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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 205

RIN 0580–AA13

Clear Title—Protection for Purchasers of Farms Products

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Interim rule.

SUMMARY: This document amends regulations relating to the establishment and management of statewide central filing systems as they pertain specifically to the filing of ''effective financing statements'' for ''farm products'' as defined in section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631) by allowing electronic filing of effective financing statements without the signature of the debtor provided State law authorizes such a filing. This amendment brings the regulations into conformity with Sections 662 and 663 of the Federal Agriculture Improvement and Reform Act of 1996.

DATES: Interim rule effective October 22, 1996. Consideration will be given only to comments received on or before December 23, 1996.

ADDRESSES: To help ensure that comments are considered, send an original and three copies to: Industry Analysis Staff, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, STOP 3647, Room 3052, South Building, 1400 Independence Avenue S.W., Washington, D.C. 20250–3647. Please state that your comments refer to the clear title regulations. Comments received may be inspected at the above address during regular office hours, except holidays.

FOR FURTHER INFORMATION CONTACT: Gerald E. Grinnell, Director, Industry Analysis Staff, Grain Inspection Packers and Stockyards Administration, Room 3052, South Building, Washington, D.C. 20250–3647, 202/720–7455. Kimberly D. Hart, Esquire, Trade Practices Division, Office of the General Counsel, Room 2430, South Building, Washington, D.C. 20250–1400, 202/720–8160.

SUPPLEMENTARY INFORMATION:

Background

Section 1324 of the Food Security Act of 1985 (Pub. L. 99–198) (7 U.S.C. 1631) (hereinafter ''the Act'') provides that certain persons may be subject to a security interest in a farm product created by the seller under certain circumstances in which a lender files an ''effective financing statement'' with the ''system operator'' in a State that has a certified central filing system as defined by the Act. The Act requires the Secretary of Agriculture to prescribe regulations ''to aid States in the implementation and management of a central filing system.'' The Grain Inspection, Packers and Stockyards Administration was delegated with the Secretary's responsibilities under the Act. Final regulations were published on August 18, 1986 (51 FR 29450).

The Secretary's authority and responsibility under the Act is limited to certification and prescribing regulations to aid in the implementation and management of certified central filing systems. The Act does not give the Secretary the authority or responsibility for such matters as direct notification by secured parties, sales of and payment for products, procedures for payment or procedures for personal liability protection. Those matters are governed by State law. The Act does not contain any enforcement mechanism for noncompliance with the Act or its regulations.

Section 662 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) (hereinafter ''the Statute'') amended the Act and section 663 of the Statute provided that the amendment become effective upon enactment. The Act was amended because of concerns of States with certified central filing systems who desired to implement electronic filing procedures but could not because of the Act's requirement that the debtor must sign the effective financing statement. Commercial lenders also expressed concern and confusion due to the vagueness of the continuation provisions for effective financing statements included in the Act and its inconsistency with Article IX of the Uniform Commercial Code.

Prior to the Act's amendment by the Statute, lenders could not electronically file effective financing statements or amendments to the effective financing statements with State certified central filing systems because such statements were required to contain the signature of the debtor which could not be transmitted electronically. The amendment contained in the Statute was intended to remedy these concerns.

The interim rule will allow parties to electronically file effective financing statements and amendments to effective financing statements by removing the requirement of the debtor's signature. The interim rule will also allow States to distribute the master list by electronic means.

Immediate Action

Section 662 of the Statute amended the Act. Section 663 of the Statute provided that the amendment become effective upon enactment. It is therefore necessary to amend the regulations to conform to the amendment to the Act.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we make to the rule as a result of the comments.

Executive Order 12866

The Department of Agriculture is issuing this proposal in conformance with Executive Order 12866.

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies,

unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Information Collection

The Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA) has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–345 (5 U.S.C. 601). Section 1324 of the Food Security Act of 1985 (Pub. L. 99–198 (7 U.S.C. 1631)) (hereinafter ''the Act'') was amended by section 662 of the Federal Agriculture Improvement and Reform Act of 1996 (hereinafter ''the Statute''). Section 662 of the Statute provides an alternative means of filing effective financing statements. Therefore, small entities can choose the filing option that best meets their needs. If any cost would be incurred by filing electronically, filing paper documents is still acceptable. Therefore, the Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the previously approved information collection and recordkeeping requirements for 9 CFR Part 205 have been previously approved by the Office of Management and Budget under control number 0590–0004.

List of Subjects in 9 CFR Part 205

Agricultural commodities, Archives and records, Reporting and recordkeeping requirements.

For reasons set out in the preamble, 9 CFR Part 205 is amended as set forth below.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

1. The authority citation for Part 205 is revised to read as follows:

Authority: Section 1324(I), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631; 7 CFR 2.17 (e)(3), 2.56(a)(3), as amended June 17, 1986, 51 FR 22795; Sections 662 and 663, Pub. L. 104–127.

2. Section 205.101 is amended by revising paragraph (b)(11)(iii) and adding paragraph (e) to read as follows:

§ 205.101 Certification-request and processing.

* * * * *

(b) * * *

(11) * * *

(iii) All printed and electronic forms required to be used in connection with the system.

(c) * * *

(d) * * *

(e) To make changes to an existing certified central filing system, including changes necessitated or made possible by amendments to the Act, a written request to amend the existing certified central filing system must be filed together with such documents as are necessary to show that the system complies with the Act. The request must contain relevant new information consistent with the requirements specified elsewhere in this section.

3. Section 205.105 is amended by revising paragraph (b) to read as follows:

§ 205.105 Master list and portion thereof distributed to registrants—format.

* * * * *

(b) Section (c)(2)(E) requires the portion to be distributed in ''written or printed form.'' This means recording on paper by any technology in a form that can be read by humans without special equipment. The system may, however, honor requests from registrants to substitute recordings on any medium by any technology including, but not limited to, electronic recording on tapes or discs in machine-readable form, and on photographic recording on microfiche. It also includes, if requested by registrants, electronic transmissions whereby registrants can print their own paper copies.

* * * * *

4. Section 205.202 is amended by revising paragraphs (b) and (c) to read as follows:

§ 205.202 ''Effective financing statement'' or EFS.

* * * * *

(b) An EFS may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable State law under provisions of the Uniform Commercial Code or may be a paper document. An electronically filed EFS need not be a paper document and need not be signed. If an original or reproduced paper document of an EFS is filed with the State, it must be signed by both the secured party and the debtor, and be filed by the secured party.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date stamped and returned to the secured party, are discretionary with the State. If a State chooses to adopt such countermeasures, it is responsible for establishing procedures for recording the date and time when an EFS is received, and for meeting all legal requirements associated with filing and distributing information about security interests as required by § 205.101.

5. Section 205.209 is amended by revising paragraph (c) to read as follows:

§ 205.209 Amendment or continuation of EFS.

* * * * *

(c) The amendment must be filed in the same manner as the original filing. Note the requirement of section (c)(4)(E). The amendment may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable State law under provisions of the Uniform Commercial Code. An electronically filed amendment need not be signed. However, if an original or reproduced paper document is filed, the amendment must be signed by the secured party and the debtor, and be filed by the secured party.

* * * * *

Dated: October 16, 1996.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 96–27050 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–EN–P

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052–AB74

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: As required by the Debt Collection Improvement Act of 1996 (DCIA), the Farm Credit Administration (FCA) through the FCA Board (Board) adopts a final regulation that adjusts each civil money penalty (CMP) under its jurisdiction by the rate of inflation using the formula prescribed by DCIA. This statute requires all Federal agencies to adjust each CMP by the rate of inflation and promulgate implementing regulations within 180 days after enactment of DCIA and at least once every 4 years thereafter. Any increase in a CMP shall apply only to violations that occur after the effective date of this regulation.

EFFECTIVE DATE: October 23, 1996.

FOR FURTHER INFORMATION CONTACT:

Robert Child, Policy Analyst, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444; or

Richard Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: DCIA [1] amended the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 [2] (FCMPIA Act) to require every Federal agency to enact regulations that adjust each CMP [3] provided by law under its jurisdiction by the rate of inflation pursuant to the inflation adjustment formula in section 5(b) of the FCMPIA Act. Each Federal agency is required to issue these implementing regulations by October 23, 1996, which is 180 days after the date that DCIA was enacted, and at least once every 4 years thereafter. Section 7 of the amended FCMPIA Act specifies that only CMPs for violations that occur after October 23, 1996, will be adjusted for inflation.

The inflation adjustment is based on the percentage increase in the Consumer Price Index (CPI) [4] for the period from June of the calendar year when the CMP was last set until June of the calendar year preceding the adjustment.

Furthermore, each CMP that has been adjusted for inflation must be rounded to a number prescribed by section 5(a) of the FCMPIA Act.[5] Another provision of the DCIA limits the first adjustment of a CMP to an amount not in excess of 10 percent of the original penalty. The amount of increase in the final regulation would have been more if this limit did not exist.

Two provisions of section 5.32(a) of the Farm Credit Act of 1971, as amended (Act) authorize the FCA to impose CMPs on Farm Credit System (FCS) institutions and their related parties. First, section 5.32(a) specifies that any FCS institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of an institution who violates the terms of a temporary or permanent cease and desist order that has become final shall forfeit not more than $1,000 per day for each day during which such violation continues. This same statutory provision also states that ''[a]ny such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues.''

After the adjustment for inflation, the maximum penalty that the FCA can impose under section 5.32(a) of the Act for the violation of a cease and desist order is $1,100 per day. When the same inflation adjustment formula is applied to the CMP that section 5.32(a) imposes on FCS institutions and their affiliated parties for violations of the Act or regulation, the new maximum penalty amount is $550 per day. The FCA now adopts final § 622.61 which adjusts these two CMPs to the rate of inflation, as required by the DCIA.

DCIA provides Federal agencies with no discretion in the adjustment of CMPs to the rate of inflation, and it also requires the new regulation to take effect on October 23, 1996. Moreover, the regulation that the FCA adopts today to implement DCIA is ministerial, minor, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and comment for this new regulation is unnecessary, impractical, and contrary to the public interest, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(3)(B). These same reasons also provide the FCA with good cause to adopt an effective date for this regulation that is less than 30 days after the date of publication in the Federal Register. Furthermore, the FCA determines that pursuant to the requirements of section 5.17(c)(2) of the Act this regulation shall take effect prior to the expiration of the 30-day Congressional waiting period for final FCA regulatory action due to the Congressionally mandated effective date of October 23, 1996.

List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Crime, Investigations, Penalties.

For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 622 is revised to read as follows:

Authority: Secs. 5.9, 5.10, 5.17, 5.25–5.37 of the Farm Credit Act (12 U.S.C. 2243, 2244, 2252, 2261–2273); Pub. L. 104–134, sec. 31001(s), 110 Stat. 1321–358.

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

2. Subpart B is amended by adding a new § 622.61 to read as follows:

§ 622.61 Adjustment of civil money penalties by the rate of inflation pursuant to section 31001(s) of the Debt Collection Improvement Act of 1996.

(a) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of a final cease and desist order issued under section 5.25 or 5.26 of the Act shall not exceed $1,100 per day for each day the violation continues.

(b) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of any provision of the Act or any regulation issued under the Act shall not exceed $550 per day for each day the violation continues.

Dated: October 17, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–27057 Filed 10–21–96; 8:45 am]

BILLING CODE 6705–01–P

[1] Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, (Apr. 26, 1996). This provision is codified at 28 U.S.C. 2461 *note.*

[2] Pub. L. 101–410, 104 Stat. 890, (Oct. 5, 1990).

[3] Section 3(2) of the amended FCMPIA Act defines a CMP as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

[4] The CPI is published by the Department of Labor, Bureau of Statistics.

[5] For example, an increase that is less than a hundred dollars would be rounded to the nearest multiple of $10, and an increase over $100 but less than $1,000 would be rounded to the nearest multiple of $100.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

[Docket No. 961004279–6279–01; I.D. 111695A]

RIN 0648–AI53

Civil Enforcement Proceedings: Opportunity for an In-Person Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA is amending procedural regulations that govern civil administrative enforcement proceedings that it conducts. Necessitated by the Oceans Act of 1992, these regulatory amendments ensure the opportunity for an in-person hearing in administrative enforcement proceedings conducted by NOAA.

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Joel La Bissonniere, (301) 427–2202.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary), through NOAA, is responsible for enforcing a broad array of Federal statutes that protect living marine resources, including the Magnuson Fishery Conservation and Management Act, the Endangered Species Act (ESA), and the Marine Mammal Protection Act. In addition to criminal and forfeiture provisions, these statutes authorize NOAA to administratively assess civil penalties, including monetary fines and permit sanctions.

Under each of these statutes, entities that are accused of violations (respondents) are afforded the opportunity for a hearing. At this hearing, the respondent may challenge either the violations alleged or the penalty assessed.

NOAA has implemented extensive procedural regulations that govern these administrative hearings (see 15 CFR part 904). Under these regulations, once a violation has been documented, NOAA may issue a Notice of Violation and Assessment (NOVA) (see 15 CFR 904.101). This charging document identifies the respondent, the violation committed, and the penalty assessed. Once charged, a respondent may request an administrative hearing on the NOVA. This hearing, which ordinarily is held in-person before an administrative law judge (Judge), allows a respondent to present evidence challenging either the charges alleged or the penalty assessed.

Under the existing regulatory scheme, the opportunity for an in-person administrative hearing is qualified. The Judge may dispense with an in-person hearing if the Judge believes that it is more appropriate to resolve the proceeding by summary decision (see 15 CFR 904.210), or through the submission of affidavits and other written materials (see 15 CFR 904.250(c)). Additionally, the Judge may deny the opportunity for an administrative hearing as a sanction for failing to prosecute or defend a case in a timely manner, (see 15 CFR 904.212), or for failing to obey an order concerning discovery (see 15 CFR 904.240(f)(5)-(6)).

Congress has voiced concerns over whether Judges have used these procedural regulations wrongfully to deny in-person hearings to respondents. Concerns were based upon past administrative enforcement proceedings involving shrimp fishermen accused of failing to use a turtle excluder device in violation of the ESA. Believing that some of these cases were appropriate for summary decision under 15 CFR 904.210, a Judge refused to provide an in-person hearing, unless the respondent was able to show a genuine dispute as to a material fact. In the view of Congress, failure to provide an in-person hearing may violate the ESA and a respondent's due process rights under the Fifth Amendment of the U.S. Constitution.

Congress addressed these concerns in the Oceans Act of 1992, Pubic Law No. 102–587, Section 5218, 106 Stat. 5039 (Oceans Act). Under this section of the Oceans Act, Congress directed the Coast Guard and the Secretary to enter into a Memorandum of Agreement (MOA) regarding fisheries enforcement practices and procedures that provides, at a minimum, ''for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statute.''

By enacting this provision, Congress called upon NOAA to establish procedures that ''facilitate the appearance of individuals at hearings rather than setting up barriers to these appearances.'' H.R. Rep. No. 564, 102nd Cong., 19 (1992). To that end, a hearing request should be construed as a request for an in-person hearing, not simply a request to have the record reviewed by a Judge. Even in the absence of disputed facts, an in-person hearing should be provided so that a respondent may present his side of the story and any extenuating circumstances that properly relate to the proposed penalty. *Id*.

In compliance with this statutory mandate, NOAA and the Coast Guard executed a MOA in July 1993. This MOA is an addendum to an existing interagency agreement relating to joint fisheries enforcement practices and procedures. The MOA provides that individuals charged with violating Federal fisheries laws shall be informed of their rights when their case is processed. These rights include the opportunity, if timely requested, to an in-person hearing when the opportunity for a hearing is provided for by statute.

In addition to developing this MOA, and consistent with the intent of Congress, NOAA is now amending agency procedural regulations that govern administrative enforcement proceedings. With these amendments, NOAA seeks to ensure that respondents who file a timely request are provided with the opportunity for an in-person hearing.

