held on June 18, 1993, a majority of applicant's shareholders approved the Reorganization.

4. On July 9, 1993, pursuant to the Reorganization, The Tax Exempt Money Market Portfolio (the "Master Fund") acquired all the investable assets and certain liabilities of applicant in exchange for a beneficial interest in the Master Fund. Only July 11, 1993, all the applicant's assets, consisting substantially of a beneficial interest in the Master Fund, were transferred to The Pierpont Tax Exempt Money Market Fund series (the "Successor Fund") of the Pierpont Funds (an open-end investment company) and the Successor Fund assumed all the applicant's liabilities in return for shares of the Successor Fund. These shares of the Successor Fund were distributed tax-free on a share for share basis to applicant's shareholders. Applicant's shareholders received shares of the Successor Fund with an aggregate net asset value equal to the aggregate net asset value of their respective interests in applicant.

5. In connection with the reorganization, applicant incurred legal, accounting, proxy solicitation, shareholder mailing, deregistration and other expenses, all of which were paid by applicant's investment adviser, Morgan Guaranty Trust Company of New York.

6. Applicant has no outstanding debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no shareholders and is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant will apply to be terminated under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

[FR Doc. 94–23169 Filed 9–19–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2736]

New York (and Contiguous Counties in Pennsylvania); Declaration of Disaster Loan Area

Chemung County and the contiguous counties of Schuyler, Steuben, Tioga, and Tompkins in the State of New York, and Bradford and Tioga Counties in the State of Pennsylvania constitute a disaster area as a result of damages caused by flooding which occurred on August 17, 1994. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 7, 1994 and for economic injury until the close of business on June 8, 1995 at the address listed below:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 273606 for New York and 273706 for Pennsylvania. For economic injury the numbers are 832200 for New York and 832300 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 8, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–23173 Filed 9–19–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2739]

South Carolina; Declaration of Disaster Loan Area

Lexington County and the contiguous counties of Aiken, Calhoun, Newberry, Orangeburg, Richland, and Saluda in the State of South Carolina constitute a disaster area as a result of damages caused by tornadoes which occurred on August 16, 1994. Applications for loans for physical damage may be filed until the close of business on November 7, 1994 and for economic injury until the close of business on June 8, 1995 at the address listed below:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 273912; for economic injury the number is 833000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 8, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–23174 Filed 9–19–94; 8:45 am]

BILLING CODE 8025–01–M

National Advisory Council Meeting

The U.S. Small Business Administration (SBA) National Advisory Council will hold a public meeting beginning at 9:00 a.m. on Thursday, September 29 and end on Friday, September 30, 1994 in Washington, DC at the Capital Hilton Hotel, located at 1001 16th Street NW., Washington, DC 20036.

For further information, write or call Ms. Dorothy Overal, Acting Director, Office of Advisory Councils, 409 3rd Street SW., Washington, DC 20416 (202) 205–6434.

Dated: September 14, 1994.

Dorothy A. Overal,

Acting Director, Office of Advisory Councils.

[FR Doc. 94–23175 Filed 9–19–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier/General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier/general aviation maintenance issues.

DATES: The meeting will be held on October 31, 1994, at 1:00 p.m. Arrange for oral presentations by October 17, 1994.

ADDRESSES: The meeting will be held at the Albuquerque Marriott Hotel, 2101 Louisiana Boulevard, Salon E, Albuquerque, New Mexico, at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Meeting Coordinator, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498; fax number (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to consider air carrier/general aviation maintenance issues. The meeting will be held on October 31, 1994, at the Albuquerque Marriott Hotel, 2101 Louisiana Boulevard, Salon E, Albuquerque, NM, at 1:00 p.m. The agenda will include:

- Report on the status of the Part 65 Phase II Working Group
- Possible presentation of a completed recommendation from the Maintenance Recordkeeping Working Group (draft NPRM and advisory materials)
- Report on the status of the Major/Minor Working Group
- Possible presentation of a completed recommendation from the Parts Approval Action Team Phase III Working Group (advisory materials and consideration of additional NPRM task)
- Report on the status of the General Aviation Maintenance Working Group
- A presentation by the FAA on the Service Difficulty Reporting System
- Vote by ARAC on the recommendations submitted by the International Airworthiness Communications Working Group
- Status of ARAC recommendations being processed by the FAA
- Discussion of future activities and other business

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before October 17, 1994, to present oral statements at the meeting. The public may present written statements at any time by providing 35 copies to the Assistant Chair or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on September 15, 1994.

Frederick J. Leonelli,

Assistant Executive Director for Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–23261 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss transport airplane and engine issues.

DATES: The meeting will be held on October 11, 1994 at 8:30 a.m. Arrange for oral presentations by October 3, 1994.

ADDRESSES: The meeting will be held at Aerospace Industries Association of America, Inc., 1250 Eye St. NW., Suite 1100, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held October 11, 1994 at Aerospace Industries Association of America, Inc., 1250 Eye St. NW., Suite 1100, Washington, DC. The agenda for the meeting will include:

- Opening remarks.
- Review of action items.
- Reports of working groups.
- Recommendations concerning future actions in continued airworthiness will be considered.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by October 3, 1994, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport

Airplane and Engine Issues or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC, on September 12, 1994.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–23262 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

Proposed Modifications to the Yankee and Condor Military Operating Areas; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces fact-finding informal airspace meetings to solicit information concerning modifications to the Yankee and Condor Military Operating Areas (MOA's), located over portions of northeastern Maine, and northern New Hampshire and Vermont. The FAA is holding these meetings to provide interested persons an opportunity to discuss the aeronautical issues arising from a request by the National Guard Bureau to lower the floor of the Yankee and Condor MOA's from 7,000 feet above sea level (MSL) to 300 feet about ground level (AGL). All comments on the effect of the requested modification on the use of airspace by aircraft received during this meeting will be considered prior to any issuance of a decision on this request.

TIME AND DATE: The informal airspace meetings will be held from 7:00 p.m. to 9:00 p.m., on Wednesday, October 12, 1994, in St. Johnsbury, Vermont; on Thursday, October 13, 1994, in Whitefield, New Hampshire; on Wednesday, October 19, 1994, in Rangeley, Maine; and on Thursday, October 20, 1994, in Rumford, Maine.

PLACE:

St. Johnsbury Town Hall, 36 Main St., St. Johnsbury, VT 05819

Whitefield Town Hall, 7 Jefferson Road, Whitefield, NH 03598

Rangeley Lakes Regional School, Multi-Purpose Room, Mendola Drive, Rangeley, ME 04970

Rumford Municipal Building, Congress Street, Rumford, ME 04276

All written comments must be received on or before November 21, 1994.

COMMENTS: Send or deliver comments to: Manager, System Management Branch, Air Traffic Division, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via telecopier (FAX) to (617) 238–7560.

FOR FURTHER INFORMATION CONTACT: Timothy A. Creedon, System Management Specialist, System Management Branch, Air Traffic Division, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (617) 238–7531; FAX (617) 238–7560.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the Administrator, FAA New England Region. Each participant will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of time needed for such presentation so that timeframes can be established. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted. Participants wishing to submit handout material should present *three* copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) The meeting will not be formally recorded. However, a summary of the comments made at this meeting will be filed in the project file.

Agenda for Each Meeting

Introductions

Presentation of Meeting Procedures

Presentation of MOA Modification Request

Public Presentations and Discussion

Issued in Burlington, Massachusetts, on September 9, 1994.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 94–23259 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 159, Thirty-First Meeting; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 159 meeting to be held October 3–7, 1994, starting at 9 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Specific Working Groups Sessions

October 3—Working Group 1, GPS/GLONASS, Working Group 5, Fault Detection and Isolation, Ad Hoc Working Group, Interference Issues

October 4—Working Group 2, GPS/GIC/WADGNSS

October 5—Working Group 3, GPS/Other Navigation Systems

October 6—Working Group 4, Precision Landing Guidance and Airport Surface Surveillance

Agenda—Plenary Session—October 7

(1) Chairman's introductory remarks; (2) Approval of summary of the thirtieth meeting held on July 15, 1994. RTCA Paper No. 379–94/SC159–549 (enclosed); (3) Review working group (WG) progress and identify issues for resolution: (a) GPS/GLONASS (WG1); (b) GPS/GIC/WADGNSS (WG2); (c) GPS/Other Navigation Systems (WG3); (d) GPS/Precision Landing Guidance and Airport Surface Surveillance (WG4); (e) Fault Detection and Isolation (WG5); (f) Interference Issues (Ad Hoc); (5) Review of EUROCAE Activities; (6) Assignment/review of future work; (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 14, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–23263 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 168, Thirteenth Meeting; Lithium Batteries

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 168 meeting to be held October 31—November 1, 1994, starting at 9:30 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

Please note: SC–168 will meet on October 31–November 1; dates shown on Chairmen's September 8, 1994 memorandum and RTCA paper 374–94/SC168–105 are incorrect.

The agenda is as follows: (1) Chairman's remarks; (2) Approval of the summary from the twelfth meeting, RTCA Paper No. 261–94/SCI168–102 (previously distributed); (3) Review EUROCAE WG–39 Activity; (4) Review material from task assignments: Larger lithium cells and batteries requirements and testing; (5) Review/approve the proposed final MOPS draft; (7) Date and place of next meeting (if required).

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 14, 1994.

Steve Zaidman,

Acting Designated Officer.

[FR Doc. 94–23264 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Texarkana Regional Airport, Texarkana, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 20, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Paula Neeson, Manager of Texarkana Regional Airport at the following address: Paula Neeson, Director, Texarkana Regional Airport, 201 Airport Drive, Texarkana, AR 75502.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Texarkana Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 26, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by Texarkana Regional Airport was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: February 1, 1995

Proposed charge expiration date: January 31, 1999

Total estimated PFC revenue: $429,959.00

Brief description of proposed project(s):

Projects To Impose and Use PFC's

Runway Safety Area Improvements; Terminal Area Improvements; Airfield Safety Improvements; Ramp and Apron Improvements; Master Plan and Noise Study Update; and Airfield Sweeper.