Summary Decision

Under the current regulatory scheme, respondents may involuntarily lose their opportunity for an in-person hearing if the proceeding is resolved by summary decision. Section 904.210 presently authorizes the Judge to render a decision without a hearing if there is no genuine issue as to a material fact and a party is entitled to a summary decision as a matter of law. A summary decision may be requested by any party to the proceeding, or ordered by the Judge if deemed appropriate. The decision to dispose of a case by way of summary disposition rests exclusively with the discretion of the Judge.

In response to concerns expressed by Congress, NOAA is amending this provision. As amended, the Judge may dispose of all or part of a proceeding by way of summary decision only if each and every party to the proceeding concurs. If any party to the proceeding objects, summary decision is unavailable, notwithstanding the absence of any genuine issue concerning any material fact. By requiring unanimous concurrence, the opportunity for an in-person hearing cannot be lost, unless voluntarily waived by a respondent.

Dismissal for Failure to Defend

Respondents also may lose their opportunity for an in-person hearing if they fail to proceed properly with their defense (see 15 CFR 904.212). Failure to defend may occur if a respondent fails to file documents, fails to comply with orders issued by the Judge, or indicates in any other manner an intention to terminate participation in the proceeding. In such instances, the Judge is authorized to issue any order that will facilitate resolution of the case, including dismissing the case or rendering a final decision adverse to the respondent.

In light of the Oceans Act, NOAA is amending this provision. As amended, if a respondent fails to participate as required by these regulations, the Judge may issue any order that will facilitate resolution, except an order which dismisses the case. This amendment prevents the Judge from denying a respondent an in-person hearing for failing to timely defend, or otherwise comply with any order issued by the Judge.

Notwithstanding this amendment, NOAA recognizes that justice is poorly served unless respondents properly pursue their claims. Respondents that timely request a hearing, but subsequently fail to file documents, comply with judicial orders, or advance

their defense in any way, squander valuable and limited agency resources, and frustrate implicit statutory goals. The administration of justice necessitates regulations that vest judges with the authority to secure compliance with procedural requirements, and the authority to expeditiously conclude proceedings that are abandoned by a respondent.

Accordingly, as amended, § 904.212 permits the Judge to fashion any order, short of dismissal, that may be appropriate in the event a party fails to participate as required by these regulations. Such order may include, but is not limited to, sanctions consistent with those set forth in § 904.240(f).

Discovery Sanctions

Under § 904.240(f), the opportunity for a hearing also may be forfeited if a respondent fails to comply with discovery that is ordered by the Judge. Separate and apart from the authority found at § 904.212, the Judge may impose a wide array of sanctions for failure to obey any subpoena or order concerning discovery. Sanctions include striking all or part of a pleading (including a hearing request) (see 15 CFR 904.240(f)(5)), and rendering a decision of the proceeding against a party (see 15 CFR 904.240(f)(6)).

Consistent with the intent of Congress as set forth in the Oceans Act, NOAA is amending this provision. Under this amendment, the Judge may strike any pleading (except a hearing request), motion, or other submission concerning any matter covered by a subpoena or order defied by a respondent. Section 904.240(f)(6) is deleted entirely. The effect of these changes is that a respondent cannot be denied an in-person hearing as a sanction for failing to comply with a subpoena or order concerning discovery.

As with respondents who fail to pursue their claims, NOAA understands the need for effective sanctions that will ensure compliance with prehearing discovery requirements. To that end, all other sanctions set forth in § 904.240(f) remain in effect and may be used to penalize respondents that either fail or refuse to obey subpoenas or orders concerning discovery.

Submission of Written Materials

Finally, respondents also may lose the opportunity for an in-person hearing if the Judge believes that the filing of written submissions obviates the need for oral hearing. Pursuant to § 904.250, a Judge may order that all or part of a proceeding be heard on submissions or affidavits, if it appears that all issues of material fact may be resolved by means of written submissions, without the need of oral testimony. Unlike § 904.210, which applies to summary decisions, the Judge may forego an in-person hearing even if material facts are genuinely in dispute. The decision to proceed by way of written submissions rests exclusively with the Judge.

Consistent with the intent of Congress, NOAA is amending this provision. As amended, the Judge may hear a proceeding by way of written submissions only if acceptable to each party to the proceeding. By requiring the unanimous concurrence of each party to the proceeding, the opportunity for an in-person hearing will not be lost, unless voluntarily waived by a respondent.

Classification

This final rule is a rule of agency procedure, which amends regulations governing civil administrative enforcement proceedings. As such, NOAA finds that pursuant to 5 U.S.C. 553(b)(A), prior notice and opportunity for public comment are not required. Additionally, because notice and opportunity for comment are not required under 5 U.S.C. 553 or any other law, there is no need to comply with the provisions of the Regulatory Flexibility Act. 5 U.S.C. 601 *et seq.*

Because this is not a substantive rule, it is not subject to the 30-day delay in effective date required by 5 U.S.C. 553(d).

List of Subjects in 15 CFR Part 904

Fisheries, Enforcement.

Dated: October 8, 1996.

Terry D. Garcia,

General Counsel, National Oceanic and Atmospheric Administration.

For the reasons set out in the preamble, 15 CFR part 904 is amended as follows:

PART 904—CIVIL PROCEDURES

1. The authority citation for part 904 is revised to read as follows:

Authority: 16 U.S.C. 1801–1882; 16 U.S.C. 1531–1543; 16 U.S.C. 1361–1407; 16 U.S.C. 3371–3378; 16 U.S.C. 1431–1439; 16 U.S.C. 773–773k; 16 U.S.C. 951–961; 16 U.S.C. 1021–1032; 16 U.S.C. 3631–3644; 42 U.S.C. 9101 *et seq.*; 30 U.S.C. 1401 *et seq.*; 16 U.S.C. 971–971i; 16 U.S.C. 781 *et seq.*; 16 U.S.C. 2401–2412; 16 U.S.C. 2431–2444; 16 U.S.C. 972–972h; 16 U.S.C. 916–916l; 16 U.S.C. 1151–1175; 16 U.S.C. 3601–3608; 16 U.S.C. 1851 note; 15 U.S.C. 4201 *et seq.*; Pub. L. 102–587, 106 Stat. 5039.

2. Section 904.210 is revised to read as follows:

§ 904.210 Summary decision.

The Judge may render a summary decision disposing of all or part of the proceeding if:

(a) Jointly requested by every party to the proceeding; and

(b) There is no genuine issue as to any material fact and a party is entitled to summary decision as a matter of law.

3. Section 904.212 is revised to read as follows:

§ 904.212 Failure to prosecute or defend.

Whenever the record discloses the failure of either party to file documents, respond to orders or notices from the Judge, or otherwise indicates an intention on the part of either party not to participate further in the proceeding, the Judge may issue any order, except dismissal, that is necessary for the just and expeditious resolution of the case.

4. Section 904.240 is amended by revising paragraph (f)(5) and removing paragraph (f)(6):

§ 904.240 Discovery generally.

* * * * *

(f) * * *

(5) Strike part or all of a pleading (except a request for hearing), a motion or other submission by the party, concerning the matter or matters covered by the order or subpoena.

5. Section 904.250 is amended by revising paragraph (c) to read as follows:

§ 904.250 Notice of time and place of hearing.

* * * * *

(c) Upon the consent of each party to the proceeding, the Judge may order that all or part of a proceeding be heard on submissions or affidavits if it appears that substantially all important issues may be resolved by means of written materials and that efficient disposition of the proceeding can be made without an in-person hearing. For good cause, the Judge may, in his sole discretion, order that the testimony of witnesses be taken by telephone.

[FR Doc. 96–26944 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Interpretation Regarding Use of Electronic Media by Commodity Pool Operators and Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period and effective date of interpretation.

SUMMARY: On August 8, 1996, the Commodity Futures Trading Commission (''Commission'') issued an Interpretation Regarding Use of Electronic Media by Commodity Pool Operators and Commodity Trading Advisors, 61 FR 42146 (August 14, 1996). The deadline for the submission of comments and the effective date was originally October 15, 1996. The Commission has determined to extend the period for public comment for thirty days, or until November 14, 1996. In addition, the Commission has determined to delay the effective date for a period of sixty days, or until December 16, 1996, to allow the Commission sufficient time to consider any additional comments that may be received during the extended comment period. The Pilot Program for electronic filing of commodity pool operator and commodity trading advisor disclosure documents will commence on October 15, 1996, as originally provided.

DATES: The Interpretative Release referenced herein is effective on December 16, 1996. Written comments must be received on or before November 14, 1996.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretarycftc.gov.

FOR FURTHER INFORMATION CONTACT: Susan C. Ervin, Deputy Director/Chief Counsel, or Gary L. Goldsholle, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone number: (202) 418–5450. Facsimile number: (202) 418–5536. Electronic mail: tmcftc.gov.

SUPPLEMENTARY INFORMATION: On August 8, 1996, the Commission issued an Interpretation Regarding Use of Electronic Media by Commodity Pool Operators and Commodity Trading Advisors (''Interpretative Release'' or ''Release''). The Interpretative Release was designed to provide commodity pool operators (''CPOs''), commodity trading advisors (''CTAs''), and associated persons (''AP'') thereof, with guidance concerning the application of the Commodity Exchange Act and regulations thereunder to activities involving electronic media. The Commission sought comment on all issues discussed in the release, and any related issues, and provided that the effective date of the Interpretative Release would be October 15, 1996 and that comments should be received on or before that date. On October 7, 1996, the Managed Futures Association requested that the Commission postpone the effective date of the Interpretative Release until the Commission has completed its review of all comments received on the Release. The Commission has also received a second request to extend the comment period and the effective date.

The Commission has determined to extend the comment period on the Interpretative Release for an additional thirty days and the effective date of the release for an additional sixty days. These postponements will provide additional time both for public comment on relevant issues and for the Commission's review of such comments prior to the effective date of the Release. The Commission emphasizes, however, that this deferment does not affect the statutory and regulatory requirements applicable to persons acting as CPOs and CTAs, whether by means of electronic media or otherwise. As noted in the Interpretative Release, ''persons using electronic media are subject to the same statutory and regulatory requirements under the Commission's regulatory framework as persons employing other modes of communication.'' 61 FR at 42150. The Commission sought to assist such persons in the use of electronic media by publishing guidance as to specific applications of existing requirements in the Interpretative Release. The Commission also sought comment in various sections as to whether alternative methodologies would be acceptable.[1] The Commission also notes that the Commission staff letters and advisories cited in the Release, as stated therein, ''represent interpretations by the Commission's staff and do not necessarily represent interpretations by the Commission.'' 61 FR at 42149 n.24. These staff statements provide relevant precedent and guidance.

Finally, although the Commission is delaying the effective date of the Interpretative Release pending the receipt and review of additional comments, CPOs and CTAs may continue to rely on the positions stated therein as ''safe harbor'' positions to aid CTAs and CPOs making use of electronic media pending further statements of the Commission's views. Additionally, the Pilot Program for electronic filing of CPO and CTA disclosure documents will commence on October 15, 1996, as originally proposed and is not affected by these extensions.

Issued in Washington, D.C. on October 15, 1996, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–26949 Filed 10–21–96; 8: 45am]

BILLING CODE 6351–01–M

[1] For example, with respect to the use of personal identification numbers to substitute for manually signed acknowledgments, the Commission welcomed comment ''concerning other procedures for electronic acknowledgment that are consistent with the objectives stated above.'' 61 FR at 42160.

RAILROAD RETIREMENT BOARD

20 CFR Part 368

RIN 3220–AB20

Prohibition of Cigarette Sales to Minors

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) adds regulations to implement the Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act which prohibits the sale of tobacco through vending machines and the distribution of free tobacco samples on Federal property.

DATES: *Effective Date:* This regulation will be effective October 22, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone (312) 751–4513, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Board conducts its business in real property owned or leased by the General Services Administration. All property occupied or reserved for Board use must comply with Public Law 104–52. This law provides that tobacco products may not be sold in vending machines and free samples of tobacco products may not be distributed in or around property occupied and maintained by the Board. The Board will permit the sale of tobacco products to individuals 18 and older by staffed concession stands on property occupied and maintained by the Board.

The agency has determined that this is not a significant regulatory action for purposes of Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

The Board published this rule as an interim final rule on March 4, 1996 (61

FR 8213), and comments were invited by April 13, 1996. No comments were received. Accordingly, the interim final rule is adopted as a final rule without change.

By Authority of the Board.

For the Board,

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–26137 Filed 10–21–96; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

RIN 2135–AA09

Seaway Regulations and Rules: Inflation Adjustment of Civil Monetary Penalty

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: This final rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Debt Collection Improvement Act of 1996. The rule adjusts the amount of the statutory civil penalty for violation of the Seaway Regulations and Rules under the authority of the Ports and Waterways Safety Act of 1972, as amended (PWSA).

EFFECTIVE DATE: This rule is effective on October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 NOTE, as amended by the Debt Collection Improvement Act of 1996 (Act), Public Law 104–134, April 26, 1996, requires the inflation adjustment of civil monetary penalties (CMP) to ensure that they continue to maintain their deterrent value. The Act requires that not later than 180 days after its enactment, October 23, 1996, and at least once every four years thereafter, the head of each agency shall, by regulation published in the Federal Register, adjust each CMP within its jurisdiction by the inflation adjustment described in the 1990 Act. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index for all urban consumers (CPI), published annually by the Department of Labor, for the month of June of the calendar year preceding the adjustment, exceeds the CPI for the month of June of the calendar year in which the amount of the CMP was last set or adjusted pursuant to law. Nevertheless, the first adjustment to a CMP may not exceed 10 percent of that penalty amount. Any increased penalties shall apply only to violations which occur after the date on which the increase takes effect.

33 U.S.C. 1232(a) imposes a maximum $25,000 civil penalty for a violation of a regulation issued under the authority of the PWSA, which includes the Seaway Regulations and Rules in 33 CFR Part 401. The penalty was set in 1978. The CPI for June, 1978, was 195.3. The CPI for June, 1996, is 469.5. The inflation factor, therefore, is 469.5/195.3 or 2.40. The maximum penalty amount after the increase and statutory rounding would be $60,000 (2.4×25,000). The new maximum penalty amount after applying the 10% limit on an initial increase is $27,500. Accordingly, paragraph (a) of § 401.102 is being amended to change the amount of the penalty from $25,000 to $27,500.

Regulatory Evaluation

This final rule is exempt from Office of Management and Budget review under Executive Order 12866 because it is limited to the adoption of statutory language, without interpretation. As stated above, the provisions contained in this final rulemaking set forth the inflation adjustment in compliance with the Act for a specific, applicable CMP under the authority of the Corporation. The great majority of individuals, organizations, and entities addressed through the Seaway Regulations and Rules do not commit violations and, as a result, we believe any aggregate economic impact of this revision will be minimal, affecting only those who violate the regulations. As such, the final rule and its inflation adjustment should have no effect on Federal and State expenditures. This final rule has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This final rule does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

Federalism

The Corporation has analyzed this final rule under the principles and criteria in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Notice and Public Comment

Notice and an opportunity for public comment under the Administrative Procedure Act (APA) (5 U.S.C. 553) are waived. The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with those procedures because they are impracticable, unnecessary, or contrary to the public interest. The Corporation has determined under 5 U.S.C. 553(b)(3) that good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports with the statutory authority in the Act with no issues of policy discretion. Accordingly, the Corporation finds that the opportunity for prior comment is unnecessary and contrary to the public interest and is issuing this revised regulation as a final rule that will apply to all future cases under this authority.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and record keeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends Part 401—Seaway Regulations and Rules (33 CFR Part 401) as follows:

PART 401—[AMENDED]

1. The authority citation for Subpart B or 33 CFR part 401 is added to read as follows and the authority citations at the end of §§ 401.101 and 401.102 are removed:

Authority: 33 U.S.C. 981–990, 1231 and 1232; and 49 CFR 1.52.

§ 401.102 [Amended]

2. Paragraph (a) of § 401.102 is amended by removing the number ''$25,000'' and adding, in its place, the number ''$27,500''.

Issued at Washington, D.C. on October 17, 1996.

Saint Lawrence Seaway Development Corporation.

Gail McDonald,

Administrator.

[FR Doc. 96–27032 Filed 10–21–96; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV017–6003a; WV040–6005a; FRL–5619–8]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Prevention of Significant Deterioration: NO_2 and PM–10 Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving two State Implementation Plan (SIP) revisions submitted by the State of West Virginia. The first revision amends West Virginia's Prevention of Significant Deterioration (PSD) regulation by amending definitions, establishing the maximum increase in ambient nitrogen dioxide concentrations allowed in an area above the baseline concentration (the increment) and updating the references to federal air quality modeling procedures. The second revision removes increment provisions for total suspended particulates (TSP) and replaces them with increment provisions for particulate matter with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10). The second revision also updates the references to federal air quality modeling procedures and adds provisions for pollution control projects at electric utilities. The intended effect of this action is to approve revisions to West Virginia's PSD regulation as it meets federal requirements. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective December 23, 1996 unless notice is received on or before November 21, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Kathleen Henry, Chief, Permit Programs Section, Mailcode 3AT23, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 566–2062, donahue.lisa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On August 10, 1993, the State of West Virginia submitted formal revisions to its State Implementation Plan (SIP). Only the revisions to Title 45 Code of State Rules Series 14, Permits for Construction and major Modificatiion of Major Stationary sources of Air Pollution for the Prevention of Significant Deterioration (45 CFR 14) are the subject of this rulemaking notice. The other portions of the August 10, 1993 submittal, including amendments to 45 CSR 5, 19, 21, and 29, are the subjects of separate rulemaking notices. West Virginia submitted another formal revision to 45 CSR 14 on May 20.

The August 10, 1993 SIP revision consists of changes to 45 CSR 14 which amend definitions, establish the maximum increase in ambient nitrogen dioxide concentrations allowed in an area above the baseline concentration (the increment) and update the references to federal air quality modeling procedures. The May 20, 1996 revision consists of additional changes to 45 CSR 14 which add provisions for a PM–10 increment, further update the federal modeling guideline reference, and add provisions to facilitate pollution control projects at electric utilities.

EPA evaluated West Virginia's SIP revisions and concluded that the revised regulations strengthen the SIP by providing for the protection of the PSD increments for nitrogen dioxide and PM–10, and meet the federal PSD requirements of 40 CFR 51.166.

The revised regulations are enforceable by EPA, with the exception of the definition of ''potential to emit''. In the definition of ''Potential to Emit'' (§ 45–14–2.6), the language is written to allow use of limitations on potential to emit (PTE) that would be enforceable by the West Virginia Chief of Air Quality, but not EPA. Two recent court decisions (*National Mining Association* v. *EPA*, 59 F.3d 1351 (D.C. Cir. 1995) and *Chemical Manufacturers Ass'n* v. *EPA*, No. 89–1514 (D.C. Cir. Sept. 15, 1995)) spoke to the limitations in the capacity of a source to emit a pollutant and whether those limitations must be federally enforceable. Since the *Chemical Manufacturers Ass'n* v. *EPA* ruling vacated the federally enforceable portion of the definition of PTE, EPA cannot require it in West Virginia's PSD program.

A more detailed evaluation of the submitted revisions, including a discussion of the court rulings, is provided in two Technical Support Documents, which are available upon request from the Regional EPA office listed in the **ADDRESSES** section of this document.

EPA is approving these SIP revisions without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective December 23, 1996 unless, by November 21, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 23, 1996.

Final Action

EPA is approving the State of West Virginia's revisions to 45CSR14 ''Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration'' submitted on August 10, 1993 and May 20, 1996.

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.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

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

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve revisions to West Virginia's Prevention of Significant Deterioration program (45 CSR 14) must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter.

Dated: September 20, 1996.

Stanely L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart XX of chapter I, title 40 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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(39) and (c)(40) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(39) Revisions to the West Virginia Regulations 45 CSR 14 submitted on August 10, 1993 by the West Virginia Department of Commerce, Labor & Environmental Resources:

(i) Incorporation by reference.

(A) Letter of August 10, 1993 from the West Virginia Department of Commerce, Labor & Environmental Resources transmitting revisions to 45 CSR 14 ''Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration''.

(B) Revisions to 45 CSR 14, effective July 7, 1993, including revisions to definitions and the addition of NO_2 increment provisions. Not included in this incorporation by reference are 45 CSR 14 paragraphs 1.1, 1.2, 2.1, 2.4, 2.9, 2.11, 2.13, 2.13, 2.22, 2.26, 2.27, 2.32, 2.33 to 2.38, 3.2, 4.1 to 4.3, 5.1, 7.1 to 7.4, 8.1, 10.1, 10.4, 10.7, and 11.1.

(40) Revisions to the West Virginia Regulations 45 CSR 14 submitted on May 20, 1996 by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of May 20, 1996 from the West Virginia Division of Environmental Protection transmitting revisions to 45 CSR 14 ''Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration''.

(B) Revisions to 45 CSR 14, effective May 1, 1995, including the addition of PM–10 increment provisions, revisions to definitions, and preconstruction review requirements for electric steam generating units. Not included in this incorporation by reference are 45 CSR 14 paragraphs 4.1 to 4.3, 7.3, 8.1, 10.1, 10.2, 10.4, and 11.1.

[FR Doc. 96–27004 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA097–4030; FRL–5635–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Visible Emissions Rules for Allegheny County Pertaining to Blast Furnace Slips

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to Agency procedures for approving minor State Implementation Plan (SIP) revisions, this action identifies a plan revision submitted by Pennsylvania on behalf of Allegheny County which EPA approved and incorporates the relevant material into the Code of Federal Regulations. This revision deletes the exemption of blast furnace slips from Allegheny County's visible emissions regulations. This action lists the SIP revision that EPA has approved and incorporates the relevant material into the code of Federal Regulations. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action is effective October 22, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 566–2108 or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has approved the following minor SIP request under section 110(a) of the Clean Air Act (CAA):

State	Pollutant	Subject matter	Source	Submittal date	Approval date
Allegheny County	PM_{10}	Blast furnace slips (Article XX, Sections 401.B.1 and 518).	USX Corporation; Shenango Steel Corporation.	September 25, 1989	December 27, 1989.

EPA has determined that this SIP revision complies with all applicable requirements of the Clean Air Act and EPA requirements concerning such revisions. Due to the minor nature of this revision, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revisions would have been ''unnecessary and contrary to the public interest,'' and hence, was not required by the Administrative Procedures Act, 5 U.S.C. 553(b). Each of these SIP approvals became final and effective on the date of EPA approval as listed in the chart above.

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.

Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 1996. Filing a petition for reconsideration by the Administrator of this final rule pertaining to EPA's approval of Allegheny County's provisions for blast furnace slips does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 2, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(100) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to Article XX (Air Pollution Control) of the Allegheny County Health Department Rules and Regulations submitted on September 25, 1989 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by Reference

(A) Letter of September 25, 1989 from the Pennsylvania Department of Environmental Resources transmitting revisions to Article XX (Air Pollution Control) of the Allegheny County Health Department Rules and Regulations governing visible emissions.

(B) Revision to Article XX, Section 401.B (Visible Emissions-Exclusion) and deletion of Article XX, Section 518 (Blast Furnace Slips), effective July 1, 1989.

(ii) Additional Material

(A) Remainder of September 25, 1989 State submittal pertaining to Article XX, Sections 401 and 518.

[FR Doc. 96–27001 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[LA–23–1–6871a; FRL–5636–6]

Approval and Promulgation of State Implementation Plan; Louisiana; 15 Percent Rate-of-Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving a revision to the Louisiana State Implementation Plan (SIP) for the purpose of satisfying the 15 percent rate-of-progress requirements of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality standard (NAAQS) for ozone.

DATES: This ''direct final'' rule is effective December 23, 1996 unless adverse comments are received by November 21, 1996. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7214.

Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70810.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne McDaniels, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act; Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7617q. Section 182(b)(1) of the Act requires all ozone nonattainment areas classified as moderate and above to submit a SIP revision by November 15, 1993, which describes, in part, how these areas will achieve an actual reduction in emissions of volatile organic compounds (VOC) of at least 15 percent during the first six years after enactment of the Act (November 15, 1996). Emissions and emissions reductions shall be calculated on a typical weekday basis for the ''peak'' 3-month ozone period (generally June through August). In Louisiana, the Baton Rouge ozone nonattainment area is classified as ''serious'' and is subject to the section 182(b)(1) 15 percent rate-of-progress requirements. The Baton Rouge ozone nonattainment area is comprised of the following parishes: East Baton Rouge, West Baton Rouge, Iberville, Ascension, Livingston, and Pointe Coupee.

The 15 percent VOC emissions reduction required by November 15, 1996, is defined within this document as ''rate-of-progress'' (ROP). The SIP revision that illustrates the plan for the achievement of the emissions reductions is defined in this document as the ''15 Percent ROP Plan.''

II. Analysis of the Submittal

On December 15, 1995, the Governor of Louisiana submitted to EPA a revision to the SIP to meet the 15 percent ROP requirements. This submittal superseded previous 15 Percent ROP Plans that had been submitted to EPA on November 4, 1993; November 10, 1994; and May 19, 1995. (A detailed chronology and description of these earlier submittals is provided in the Technical Support Document (TSD) to this action, which is available from EPA's Region 6 Office listed above.) The EPA deemed the December 15, 1995,

submittal administratively complete on January 25, 1996.

The EPA has reviewed the State's submittal for consistency with the requirements of EPA regulations. A summary of EPA's analysis is provided below. More detailed support for approval of the State's 15 Percent ROP Plan is contained in the TSD.

A. Accurate and Current 1990 Base Year Emissions Inventory

Sections 172(c)(3) and 182(b)(1) of the Act require that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the approval of such inventories is necessary for an area's Rate-of-Progress Plans and the Attainment Demonstration, the emissions inventory must be approved prior to or with the 15 Percent ROP Plan submission.

The EPA approved Louisiana's 1990 base year inventory on March 15, 1995 (60 FR 13911). In the 15 Percent ROP Plan submittal, the State has made minor revisions to the approved 1990 base year VOC inventory for Baton Rouge. The point source inventory changes are the result of receiving updated 1990 actual emissions information from several facilities, conducting additional rule effectiveness studies, and deleting non-VOC emissions that were erroneously included in the approved base year inventory. The on-road and non-road mobile sources, area source, and biogenic source inventories are unchanged from the approved inventory. The revised 1990 base year VOC emissions inventory is as follows:

BATON ROUGE, LOUISIANA, 1990 BASE YEAR INVENTORY

[Ozone Seasonal VOC Emissions (Tons/Day)]

Point source emissions	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic emissions	Total
115.40	26.30	55.50	23.20	120.91	341.31

In this document, EPA is approving the above revisions to the 1990 base year VOC emissions inventory for the Baton Rouge ozone nonattainment area. (It should be noted that, in the 15 Percent ROP Plan, these revised 1990 base year VOC inventory numbers have been rounded to the nearest 10th of a decimal place and the non-road mobile source and area source emissions have been combined.)

B. Calculation of the Adjusted Base Year Inventory

The Act specifies the emissions baseline from which the 15 percent reduction is calculated. This baseline value is termed the 1990 adjusted base year inventory. Section 182(b)(1)(D) excludes from the baseline the emissions that would be eliminated by Federal Motor Vehicle Control Program (FMVCP) regulations promulgated by January 1, 1990, and Reid vapor pressure (RVP) regulations (55 FR 23666, June 11, 1990), which require maximum RVP limits in nonattainment areas during the peak ozone season.

The adjusted base year inventory is determined by starting with the emissions inventory, and then removing all biogenic emissions as well as emissions from outside of the designated nonattainment boundary. The resulting inventory is termed the rate-of-progress base year inventory. The rate-of-progress base year inventory is then adjusted by removing the expected FMVCP and RVP reductions in order to derive the adjusted base year inventory.

To estimate the expected reductions from FMVCP standards and the RVP restrictions, the State used EPA's MOBILE5a emission factor model. The RVP was reduced from 8.3 pounds per square inch (PSI) to 7.8 PSI to estimate the reductions from RVP restrictions. To determine the effect of FMVCP standards, the State calculated emissions first using 1990 vehicle miles traveled (VMT) and 1990 MOBILE5a emission factors, and then estimated the emissions using the 1990 VMT and the 1996 MOBILE5a emission factors. The plan includes adequate documentation on how the MOBILE5a model was run to calculate the expected emission reductions from FMVCP and RVP. As specified by section 182(b)(1)(B) of the Act, preenactment banked emission credits were not included in Louisiana's emissions inventory.

Provided below is a tabular summary of the emission inventories calculated above.

Emissions inventory	Tons per day
A. 1990 Base Year Emissions Inventory	341.3
B. 1990 Rate-of-Progress Inventory	220.4
C. Emission Reductions from the Pre-1990 FMVCP and Phase II RVP Expected by 1996	22.2
D. 1990 Adjusted Base Year Inventory (B–C)	198.2

C. Required Reductions

The 1990 adjusted base year inventory is multiplied by 0.15 to calculate the required 15 percent ROP emission reductions. Louisiana's plan must provide for at least a 29.7 ton per day (TPD) reduction, net of growth, in VOC emissions. Under section 182(b)(1)(D) of the Act, the following reductions are not creditable towards the ROP reductions: (1) FMVCP regulations promulgated by January 1, 1990; (2) RVP regulations; (3) reasonably available control technology (RACT) corrections; and (4) inspection and maintenance (I/M) corrections. (The TSD provides a detailed explanation of the noncreditable reductions.)

Louisiana has calculated the noncreditable reductions to be 23.5 TPD. Thus, the 1996 total expected reductions in the plan are the sum of the 15 percent ROP reduction requirement (29.7 TPD) and the expected reductions from the four noncreditable programs (23.5 TPD), or 53.2 TPD.

Louisiana has followed EPA guidance in calculating the 1996 total expected reductions for the nonattainment area, documenting at each step the assumptions made and the origin of the numbers used in the calculations.

The target level of emissions for 1996, therefore, is the 1990 rate-of-progress base year inventory less the 1996 total expected reductions, or 167.2 TPD.

D. Projected Emissions Inventory

A projection of 1996 anthropogenic emissions is required for the 15 percent rate-of-progress calculation. The calculation is made by multiplying the 1990 rate-of-progress base year inventory by factors which estimate growth from 1990 to 1996. (A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.) The difference between the 1990 rate-of-progress base year inventory figure and the 1996 emissions projection is the emissions growth estimate.

The projected growth in point source emissions is a negative 1.8 TPD. Area source emissions growth is projected to

be .73 TPD. The on-road mobile sources emissions growth estimate is 3.8 TPD. Non-road mobile emissions growth is estimated at 1.07 TPD. Total growth for the four source categories is 3.8 TPD.

In the 15 Percent ROP Plan submittal, Louisiana documented the growth factors that were used to project the 1996 emissions. The growth factors used are consistent with EPA's guidance for projecting emissions.

E. Total Required Reductions

The total required reductions for the area are the difference between the 1996 projected emissions (224.0 TPD) and the target level of emissions for 1996 (167.2 TPD), or 57.0. The State's 15 Percent ROP Plan must provide for a minimum of 34.8 TPD in reductions. The 34.8 TPD consists of the 15 percent ROP reduction requirement (29.7 TPD), the I/M correction (1.3 TPD), and growth offset (3.8 TPD). (The State determined that no significant reductions resulted from the RACT fix-up.) The FMVCP and RVP reductions (22.2 TPD) account for the remainder of the total required reductions.

F. Control Measures

1. Stage II Vapor Recovery: This measure requires the installation and operation of vapor recovery equipment on gasoline pumps to reduce the emissions during refueling. The State's stage II vapor recovery regulation is found in Title 33, Part III, Chapter 21, section 2132 of the Louisiana Administrative Code (LAC:33:III.2132). The EPA approved this regulation in the Federal Register on March 25, 1994 (59 FR 14112). The EPA agrees with the projected reductions from this control measure in the Baton Rouge nonattainment area and is approving the reductions towards the 15 percent ROP requirement as being permanent and enforceable.