Proposed class of classes of air carriers to be exempted from collecting PFC's: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Texarkana Regional Airport.

Issued in Fort Worth, Texas, on August 26, 1994.

Edward N. Agnew,

Assistant Manager, Airports Division.

[FR Doc. 94–23265 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket S–911]

Sulphur Carriers, Inc.; Notice of Application for Permission Pursuant to Section 805(a) of the Merchant Marine Act, 1936, as amended, and Article II–13 of Waterman Steamship Corporation's Operating-Differential Subsidy Agreement, Contract MA/MSB–450 for Operation of the M/V SULPHUR ENTERPRISE in the Coastwise Trade of the United States

Notice is hereby given that Sulphur Carriers, Inc. (SCI), a U.S. corporate affiliate of Waterman Steamship Corporation (Waterman), by letter dated September 15, 1994, requested written permission pursuant to section 805(a) of the Act and Waterman's Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–450, to operate the U.S.-flag M/V SULPHUR ENTERPRISE (Vessel), for and on behalf of Freeport-McMoran Resource Partners (Freeport)—a principle phosphate fertilizer producer in the United States—in the coastwise trade of the United States. The requested permission is to amend a previously approved section 805 permission for the M/V NORDIC LOUISIANA.

On September 27, 1991, the Maritime Administrator granted written permission, pursuant to section 805(a) of the Act and Waterman's Operating-Differential Subsidy Agreement, Contract MA/MSB–450, for operation of the British-flag M/V/ NORDIC LOUISIANA for and on behalf of Freeport in the coastwise trade of the United States, as authorized by Public Law 102–100. The permission was for a period of four years, or until a replacement vessels for the M/V NORDIC LOUISIANA, enters service, whichever is sooner. The replacement vessel M/V SULPHUR ENTERPRISE is expected to be delivered on or about September 23, 1994.

Because of the short time frame of this notice, one party who expressed an interest previously in this matter will be contacted directly.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in SCI's request and desiring to submit comments concerning the request must by 5:00 PM on September 22, 1994, file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: September 16, 1994.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 94–23343 Filed 9–16–94; 1:23 pm]

BILLING CODE 4910–81–P

National Highway Traffic Safety Administration

Amendment to Cooperative Agreement Announcement; Discretionary Cooperative Agreement to Foster the Development, Evaluation, and Deployment of a Heavy Vehicle Intelligent Commercial Vehicle Communication and Powering Enhancement System(s)

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

ACTION: Amendment to Notice.

SUMMARY: The Cooperative Agreement Announcement entitled "Discretionary Cooperative Agreement to Foster the Development, Evaluation, and Deployment of a Heavy Vehicle Intelligent Commercial Vehicle Communication and Powering Enhancement System(s)" was published in the **Federal Register** on September 2, 1994; 59 FR 45750. Inadvertently, a duplicate notice was published on September 12, 1994; 59 FR 46880. This amendment extends the closing date for submittal of proposals to October 20, 1994.

FOR FURTHER INFORMATION CONTACT: Henrietta Mosley, Office of Contracts and Procurement, at (202) 366–9570, for general administrative questions; and C.J. Britell, Office of Crash Avoidance Research (NRD–53), (202) 366–5678 for programmatic questions; at the National Highway Traffic Safety Administration, 400 Seventh Street SW., Room 6220, Washington, DC 20590.

Dated: September 13, 1994.

William H. Walsh, Jr.,

Acting Associate Administrator for Research and Development.

[FR Doc. 94–2381 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 20, 1994.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11298–N	Reilly Industries, Inc., Indianapolis, IN	49 CFR 174.67(i)	To authorize tank cars to remain connected during unloading of Class 3, 9 and Division 2.2 material without the physical presence of an unloader (Mode 2.)
11300–N	North State Environmental, South San Francisco, CA.	49 CFR 173.12(b), 177.848(c)	To authorize transportation in commerce of cyanides, Division 6.1, in lab packs with Class 8 materials, not to exceed 55 gallons per container, to be transported on the same vehicle. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11306–N	Trinity River Authority of Texas, Grand Prairie, TX.	49 CFR 174.67(i)	To authorize rail cars to remain connected during unloading of Division 2.3 material without the physical presence of an unloader. (Mode 2.)
11307–N	Jacx Enterprises, Highlands, TX	49 CFR 179.201–1, 179.201–7	To authorize transportation in commerce of a DOT–111A100WI rail car with no safety relief device for use in transporting clay slurry. (Mode 2.)
11312–N	Packaging Specialties, Medina, OH	49 CFR 107.103(b)(2)	To authorize the manufacture, marking and sale of a 71-gallon non-specification packaging known as a square drum comparable to DOT Spec. 17C and 17H drums for use in transporting Radioactive Materials, Class 7. (Modes 1, 2, 3, 4, 5.)
11313–N	Columbiana Texas Corp., Gainesville, TX.	49 CFR 178.245	To authorize the manufacture, marking and sale of non-DOT Specification IMO Type portable tanks which conform to DOT Specification 51, except all openings are not grouped in one location, for use in transporting Division 2.1 and 2.2 materials. (Modes 1, 2, 3.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 15, 1994.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 94–23266 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before October 5, 1994.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application number	Applicant	Renewal of exemption
7891–X	Sigma-Aldrich Corp., St. Louis, MO [1].	7891
10789–X	Olin Corporation, Stamford, CT [2].	10798

[1] To modify exemption to include materials required to be labeled Spontaneously Combustible to be exempt from labeling and from certain segregation requirements when packaged in specially designed packagings.

[2] To modify exemption to provide for the addition of anhydrous ammonia, Division 2.2 and sodium hydroxide solutions, Class 8, contained in rail cars to remain attached to transfer connections during unloading with the physical presence of an unloader.

Application number	Applicant	Parties to exemption
2582–P	BOC Gases, Murray Hill, NJ.	2582
3004–P	BOC Gases, Murray Hill, NJ.	3004
3302–P	BOC Gases, Murray Hill, NJ.	3302
4039–P	BOC Gases, Murray Hill, NJ.	4039
5038–P	BOC Gases, Murray Hill, NJ.	5038
5600–P	BOC Gases, Murray Hill, NJ.	5600
6349–P	BOC Gases, Murray Hill, NJ.	6349
6530–P	BOC Gases, Murray Hill, NJ.	6530
6543–P	BOC Gases, Murray Hill, NJ.	6543
6626–P	BOC Gases, Murray Hill, NJ.	6626
6670–P	BOC Gases, Murray Hill, NJ.	6670
6691–P	Plattner Welding Supplies, Inc., Coffeyville, KS.	6691

Application number	Applicant	Parties to exemption
6765–P	BOC Gases, Murray Hill, NJ.	6765
6805–P	BOC Gases, Murray Hill, NJ.	6805
7835–P	BOC Gases, Murray Hill, NJ.	7835
8451–P	Gould Laboratories, Pittman, NJ.	8451
8915–P	BOC Gases, Murray Hill, NJ.	8915
8915–P	Matheson Gas Products, Secaucus, NJ.	8915
9034–P	BOC Gases, Murray Hill, NJ.	9034
9110–P	AKZO Nobel Inc., Columbus, MS.	9110
9190–P	Olin Corporation, Downey, CA.	9190
9480–P	BOC Gases, Murray Hill, NJ.	9480
9723–P	Brewer Environmental Industries, Inc., Honolulu, HI.	9723
9723–P	Dart Trucking Company, Inc., Canfield, OH.	9723
9746–P	BOC Gases, Murray Hill, NJ.	9746
10001–P	BOC Gases, Murray Hill, NJ.	10001
10101–P	BOC Gases, Murray Hill, NJ.	10101
10427–P	Nalco Chemical Company/Exxon Energy Chemicals, L.P., Sugar Land, TX.	10427
10517–P	Nalco Chemical Company/Exxon Energy Chemicals, L.P., Sugar Land, TX.	10517
10623–P	Island Gases Limited, Jupiter, FL.	10623
10709–P	Nalco Chemical Company, Naperville, IL.	10709
10916–P	Nalco Chemical Company/Exxon Energy Chemicals, L.P., Sugar Land, TX.	10916
10979–P	Chem-Way Corporation, Charlotte, NC.	10979
10979–P	Tri-State Chemical Co., Lyman, SC.	10979
10984–P	BOC Gases, Murray Hill, NJ.	10984
11156–P	St. Lawrence Explosives Corp., Adams Center, NY.	11156
11156–P	Evenson Explosives, Inc., Morris, IL.	11156
11156–P	Explosives Technologies International, Wilmington, DE.	11156
11156–P	Dyna-Blast, Inc., Nortonville, KY.	11156
11156–P	Slurry Explosive Corporation, Columbus, KS.	11156
11251–P	Aztec Peroxides, Inc., Elyria, OH.	11251

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 15, 1994.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 94–23267 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–60–M

International Standards on the Transport of Radioactive Materials; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to discuss issues to be considered at the International Atomic Energy Agency (IAEA) Technical Committee Meeting (TCM) to be held October 10–14, 1994 in Vienna, Austria. A TCM is a meeting of experts from member nations assembled to address particular aspects of a particular proposal.

DATES: October 3, 1994 at 10:00 am.

ADDRESSES: Room 3200, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Brown, Chief, Radioactive Materials Branch, Office of Hazardous Materials Technology, Department of Transportation, Washington, DC 20590; (202) 366–4545.

SUPPLEMENTARY INFORMATION: This meeting will be held to discuss several issues being considered at the TCM to be held in Vienna, Austria, on October 10–14, 1994. In general terms, the TCM will consider the following proposals for amendment to the IAEA basic safety standards on the "Regulations For The Safe Transport of Radioactive Material", IAEA Safety Series #6:

1. The recommendations of TCM–845 on issues relating to low specific activity materials and surface contaminated objects.