2. Vents to Flare: Louisiana's waste gas disposal regulation (LAC 33:III.2115) requires that emissions from vents be controlled. The 15 Percent ROP Plan claims credit for reductions that have occurred at four companies (Dow Chemical, Exxon Plastics, Exxon Chemical, and Sid Richardson) through compliance with the State rule. Regulation 2115 has already been approved into the SIP, most recently on July 25, 1996 (61 FR 38590), and is, therefore, Federally enforceable. The EPA is crediting the reductions from the rule towards the 15 percent ROP requirement as being permanent and enforceable.

3. Marine Vapor Recovery: Louisiana's marine vapor recovery regulation, LAC 33:III.2108, was adopted to control emissions from the loading of VOC in barges and tankers. The regulation controls emissions from loading facilities with greater than 100 TPD of emissions and is based on the existing rules for land-based VOC loading. The rule contains the appropriate test methods, monitoring and recordkeeping requirements to make the rule enforceable. The EPA is crediting the reductions from the rule towards the 15 percent ROP requirement as being permanent and enforceable, and approving the regulation into the SIP.

4. Tank Fitting Controls: Louisiana added requirements to its VOC storage regulation (LAC 33:III.2103) to control emissions from guidepole wells and stilling well systems in external floating roof storage tanks. The State is taking credit in the 15 Percent ROP Plan for reductions resulting from compliance with the revised regulation. The State has identified five facilities (Exxon Refinery, Exxon Chemical, Placid Refinery, Dow Chemical, and Cosmar) with a total of 125 affected tanks that will have controls implemented before November 1996.

The EPA is approving the revisions to regulation 2103 into the SIP to make them Federally enforceable. The EPA is also approving the reductions from the rule towards the 15 percent ROP requirement as being permanent and enforceable.

5. Fugitive Emissions Controls: This control measure tightens leak detection and repair requirements for petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry, the methyl tertiary butyl ether manufacturing industry, and the polymer manufacturing industry.

The State's regulation, Fugitive Emission Control for Ozone Nonattainment Areas, LAC 33:III.2122, lowers leak screening levels for valves, pumps and compressors. In addition, the rule adds monitoring requirements for agitators and requires weekly inspections of connectors for leaks.

The EPA agrees with the projected reductions from this control measure in the Baton Rouge nonattainment area and is approving the reductions towards the 15 percent ROP requirement as being permanent and enforceable. In addition, EPA is approving regulation 2122 into the SIP.

6. Federal Regulations: 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants (NESHAP)), subpart FF requires the control of benzene emissions from wastewater streams. In the process of controlling the benzene emissions, other VOC emissions are also controlled. In the 15 Percent ROP Plan, Louisiana has identified three facilities (Exxon Refinery, Exxon Chemical, and Union Texas) that have installed controls in response to these regulations resulting in VOC emissions reductions.

In addition, Louisiana is taking credit in the 15 Percent ROP Plan for volatile organic liquid (VOL) storage tank upgrades. Exxon Refinery removed several existing tanks from service and replaced them with new tanks. The new tanks were required to meet New Source Performance Standards (NSPS), subpart Kb requirements for VOL storage vessels. These upgrades to the emissions controls resulted in permanent emissions reductions. Similarly, Dupont modified some of its tankage, thus triggering the NSPS control requirements.

The EPA is approving these reductions resulting from compliance with the Federal benzene waste operations NESHAP and the VOL storage vessels NSPS towards the 15 percent ROP requirements as being permanent and enforceable.

7. Compliance Orders: Louisiana has adopted regulations governing major sources of toxic air pollutants. Many of the pollutants required to be reduced by the State's air toxics regulations are VOC. Per the regulations, sources are expected to have emissions controls in place by the end of 1996. The State has not submitted its toxics regulations to EPA for approval into the State Implementation Plan.

In order for the emissions reductions resulting from compliance with the State's toxics rules to be approvable, EPA required the State to submit, as part of the 15 Percent ROP Plan, an enforceable mechanism to ensure that the VOC reductions would be achieved by November 15, 1996.

Accordingly, the State issued administrative orders to five facilities (CosMar Chemical, Vulcan Chemical, Shell Chemical, Uniroyal Chemical, and BASF Corporation). The administrative orders were submitted as part of the 15 Percent ROP Plan submittal for approval into the SIP. The orders include appropriate test methods, monitoring and recordkeeping requirements to make them enforceable. The EPA is approving the orders into the State Implementation plan, and approving the reductions towards the 15 percent ROP requirement.

8. Permits: Emission reductions were obtained from two facilities (Allied Signal and Georgia Pacific) from revisions to their State permits. The permits were issued pursuant to the State's SIP-approved permitting

program and are, therefore, Federally enforceable. The EPA reviewed the permits to ensure they contained appropriate test methods, monitoring, and recordkeeping requirements to render them enforceable. The EPA is, therefore, approving the reductions from the permits towards the 15 percent ROP requirement.

9. Other Reductions: Louisiana's 15 Percent ROP Plan includes reductions from implementation of tank vent controls at two facilities. Exxon Chemical began venting emissions from 10 storage tanks to a vent recovery system. These emissions are enforceable through LAC 33:III.2103. Ciba-Geigy also installed controls on tank vents. These emission reductions are enforceable under LAC 33:III.2115.

The EPA is approving these reductions resulting from compliance with the State regulations towards the 15 percent ROP requirement.

G. RACT Determination

The EPA has defined RACT as the lowest level of emissions that can reasonably be achieved considering technical and economic issues. Section 182(b)(2) of the Act requires States to adopt RACT rules for three general groups of sources: (1) Those covered by post-enactment Control Technique Guidelines (CTG) documents; (2) those covered by pre-enactment CTG documents; and (3) all other major stationary sources of VOC. A CTG is a document issued by EPA that examines the technical feasibility and costs of controls for a particular source type and establishes a presumptive level of control that is considered RACT. The EPA has not issued a number of the post-enactment CTG documents. Instead, EPA has issued Alternative Control Technique (ACT) documents. These documents provide much of the same information as the CTG documents pertaining to control costs and feasibility. However, instead of establishing a presumptive norm for RACT, these documents provide options for control. A State can use this information to establish a RACT level of control appropriate for the circumstances in the State. When EPA failed to issue a CTG document for VOL storage by November 15, 1993, the responsibility shifted to the State to submit a non-CTG RACT rule under section 182(b)(2)(C) for major non-CTG sources. (For a discussion of the legal rationale, see Appendix E of the General Preamble to Title I of the Clean Air Act (57 FR 13498, April 16, 1992).) The EPA issued an ACT for VOL storage in January 1994.

Louisiana's VOC storage regulation (LAC 33:III.2103) is generally consistent with EPA's guidance contained in the ACT for VOL storage. Therefore, EPA is approving the regulation as meeting the RACT requirements of section 182(b)(2)(C) for VOL storage.

The following table summarizes the total reductions identified in the Louisiana 15 Percent ROP Plan to satisfy the 15 percent (net of growth) reductions requirement:

SUMMARY OF APPROVED EMISSION REDUCTIONS

Louisiana 15 percent ROP plan required reductions (excluding RVP/FMVCP)	(tons/day)
15 Percent ROP Reduction	29.7
I/M Correction	1.3
RACT Correction	0.0
Growth	3.8
Total	34.8
Reductions In Plan:.	
Stage II Vapor Recovery	3.4
Vents to Flares	3.7
Marine Vapor Recovery	8.6
Tank Fitting Controls	7.9
Fugitive Emission Controls	10.4
Federal Rules (Wastewater NESHAP, VOL Storage NSPS)	1.5
Compliance Orders/Permits	1.0
Other (Tank Vent Recovery, Secondary Roof Seal on Tank)	0.9
Total	37.4
Surplus Reductions (To Be Carried Over To Post–1996 Rate-of-Progress Plan)	2.6

H. Contingency Measures

Section 172(c)(9) of the Act requires moderate and above areas to adopt and submit contingency measures to be implemented if ROP is not achieved or if the standard is not attained by the applicable attainment date. In the General Preamble to Title I of the Act, EPA interpreted the Act to require States with moderate and above ozone nonattainment areas to include contingency measures in their November 15, 1993, submittals. The contingency measures generally must provide reductions of 3 percent of the emissions from the adjusted base year inventory. While all contingency measures must be fully adopted rules or measures, the State can use these measures in two different ways. The State can use its discretion to implement any contingency measures it wants before 1996. Alternatively, the State may decide not to implement a measure until the area has failed to either make ROP or attain the NAAQS. In that situation, the reductions must be achieved in the year following that in which the failure has been identified.

Louisiana included its emissions banking regulations as the section 172(c)(9) contingency measures in the 15 Percent ROP Plan. The EPA will be acting upon the banking regulations in its rulemaking action on the Louisiana Post-1996 ROP Plan and Attainment Demonstration SIP, which was submitted to EPA on December 22, 1995. The EPA considers it appropriate to act on the contingency measure in the context of that rulemaking action because the banking regulation has also been submitted for the contingency measures in the Post-1996 ROP Plan. In addition, the banking regulation allows the use of post-1990 shutdown credits for emissions offsets, and EPA has established certain requirements that must be met regarding the approval status of the Attainment Demonstration in order for certain shutdown credits to be used for emissions offsets.

A more detailed description of the contingency measure is provided in the TSD.

I. Rate-of-Progress Demonstration

The control measures in Louisiana's 15 Percent ROP Plan have already been implemented, or will be implemented, by November 15, 1996.

J. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) of the Act, and page 13556 of the General Preamble). The EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation (see page 13541 of the General Preamble). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements of the SIP (see section 110(a)(2)(C) of the Act).

The 15 percent ROP control measures have been reviewed by EPA and determined to be enforceable by the State. Several of the measures are already Federally enforceable. The remaining measures will be made Federally enforceable in this rulemaking action by incorporation into the SIP.

IV. Final Action

The EPA is approving the Louisiana 15 Percent ROP Plan required by section 182(b)(1) of the Act and the State's accompanying orders and regulations. The EPA is also approving a revision to the 1990 base year VOC emission inventory for the Baton Rouge ozone nonattainment area. In addition, EPA is approving LAC 33:III.2103, Storage of Volatile Organic Compounds, as meeting the section 182(b)(2) RACT requirements for VOL storage.

The EPA is not acting on the section 172(c)(9) contingency measures contained in the 15 Percent ROP Plan submittal in this document. The contingency measures will be addressed in a future rulemaking action on that subject.

In addition, by virtue of approving the 15 Percent ROP Plan, EPA is also approving the motor vehicle emissions budget for VOC. For the purpose of transportation conformity determinations, final approval of this 15 Percent ROP Plan revision would eliminate the need for a build/no-build test and less-than-1990 emissions test for VOC for the 1996 analysis year. However, for the 1996 analysis year and later, conformity determinations addressing VOC must demonstrate consistency with this plan revision's motor vehicle emissions budget. In addition, for years beyond 1996, conformity determinations addressing VOC must demonstrate consistency with this plan revision's VOC motor vehicle emissions budget, the VOC motor vehicle emissions budget in the submitted (but not yet approved) Attainment Demonstration, and satisfaction of the build-no-build test and less-than-1990 emissions test for VOC (until the Attainment Demonstration is approved). Conformity determinations addressing nitrogen oxides (NO_X) must demonstrate conformity with the NO_X motor vehicle emissions budget in the submitted (but not yet approved) Attainment Demonstration. The build/no-build test for NO_X for the 1996 analysis year and beyond is not required because EPA has approved a section 182(b)(1) transportation conformity NO_X exemption for the Baton Rouge ozone nonattainment area (61 FR 7218, February 27, 1996).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 23, 1996, unless, by November 21, 1996 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 23, 1996.

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

VI. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the 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 any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

may be significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the FR on July 1, 1982.

Dated: September 30, 1996.

Jerry Clifford,

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 T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(71) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(71) A revision to the Louisiana SIP addressing the 15 percent rate-of-progress requirements was submitted by the Governor of Louisiana by cover letter dated December 15, 1995. This revision, submitted to satisfy the requirements of section 182(b) of the Clean Air Act (Act), will aid in ensuring that reasonable further progress is made towards attaining the national ambient air quality standard (NAAQS) for ozone.

(i) Incorporation by reference.

(A) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2108. Marine Vapor Recovery, paragraphs B.1., B.2., B.3., B.3.a. through B.3.d., B.4.a., B.4.b., B.5., B.6., D.1.a., D.1.a.i., D.1.a.ii., D.1.b., D.2., D.3., D.4.a., D.4.b., D.4.c., D.4.c.i., D.4.c.ii., D.4.d., D.4.e., D.4.e.i., D.4.e.ii., D.4.f., D.4.g., E.2., E.2.a. through E.2.c., F.1., F.2., F.3., G.1., G.2., as adopted by LDEQ on October 20, 1988.

(B) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2108. Marine Vapor Recovery, paragraphs A., B. Definitions-Barge, Crude Oil, Gasoline, Ship, C., C.1., C.2., C.3., C.3.a. through C.3.d. (note: paragraphs B.1., B.2., B.3., and B.3.a. through B.3.d., as adopted on October 20, 1988, were moved to C.1., C.2., C.3., and C.3.a. through C.3.d. without repromulgating), C.4., C.4.a., C.4.b., C.5., C.6. (note: paragraphs B.4.a., B.4.b., B.5., and B.6., as adopted on October 20, 1988, were moved to C.4.a., C.4.b., C.5., and C.6. without repromulgating), D.1., D.1.a. through D.1.c., D.2., D.2.a. through D.2.c., D.3., E., E.1., E.1.a., E.1.a.i., E.1.a.ii., E.1.b., E.2., E.3. (note: D.1.a., D.1.a.i., D.1.a.ii., D.1.b., D.2., and D.3., as adopted October 20, 1988, were moved to E.1.a., E.1.a.i., E.1.a.ii., E.1.b., E.2., and E.3. without repromulgating), E.4., E.4.a., E.4.b., E.4.c., E.4.c.i., E.4.c.ii., E.4.d., E.4.e., E.4.e.i., E.4.e.ii., E.4.f., E.4.g. (note: D.4.a., D.4.b., D.4.c., D.4.c.i., D.4.c.ii., D.4.d., D.4.e., D.4.e.i., D.4.e.ii., D.4.f., and D.4.g, as adopted on October 20, 1988, were moved to E.4.a., E.4.b., E.4.c., E.4.c.i., E.4.c.ii., E.4.d., E.4.e., E.4.e.i., E.4.e.ii., E.4.f., and E.4.g. without repromulgating), E.5., F., F.1., F.2., F.2.a. through F.2.e. (note: E.2. and E.2.a. through E.2.c., as adopted on October 20, 1988, were moved to F.2. and F.2.a through F.2.c. without repromulgating), G., G.1., G.2., G.3. (note: F.1., F.2., and F.3., as adopted October 20, 1988, were moved to G.1., G.2., and G.3. without repromulgating), H., H.1., H.2. (note: G.1. and G.2., as adopted on October 20, 1988, were moved to H.1. and H.2. without repromulgating), as adopted by LDEQ on November 20, 1990.

(C) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2122. Fugitive Emission Control for Ozone Nonattainment Areas, paragraphs A., A.1. through A.5., A.6., A.6.a. through A.6.d., B. Definitions-Connector, Good Performance Level, Heavy Liquid Service, Inaccessible Valve/Connector, In Vacuum Service, Light Liquid, Light Liquid Service, Liquid Service, Process Unit, Process Unit Shutdown, Unrepairable Component, C., C.1., C.1.a. through C.1.c., C.2. through C.5., D., D.1., D.1.a., D.1.a.i., D.1.a.ii., D.1.b., D.1.b.i. through D.1.b.v., D.1.c. through D.1.e., D.2., D.2.a., D.2.b., D.2.b.i. through D.2.b.iii., D.3., D.3.a. through D.3.d., D.4., D.4.a. through D.4.k., D.5., E.1.a. through E.1.f., E.2., E.3., E.3.a., E.3.a.i. through E.3.a.v., E.3.b., E.3.b.i. through E.3.b.v., F., F.1., F.2., F.2.a. through F.2.j., F.3., G., G.1. through G.13., as adopted by LDEQ on October 20, 1994.