2. The recommendations of TCM–800.3 on the issues relating to radiation protection standards proposed by the International Commission on Radiological Protection (ICRP) in their ICRP–60 document.

3. The recommendations of TCM–675.3 on the issues relating to the air transport of radioactive material in large quantities or with high activity.

4. The recommendations contained in IAEA consultants reports completed since December 1, 1993. Topics will include: a revision of the current transport index system, a clarification of the hierarchy of IAEA publications, an expansion of the United Nations identification numbering system for radioactive materials, and a review of the basic criticality safety standards for packages containing fissile materials.

The public is invited to attend without prior notification.

Documents: Copies of documents relating to the issues to be covered at the TCM are on file in RSPA's Dockets unit (Nassif Building, Room 8421) and may be viewed Monday–Friday from 8:00 am to 4:30 pm. Documents may also be ordered by contacting RSPA's Dockets Unit at (202) 366–4453.

Issued in Washington, DC, on September 15, 1994.

Richard C. Hannon,

Director, Hazardous Materials Planning and Analysis.

[FR Doc. 94–23268 Filed 9–19–94; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 13, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Special Request

Authorization to utilize the form described below is required as soon as possible as the Violent Crime Control and Law Enforcement Act (The Crime Bill). Approval of ATF Form 7, "Application for License, is contingent upon receipt of this form. Firearms applications submitted without this form will be denied. Therefore, the Department of Treasury is requesting review and approval by the Office of Management (OMB) by September 13, 1994. In accordance with 5 CFR 1320.18, ATF Form 5300.37, and its instructions, are included with this for

review. Copies of this may be obtained by writing to the BATF Clearance Officer shown below.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: New.
Form Number: ATF Form 5300.37.
Type of Review: New collection.
Title: Certification of Compliance with State and Local Law.
Description: Applicants for a Federal firearms license will submit a certification that they are in compliance with State and local laws and that they have provided notification of his intent to conduct a firearms business to the chief law enforcement officer in the locality of the business premises.
Respondents: Individuals or households, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations .
Estimated Number of Respondents: 70,000.
Estimated Burden Hours Per Respondent: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 7,000 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

BILLING CODE 4810–31–P

Form Approved: OMB No. 1512- ( )

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

CERTIFICATION OF COMPLIANCE WITH STATE AND LOCAL LAW

All entries must be in ink. Please read instructions carefully before completing this form.

INSTRUCTIONS

Section 923 (d)(1)(F), Title 18, U.S.C., contains the requirements for obtaining a Federal Firearms License (FFL). These include the requirement in section 923 (d)(1)(F) to provide this certification.

INSTRUCTIONS TO APPLICANT

1. Each applicant submitting ATF F 7, Application for Federal Firearms License, must complete and submit ATF F 5300.37, with the ATF F 7 to the Chief, Firearms and Explosives Licensing Center.

2. The form must be prepared in ink, signed, and dated.

3. The certification must be executed (signed) by the owner, a partner, or in the case of a corporation, association, etc., by an officer duly authorized to sign for the applicant.

4. A collector license does not authorize the holder to conduct a firearms business. Therefore, the statement of an applicant for a collector license need only certify to items 4 and 5.

5. *NOTE: An application for an FFL received by the Firearms and Explosives Licensing Center without ATF F 5300.37 will be denied.*

DEFINITIONS

1. The term "Chief Law Enforcement Officer" means the Chief of Police, the Sheriff, or an equivalent officer or designee of any such individual.

2. The term "Intimate Partner" means with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

CERTIFICATION

As required by 18 U.S.C. 923 (d)(1)(F), I certify that:

1. **The business to be conducted under the Federal Firearms License is not prohibited by State or local law at the premises shown on ATF F 7.**

2. **Within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of business.**

3. **Business will not be conducted under the license until the requirements of State and local law applicable to the business have been met.**

4. **Notification of Application to obtain a Federal Firearms License, ATF F 5300.36, has been sent or delivered to the Chief Law Enforcement Officer of the locality in which the premises are located.**

5. **The applicant is not subject to a court order restraining him/her from harrassing, stalking, or threatening an intimate partner or child of such partner.**

BUSINESS PREMISES ADDRESS

FIREARMS LICENSE NUMBER

APPLICANT(S) SIGNATURE AND TITLE	DATE

ATF F 5300.37 ( )

BILLING CODE 4810-31-C

Paperwork Reduction Act Notice

The information required by this form is in accordance with the Paperwork Reduction Act of 1980. The purpose of the information is to certify compliance with State and local law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. 923.

The estimated average burden associated with this collection is 6 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Information Programs Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, and the Office of Management and Budget, Paperwork Reduction Project (1512–), Washington, D.C. 20503.

[FR Doc. 94–23233 Filed 9–19–94; 8:45 am]

BILLING CODE 4810–31–P

Public Information Collection Requirements Submitted to OMB for Review

September 14, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Office of Thrift Supervision (OTS)

OMB Number: 1550–0007.
Form Number: OTS Form No. 1582.
Type of Review: Extension.
Title: Application for Conversion from a State-Chartered Association to a Federally-Chartered Association.
Description: Section 5(i) of the Home Owners' Loan Act and 12 CFR Sections 543.8 and 552.2 require the OTS to act on requests by state-chartered institutions proposing to convert to Federal charters. OTS Form No. 1582 will be used to evaluate whether conversion applicants satisfy appropriate eligibility requirements for a Federal charter and will operate in accordance with OTS regulations and policies subsequent to the conversion.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 40.
Estimated Burden Hours Per Respondent: 4 hours.
Frequency of Response: Other (when application is submitted).
Estimated Total Reporting Burden: 160 hours.

OMB Number: 1550–0063.
Form Number: OTS Form No. 1564.
Type of Review: Revision.
Title: Activities of Savings and Loan Holding Companies.
Description: 12 C.F.R. Section 584.2–1 requires prior notification to the OTS by savings and loan holding companies proposing to engage in prescribed services and activities. The OTS uses this information to track activities and decide the advisability of other actions.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 5.
Estimated Burden Hours Per Respondent: 2.
Frequency of Response: Other (upon application).
Estimated Total Reporting Burden: 10 hours.

OMB Number: 1550–0077.
Form Number: OTS Form No. 1579.
Type of Review: Extension.
Title: Operating Subsidiaries.
Description: 12 CFR 545.81 requires a savings association proposing to establish or acquire an operating subsidiary or conduct new activities in an existing operating subsidiary to either notify the OTS or obtain the prior approval of the OTS. The regulation also requires a savings association to create and maintain certain documents.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 60.
Estimated Burden Hours Per Respondent: 10 hours.
Estimated Burden Hours Per Recordkeeper: 240 hours.
Frequency of Response: Other (when submitting application for approval of proposed activity).
Estimated Total Reporting/Recordkeeping Burden: 840 hours.
Clearance Officer: Colleen Devine (202) 906–6025, Office of Thrift Supervision, 2nd Floor, 1700 G. Street NW., Washington, DC 20552.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.

[FR Doc. 94–23234 Filed 9–19–94; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

September 14, 1994.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0085.
Form Number: IRS Form 1040A, Schedules 1, 2, 3, and EIC.
Type of Review: Resubmission.
Title: U.S. Individual Income Tax Return.
Description: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability. The data is used to verify that the income reported on the form is correct and are also for statistics use.
Respondents: Individuals or households.
Estimated Number of Respondents/Recordkeepers: 26,544,784.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 1040	Sch. 1	Sch. 2	Sch. 3	Sch. EIC
Recordkeeping	1 hr., 3 min	20 min	33 min	13 min	0 min.

	Form 1040	Sch. 1	Sch. 2	Sch. 3	Sch. EIC
Learning about the law or the form.	2 hr., 14 min	4 min	11 min	14 min	2 min.
Preparing the form	2 hr., 51 min	10 min	41 min	28 min	4 min.
Copying, assembling and sending the form to the IRS.	35 min	20 min	28 min	35 min	20 min.

Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 219,373,149 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–23235 Filed 9–19–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

September 14, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0046.
Form Number: IRS Form 982.
Type of Review: Revision.
Title: Reduction of Tax Attributes Due to Discharge of Indebtedness.
Description: Internal Revenue Code (IRC) section 108 allows taxpayers to exclude from gross income amounts attributable to discharge of indebtedness in title 11 cases, insolvency or a qualified farm indebtedness. Section 1081(b) allows corporations to exclude from gross income amounts attributable to certain transfers of property. The data is used to verify adjustments to basis of property and reduction of tax attributes.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	5 hr., 16 min.
Learning about the law or the form.	1 hr., 53 min.
Preparing and sending the form to the IRS.	2 hr., 4 min.

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 9,210 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–23236 Filed 9–19–94; 8:45 am]

BILLING CODE 4830–01–P

Substitute Return Format Standardization for Individual Returns Filed on Paper

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Announcement—Notice of intent to standardize substitute return format for individual returns filed on paper.

SUMMARY: The IRS is in the process of modernizing its computer systems and in keeping with this premise, those forms and schedules that are not filed electronically will be scanned and machine-read. This technology will expedite processing, increase customer service, and maximize the use of resources. The changes will become effective as the new computer systems of the IRS become operational and notice will be posted in the Internal Revenue Bulletin and disseminated through other media. IRS will then request that the following methods be used to file individual income tax returns:

1. Electronically-filed returns;
2. Computer-generated summary sheets (Form 1040PC);
3. IRS-published Forms 1040, 1040A, and 1040EZ and their respective forms and schedules (or machine readable substitutes, as defined in Revenue Procedure 94–51).

Publication 1167, Substitute Printed, Computer-Prepared, and Computer-Generated Tax Forms and Schedules, has been revised to reflect these preferences. There are several reasons for this initiative. The IRS receives more than 115 million individual tax returns and the volume increases annually. Form 1040PC and electronic filing provide better quality input. They also reduce the need for document storage. IRS wishes to limit the submission of traditional returns to IRS-produced paper forms in keeping with the Tax System Modernization (TSM) initiatives to scan all forms. However, IRS recognizes that many practitioners and individual taxpayers utilize software packages to produce computer generated returns and that this software is considered by the public to reduce the burden in the filing of tax returns. Therefore, IRS seeks a balance between its need to maintain strict control and the convenience the taxpaying public enjoys through the use of tax preparation software. The goal is to scan all returns received. IRS will hold a "Town Meeting" to discuss this intent with the public.