(D) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2122. Fugitive Emission Control for Ozone Nonattainment Areas, paragraphs E., E.1., E.1.g., as adopted by LDEQ on November 20, 1994.

(E) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2103. Storage of Volatile Organic Compounds, paragraphs A., B., D.1., D.1.a. through D.1.d., D.2., D.2.a. through D.2.e., E., F., G., G.1. through G.4., H., H.1., H.2., H.2.a. through H.2.e., H.3., I., I.1., I.2., I.2.a. through I.2.c., I.3. through I.5., as adopted by LDEQ on December 20, 1994.

(F) Revisions to LAC, Title 33, Environmental Quality, Part III. Air;

Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2103. Storage of Volatile Organic Compounds, paragraphs C., D., D.3., as adopted by LDEQ on November 20, 1995.

(G) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2103. Storage of Volatile Organic Compounds, paragraph D.4., as adopted by LDEQ on December 20, 1995.

(H) Reasonable Further Progress Agreed To Order, dated December 16, 1994, issued by the Assistant Secretary of the State of Louisiana Department of Environmental Quality in the matter of BASF Corporation, Geismar, Louisiana.

(I) Reasonable Further Progress Agreed To Order, dated August 22, 1994, issued by the Assistant Secretary of the State of Louisiana Department of Environmental Quality in the matter of CosMar Company, Inc., Carville, Louisiana.

(J) Reasonable Further Progress Agreed To Order, dated September 26, 1994, issued by the Assistant Secretary of the State of Louisiana Department of Environmental Quality in the matter of Shell Chemical Company, Geismar, Louisiana.

(K) Reasonable Further Progress Agreed To Order, dated September 8, 1994, issued by the Assistant Secretary of the State of Louisiana Department of Environmental Quality in the matter of Uniroyal Chemical Company, Inc., Geismar, Louisiana.

(L) Reasonable Further Progress Agreed To Order, dated September 8, 1994, issued by the Assistant Secretary of the State of Louisiana Department of Environmental Quality in the matter of Vulcan Chemicals, Geismar, Louisiana.

(M) SIP narrative plan entitled, ''Revision to the 15% Rate of Progress Plan and 1990 Emissions Inventory,'' dated December 28, 1995, page 11, Section 2.2, 1996 Target Level Emissions, first paragraph; page 23, Section 5, Table 2—Reductions in Plan; page 173, Appendix G, table—Reductions from Industrial Sources through 1996 Used for the 15% Requirement, which ends on page 174.

(ii) Additional materials.

(A) SIP narrative plan entitled, ''Revision to 15% Rate of Progress Plan and 1990 Emissions Inventory,'' submitted by the Governor of Louisiana on December 15, 1995, except Section 6. Contingency Measures Documentation, Appendix M. Contingency Reductions Documentation, and Appendix N. Banking Regulations.

(B) Letter dated May 3, 1996, from Gustave Von Bodungen, Louisiana Department of Environmental Quality, to Thomas Diggs, U.S. Environmental Protection Agency, transmitting supplemental documentation for the 15 Percent Rate of Progress Plan.

[FR Doc. 96–27002 Filed 10–21–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 6 and 8

RIN 0925–AA15

Removal of Obsolete Patent Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is rescinding the regulations concerning inventions and patents generally and inventions resulting from research grants and contracts and fellowship awards, because the regulations are obsolete.

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Lambert, Office of the General Counsel, Building 31, Room 2B–50, 31 Center Dr MSC 2111, Bethesda, MD 20892–2111, telephone (301) 496–6043 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Bayh-Dole Act, 35 U.S.C. 200–212 (Public Law 96–517 (Dec. 12, 1980)) and implementing regulations issued by the Department of Commerce, 37 CFR Part 401, established Government-wide patent policies that superseded the HHS policies codified in 45 CFR Parts 6 and 8. Prior to the passage of the Bayh-Dole Act, HHS made determinations of ownership and disposition of inventions made under grants and contracts funded by HHS. The general policy was to obtain rights to inventions made with Federal funding and to dedicate such inventions, along with those of Government employees, to the public through publication or by providing licenses to Government-owned patents on a royalty-free, nonexclusive basis.

The Bayh-Dole Act adopted a different philosophy of patenting. Based on the premise that commercialization of inventions will best promote the public interest, the Bayh-Dole Act provides that small business and nonprofit recipients of Federal funds can elect to retain title to an invention, subject to a nonexclusive, nontransferable, irrevocable, paid-up license to the Government to use and license others to use the invention for Government purposes. In 1983, by a memorandum to the Heads of Executive Departments and Agencies, President Reagan extended to all recipients of Federal funding the same right to elect title to inventions and that memorandum was reaffirmed in 1987 by Executive Order 12591.

The Bayh-Dole Act, and its implementing regulations at 37 CFR Part 401, have made obsolete the HHS regulations at 45 CFR Parts 6 and 8. In addition, 45 CFR Part 6 is obsolete because it does not accurately reflect the policies or organizational structure of HHS. Accordingly, this final rule rescinds HHS regulations that have been superseded by statutes, regulations and policies that provide for the transfer of Government-funded technology to the private sector through the elimination of Government control over inventions made under Federal grants and contracts. HHS is considering whether it is necessary to replace Parts 6 and 8 of title 45 CFR or whether new HHS regulations are unnecessary in light of the Department of Commerce regulations.

Notice, public comment, and delayed effective date have been waived for this amendment based on a finding of good cause. The parts being removed are obsolete, and their removal will not in any way affect funding recipients or others adversely.

Executive Order 12866

Executive Order No. 12866 requires that all regulatory actions reflect consideration of the costs and benefits they generate and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term ''significant regulatory action'' contained in section 3(f) of the Order, pre-publication review by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) is necessary. This rule was deemed ''not significant'' by OIRA.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as defined under the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), is not required.

Paperwork Reduction Act

This final rule does not contain any information collection requirements subject to OMB review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

List of Subjects in 45 CFR Parts 6 and 8

Inventions and patents.

Dated: October 3, 1996.

Harold Varmus,

Director, NIH.

For the reasons set out in the preamble and under the authority of 5 U.S.C. 301, subtitle A of title 45 of the Code of Federal Regulations is amended as follows:

PART 6—INVENTIONS AND PATENTS (GENERAL) [REMOVED AND RESERVED]

1. Part 6 of 45 CFR is removed and reserved.

PART 8—INVENTIONS RESULTING FROM RESEARCH GRANTS, FELLOWSHIP AWARDS, AND CONTRACTS FOR RESEARCH [REMOVED AND RESERVED]

2. Part 8 of 45 CFR is removed and reserved.

[FR Doc. 96–26975 Filed 10–21–96; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 397

[FHWA Docket No. MC–96–10]

Recommendations on Uniform Forms and Procedures for the Transportation of Hazardous Materials

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability of report on the Internet.

SUMMARY: The FHWA is announcing the availability on the Internet of the final report and recommendations of the Alliance for Uniform HazMat Transportation Procedures (the Alliance) concerning the implementation of 49 U.S.C. 5119—formerly referred to as section 22 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA). Section 5119 requires the Secretary of Transportation (the Secretary) to establish a working group of State and local government officials to establish uniform forms and procedures for the registration of persons that transport hazardous materials by motor vehicle, and to decide whether to limit the filing of State registration and permit forms and the collection of filing fees. The Alliance is the working group created to fulfill the requirements of the HMTUSA, and accordingly, has published its final report with recommendations. On July 9, 1996, the FHWA published a notice announcing the availability of the Alliance report and requesting public comments (61 FR 36016). The FHWA provided information on how to obtain copies of the report from the National Governors' Association (NGA). This notice provides the Internet address for the Alliance report and a new telephone number to use when ordering copies of the report from the NGA. The November 6, 1996, closing date for commenting on the report is not being changed.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, (202) 366–4009; Mr. James D. McCauley, Office of Motor Carrier Safety and Technology, (202) 366–9579; or Mr. Raymond W. Cuprill, Office of Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Internet Address for the Alliance Report

The Alliance report has been posted on the Internet. The entire report may be viewed on the Internet, depending on the software being used, and/or downloaded. The report is in WordPerfect 6.1 format while the forms contained in Appendix F of the report are in Graphics Interchange Format (GIF)—a standard format for digitized images. Users will need a graphics viewer to see the ''GIF'' file.

There are several ways to access the report on the Internet. The most direct method is as follows: http://cti1.volpe.dot.gov/ohim/alliance.html.

Alternatively, the report may be accessed through the FHWA's Office of Motor Carriers (OMC) ''homepage'' located at http://cti1.volpe.dot.gov/ohim/motcar.html. This site contains general information on the OMC and its programs as well as links to online Federal Motor Carrier Safety Regulations and regulatory guidance, Federal Hazardous Materials Regulations, and a link to the FHWA home page. When accessing the Alliance report from the OMC ''homepage'' select the following ''hyperlinks'':

1. Special Program Areas.

2. Final Report: Uniform Program Pilot Project.

Whichever approach is used, users may scroll through the table of contents and access the desired section of the report by clicking on the appropriate heading.

New Telephone Number for Ordering Copies of the Alliance Report

Copies of the report (''Final Report: Uniform Program Pilot Project,'' March 15, 1996) may be ordered from the National Governors' Association Publications Center at (301) 498–3783. The NGA Publications Center will charge a shipping and handling fee for all orders. The previous telephone number and address for the NGA's headquarters should no longer be used to request copies of the Alliance report.

List of Subjects in 49 CFR Part 397

Hazardous Materials Transportation, Highways and Roads, Motor Carrier Safety Permits

Authority: 49 U.S.C. 5119; 49 CFR 1.48

Issued on: October 10, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96–27038 Filed 10–21–96; 8:45 am]

BILLING CODE 4910–22–P

Proposed Rules

Federal Register
Vol. 61, No. 205
Tuesday, October 22, 1996

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.

RAILROAD RETIREMENT BOARD

20 CFR Parts 355, 356

RIN 3220–AB24

Adjustment of Civil Monetary Penalties

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: As required by subsection(s) of the Debt Collection Improvement Act of 1996, the Railroad Retirement Board (Board) hereby proposes to amend its regulations to provide for adjustments in the amount of civil monetary penalties. The amendment will increase the amount of penalties under the jurisdiction of the Board to keep pace with inflation.

DATES: Comments shall be submitted on or before November 21, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Subsection (s) of the Debt Collection Improvement Act of 1996, Public Law 104–134, amended the Federal Civil Penalties Inflation Adjustment Act of 1990 to require agencies to publish regulations within 180 days of enactment of the amendment, April 26, 1996, providing for the adjustment of civil monetary penalties provided by law within the jurisdiction of the agency.

The penalties authorized in the Program Fraud Civil Remedies Act and under the false claims provisions at 31 U.S.C. 3729(a) are within the jurisdiction of the Railroad Retirement Board and, therefore, the Board is required to publish regulations providing for the adjustment of the monetary penalties.

The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty: any adjustment must be rounded to the nearest $1,000 for maximum penalties greater than $1,000 and less than or equal to $10,000. However, the amendment limits the initial increase to ten percent of the amount of the maximum penalty.

In both instances the ratio of the Consumer Price Index for the month of June of the calendar year preceding the adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted is 456.7/327.9, which would produce an increase considerably in excess of ten percent of the penalties. Under the Program Fraud Civil Remedies Act the maximum penalty is $5,000 (there is no minimum penalty); accordingly, the Board proposes to increase the maximum penalty by $500. The minimum and maximum penalties under 31 U.S.C. 3729(a) are $5,000 and $10,000 respectively; accordingly, the Board proposes to increase the minimum penalty by $500 and the maximum penalty by $1,000.

The amendment also restricts application of the adjustments to violations which occur after the date the increase takes effect. Therefore, the increases would not apply in the case of any violation occurring before the effective date of these regulations.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Parts 355 and 356

Railroad employees, Railroad retirement.

For the reasons set forth in the preamble, title 20, chapter II, subchapter E, is proposed to be amended as follows:

PART 355—REGULATIONS UNDER THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

1. The authority citation for part 355 continues to read as follows:

Authority: 31 U.S.C. 3809.

§ 355.3 Basis for civil penalties and assessments.

2. Section 355.3(a)(1)(iv) is amended by adding at the end thereof a new sentence to read as follows: This penalty is subject to adjustment in accord with part 356 of this chapter.

3. Section 355.3(b)(1)(ii) is amended by adding at the end thereof a new sentence to read as follows: This penalty is subject to adjustment in accordance with part 356 of this chapter.

4. A new part 356 is added to subchapter E to read as follows:

PART 356—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.
356.1 Introduction.
356.2 Program Fraud Civil Remedies Act of 1986.
356.3 False claims.

Authority: 28 U.S.C. 2461; 31 U.S.C. 3729; 31 U.S.C. 3809.

§ 356.1 Introduction.

(a) The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty.

(b) The ratio in of the Consumer Price Index for the month of June of the calendar year preceding this adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of civil monetary penalties provided for under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812) and the false claims provisions at 31 U.S.C. 3729(a) was last set or adjusted, 1986, is 456.7/327.9, which produces the following increases in the penalties after applicable rounding:

(1) The maximum penalty under Program Fraud Civil Remedies Act for a

false claim or statement would be increased from $5,000 to $7,000.

(2) The maximum and minimum penalties under the false claims provisions at 31 U.S.C. 3729(a) would be increased from $10,000 to $14,000 and $5,000 to $7,000, respectively.

(c) Imposition of the increases are limited to actions occurring after the effective date of the increases.

(d) No increase may exceed ten percent of the penalty or range of penalties, as applicable.

§ 356.2 Program Fraud Civil Remedies Act of 1986.

In the case of penalties assessed under part 355 of this chapter, an additional penalty of $500 may be assessed for claims or statements made after October 23, 1996.

§ 356.3 False claims.

In the case of penalties assessed under 31 U.S.C. 3729 based on actions occurring after October 23, 1996, the minimum penalty is $5,500 and the maximum penalty is $11,000.

Dated: September 19, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–24544 Filed 10–22–96; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 25

[Docket No. 96N–0057]

National Environmental Policy Act; Proposed Revision of Policies and Procedures; Reopening of Comment Period as to Specific Documents

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening to November 22, 1996, the comment period on specific information that supports certain categorical exclusions proposed by FDA in the proposed rule entitled ''National Environmental Policy Act; Proposed Revision of Policies and Procedures.'' The proposal was published in the Federal Register of April 3, 1996 (61 FR 14922) (republished on May 1, 1996 (61 FR 19476)). FDA is reopening the comment period for 30 days for the sole purpose of inviting public comments on those categorical exclusions for which information has been added to the administrative record.

DATES: Written comments must be received by or postmarked on or before November 21, 1996. Comments postmarked after such date will not be considered.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

For information regarding human drugs: Nancy B. Sager, Center for Drug Evaluation and Research (HFD–357), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5721.

For information regarding biologics: Nancy A. Roscioli, Center for Biologics Evaluation and Research (HFM–205), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3031.

For information regarding veterinary medicines: Charles E. Eirkson, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1683.

For information regarding foods: Buzz L. Hoffmann, Center for Food Safety and Applied Nutrition (HFS–246), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3005.

For information regarding medical devices and radiological health: Mervin O. Parker, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 3, 1996 (61 FR 14922) (republished on May 1, 1996 (61 FR 19476)), FDA published a proposed rule to amend its regulations governing compliance with the National Environmental Policy Act of 1969 (NEPA) as implemented by the regulations of the Council on Environmental Quality. The primary purpose of the proposed rule is to increase the efficiency of FDA's implementation of NEPA and reduce the number of NEPA evaluations by providing for categorical exclusions for additional classes of actions that do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental impact statement nor an environmental assessment (EA) is required. The proposed rule was issued in response to an initiative announced in the President's National Performance Reports, ''Reinventing Drug and Medical Device Regulations,'' April 1995, and ''Reinventing Food Regulations,'' January 1996. The proposal gave interested persons the opportunity to submit written comments until July 2, 1996.