Note: Last minute changes to the date or location of the meeting are possible and could prevent advance notice.

DATES: The "Town Meeting" is scheduled to be held on October 5, 1994, at 9 a.m. The meeting will be open to the public.

ADDRESSES: The "Town Meeting" will be held at the J.W. Marriott Hotel, 1331 Pennsylvania Ave. NW, Washington, DC. Notification of intent to attend the meeting is requested in order to have a sufficient number of handouts/agendas printed. Please contact Freda George at 202–283–0578 (not a toll-free number), to confirm attendance or for additional information. If you wish to communicate by FAX, the number is 202–283–0137, to the attention of Freda George. A copy of the "Town Meeting Minutes" will be sent to all persons who mail-in comments or who call to express an interest in receiving them. The address to send your comments to is:

Internal Revenue Service, Attn: Forms Standardization Project Office T:I:F, 1111 Constitution Avenue NW., Washington, DC 20224.

Dated: September 12, 1994.

Approved:

Jim Smith,

National Director, Submission Processing.

[FR Doc. 94–23146 Filed 9–19–94; 8:45 am]

BILLING CODE 4830–01–U

Sunshine Act Meetings

Federal Register
Vol. 59, No. 181
Tuesday, September 20, 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).

ASSASSINATION RECORDS REVIEW RECORD

TIME AND DATE: 10:00 a.m., October 11, 1994.

PLACE: National Archives and Records Administration, Auditorium, 7th and Pennsylvania Avenue, N.W., Washington, D.C.

STATUS: Open to the Public.

PURPOSE OF MEETING: The purpose of the hearing is to elicit public comment to assist the Board in establishing a definition of an "assassination record" in connection with the President John F. Kennedy Assassination Records Collection Act of 1992, Pub. L. 102–526. Those wishing to participate should submit statements no later than Monday, October 3, 1994 to the address below. Statements should concisely address the question of the definition of an assassination record: What kinds of records should be included in the definition? What constitutes relevance? What specific groups of records should be included? Those who submit statements and attend the meeting may be invited to offer oral testimony.

CONTACT PERSON FOR WRITTEN STATEMENTS AND MORE INFORMATION: David G. Marwell, Executive Director, Room 208, 600 E Street N.W., Washington, DC 20004, Telephone: (202) 724–0088, FAX: (202) 724–0457.

David G. Marwell,
Executive Director.

[FR Doc. 94–23386 Filed 9–16–94; 3:29 pm]

BILLING CODE 6820–TD–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 47672, September 16, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:00 a.m., September 20, 1994.

CHANGES IN MEETING: Meeting concerning Strings on Children's Clothing was canceled.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 16, 1994.

Sadye E. Dunn,
Secretary.

[FR Doc. 94–23384 Filed 9–16–94; 3:28 pm]

BILLING CODE 6355–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, September 26, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 16, 1994.

Jennifer J. Johnson,
Deputy Secretary of the Board.

[FR Doc. 94–23391 Filed 9–16–94; 3:55 pm]

BILLING CODE 6210–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND PLACE: 9:30 a.m., Tuesday, September 27, 1994.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6293A—Aviation Accident Report: Simmons Airlines, Inc., d/b/a American Eagle Flight 3641, False River Air Park, New Roads, Louisiana, February 1, 1994

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: September 16, 1994.

Bea Hardesty,
Federal Register Liaison Officer.

[FR Doc. 94–23328 Filed 9–16–94; 10:01 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 19, 26, October 3 and 10, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 19

There are no meetings scheduled for the Week of September 19.

Week of September 26—Tentative

There are no meetings scheduled for the Week of September 26.

Week of October 3—Tentative

There are no meetings scheduled for the Week of October 3.

Week of October 10—Tentative

Thursday, October 13

8:15 a.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: Dr. Andrew Bates (301) 504–1963.

Dated: September 16, 1994.

William M. Hill, Jr.,
SECY Tracking Officer,
Office of the Secretary.

[FR Doc. 94–23369 Filed 9–16–94; 2:01 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
September 20, 1994

Part II

Department of Education

Office of Vocational and Adult Education

Reauthorization of Vocational and Adult Education Programs; Notice

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

Reauthorization of Vocational and Adult Education Programs

AGENCY: Department of Education.

ACTION: Request for public comment on the reauthorization of vocational and adult education programs.

SUMMARY: The Secretary of Education invites written comments from the public regarding the reauthorization of programs under the Carl D. Perkins Vocational and Applied Technology Education Act; the Adult Education Act; and the National Literacy Act of 1991.

DATES: Written comments must be submitted on or before November 4, 1994.

ADDRESSES: Written comments should be addressed to Dr. Augusta Souza Kappner, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4090–MES, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Sharon Jones, Office of Vocational and Adult Education, 600 Independence Avenue, S.W., Room 4050–MES, Washington, D.C. 20202. Telephone: (202) 205–9241. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary is requesting public comments on the reauthorization of the Department's Vocational and Adult Education programs, including 18 programs funded at approximately $1.5 billion in fiscal year 1994. The funded programs include: Vocational Education Basic State Grants; Tech-Prep Education; Vocational Education Research; Vocational Education Demonstrations; Vocational Education Data Systems; Adult Education State Programs; State Literacy Resource Centers; Literacy Programs for Prisoners; Workplace Literacy Partnerships; and Adult Education National Programs, including the National Institute for Literacy.

Need for Reauthorization

The statutory authorization for these programs expires on September 30, 1995. In order to contribute in a timely manner to congressional reauthorization discussions, the Secretary is beginning a review of these programs. The Secretary intends to submit to Congress the Department's proposals to reauthorize these programs in early 1995. To ensure an opportunity for public participation, the Secretary invites public comments on the reauthorization.

How the Information Will Be Used

The Department has identified six general issues, listed as follows, around which to initiate reauthorization discussions and is particularly interested in receiving comments on those issues. The Department seeks to develop program initiatives that link vocational and adult education programs to the National Education Goals and to the national effort to enable all students to achieve to challenging academic standards. As such, the reauthorization will build on the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and the pending Elementary and Secondary Education Act reauthorization, each of which focuses on—providing students with greater opportunities to meet high standards; giving States and localities flexibility in the delivery of services in exchange for accountability for results; and directing Federal resources to communities where they are most needed, in amounts sufficient to make a real difference. The Department will also examine how Federal Vocational and Adult Education programs can be coordinated with other Federal programs, such as the Job Training Partnership Act (JTPA), Higher Education Act student aid programs, and Job Opportunities and Basic Skills Training (JOBS) that address similar purposes and serve similar populations.

The reauthorization process also provides an opportunity for resolution of issues affecting current programs that have arisen through evaluations, audits, program operations, budget deliberations, and previous legislative actions. Thus, the Department, while it will examine new program strategies, also seeks comment on the program-specific issues listed below.

Issues for Public Comment

The Secretary seeks comments and suggestions regarding reauthorization of these programs. Comments are especially invited on the following issues.

General Principles and Issues

1. Restructuring Vocational and Adult Education Programs To Achieve the National Education Goals

Results of recent studies of vocational and adult education reveal that considerable progress must be made in these areas if the Department hopes to achieve the National Education Goals. For example, the National Adult Literacy Survey found that as many as 90 million adults in the United States have serious problems with literacy, and, of those, approximately 40 to 44 million function at the lowest proficiency levels defined by the survey. With the American economy in transition, increasing global challenges to our economic competitiveness, and more jobs requiring a high level of technical expertise, our employment and training systems must produce greater numbers of skilled and adaptable workers than in the past.

How can the Federal Vocational and Adult Education programs best be structured to help the Nation achieve the National Education Goals, particularly the goal of ensuring that every American is literate and possesses the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship?

2. Promoting World-Class Standards for All Students

A major theme of the Administration's earlier legislative proposals has been creating an expectation for all students to meet challenging academic or occupational skill standards. The Department is now exploring options for making this theme a core principle for the Perkins Act and Adult Education reauthorizations as well. Along these lines, how can these Federal Acts best incorporate systems of standards and implement these standards for all vocational and adult education students, including in-school and out-of-school youth, postsecondary students, adults, and special populations? How can these standards best be coordinated with standards developed under Goals 2000 and the reauthorized Elementary and Secondary Education Act?

3. Connecting Vocational and Adult Education to Broader Objectives for Achieving Education Reform

How can some of the other key themes of the Administration's earlier proposals—such as offering greater State, local, and school flexibility in exchange for accountability for student outcomes (including authorizing waivers of certain statutory and regulatory requirements), encouraging integration of services across categorical programs, and targeting resources more effectively—be incorporated in the Vocational and Adult Education reauthorization?

4. Linking the Perkins Act and the Adult Education Act

Should some aspects of the Perkins Act and the Adult Education Act be meshed? For example, could the reauthorization coordinate resources to create a more coherent system for preparing youth and young adults for further education and employment?

5. Coordinating With Other Federal Programs and Initiatives

In recent reports, the General Accounting Office identified, by its count, over 150 programs with employment training aspects, including several vocational and adult education programs. The GAO reports contend that the programs overlap one another and are poorly coordinated, and that their proliferation makes it difficult for States and localities to forge comprehensive employment training strategies. In light of these findings, how should Federal Vocational and Adult education statutes relate to other Federal programs, such as JTPA, Higher Education Act student aid programs, and the Individuals with Disabilities Education Act, and to pending initiatives such as elementary and secondary education reform, welfare reform, and the Reemployment Act? How can Perkins Act and Adult Education Act resources be better deployed to meet national needs for workforce development?