One of the categorical exclusions included in the proposed rule is a categorical exclusion for an ''[a]ction on an NDA [new drug application], abbreviated application, or a supplement to such application, or action on an OTC [over-the-counter] monograph, if the action increases the use of the active moiety, but the concentration of the substance in the environment will be below 1 part per billion [ppb].'' (See proposed § 25.31(b) (61 FR 19476 at 19492).) The agency proposed this categorical exclusion because FDA has determined that such actions for which concentrations of the substance in the environment from use and disposal will be below 1 ppb ordinarily do not have a significant effect on the environment. If there are specific environmental concerns beyond those relating to use and disposal, for example sourcing, FDA may give a specific action further environmental consideration.

On July 2, 1996, FDA received a request from Edward Lee Rogers, on behalf of the Oregon Natural Resources Council Fund and the Oregon Natural Resources Council Action, to extend the comment period to permit comment on the ''underlying data upon which FDA relies for the claimed adequacy and appropriateness of that [1 ppb] criteria.''

FDA considered this request and has decided to add information to the administrative record and reopen the comment period. FDA has added to the administrative record a report on the ''Retrospective Review of Ecotoxicity Data Submitted in Environmental Assessments.'' This report summarizes the ecotoxicity data that supports the Center for Drug Evaluation and Research's (CDER's) proposal to categorically exclude actions on an NDA, abbreviated application, or a supplement to such application, or action on an OTC monograph, if the action increases the use of the active moiety, but the concentration of the substance in the environment will be below 1 ppb. FDA has also added to the administrative record an index of the petitions and actions that support certain categorical exclusions for foods,

food additives and color additives in the proposed rule.

The agency is reopening the comment period to ensure that the public has an opportunity to comment on the data that support the proposed categorical exclusions set forth in §§ 25.31(b) and 25.32(i), (j), (k), (l), (m), (q), and (r).

FDA believes that 30 days to comment is ample in this case, because the agency is specifically limiting its reopening of the comment period to comments on the categorical exclusions for which information has been added to the administrative record. Furthermore, data from EA's and findings of no significant impact for approved applications that support FDA's proposed categorical exclusions have always been available to the public upon request. Comments are invited, and will be considered, only to the extent they are focused on the categorical exclusions supported by information that has been added to the administrative record and only to the extent the comments regarding such information raise new issues not already raised by the person submitting the comment.

The documents that the agency is adding to the record are as follows:

1. ''Retrospective Review of Ecotoxicity Data Submitted in Environmental Assessments,'' CDER, FDA.

2. Index of Petitions and Actions Supporting Categorical Exclusions for Foods, Food Additives, and Color Additives in proposed 21 CFR part 25.

Interested persons may, on or before November 21, 1996, submit to the Dockets Management Branch (address above) written comments regarding the documents listed above. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 16, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–27022 Filed 10–21–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV017–6003b; WV040–6005b; FRL–5619–7]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia (Prevention of Significant Deterioration: NO_2 and PM–10 Increments)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve two State Implementation Plan (SIP) revisions submitted by the State of West Virginia. The first revision amends West Virginia's Prevention of Significant Deterioration (PSD) regulation by amending definitions, establishing the maximum increase in ambient nitrogen dioxide concentrations allowed in an area above the baseline concentration (the increment) and updating the references to federal air quality modeling procedures. The second revision removes increment provisions for total suspended particulates (TSP) and replaces them with increment provisions for particulate matter with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10). The second revision also updates the references to federal air quality modeling procedures and adds provisions for pollution control projects at electric utilities. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 21, 1996.

ADDRESSES: Written comments on this action should be addressed to Kathleen Henry, Chief, Permit Programs Section, Mailcode 3AT23, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 566–2062, donahue.lisa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 20, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–27005 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[LA–23–1–6871b; FRL–5636–5]

Approval and Promulgation of State Implementation Plan; Louisiana; 15 Percent Rate-of-Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the Louisiana State Implementation Plan (SIP) for the purpose of satisfying the 15 percent rate-of-progress requirements of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality standard (NAAQS) for ozone.

In the final rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in

commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 21, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7214.

Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70810.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne McDaniels, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the rules section of the Federal Register.

Dated: September 30, 1996.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 96–27003 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 132

[FRL–5617–8]

Proposed Revisions to the Polychlorinated Biphenyl Criteria for Human Health and Wildlife for the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing revisions to the polychlorinated biphenyl (PCB) ambient water quality criteria for human health and wildlife for the final Water Quality Guidance for the Great Lakes System (the Guidance). The Guidance was published on March 23, 1995. Following publication, several industries and trade associations challenged the human health and wildlife criteria for PCBs in the Guidance. Among the issues they raised was the equation used to calculate the weighted geometric mean baseline bioaccumulation factor (BAF) for PCBs. EPA re-examined the issue, and decided that a different approach for calculating a composite baseline BAF would be preferable because it would be more consistent with the definition of bioaccumulation factors since it more appropriately relates the concentrations of the PCB congeners in tissue to the concentrations of the PCB congeners in water. The proposed revisions are limited to the method for deriving a composite BAF for PCBs and for deriving a composite octanol-water partition coefficient (K_{ow}) for PCBs. The human health cancer criteria for PCBs would change from 3.9 E–6 ug/L to 6.8 E–6 ug/L. The wildlife criteria for PCBs would change from 7.4 E–5 ug/L to 1.2 E–4 ug/L. EPA believes the proposed revisions more accurately represent the numerical limits necessary to protect human health and wildlife in the Great Lakes System. Finally, EPA is not proposing to revise any other aspect of the BAFs for PCBs or the PCB criteria for human health and wildlife.

DATES: EPA will accept public comments on the proposal until November 21, 1996.

ADDRESSES: An original and 4 copies of all comments on the proposal should be addressed to Mark Morris (4301), U.S. EPA, 401 M Street., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mark Morris (4301), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460 (202–260–0312).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Potentially Affected Entities

Entities potentially affected by this action are those discharging pollutants to waters of the United States in the Great Lakes System. Potentially affected categories and entities include:

Category	Examples of potentially affected entities
Industry	Industries discharging PCBs to waters in the Great Lakes System as defined in 40 CFR 132.2.
Municipalities.	Publicly-owned treatment works discharging PCBs to waters of the Great Lakes System as defined in 40 CFR 132.2.
States and Tribes.	Great Lakes States and Tribes must adopt criteria consistent with EPA's criteria by March 1997.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility may be affected by this action, you should examine the definition of Great Lakes System in 40 CFR 132.2 and examine 40 CFR 132.2 which describes the purpose of water quality standards such as those established in this rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Great Lakes Water Quality Guidance

In March 1995, EPA promulgated the final Water Quality Guidance for the Great Lakes System (the Guidance) required under section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). See 60 FR 15366–425 (March 23, 1995). The Guidance protects the waters of the Great Lakes and their tributaries by establishing water quality criteria for 29 pollutants to protect aquatic life, wildlife and human health, and detailed methodologies to develop criteria for additional pollutants. It also establishes implementation procedures to help Great Lakes States and Tribes develop more consistent, enforceable water-quality based effluent limits in discharge permits for the Great Lakes System. For a description of the environmental significance of the Great Lakes System and the serious environmental threats it faces (particularly from persistent, bioaccumulative chemicals), see 58 FR 20802.

The ambient water quality criteria (AWQC) included in the Guidance to protect human health and wildlife set maximum ambient concentrations for harmful pollutants to be met in all waters in the Great Lakes System. See 40 CFR Part 132, Tables 3 and 4. Great Lakes States and Tribes must adopt criteria consistent with EPA's criteria by March of 1997. CWA section 118(c)(2)(c). If any State or Tribe fails to meet that deadline, EPA must

promulgate criteria that will apply in that State or Tribe's jurisdiction. *Id.* Once the criteria take effect, permits for discharges of such pollutants into the Great lakes System must include limits as necessary to attain the criteria.

EPA promulgated human health and wildlife criteria for a class of closely-related toxic pollutants known as polychlorinated biphenyls (''PCBs''). The PCB criteria for human health and wildlife incorporate ''bioaccumulation factors'' (''BAFs'') which reflect the fact that PCBs magnify at several steps in aquatic food chains, so that humans and wildlife eating fish from the Great Lakes can be exposed to PCB concentrations many times higher than the PCB concentration in the waters of the Lakes. Different members of the class of PCBs (called ''congeners'') have differing potentials to bioaccumulate. In the final Guidance, EPA derived a single baseline BAF (explained further below) for PCBs by computing a weighted geometric mean baseline BAF from the BAFs for approximately 50 PCB congeners.

Several industries and trade associations challenged the human health and wildlife criteria for PCBs. *AISI* v. *EPA*, D.C. Cir. No. 95–1348 and consolidated cases. Among the issues they raised was the equation used to calculate the weighted geometric mean baseline BAF for PCBs. The *AISI* petitioners alleged that the equation was mathematically inappropriate for a variety of reasons. EPA re-examined the issue, and decided, for reasons set out in section III below, that a different approach for calculating a composite baseline BAF would be preferable. Consequently, EPA is proposing to revise the approach for calculating the composite baseline BAF for PCBs and for deriving a composite K_{ow} for PCBs. The new approach produces both a new composite baseline BAF and different BAFs for use in the derivation of human health and wildlife criteria. EPA has recalculated the human health and wildlife criteria using the new BAFs and is proposing to revise the criteria for PCBs codified in Tables 3 and 4 to Part 132.

As explained in more detail below, EPA is not proposing any other revisions to the criteria for PCBs. Moreover, EPA does not intend to respond to comments addressing other issues.

II. Background

A. EPA's Methodology for Deriving BAFs

The human health and wildlife criteria establish ambient concentrations of pollutants which will protect humans and wildlife species from adverse impacts due to the ingestion of both aquatic organisms and water. To establish the criteria, EPA obtained data on health effects thresholds and derived bioaccumulation factors for individual pollutants. EPA also obtained data on rates of food and water consumption for humans and wildlife species.

As explained in the preamble and supporting documents for the final Guidance, bioaccumulation refers to the uptake and retention of a pollutant by an aquatic organism from surrounding water and from food. For certain pollutants, uptake through the food chain is the most important route of exposure for humans and wildlife, as such pollutants magnify at some steps in the aquatic food chain, so that humans and wildlife can consume aquatic organisms containing concentrations of pollutants many times higher than the concentrations of the pollutants in Great Lakes waters. For a more complete discussion of bioaccumulation, refer to 58 FR 20803.

The BAFs in the Guidance compare concentrations of pollutants measured in water to concentrations of the same pollutant measured in fish tissue. Under the methodology for the Guidance, the derivation of a BAF for a non-polar organic pollutant that is to be used for calculating AWQC involves two general steps. The first step is deriving the baseline BAF for the pollutant of interest. For PCBs, this is performed by adjusting the field-measured BAF to reflect the freely dissolved fraction of the pollutant in the water at the site measured and the lipid content of the organism assessed. The second step involves calculating a BAF that takes into account the freely-dissolved fraction of the chemical in the water and lipid content of the organism(s) at the site where the AWQC would apply. For a more detailed discussion on this two step process and for additional information on the importance of expressing the baseline BAF on a freely-dissolved and lipid-normalized basis, refer to the Great Lakes Water Quality Technical Support Document for the Procedure to Determine Bioaccumulation Factors (''TSD for BAFs'') (EPA–820–B–95–005).

An important factor in the derivation of a BAF for an individual PCB congener is the K_{ow} for that pollutant. The K_{ow} is a measurement of the affinity of a pollutant to partition between the lipids (fatty tissues) of an aquatic organism and water. The higher the K_{ow}, all other factors being constant, the greater the affinity for the pollutant to concentrate in fish tissue. Each of the PCB congeners has a K_{ow} value. The K_{ow} values are usually reported as log K_{ow}s for each congener. When deriving BAFs for individual PCB congeners, the congener-specific K_{ow} is used for estimating the freely dissolved fraction of the PCB congener in the water. When deriving a composite baseline BAF for all PCBs, it is necessary to use a composite K_{ow} value for the composite BAF. This composite K_{ow} is needed for estimating the freely dissolved fraction of the class of PCBs in the Great Lakes waters.

B. BAFs for PCBs in the Final Guidance

EPA based the PCB BAFs in the final Guidance on a field study conducted in the Great Lakes by Oliver and Niimi (1988). The study collected data on numerous PCB congeners, and EPA derived separate baseline BAFs for these congeners using separate, congener-specific K_{ow}s. EPA, however, needed to derive a composite BAF representing all congeners in order to calculate AWQC for human health and wildlife. This is the case because there is a single ''cancer potency factor'' which is used for evaluating human health cancer risk for all PCBs. Similarly, for wildlife, there is a single toxicity factor which is used in the derivation of the wildlife criteria. Consequently, composite BAFs were needed in order to be consistent with the toxicity data available to derive human health and wildlife criteria.

In response to comments on a notice of data availability (August 30, 1994, 59 FR 44678), EPA derived a composite baseline BAF for PCBs for trophic level 3 and for trophic level 4 by computing a weighted geometric mean of the BAFs for individual PCB congeners using the following equation:

Weighted geometric mean=$10^{\text{Mean log BAF}}$

$$\text{Mean log BAF} = \frac{\sum \text{Wi log BAFi}}{\sum \text{Wi}}$$

Where:

Wi=concentration of PCBs in ng/g for each congener in fish tissue.

log BAFi=log BAF as reported in Table F–1 of TSD for BAFs (logs are to base 10).

The weighted geometric mean BAF for trophic level 3 was 55,281,000 and 116,553,000 for trophic level 4.

As discussed above, when deriving a composite BAF for PCBs it is necessary to use a composite K_{ow}. In the final Guidance, a weighted geometric mean K_{ow} of 3,885,000 (mean log K_{ow} of 6.589) was estimated by weighting the log K_{ow}s for the individual PCB congeners by the concentrations of the PCB congeners in fish. The mean log K_{ow} of 6.589 was then used when estimating the freely dissolved fraction for PCBs. The log

K_{ow}s for the individual PCB congeners used in the final Guidance came from Hawker and Connell (1988).

Using these composite baseline BAFs and the mean log K_{ow} of 6.589, EPA derived BAFs of 520,900 for trophic level 3 and 1,871,000 for trophic level 4 for use in calculating human health criteria. The PCB human health cancer criteria derived using these BAFs was 3.9E–6 µg/L. For wildlife, the BAF was 1,850,000 for trophic level 3 and 6,224,000 for trophic level 4 for use in calculating wildlife criteria. The PCB wildlife criterion derived using these BAFs was 7.4E–5 µg/L.

Various industries and trade associations challenged the human health and wildlife criteria for PCBs. *AISI* v. *EPA*, D.C. Cir. No. 95–1348 and consolidated cases. Among the issues they raised was the equation used to calculate the baseline BAF using the weighted geometric mean for PCBs. The *AISI* petitioners alleged that the equation was mathematically inappropriate for a variety of reasons. As a result of this challenge, EPA re-examined the basis for the calculation of the composite baseline BAF using the weighted geometric mean. For the reasons explained in section III below, EPA has concluded that a different approach would be correct. Consequently, EPA has moved the Court to remand this issue to the Agency for reconsideration. EPA represented in that motion that it would expeditiously propose and take final action on the approach used to calculate the composite baseline BAF for PCBs. This proposal serves that purpose.

EPA emphasizes that this proposal is very limited in scope. EPA is only requesting comment on the approach used to derive a composite baseline BAF for PCBs and the composite K_{ow} used in estimating the freely dissolved fraction of PCBs. EPA is not proposing to revise any other aspect of the data or methodology underlying the composite baseline BAFs for PCBs or any other aspect of the data or methodology underlying the human health and wildlife criteria for PCBs. For those issues beyond the limited scope of today's proposal, the Agency believes that full opportunity for public comment and consideration by the Agency was provided in the rulemaking for the Guidance.