6. Building Bridges Between Vocational Education, Adult Education, and the School-to-Work Opportunities Act

Should the Perkins Act or the Adult Education Act, or both, be revised to complement the School-to-Work Opportunities Act? If so, how should this be accomplished? What principles and goals would be achieved by this linkage? Should some or all of Perkins Act resources be structured specifically to support the School-to-Work act?

Issues That Cut Across Both Vocational and Adult Education Programs

Program Standards and Assessment

Under existing legislation, States have developed systems of standards for the evaluation of both vocational and adult education. Research suggests that these standards are not widely used for program improvement. How can the reauthorization encourage the use of program standards and assessment to improve the quality of vocational and adult education? How can valid program standards, meaningful assessments, and the use of both in program improvement, be instituted in vocational and adult education at the national, State, and project levels? Is it feasible to develop national standards for either program or core standards that apply to both programs?

Distribution of Funds

Both the Adult Education Act and the Perkins Act include funding formulas that specify how the Department of Education allocates vocational and adult education funds to the States. The adult education formula is based on the number of adults, 16 years of age and above, who are not required to be in school and have not received a high school diploma or its equivalent. The vocational education formula, under the 1990 amendments to the Perkins Act, remains essentially the same as under the original Vocational Education Act of 1963; the two main elements of the formula, a set of population factors and an income factor, have remained unaltered for over 30 years. Neither formula includes incentives for States to develop successful, innovative programs or to increase their financial support for vocational or adult education.

The Department intends to review the current allocation formulas for vocational and adult education programs and seeks comment on how those allocation formulas might be changed or how the distribution of funds might otherwise be improved. For example, what methods of distribution, other than formulas, could be designed? If formulas are retained, what bases, other than population, years of schooling, and income, might be used to allocate Federal funds? What other specific changes are desirable? For example, should the adult education formula be modified to reflect the fact that many clients, particularly those enrolled in English-as-a-Second Language courses, already have earned a high school diploma or its equivalent? To consider the impact on State allocations of the in-school population count? Should the vocational education formula include need-related factors such as the State unemployment rate or dropout rate? In general, should funding allocations to States, under either program, be more targeted?

Corrections Education

The Adult Education Act, the National Literacy Act, and the Perkins Act contain three separate provisions for providing educational services to incarcerated individuals. Section 326 of the Adult Education Act requires a State to reserve at least 10 percent of its adult education allocation to fund education programs for criminal offenders in corrections institutions and other institutionalized individuals. Literacy Programs for Prisoners, section 601 of the National Literacy Act, authorizes discretionary grants to establish and operate programs that reduce recidivism through the improvement of life skills and functional literacy. Under section 102(a)(5) of the Perkins Act, States are required to set aside at least one percent of their allocations for vocational education programs for juvenile and adult criminal offenders.

Are these three separate authorities effective at meeting the vocational and adult education needs of incarcerated individuals? Would this population be served better if these authorities were combined into a comprehensive education program for criminal offenders? If so, should there continue to be a set-aside in the Adult Education Act for institutionalized individuals? If so, should it also address the needs of non-incarcerated criminal offenders, such as parolees and probationers?

State Plans and Responsibilities

Are any aspects of the State organizational and planning responsibilities under the Adult Education Act or the Perkins Act overly burdensome? If so, which provisions of the Acts should be revised or deleted to ease any administrative burden they cause? To encourage comprehensive State plans, should any of the State organizational or planning responsibilities under the Acts be modified to require linkages to other Federal education planning requirements, such as those in Goals 2000, the reauthorized Elementary and Secondary Education Act, and the School-to-Work Opportunities Act?

Professional Development

Both the Adult Education Act and the Perkins Act include provisions for encouraging educators' professional development, but a more comprehensive system of Federal support for professional development may be required. Section 353 of the Adult Education Act requires that at least 15 percent of a State's allocation be reserved for demonstration projects and teacher training activities; at least two-thirds of this reservation must be used to train adult educators. Under the Perkins Act, States and local service recipients are authorized to use Basic grants and Tech-Prep funds for professional development, and the Act also authorizes support for professional development through other, currently unfunded authorities. Despite these provisions, adult education research has found that few instructors are certified adult educators—only 18 percent of full-time staff and 8 percent of part-time

staff. According to the recent National Assessment of Vocational Education (NAVE), both secondary and postsecondary vocational teachers have less formal education than academic teachers, while virtually all academic teachers and faculty members have at a least a bachelor's degree, 12 percent of secondary vocational teachers and 15 percent of postsecondary occupational faculty do not.

What steps can the Federal Government take through the reauthorization to ensure that vocational and adult educators possess the knowledge and skills necessary to be effective and teach to high standards? How can resources under the Perkins Act and the Adult Education Act be used to (1) Support professional development strategies that States will develop under the reauthorized Elementary and Secondary Education Act; and (2) ensure that educators learn and apply the principles of the School-to-Work Opportunities Act, so that schools accomplish real integration of academic and vocational skills?

Data Collection

In the course of collecting data for the National Evaluation of Adult Education Programs, the Department's contractor found weaknesses in the information management systems of many local programs. Many programs that participated in the study did not know how many different clients they serve during a year nor the number of students they serve on a given day. In vocational education, NAVE researchers found data inconsistencies across local tech-prep programs, and national data collection efforts in vocational education have long been problem-plagued. Yet, data collections can be extremely important because they can, if properly conducted, yield valuable information on program outcomes and can help drive funding and policy decisions at both the State and Federal levels.

What role can the Federal Government play to ensure that data collection activities in vocational and adult education programs yield meaningful information that can be used to improve programs and, ultimately, benefit the learner?

Issues Related to Individual Programs

Vocational Education

1. Basic State Grants

• Program Focus.

The last two reauthorizations of the vocational education basic grant have emphasized program improvement and achieving equitable access for special populations. Have these emphases produced the desired results of better preparation for, and success in, postsecondary education and the labor market for the target populations? Should the reauthorization address a revised or expanded set of objectives?

• Secondary and Postsecondary Education.

Should the Perkins Act be restructured to focus on assisting in the comprehensive reform and improvement of secondary education, for example by providing resources primarily to encourage the integration of academic and vocational education at the high school level? Alternatively, should the Act focus mainly on the improvement of postsecondary education, especially community college programs? As a related issue, should the Perkins Act continue to support vocational education only below the baccalaureate level? What attention should the Act give to the needs of out-of-school adults and youth, including dropouts?

• Discretionary Grant Competitions.

The final NAVE report recommends that Congress consider using some portion of Basic State Grant funds for competitive grants to States that propose, and show promise of effecting, comprehensive reforms consistent with the goals of the Act. Should the Department adopt this recommendation? More broadly, should the Act be revised to provide incentives for States to undertake comprehensive reform of their vocational education programs? How would these incentives account for the differences in progress States have already made in undertaking reforms?

• Role of the States.

Most observers agree that the 1990 amendments to the Perkins Act deemphasized the role of the States, yet the NAVE Independent Advisory Panel has contended that States hold the key to achieving vocational education reform at "a pace and scale sufficient to affect national workforce quality." Should the next reauthorization establish a stronger State role? For what purpose? Should the current State governance structure in the Act be modified to reinforce the State partnerships developing under the School-to-Work Opportunities Act? How would this be achieved?

• Targeting Funds for Special Populations.

The NAVE reports that individuals with special needs are overenrolled, relative to their presence in the population, in vocational education. Should the Perkins Act continue to target funds to areas with high concentrations of special populations? Should there be more emphasis on serving all students?

• Criteria for Services to Special Populations.

The 1990 Perkins Act amendments greatly increased the amount and specificity of procedural requirements related to provision of services to special populations. Are these provisions ensuring that members of special populations receive equal access to program services? Are the services provided of benefit to special populations? Could the level of prescription be reduced, in exchange for greater attention to higher outcomes for all students, including students with special needs? Are the current provisions and protections for special populations effective at ensuring that they have an equal opportunity to enter and succeed in the full range of high-quality vocational programs? Should the law continue to focus on providing the supplementary and other services that special populations need to succeed in vocational education, or, as the final NAVE report suggested, should it instead focus more on improvement of the vocational programs in which those students participate? If that strategy were carried forward, would other programs such as Title I of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act be able to provide the supplementary services special populations require?

• State Plans.

The current Perkins Act State planning requirements are some of the most prescriptive found in any Federal education legislation. Can the goals of these planning requirements be met without these controls on State process? Are the existing procedures for development of the plan and the items required to be included in the plan having their desired effect? If not, what changes should the Department consider?

• State Council on Vocational Education.

For over two decades, the Federal Government has funded the activities of State councils to advise on and assist in the development of vocational education programs in the States. While the 1992 JTPA amendments allow the States to consolidate their vocational education councils into broader State Human Resource Investment Councils, most States have continued to operate separate councils for vocational education.

Have the State vocational education councils fulfilled their objective of monitoring quality and ensuring

business involvement in the operation of programs in the States? Should they continue to be separately funded, or should their operation be at State discretion? Is maintaining the independence of councils chartered under the Perkins Act important? Does the existence of separate councils for vocational education contribute to a fragmentation of State policymaking within the broader areas of human resource development and employment? Should consolidation with the State Human Resource Councils be required in order to ensure coordination between JTPA and vocational education?

• Program Accountability.

According to the NAVE, most States have gone beyond the accountability requirements established in the 1990 amendments to the Perkins Act, developing fuller arrays of performance measures than required and applying them to all vocational programs, not just those receiving Perkins funds. However, while as of 1991–1992 State agencies had given a high priority to developing performance standards and measures, local implementation had not yet occurred. Have States and localities found the standards and measures useful for improving programs? How have States' experiences implementing these requirements compared to experiences with the accountability requirements under the JTPA? Should the reauthorization encourage States and localities to give more attention to development and implementation of performance standards and measures? If so, how can program performance best be evaluated and measured so as to benefit the grantees, allow for replication of successful projects, and provide meaningful information to the Department and to Congress? Additionally, should federally supported vocational programs, which currently must meet the accountability requirements set forth in the Perkins Act, be aligned with the standards-based reform activities States and localities will undertake under Goals 2000 and the reauthorized Elementary and Secondary Education Act?