III. Proposed Revision to Method for Deriving Baseline BAF for Total PCBs

As discussed previously, the baseline BAF for PCBs in the final Guidance was calculated as a weighted geometric mean of the BAFs for the individual congeners. EPA is requesting comment on an alternative approach for deriving the composite baseline BAF for PCBs. This approach uses the sum of all concentrations of PCB congeners in tissue and the sum of all concentrations of PCB congeners in the ambient water, as reported in Oliver and Niimi (1988), to derive a baseline BAF for PCBs (see Table 1). This approach is equivalent to using a weighted arithmetic mean of all the BAFs from the PCB congeners, where the weights are the concentrations of the PCB congeners in water. EPA believes this approach is more consistent with the definition of bioaccumulation factors since it more appropriately relates the sum of the concentrations of the PCB congeners in tissue to the sum of the concentration of the PCB congeners in water. EPA further believes that this approach will provide a more accurate prediction of the composite BAF for the class of PCBs.

The derivation of the composite baseline BAFs for PCBs, the revised BAF to be used in the calculation of AWQC for wildlife and human health, and the PCB criteria for wildlife and humans using the revised PCB BAFs are presented below. EPA is requesting comment on the approach for deriving the composite baseline BAF and the composite K_{ow} used in the derivation of the baseline BAF. EPA is not requesting comment on the data used in the derivation of the composite baseline BAF or composite K_{ow} or other aspects related to the derivation of the human health and wildlife criteria for PCBs. The fish tissue data, water column data, and log K_{ow} values used to derive the new composite BAF are identical to those used in the final Guidance.

A. Derivation of Baseline BAF for PCBs

The equations used for deriving the baseline BAFs in this proposal are the same as were used in the final Guidance (60 FR 15400 or TSD for BAFs). As in the final Guidance, baseline BAFs for PCBs are derived for both trophic level 3 and trophic level 4. The equation for deriving a baseline BAF when a field-measured BAF is available for a chemical, as is the case with PCBs, is (each of the three components for deriving a baseline BAF are discussed below):

$$\text{Baseline BAF} = \left[\frac{\text{Measured BAF}_T^t}{f_{fd}} - 1\right]\left(\frac{1}{f_l}\right)$$

Where:

Measured $BAF_T{}^t$=BAF based on total concentration in tissue and water.

f_l=fraction of the tissue that is lipid.

f_{fd}=fraction of the total chemical that is freely dissolved in the ambient water.

1. Measured PCB $BAF_T{}^t$

To estimate a measured PCB $BAF_T{}^t$ for trophic level 4, information is needed on the total concentration of the pollutant in the tissue of a trophic level 4 species and the total concentration of the chemical in ambient water at the site of sampling. The trophic level 4 species used in the final Guidance and this proposal were salmonids. To estimate a measured PCB $BAF_T{}^t$ for trophic level 3, information is needed on the total concentration of the chemical in the tissue of a trophic level 3 species and the total concentration of the chemical in ambient water at the site of sampling. The trophic level 3 species used in the final Guidance and in this proposal to calculate a BAF for PCBs are sculpins and alewives. The average of the values for the sculpins and alewives are used to represent the trophic level 3 values. The equation to derive a measured PCB $BAF_T{}^t$ is:

$$\text{Measured PCB BAF}_T^t = \frac{\text{Total concentration of chemical in tissue}}{\text{Total concentration of chemical in ambient water}}$$

The total concentration of PCB congeners in fish tissue (salmonids) from Table 1 is 4057.3 ng/g and the total concentration of PCB congeners in ambient water is 1006.1 pg/L. The average of the total concentrations of PCB congeners in tissue from sculpins and alewife (trophic level 3 species) from Table 1 is 1393.15 ng/g. The resulting measured PCB $BAF_T{}^t$ for trophic level 4 is 4,033,000 and 1,385,000 for trophic level 3 (rounded to 4 significant figures as discussed on page G–2 of the TSD for BAFs).

$$\text{Measured PCB BAF}_T^t \text{ for trophic level 4} = \frac{(4057.3\text{ ng/g})(1000\text{ pg/ng})(1000\text{ g/L})}{1006.1\text{ pg/L}} = 4{,}033{,}000$$

$$\text{Measured PCB BAF}_T^t \text{ for trophic level 3} = \frac{(1393.15\text{ ng/g})(1000\text{ pg/ng})(1000\text{ g/L})}{1006.1\text{ pg/L}} = 1{,}385{,}000$$

2. Fraction Freely Dissolved

To determine the fraction of PCBs that are freely dissolved in the ambient water requires information on the particulate organic carbon (POC) and dissolved organic carbon (DOC) in the ambient water where the samples were collected and the K_{ow} of the chemical. The equation for estimating the fraction freely dissolved is as follows:

$$f_{fd} = \frac{1}{\left[1 + (POC \times K_{ow}) + (DOC \times K_{ow}/10)\right]}$$

Where:

POC=concentration of particulate organic carbon (kg/L).
DOC=concentration of dissolved organic carbon (kg/L).
K_{ow}=n-octanol water partition coefficient for the chemical.

The log K_{ow}s used for the individual PCB congeners reported in Table 1 come from Hawker and Connell (1988). As explained above, it is necessary to compute a log K_{ow} for use in the deriving the fraction freely dissolved for the composite PCB BAF. EPA is today proposing to use the median log K_{ow} from the log K_{ow}s presented in Table 1. The median log K_{ow}s for the PCBs congeners listed in Table 1 is 6.35 (K_{ow} of 2,238,721). The median, a commonly used measure of central tendency, is the ''middle'' value (or 50th percentile) of a set of measurements arranged in order of magnitude. The median has the advantage of not being dependent on the shape of the underlying distribution of the variable of interest, in this case, the log K_{ow}s of the PCB congeners. Also, the median is not sensitive to extremely high or low values. EPA is proposing to use this value in place of the log K_{ow} of 6.589 used in the final Guidance.

EPA is soliciting comments on an alternative method for deriving a composite K_{ow}. The formula for calculating the alternative method is:

$$\text{Composite } K_{ow} = \left(\frac{1}{\frac{DOC}{10} + POC}\right)\left(\frac{\sum_{i=1}^{n} C_w^t}{\sum_{i=1}^{n} C_w^{fd}} - 1\right)$$

Where:
i=1, 2, * * * n congeners.
C_w^t=total concentration of the chemical in water.
C_w^{fd}=freely dissolved concentration of the chemical in water.

The alternate formula for calculating the composite K_{ow} is based on the following equation for calculating the K_{ow} for a single congener.

$$K_{ow} = \left(\frac{1}{\frac{DOC}{10} + POC}\right)\left(\frac{C_w^t}{C_w^{fd}} - 1\right)$$

This formula for calculating the K_{ow} for a single congener was derived algebraically from the following definition of the fraction of a freely dissolved congener, f_{fd} :

$$f_{fd} = \frac{C_w^{fd}}{C_w^t} = \frac{1}{1 + (POC)(K_{ow}) + \frac{(DOC)(K_{ow})}{10}}$$

In the alternate formula for the composite K_{ow}, the ratio of the sum of the total concentrations of the congeners in water over the sum of the total freely dissolved concentrations of the congeners in water is substituted for the ratio of the total over freely dissolved concentrations of the congener in water for a single congener.

In the final Guidance, the POC value used was 0.0 kg/L and the DOC value used was 2.0×10^{-6} kg/L. EPA is not proposing to change these values which represent the POC and DOC values from Lake Ontario where the Oliver and Niimi samples were collected.

3. Fraction Lipid

In addition, EPA is not proposing to change the fraction lipid content of the salmonids (0.11) or sculpin (0.08) or alewife (0.07) that were used in the final Guidance. The average fraction lipid for sculpin and alewife is 0.075.

The freely dissolved fraction used in the final Guidance for deriving the composite baseline BAF was 0.4837. This value was based on the POC and DOC values presented above and a log K_{ow} of 6.589. The fraction freely dissolved in this notice is 0.6907. The differences between the fraction freely dissolved in the final Guidance and this notice is the use of a different log K_{ow} as explained above.

$$f_{fd} = \frac{1}{\left[1 + (0.0 \times 2{,}238{,}721) + \left(2.0 \times 10^{-6} \times 2{,}238{,}721/10\right)\right]} = 0.6907$$

4. Derivation of Baseline PCB BAFs

Based on the information presented above and using the equation for deriving baseline BAFs, EPA today proposes a composite baseline BAF for PCBs for trophic level 4 of 53,080,000 and a composite baseline BAF for PCBs for trophic level 3 of 26,735,000.

$$\text{Baseline PCB BAF TL3} = \left[\frac{1{,}385{,}000}{0.6907} - 1\right]\left(\frac{1}{0.075}\right) = 26{,}735{,}000$$

TABLE 1.—WATER AND TISSUE CONCENTRATIONS AND LOG K_{ow}S for PCB Congeners

Congener	Water conc. (pg/L)	Tissue conc. (ng/g)			Log K_{ow}
		Sculpin	Alewife	Salmonid	
28+31	46	7.8	14	36	5.67
18	72	5.2	12	4.3	5.24
66	31	53	61	160	6.20
70+76	45	32	50	140	6.17
56+60+81	9.7	18	32	74	6.19
52	63	28	27	62	5.84
47+48	41	4.1	18	60	5.82
44	50	16	23	45	5.75
74	10	12	12	38	6.20
49	24	10	14	31	5.85
64	9.3	9.2	11	28	5.95
42	3.3	2.8	5.0	10	5.76
101	130	140	110	270	6.38
84	15	110	68	260	6.04
118	34	94	58	250	6.74
110	55	76	78	230	6.48
87+97	21	42	82	200	6.29
105	14	39	27	110	6.65
95	52	31	40	80	6.13
85	9.4	17	22	58	6.30
92	5.4	15	22	53	6.35
82	2.6	6.3	10	29	6.20
91	40	7.0	12	29	6.13
153	50	170	86	430	6.92
138	28	110	65	260	6.83
149	34	27	69	190	6.67
146	3.8	37	21	88	6.89
141	8.3	37	23	83	6.82
151	2.7	25	15	51	6.64
132	17	20	19	39	6.58
136	16	13	15	31	6.22
180	27	110	48	200	7.36
187+182	18	42	30	130	7.19
170+190	2.7	54	23	84	7.37
183	2.5	31	12	71	7.20
177	1.1	11	7.8	36	7.08
174	1.9	7.4	12	32	7.11
203+196	2.6	29	12	52	7.65
194	7.8	15	6.7	23	7.80
Totals	1006.1	1513.8	1272.5	4057.3	Median=6.35

The tissue and water concentrations are from Oliver and Niimi (1988). The Log K_{ow} values are from Hawker and Connell (1988). Oliver and Niimi (1988) report the concentrations of congeners 22, 16, 33, 17, 32, 53, 40, and 99 for water and fish tissue, but did not report the concentrations in sculpin and/or alewife. Because the concentrations were not reported for sculpin and alewife they were not included in this table nor in the calculation of the BAF. This is consistent with the approach used in the final Guidance.

B. Calculation of BAF for Use in AWQC

After a composite baseline BAF has been derived, the next step is to calculate a BAF that can be used for deriving AWQC for human health and wildlife. The data required to calculate a BAF are the composite baseline BAF, the fraction lipid of the aquatic species consumed by the population of interest whether that is humans or wildlife and the fraction of the chemical that is freely dissolved in the ambient water for the area of interest.

BAF for AWQC=[(baseline BAF)(fraction lipid of aquatic species consumed)+1](f_{fd})

1. Baseline BAF

EPA is proposing to use the new, composite baseline BAFs derived above in section III.A: 53,080,000 for trophic level 4 and 26,735,000 for trophic level 3.

2. Freely Dissolved Fraction

The equation for estimating the freely dissolved fraction is presented above. EPA is proposing to use the composite log K_{ow} of 6.35 described above in section III.A. of this notice. EPA, however, is proposing to use the same values for POC and DOC used in the final rule ($4.0\times10-8$ kg/L for POC and $2.0\times.10-6$ kg/L for DOC). These values represent POC and DOC concentrations from Lake Superior and were used for all BAFs for AWQC in the final Guidance. Due to the change in the log K_{ow} value, the freely dissolved value that EPA is today proposing to use is 0.6505.

3. Lipid Fraction

EPA is not proposing any change to the lipid values used in the final

Guidance. The lipid fraction of the aquatic species consumed by humans in the Great Lakes region is 1.82 for trophic level 3 and 3.10 for trophic level 4 (60 FR 15404). For wildlife, the lipid fraction for trophic level 3 is 6.46 and for trophic level 4 is 10.31 (60 FR 15404).

4. Calculation

Using the revised value for the freely dissolved fraction, EPA today proposes the following BAFs to be used in the human health and wildlife AWQCs for PCBs

Human Health BAF for trophic level 4=[(53,080,,000)(0.0310)+1] 0.6505=1,070,000

Human Health BAF for trophic level 3=[(26,735,000)(0.0182)+1] 0.6505=317,000

Wildlife BAF for trophic level 4=[(53,080,000)(0.1031)+1] 0.6505=3,560,000

Wildlife BAF for trophic level 3=[(26,735,000)(0.0646)+1] 0.6505=1,123,000

IV. Human Health Cancer Criteria

Based on the BAFs presented above, EPA today proposes to change the human health cancer criteria for PCBs in Table 3 of the final Guidance from 3.9E–6 ug/L to 6.8E–6 ug/L. EPA derived this revised value using the same equations used in the Great Lakes Water Quality Initiative Criteria Documents for the Protection of Human Health (EPA–820–B–95–006). The only value EPA changed was the BAF value. The calculations are:

$$\mathrm{RAD} = \frac{\text{Risk Level}}{\text{q1*}} = \frac{1\times10^{-5}}{7.7\left(\mathrm{mg/kg/d}\right)^{-1}} = 1.30\times10^{-6}\ \mathrm{mg/kg/d}$$

Drinking Water Sources:

$$\mathrm{HCV} = \frac{\mathrm{RAD}\times\mathrm{BW}}{\mathrm{WC_d} + \left[\left(\mathrm{FC_{TL3}}\times\mathrm{BAF_{TL3}}\right) + \left(\mathrm{FC_{TL4}}\times\mathrm{BAF_{TL4}}\right)\right]}$$

$$= \frac{1.30\times10^{-6}\ \mathrm{mg/kg/d}\times70\mathrm{kg}}{2\,1/\mathrm{d} + \left[\left(0.0036\times317{,}000\right) + \left(0.0114\times1{,}070{,}000\right)\right]}$$

$$= 6.8\times10^{-6}\ \mathrm{ug/L}$$

Non-Drinking Water Sources:

$$\mathrm{HCV} = \frac{\mathrm{RAD}\times\mathrm{BW}}{\mathrm{WC_r} + \left[\left(\mathrm{FC_{TL3}}\times\mathrm{BAF_{TL3}}\right) + \left(\mathrm{FC_{TL4}}\times\mathrm{BAF_{TL4}}\right)\right]}$$

$$= \frac{1.30\times10^{-6}\ \mathrm{mg/kg/d}\times70\mathrm{kg}}{0.011/\mathrm{d} + \left[\left(0.0036\times317{,}000\right) + \left(0.0114\times1{,}070{,}000\right)\right]}$$

$$= 6.8\times10^{-6}\ \mathrm{ug/L}$$

V. Wildlife Criteria

For wildlife, EPA today proposes to change the PCB criteria from 7.4E–5 ug/L to 1.2E–4 ug/L based on using the BAFs presented above. The equations and calculations of mammalian wildlife values are presented below. With the exception of the revised BAF values described above, the equations and data are identical to those used in the Great Lakes Water Quality Initiative Criteria Documents for Protection of Wildlife (EPA–820–B–95–008).