Even beyond the standards and measures requirements, the 1990 Perkins amendments greatly increased the Act's focus on accountability, including adding language on "program improvement" to ensure that local grantees, and then States, take action to improve ineffective programs. Is this working? Should it be continued? Should the statute incorporate more incentives for success? How are the incentives and adjustments for special populations working? Should the statute allow States to take "corrective action" or cut funding to programs that repeatedly fail to reach the standards? More broadly, how can the reauthorization better emphasize accountability for results?

• Skill Standards.

Development of occupational and industry skill standards has become an important component of Federal policy. The Goals 2000: Educate America Act establishes a National Skill Standards Board to encourage the creation of a comprehensive system of voluntary skill standards and certification. The School-to-Work Opportunities Act includes, as a basic element of the school-based learning component, high academic and occupational skill standards to be developed under Goals 2000. Previously, the Departments of Education and Labor funded 22 grants to promote the development of skill standards and certification in a variety of industries. How could the reauthorization support the development of voluntary industry skill standards and portable skill certification? How would skill standards and certification of work-related skills affect educators developing curricula and employers seeking skilled workers?

• Coherent Sequence of Courses.

The NAVE found that, in general, secondary vocational programs are not as coherent or rigorous as they should be. They usually lack prerequisites, which maximizes access but reduces chances of aligning vocational courses with each other or with academic courses. In addition, the NAVE reported that most districts, including Title II grant recipients, do not meet the Perkins requirement for a coherent sequence of academic and vocational courses. Should the next reauthorization do more to ensure that more students have the opportunity to take a coherent sequence of academic and vocational courses? If so, how?

• All Aspects of the Industry.

The Perkins Act encourages local recipients to use basic State grant funds to provide vocational education programs that educate students in all aspects of an industry. The NAVE found that, as of the second year of implementation of the 1990 Perkins amendments, the "all aspects" language had only a minor impact on vocational programs. Should the reauthorization continue this area of statutory emphasis? If so, how can it be made more effective?

• Employer Interest and Involvement.

A 1993 survey conducted for the NAVE asked employers about their familiarity and satisfaction with vocational programs. About 60 percent of employers responding to the survey (which had a high non-response rate) said they were familiar with vocational education programs in their local areas. Forty-one percent were familiar with secondary vocational programs, and 47 percent with postsecondary programs. How should the reauthorization encourage business interest and involvement in occupational education? Along these lines, should the reauthorization seek to strengthen cooperative education, and, if so, how? Should employer involvement, through activities such as provision of work-based learning experiences, be given more prominence in the Act? If so, how can the Act increase business involvement, including increased workplace education in vocational and basic skills? What about other federally supported programs, including adult education programs?

• Sex Equity and Single Parents Programs.

The Perkins Act requires States to set aside 10.5 percent of Basic State Grant funds for programs to eliminate sex bias in vocational education and programs for single parents, single pregnant women, and displaced homemakers. Have these provisions worked effectively to eliminate sex bias and provide appropriate opportunities for single parents and displaced homemakers in vocational education? If not, what changes should be made? Do the two set-asides mesh with State priorities or are they overly restrictive? Are the two set-asides still needed?

Current law also requires that each State employ a full-time sex equity coordinator who administers the sex equity and single parents set-aside programs, collects and disseminates data on programs, provides technical assistance to local programs, and carries out other responsibilities. Is this requirement an effective means of ensuring gender-equitable practices in vocational programs? Is it still needed? Is it overly prescriptive?

• Native American and Hawaiian Natives Programs.

Currently, under Basic State Grants, the Department sets aside funds for Native Americans and Native Hawaiians. What role should Perkins play in providing vocational education for these populations? Are the current set-aside programs working effectively, or should they be revised? Would the population served through the program be better served if the program was administered by the Department of the Interior? Should the education needs of Native American youth be addressed through current means, or should greater efforts be made to provide resources for these students as part of

more comprehensive systems? If so, how would this work?

2. Tech-Prep Education

Tech-Prep programs have expanded tremendously since their introduction in the mid-1980s. The tech-prep approach is one of the few models for local school-to-work opportunity programs and can be built on by States as they implement statewide school-to-work opportunity systems. However, the NAVE found considerable inconsistency in the quality of these programs and in the extent to which they have incorporated all the program components described in the literature and the legislation. Should the reauthorized Act continue to provide categorical support for Tech-Prep education, or should broader support for School-to-Work Opportunities programs, including other models, be offered? If the Tech-Prep program is continued, how can the Act be amended to improve the quality of local projects? Should the Tech-Prep Education program include a mandatory work-based learning component?

3. Research and Dissemination

What should the role of the Department be in conducting vocational education research, and how should it be conducted? Through a national center or centers, as is currently the case for most of the Federal effort? Through field-initiated research? Through discretionary research projects determined through annual priorities? What should be the role of the Department in disseminating research results, descriptions of effective practices, and other information on vocational education? How can vocational education research and dissemination activities, along with similar activities in other programs and Departments, be structured in order to ensure maximum benefits and the efficient use of resources?

4. Demonstration Programs

The Vocational Education Demonstrations Program authority provides the Department and educational institutions an opportunity to try new approaches to vocational education and to learn about the effectiveness of these approaches. The Department has funded a large number of demonstration projects in a variety of areas. Has the field found these demonstrations useful in obtaining information on effective educational approaches? Should a Federal vocational education demonstrations program authority be continued? If so, what areas of inquiry might be emphasized? How should the demonstration projects conducted under this authority mesh with the newly authorized School-to-Work demonstration projects and other, related Federal demonstration activities?

5. Vocational Education and Occupational Information Data Systems

Currently, under the Perkins Act, the Departments of Education and Labor provide funding for the National Occupational Information Coordinating Committee (NOICC) and its affiliated State Occupational Information Coordinating Committees (SOICCs). The NOICC and the SOICCs assess current and future labor market conditions by assembling and disseminating occupational information. Is the current system useful to educators planning programs and to students selecting careers? If not, what changes should be made? How can the NOICC and SOICCs be linked to key elements of the Reemployment Act, such as One-Stop Career Centers?

6. Tribally Controlled Postsecondary Vocational Institutions

Through this program, the Department provides grants for the operation and improvement of tribally controlled postsecondary vocational institutions. Is the program fulfilling its purposes? Should the program be continued? Would the population served through the program be better served if the program was administered by the Department of the Interior?

7. Unfunded Authorities

Currently, the Perkins Act includes separate funding authorities for career guidance and counseling programs, business-labor-education partnerships, vocational education lighthouse schools, model community education employment centers, supplementary State grants for facilities and equipment, and other program improvement activities. None of these activities is currently funded. Should any of them be continued in the reauthorization? If so, why, and with what revisions? More specifically, how should the reauthorization address the area of career development and counseling?

Adult Education

1. State Programs

• Program Focus.

According to an analysis of 1990 census data, more than 44 million adults, nearly 27 percent of the adult population of the United States, have not received a high school diploma or its equivalent. The adult education formula targets this population. Of that population, 39 percent have completed eight or fewer years of education, but 61 percent have finished between nine and twelve years of schooling. Forty-one percent of the target population is 60 years of age or older, while 11 percent fall between 16 and 24 years of age. The variation in these individuals' educational needs and goals can make it difficult and time-consuming for adult educators to design effective instructional strategies for them. An additional complication is the broad statement of purpose contained in section 311 of the Adult Education Act, which focuses, in part, on providing assistance to States "* * * to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment. * * *"

Should Adult Education remain as a separate program serving a diverse population of adult learners with diverse needs? As one alternative, should the programs be refocused, for example on work preparation and literacy skills upgrading for adults? How can Federal Adult Education programs best be structured to achieve the current objectives in areas such as workforce preparation, family literacy, and English proficiency? Should program services be organized around target populations (such as dislocated workers or immigrants)? By program objective (such as basic skills or workplace literacy)?

• General Educational Development (GED) Preparation.

Many of the approximately one million adults who enrolled in Adult Secondary Education programs in 1993 had as their goal the attainment of a GED certificate. The value of the GED examination as a measure of academic competence and achievement has attracted increasing attention over the past several years as the percentage of high school certificates awarded through equivalency examinations has increased. In the United States, 475,602 of the 756,645 adults who took the GED in 1993 passed the test. Studies focusing on the skill levels, economic outcomes, and postsecondary education experience of GED holders have yielded inconclusive and sometimes contradictory results. For example, most research on the economic value of the GED shows that it is significantly less valuable than a high school diploma; on the other hand, some evidence indicates that GED recipients have higher incomes than high school dropouts.

Should attainment of a GED diploma continue to be a primary focus of Adult Secondary Education? If not, what

credential alternatives are available for adults seeking to complete their secondary education? Should local programs be encouraged to offer courses that allow adults to earn a high school diploma?

• Set-Asides.

By establishing set-asides and targeting the needs of special populations, the Adult Education Act requires States to use their Federal adult education funds to address the educational needs of a diverse population, for example: those in need of basic education services, the limited-English-proficient, incarcerated and otherwise institutionalized individuals, and public housing residents. While each of these groups may have a well-established need for adult education services, the mix of their needs may make it difficult for adult education providers to target limited resources on, and create solutions to, the most pressing problems in adult education.

Do the set-asides (e.g., 10 percent for criminal offenders in corrections education and other institutionalized individuals) required by the Adult Education Act further the purposes of the Act? Are they overly prescriptive? Should the reauthorized program continue to draw a distinction between adult basic education and adult secondary education and specify the maximum amount of funds that may be used for high school equivalency programs? Should the Gateway Grants program be continued?

• Special Experimental Demonstration Projects and Teacher Training.

For many years States have reserved formula grant funds to undertake special projects and to train adult educators. Has this set-aside been an effective means of spurring innovation and ensuring a trained adult education workforce, or should other means of achieving those objectives be considered? If this set-aside is retained, should States be required to establish mechanisms for the dissemination of effective practices?

• English-as-a-Second Language.

The National Evaluation of Adult Education Programs found that enrollments in English-as-a-Second-Language (ESL) courses are outpacing enrollments in Adult Basic Education (ABE) and Adult Secondary Education (ASE); during 1992, approximately 46 percent of all clients served in the Basic State Grants program were enrolled in ESL courses. The study also found that the characteristics of ESL clients vary considerably from those served in ABE and ASE. For example, about 50 percent of new ESL clients had a secondary school diploma or its equivalent, while 89 percent of new ABE/ASE students lacked such a credential.

Given the above findings, is the Adult Education program structured properly to address the English language instruction needs of limited English proficient individuals? If so, should the funding formula be changed, or should a new formula be added, to reflect the characteristics of this population?

• Achievement.

Should the Adult Education Act be amended to provide a greater focus on learner outcomes? What would be appropriate types and measures of learner outcomes? Should the Act prescribe creation of national program performance indicators? Should the Department, or States, use those outcomes in making resource allocation decisions?

• Client Persistence.

Although the amount and type of instruction adult learners need to meet their education goals varies because of their diverse characteristics and abilities, findings from the National Evaluation of Adult Education Programs reveal that about 15 percent of clients who register for adult education programs do not receive any instruction. How can the Federal Government promote the development of adult education programs that both attract and retain clients?

According to the National Evaluation of Adult Education Programs, the employment of at least some full-time staff and the provision of support services are two ways programs can increase client persistence and improve outcomes. However, over 80 percent of adult education instructors work part-time, and, although the vast majority of program directors reported meeting their clients' needs for counseling or job assistance, far fewer were able to meet other important support service needs. For example, 42 percent of female clients and 32 percent of male clients have children under the age of six, but only 43 percent of programs reported meeting their clients' child care needs "somewhat" or "fully." Does the Adult Education Act provide programs with sufficient flexibility or incentive to offer these services?

• Technology.

As demands on adults' time continue to escalate—with more people working longer hours, commuting greater distances, and coping with day care and elder care issues—the traditional, tutorial/classroom-based approach to adult education may not be the best mechanism, in many cases, for attracting and retaining adult education students. Incorporating new technologies into adult literacy programs may be one way to address the time constraints of the adult education student. The Office of Technology Assessment (OTA) found in a 1993 study that technology could help transform the field of adult literacy by, for example, allowing students to proceed at their own pace, customize their studies, and establish a schedule that is compatible with their daily lives. However, OTA also suggested that technology does not play a central role in most adult literacy programs.

Should the Federal Government encourage the use of more technology in adult literacy programs? If so, how can technology of proven effectiveness in enhancing learning be incorporated in cost-effective ways that learners will find beneficial?

• Linking Adult Education to Other Domestic Initiatives.

In recent years, policymakers have begun to turn to adult education services as a means of addressing other societal problems, for example, requiring participation in literacy programs for prison parole, continuation of welfare benefits, or, through Even Start, making adult literacy instruction a component of elementary and secondary education improvement. Should the Adult Education Act continue to address very general purposes, or should it be tied explicitly to national efforts to redevelop poor neighborhoods, end welfare dependency, fight crime, or ensure a smooth integration of new immigrants into American society? If the Adult Education Act is linked to other domestic initiatives, should the Act be revised to reflect the impact that mandatory participation requirements of certain programs, such as JOBS, have on adult education programs?

2. State Literacy Resource Centers

The National Literacy Act created the State Literacy Resource Centers program to stimulate the coordination of literacy services, enhance the capacity of State and local organizations to provide literacy services, and serve as a link between the National Institute for Literacy and service providers to share information and expertise.

Are State Literacy Resource Centers effective at meeting the goals of the Act? What steps, if any, should be taken at the Federal level to improve the effectiveness of the Centers? Should the funds allotted under this program continue to be channeled through State Governors?

3. Discretionary Programs

Current law authorizes several discretionary grant programs. Most of these programs are small and fund a limited number of recipients. Although the purpose of the programs is generally the demonstration of effective strategies for addressing particular issues or problems, funds often support local projects that, while beneficial to the recipients, are not designed in a way to yield lessons for broader use.

What role should Adult Education discretionary programs play in helping the Nation achieve its education goals? Would these resources be more effectively utilized under broader authorities, such as the Adult Education State formula grant program? Do the current programs encourage a piecemeal, rather than comprehensive, approach to adult education reform (with service providers devoting too much attention to applying for and administering separate competitive grants), or do they focus attention where it is needed? If there is a need for Federal demonstration programs, what changes are needed to ensure that they are designed as true demonstrations and serve their purposes effectively? What types of evaluation and reporting ought to be required?

4. Workplace Literacy Partnerships

At current funding levels, the National Workplace Literacy program makes discretionary grants for demonstrations that provide literacy training to meet workplace needs. Since its inception in 1988, this demonstration program has generated important information about effective workplace literacy practices. The program has produced curricula transferable for use by specific types of industries, and a national evaluation, currently underway, will generate additional information about program effectiveness. However, after eight years and 261 grants the continuation of the National Workplace Literacy program, in its current form, may not appreciably add to our base of knowledge in this area.

Should the Federal Government continue to support workplace literacy programs and, if so, in what form? For example, should workplace literacy become a key focus of the Adult Education State Grants program? Or should a separate, reconfigured workplace literacy program be designed?

5. Technical Assistance and Evaluation

Section 383 of the Adult Education Act provides assistance to States in evaluating the status and effectiveness of adult education programs and measuring the extent of adult illiteracy in the Nation. Funds support applied research, development, dissemination, evaluation, and technical assistance activities that show promise of contributing to the improvement and expansion of adult education. How should this authorization be structured to provide Federal leadership activities of maximum benefit to practitioners and policy-makers?

6. National Institute for Literacy

The National Literacy Act created the National Institute for Literacy to provide leadership and coordination on adult literacy issues; improve and expand the adult literacy service delivery system; and enhance the Nation's ability to achieve the National Goal of adult literacy and lifelong learning. The Institute has worked toward accomplishing this mission by, for instance—(1) Establishing a National Adult Literacy and Learning Disabilities Center; (2) supporting State capacity-building initiatives in the areas of interagency accountability and staff development; and (3) working with providers to design and implement a national literacy information and communications system.

Does the current statutory language provide for Institute activities that meet the needs of the literacy field? Are the currently authorized activities still appropriate? How should they relate to the national leadership priorities of the Department (as currently authorized under section 383)? How can the Institute work with the Departments of Education, Labor, and Health and Human Services, which form the interagency group that oversees the Institute, to ensure more effective coordination of literacy-related policy and programs at the Federal level?

Format for Comments. This request for comments is designed to elicit the views of interested parties on how the Department's vocational and adult education programs can be structured to meet the objectives of the reauthorization effort as stated in this notice.

The Secretary requests that each respondent identify his or her role in education and the perspective from which he or she views the educational system—either as a representative of an association, agency, or school (public or private), or as an individual teacher, student, parent, or private citizen.

The Secretary urges each commenter to be specific regarding his or her proposals and to include, if possible, the data requirements, timing, procedures, and actual legislative language that the commenter proposes for the improved or redesigned program.

Programs Under Consideration.

The following is a complete list of programs under the scope of the reauthorization:

Carl D. Perkins Vocational and Applied Technology Education Act

- Title I

Assistance to the States, Allotment and Allocation, State Organizational and Planning Responsibilities

- Title II

Basic State Grants, Other State-Administered programs, Secondary, Postsecondary, and Adult Vocational Education

- Title III

Community-Based Organizations, Consumer and Homemaking Education, Comprehensive Career Guidance and Counseling Programs, Business-Labor-Education Partnership Training, Tech-Prep Education, Supplementary State Grants, Community Education Employment Centers, Vocational Education Lighthouse Schools, Tribally Controlled Postsecondary Vocational Institutions.

- Title IV

Research and Development, Demonstration Programs, Vocational Education and Occupational Information Data Systems, Bilingual Vocational Training.

Adult Education Act

- Basic State Grants
- State Literacy Resource Centers
- National Adult Education Discretionary Program
- Workplace Literacy Partnerships (National and State-Administered Programs)
- National Workforce Literacy Strategies
- Education Programs for Commercial Drivers
- National Programs

Adult Migrant Farmworker and Immigrant Education
Adult Literacy Volunteer Training
State Program Analysis Assistance and Policy Studies
National Institute for Literacy

National Literacy Act of 1991

- Title III

Family Literacy Public Broadcasting Program

- Title VI

Functional Literacy and Life Skills Programs for State and Local Prisoners

Dated: September 13, 1994.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 94–23246 Filed 9–19–94; 8:45 am]

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federal register

Tuesday
September 20, 1994

Part III

The President

Executive Order 12928—Promoting Procurement With Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions

Proclamation 6720—Citizenship Day and Constitution Week, 1994

Proclamation 6721—National Farm Safety and Health Week, 1994

Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 12928 of September 16, 1994

Promoting Procurement With Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to enforce rigorously the letter and spirit of public laws that promote increased participation in Federal procurement by Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (SDBs) as described in section 8 of the Small Business Act (15 U.S.C. 637), Historically Black Colleges and Universities (HBCUs) as described in 34 C.F.R. 608.2, and Minority Institutions (MIs) as referred to in sections 1046(3) and 316(b)(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1135d-5(3) and 1059c(b)(1), respectively), it is hereby ordered as follows:

Section 1. *Policy Statement.* It is the policy of the United States Government that all department and agency heads and all Federal employees involved in the procurement of any and all goods and services shall assist SDBs, HBCUs, and MIs, as applicable, to develop viable, self-sustaining businesses capable of competing on an equal basis in the mainstream of the American economy. To that end, all Federal personnel shall commit to the letter and spirit of all laws promoting the participation of SDBs, HBCUs, and MIs in Federal procurement. The laws promote:

(a) the award of contracts to SDBs, HBCUs, and MIs through the Small Business Administration Section 8(a) Program, the Department of Defense Small and Disadvantaged Business Program, other agency programs, and through other specific statutory authority or appropriate means;

(b) the establishment of particular goals for SDBs, HBCUs, or MIs on an agency-by-agency basis and the requirement that prime contractors and other recipients of Federal funds attain similar goals in their procurement; and

(c) the establishment of other mechanisms that ensure that SDBs, HBCUs, and MIs have a fair opportunity to participate in Federal procurement.

Sec. 2. *Attainment of Goals.* All departments and agencies are required by law to establish participation goals of not less than 5 percent (15 U.S.C. 644(g)) or a greater percentage where otherwise required by law, as further provided in the Office of Federal Procurement Policy Letter No. 91–1 of March 11, 1991. Although the Federal Government has made substantial strides toward meeting established SDB, HBCU, and MI participation goals, certain departments and agencies have from time to time failed to aggressively pursue such goals. Department and agency heads are henceforth directed to execute, implement, and otherwise aggressively strive to fulfill the statutorily-mandated procurement participation goals. In addition, all departments and agencies are encouraged to set reasonable participation goals that exceed statutory requirements, to the extent permitted by law.

Sec. 3. *Subcontracting Plans.* The Small Business Act, (15 U.S.C. 637(d)) and other related laws require certain prime contractors to maximize the use of SDBs in subcontracting plans and strive to achieve stated goals through prime contractors' subcontracting practices. Department and agency heads are directed to aggressively enforce these prime contractors' obligations to maximize awards of subcontracts to eligible SDBs.

Sec. 4. *Office of Small and Disadvantaged Business Utilization ("OSDBU").*

(a) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) establishes in each Federal department and agency an OSDBU and requires that the Director of the OSDBU "be responsible only to, and report directly to, the head of such agency or to the deputy of such head" (15 U.S.C. 644(k)(3)). To the extent not prohibited by law, each department and agency shall ensure that the aforementioned direct reporting requirements are henceforth vigorously enforced.

(b) Because of the importance of the OSDBU function, each department and agency shall also, to the extent not prohibited by law, comply with the Office of Federal Procurement Policy Letter No. 79–1 of March 7, 1979, which provides implementation guidance on section 15k and the organizational placement and functions of the OSDBU.

Sec. 5. *Anti-fraud Enforcement.* All department and agency heads shall ensure that in enforcing the laws and requirements mentioned in this order, Federal benefits or contracts intended for SDBs, HBCUs, and MIs are not awarded to entities that are not legitimate SDBs, HBCUs, and MIs. Department and agency anti-fraud enforcement, however, shall not diminish agency vigor in achieving the aforementioned participation goals, which exist to promote the development of legitimate SDBs, HBCUs, and MIs. Nothing herein is intended to change self-certification requirements.

Sec. 6. *Periodic Reports to the President.* The Administrator of the Small Business Administration and the Administrator of the Office of Federal Procurement Policy shall report to the President periodically on the progress of all departments and agencies in complying with the laws and requirements mentioned in this order.

Sec. 7. *Independent Agencies.* Independent agencies are requested to comply with the provisions of this order.

Sec. 8. This order shall be effective immediately.

William J. Clinton

THE WHITE HOUSE,
September 16, 1994.

[FR Doc. 94–23453
Filed 9–19–94; 10:59 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6720 of September 16, 1994

Citizenship Day and Constitution Week, 1994

By the President of the United States of America

A Proclamation

The Constitution of the United States of America is as forceful and dynamic today as it was on September 17, 1787, the day it was signed by our Nation's Founders. This hallowed document has endured, and, indeed, has grown stronger over the 207 years since its adoption. Today, more than ever, the Constitution stands as a beacon for all who are dedicated to the principles of government by and for the people.

The Constitution provides a framework of both constancy and flexibility in a Nation that is forever striving to change for the better. But the Constitution is more than simply the blueprint of our system of government, more too than the guardian of our most sacred rights. It is a challenge to every American. For it is only through the daily actions of each one of us that the ideals it promises are fulfilled.

The Founders of our Nation pledged their lives, their fortunes, and their honor. They did not take their liberty or their new citizenship as Americans for granted. Neither did the countless courageous men and women who have sacrificed their lives to defend that Constitution since then. Nor have the millions of immigrants throughout our history who have braved daunting obstacles to reach the welcoming freedom of our shores. Following in our ancestors' great tradition of responsibility, Americans retain a solemn duty and a profound obligation to ensure that the world's boldest experiment in self-government continues to thrive and prosper.

Each of us has the right and the responsibility to be educated and informed, to vote for those who represent us, and to participate at every level of government. This week, let us give thanks for the freedoms we cherish and enjoy. Let us pause in our busy lives to learn more about and to appreciate our roles as American citizens. While our Constitution may set forth rights and liberties, only our citizens can maintain and guarantee them. Ours has never been an easy task, but it is one in which we will surely continue to succeed.

In recognition of the paramount importance of the Constitution to our Nation, and of all who, by birth or by naturalization, have attained the status of United States citizenship, the Congress by joint resolution on February 29, 1952 (36 U.S.C. section 153), designated September 17 as Citizenship Day, and by joint resolution of August 2, 1956 (36 U.S.C. section 159), requested the President to proclaim the week beginning September 17 and ending September 23 of each year as Constitution Week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim September 17, 1994, as "Citizenship Day," and the week beginning September 17 through September 23, 1994, as "Constitution Week." I call upon Federal, State, and local officials, as well as leaders of civic, educational, and religious organizations, to conduct meaningful ceremonies and programs in their schools, churches, and other community gathering places to foster a better understanding of the Constitution and of the rights and duties of citizenship.

I further call upon the officials of the Government to display the flag of the United States on all Government buildings on September 17, 1994, in honor of Citizenship Day.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 94–23462
Filed 9–19–94; 11:09 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6721 of September 16, 1994

National Farm Safety and Health Week, 1994

By the President of the United States of America

A Proclamation

America has long been known as the land of plenty. Our Nation's dedicated farmers, ranchers, and workers throughout the agricultural sector provide abundant and affordable food and fiber that feed and clothe the world. Their tremendous productivity is one of our country's greatest assets. To recognize and support the citizens who help to bring forth that extraordinary bounty, National Farm Safety and Health Week promotes the protection and well-being of America's agricultural providers.

Our country has made tremendous advances in improving safety and efficiency in agriculture over the years. But much remains to be done. Long hours, adverse weather conditions, natural disasters, human negligence, and uncertain market prices all affect both the livelihood and health of our farmers and ranchers. These individuals must also contend with a variety of other risks: exposure to hazardous chemicals, crop and livestock diseases, and the operation and maintenance of complex, powerful farm machinery. Vigilance and caution remain critical in the performance of daily tasks.

Children and young people are particularly at risk for serious injury. They are more prone to accidents and are especially vulnerable to dangerous chemicals. Their energy, optimism, and love are irreplaceable resources. We must all be mindful of the need to provide them proper supervision and guidance.

Agricultural workers face many dangers, but their work is among the most rewarding in the world. As the Earth's population grows and the demand for food rises, we depend on our providers now more than ever. We must strive to maintain our high standards of safety, while developing new technologies that will meet the challenges of tomorrow. This week, we resolve anew to make safety and health precautions indispensable tools in strengthening America's great farming and ranching traditions.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 18–24, 1994, as "National Farm Safety and Health Week." I call upon the agencies, organizations, and businesses that serve America's agricultural workers to strengthen their commitment to promoting farm safety and health programs. I further call upon all citizens of our great Nation to reflect on the importance of our agricultural heritage and to make the health and safety of our farmers, ranchers, and farm workers among our utmost national priorities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

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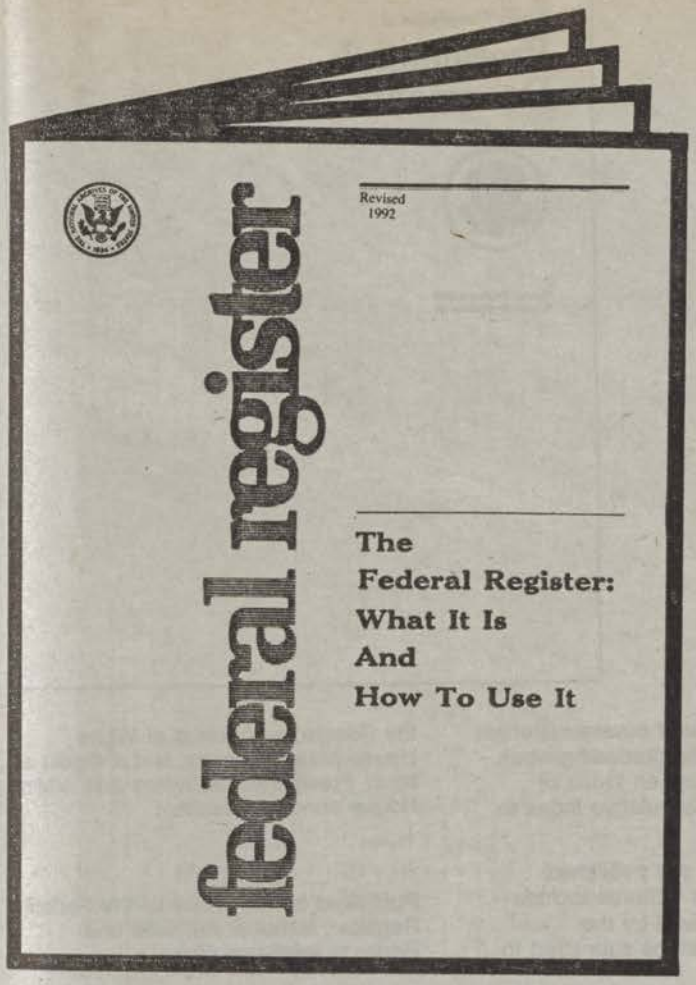

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