$$WV\,(\text{mink}) = \frac{TD \times \left[1 / \left(UF_{A(\text{mink})} \times UF_S \times UF_L\right)\right] \times Wt_{(\text{mink})}}{W_{(\text{mink})} + \left[\left(F_{(\text{mink,TL3})} \times BAF_3\right) + \left(F_{(\text{mink,other})} \times BAF_{(\text{other})}\right)\right]}$$

$$WV\,(\text{mink}) = \frac{0.30\ \text{mg/kg} - \text{d} \times \left[1 / (1 \times 1 \times 10)\right] \times 0.80\ \text{kg}}{0.081\ \text{L/d} + \left[(0.159\ \text{kg/d} \times 1{,}123{,}000\ \text{L/kg}) + (0.0177\ \text{kg/d} \times 0\ \text{L/kg})\right]}$$

$$WV\,(\text{mink}) = 134.4\ \text{pg/L}$$

$$WV\,(\text{otter}) = \frac{TD \times \left[1 / \left(UF_{A(\text{otter})} \times UF_S \times UF_L\right)\right] \times Wt_{(\text{otter})}}{W_{(\text{otter})} + \left[\left(F_{(\text{otter,TL3})} \times BAF_3\right) + \left(F_{A(\text{otter,TL4})} \times BAF_4\right)\right]}$$

$$WV\,(\text{otter}) = \frac{0.30\ \text{mg/kg} - \text{d} \times \left[1 / (1 \times 1 \times 10)\right] \times 7.4\ \text{kg}}{0.60\ \text{L/d} + \left[(0.976\ \text{kg/d} \times 1{,}123{,}000\ \text{L/kg}) + (0.244\ \text{kg/d} \times 3{,}560{,}000\ \text{L/kg})\right]}$$

The geometric mean of these two mammalian wildlife values results in

$WV\ (\text{mammalian}) = e^{([\ln WV(\text{mink}) + \ln WV(\text{otter})]/2)}$

$WV\ (\text{mammalian}) = e^{([\ln 134.4\ \text{pg/L} + \ln 113.0\ \text{pg/L}]/2)}$

WV (mammalian)=123 pg/L (two significant digits)=1.2 E–4 ug/L

VI. Request for Public Comment

EPA is requesting comment on the approach for deriving a composite baseline BAF for PCBs and on the use of the composite K_{ow} for PCBs used in estimating the fraction freely dissolved for PCBs. Specifically, EPA is requesting comment on whether using the total concentration of PCBs in tissue and the total concentration of PCBs in the ambient water to develop a composite baseline BAF for those congeners in Table 1 is preferable to the weighted geometric mean used in the final Guidance. EPA is also requesting comment on whether the composite K_{ow} should be estimated using the median of the K_{ow}s for those congeners presented in Table 1. EPA also requests comments on the alternate method proposed for deriving the composite K_{ow}. EPA also requests comments on whether it accurately computed the revised composite baseline BAF values, the revised composite K_{ow}, the revised BAFs used for calculating the AWQC, and the revised human health and wildlife criteria. EPA is not requesting comment on the general methodology or the data used for deriving the baseline BAF. EPA is also not requesting information on the methodology or data used for deriving the BAF used in calculating AWQC. In addition, EPA is not requesting comment on the methodology or data (other than the BAFs) used to derive the human health cancer criteria or the wildlife criteria. These issues were fully addressed in the rulemaking for the final Guidance.

VII. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' and is therefore not subject to OMB review.

VIII. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that, whenever an agency is required under 5 U.S.C. 553 to publish a general notice of rulemaking for any proposed rule, an agency must prepare an initial regulatory flexibility analysis unless the head of the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 & 605. The purpose of the RFA is to establish procedures that ensure that Federal agencies solicit and consider alternatives to rules that would minimize their potential disproportionate impact on small entities.

EPA has determined that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities for the following reasons. As EPA has previously explained, until actions are taken to implement the final Guidance, there will be no economic effect of the final Guidance on any entities, large or small. States and Tribes must both adopt their own criteria and implement them before impacts are felt. The implementation regulations provide States and Tribes with a variety of flexible alternatives which can affect the burden felt by any small entity affected by this rule, including total maximum daily load (TMDL) calculations and waste load allocations (WLAs). Impacts

will not be felt until States and Tribes select and put in place implementation measures.

Furthermore, today's proposal, if adopted, will result in human health cancer criteria and wildlife criteria less stringent than those currently in the final Guidance. If States or Tribes adopt criteria consistent with today's proposal, they will reduce any adverse economic impact that might have been imposed by State or Tribal adoption of the 1995 criteria. Consequently, the economic effect of today's proposal relative to the 1995 Guidance should be positive. Any adverse economic impact on small entities associated with measures taken to implement the current provisions of the final Guidance should be reduced by adoption of the proposed revisions. For these reasons, the Administrator certifies, pursuant to section 605(b) of the RFA, that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

IX. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal Mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of the affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is limited to the method for deriving a composite BAF for PCBs and for deriving a composite K_{ow} for PCBs, which will result in human health cancer criteria and wildlife criteria for PCBs less stringent than those currently in the final Guidance. If States or Tribes adopt criteria consistent with today's proposal, they will reduce any adverse economic impact that might have been imposed by State or Tribal adoption of the 1995 criteria. Consequently, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

X. Paperwork Reduction Act

There are no information collection requirements in this proposed notice and therefore there is no need to obtain OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

XI. References

Great Lakes Water Quality Technical Support Document for the Procedure to Determine Bioaccumulation Factors (EPA–820–B–95–005). NITS Number: PB95187290. ERIC Number: D049.

Great Lakes Water Quality Initiative Criteria Documents for the Protection of Human Health (EPA–820–B–95–006). NITS Number: PB95187308. ERIC Number: D050.

Great Lakes Water Quality Initiative Criteria Documents for Protection of Wildlife: DDT; Mercury; 2,3,7,8–TCDD; PCBs (EPA–820–B–95–008). NITS Number: PB95187324. ERIC Number: D052.

Hawker D.W. and D.W Connell. 1988. Octanol-Water Partition Coefficients of Polychlorinated Biphenyl Congeners. Environ. Sci. Technol., 22(4):382–387.

Oliver, B.G. and A.J Niimi. 1988. Trophodynamic Analysis of Polychlorinated Biphenyl Congeners and Other Chlorinated Hydrocarbons in the Lake Ontario Ecosystem. Environ. Sci. Technol., 22(4):388–397.

U.S. Environmental Protection Agency. Water Quality Guidance for the Great Lakes System and Correction; Proposed Rules. Vol. 58, No.72. April 16, 1993. pp.20802–21047.

U.S. Environmental Protection Agency. Water Quality Guidance for the Great Lakes System; Notice of Data Availability. Vol. 59. August 30, 1994. pp.44678–44685.

U.S. Environmental Protection Agency. Final Water Quality Guidance for the Great Lakes System; Final Rule. Vol. 60, No.56. March 23, 1995. pp.15366–15425.

List of Subjects in 40 CFR Part 132

Environmental protection, Administrative practice and procedure, Great Lakes, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 11, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble Title 40, Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 132—WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

1. The authority citation for Part 132 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Table 3 to Part 132 is amended by revising the entry for PCBs(class) to read as follows:

TABLE 3.—WATER QUALITY CRITERIA FOR PROTECTION OF HUMAN HEALTH

Chemical	HNV (ug/L)		HCV (ug/L)	
	Drinking	Nondrinking	Drinking	Nondrinking
* * *	*	*	*	*
PCBs(class)			6.8E–6	6.8E–6
* * *	*	*	*	*

3. Table 4 to Part 132 is amended by revising the entry for PCBs(class) to read as follows:

TABLE 4.—WATER QUALITY CRITERIA FOR PROTECTION OF WILDLIFE

Chemical	Criteria (ug/L)
* * * * *	
PCBs(class)	1.2E–4
* * * * *	

[FR Doc. 96–26918 Filed 10–21–96; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 61, No. 205
Tuesday, October 22, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special Upland Cotton Import Quota; Announcement Number 13

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,403,388 kilograms (97,892,793 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 13, effective November 23, 1996, and is set forth in subheading 9903.52.13, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of November 23, 1996, and applies to upland cotton purchased not later than February 20, 1997 (90 days from the date the quota is established), and entered into the United States not later than May 21, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1$^{3}/_{32}$ inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended August 29, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 13, effective November 23, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.13 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 13, effective May 27, 1996, through November 22, 1996. Therefore, the special import quota described in this notice opens on November 23, 1996, the day after the previous special import quota 13 ends.

The quota amount, 44,403,388 kilograms (97,892,793 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—May 1996 through July 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26965 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Special Upland Cotton Import Quota; Announcement Number 12

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,403,388 kilograms (97,892,793 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 12, effective November 16, 1996, and is set forth in subheading 9903.52.12, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of November 16, 1996, and applies to upland cotton purchased not later than February 13, 1997 (90 days from the date the quota is established), and entered into the United States not later than May 14, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1$^{3}/_{32}$ inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended August 22, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 12, effective November 16, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at

one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.12 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 12, effective May 20, 1996, through November 15, 1996. Therefore, the special import quota described in this notice opens on November 16, 1996, the day after the previous special import quota 12 ends.

The quota amount, 44,403,388 kilograms (97,892,793 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—May 1996 through July 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26966 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Special Upland Cotton Import Quota; Announcement Number 11

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,368,028 kilograms (97,814,838 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 11, effective November 9, 1996, and is set forth in subheading 9903.52.11, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of November 9, 1996, and applies to upland cotton purchased not later than February 6, 1997 (90 days from the date the quota is established), and entered into the United States not later than May 7, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended August 15, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 11, effective November 9, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.11 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 11, effective May 13, 1996, through November 8, 1996. Therefore, the special import quota described in this notice opens on November 9, 1996, the day after the previous special import quota 11 ends.

The quota amount, 44,368,028 kilograms (97,814,838 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—April 1996 through June 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26961 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Special Upland Cotton Import Quota; Announcement Number 10

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,368,028 kilograms (97,814,838 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 10, effective November 2, 1996, and is set forth in subheading 9903.52.10, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of November 2, 1996, and applies to upland cotton purchased not later than January 30, 1997 (90 days from the date the quota is established), and entered into the United States not later than April 30, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended August 8, 1996. Therefore, a quota referenced as the Secretary of

Agriculture's Special Cotton Import Quota Announcement Number 10, effective November 2, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.10 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 10, effective May 6, 1996, through November 1, 1996. Therefore, the special import quota described in this notice opens on November 2, 1996, the day after the previous special import quota 10 ends.

The quota amount, 44,368,028 kilograms (97,814,838 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—April 1996 through June 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26962 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Special Upland Cotton Import Quota; Announcement Number 9

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,368,028 kilograms (97,814,838 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 9, effective October 26, 1996, and is set forth in subheading 9903.52.09, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of October 26, 1996, and applies to upland cotton purchased not later than January 23, 1997 (90 days from the date the quota is established), and entered into the United States not later than April 23, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended August 1, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 9, effective October 26, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.09 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 9, effective April 29, 1996, through October 25, 1996. Therefore, the special import quota described in this notice opens on October 26, 1996, the day after the previous special import quota 9 ends.

The quota amount, 44,368,028 kilograms (97,814,838 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—April 1996 through June 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26963 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Special Upland Cotton Import Quota; Announcement Number 14

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 44,403,388 kilograms (97,892,793 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 14, effective November 30, 1996, and is set forth in subheading 9903.52.14, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: The quota is effective as of November 30, 1996, and applies to upland cotton purchased not later than February 27, 1997 (90 days from the date the quota is established), and entered into the United States not later than May 28, 1997 (180 days from the date the quota is established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32

inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended September 5, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 14, effective November 30, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.14 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 14, effective June 3, 1996, through November 29, 1996. Therefore, the special import quota described in this notice opens on November 30, 1996, the day after the previous special import quota 14 ends.

The quota amount, 44,403,388 kilograms (97,892,793 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—May 1996 through July 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, Pub.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on October 15, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–26964 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Lincoln (NE), Memphis (TN), and Omaha (NE) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of Lincoln Inspection Service, Inc. (Lincoln), and Omaha Grain Inspection Service, Inc. (Omaha), will end April 30, 1997, according to the Act, and the designation of Memphis Grain Inspection Service (Memphis) will end May 31, 1997, according to the Act, and GIPSA is asking persons interested in providing official services in the Lincoln, Memphis, and Omaha areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before December 2, 1996.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Applications may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Lincoln, main office located in Lincoln, Nebraska, and Omaha, main office located in Omaha, Nebraska, to provide official inspection services under the act on May 1, 1994. GIPSA designated Memphis, main office located in Memphis, Tennessee, to provide official inspection services under the act on June 1, 1994.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Lincoln and Omaha end on April 30, 1997, and the designation of Memphis ends on May 31, 1997.

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area, in the States of Iowa and Nebraska, is assigned to Lincoln.

Bounded on the North (in Nebraska) by the northern York, Seward, and Lancaster County lines; the northern Cass County line east to the Missouri River; the Missouri River south to U.S. Route 34; (in Iowa) U.S. Route 34 east to Interstate 29;

Bounded on the East by Interstate 29 south to the Fremont County line; the northern Fremont and Page County lines; the eastern Page County line south to the Iowa-Missouri State line; the Iowa-Missouri State line west to the Missouri River; the Missouri River south-southeast to the Nebraska-Kansas State line;

Bounded on the South by the Nebraska-Kansas State line west to County Road 1 mile west of U.S. Route 81; and

Bounded on the West (in Nebraska) by County Road 1 mile west of U.S. Route 81 north to State Highway 8; State Highway 8 east to U.S. Route 81; U.S. Route 81 north to the Thayer County line; the northern Thayer County line east; the western Saline County line; the southern and western York County lines.

Lincoln's assigned geographic area does not include the following grain elevators inside Lincoln's area which have been and will continue to be serviced by the following official agency: Omaha Grain Inspection Service, Inc.: Goode Seed & Grain, McPaul, Fremont County, Iowa; and Lincoln Grain, Murray, Cass County, Nebraska.

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area, in the States of Arkansas and Tennessee, is assigned to Memphis.

Craighead, Crittenden, Cross, Lee, Mississippi, Phillips, Poinsett, and St. Francis Counties, Arkansas.

Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton Counties, Tennessee.

The following grain elevators, located outside of the above contiguous

geographic area, are part of this geographic area assignment: Continental Grain Co., Tiptonville, Lake County, Tennessee (located inside Cairo Grain Inspection Agency, Inc.'s, area); and Lockhart-Coleman Grain Company, Augusta, Woodruff County, Arkansas (located inside Arkansas Grain Inspection Service's area).

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area, in the States of Iowa and Nebraska, is assigned to Omaha.

Bounded on the North by Nebraska State Route 91 from the western Washington County line east to U.S. Route 30; U.S. Route 30 east to the Missouri River; the Missouri River north to Iowa State Route 175; Iowa State Route 175 east to Iowa State Route 37; Iowa State Route 37 southeast to the eastern Monona County line;

Bounded on the East by the eastern Monona County line; the southern Monona County line west to Iowa State Route 183; Iowa State Route 183 south to the Pottawattamie County line; the northern and eastern Pottawattamie County lines; the southern Pottawattamie County line west to M47; M47 south to Iowa State Route 48; Iowa State Route 48 south to the Montgomery County line;

Bounded on the South by the southern Montgomery County line; the southern Mills County line west to Interstate 29; Interstate 29 north to U.S. Route 34; U.S. Route 34 west to the Missouri River; the Missouri River north to the Sarpy County line (in Nebraska); the southern Sarpy County line; the southern Saunders County line west to U.S. Route 77; and

Bounded on the West by U.S. Route 77 north to the Platte River; the Platte River southeast to the Douglas County line; the northern Douglas County line east; the western Washington County line northwest to Nebraska State Route 91.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: T&K Evans, Elliot, Montgomery County, Iowa; Hemphill Feed & Grain, and Hansen Feed & Grain, both in Griswold, Cass County, Iowa (located inside Central Iowa Grain Inspection Service, Inc.'s, area); Farmers Coop Business Association, Rising City, Butler County, Nebraska; Farmers Coop Business Association (2 elevators), Shelby, Polk County, Nebraska (located inside Fremont Grain Inspection Department, Inc.'s, area); and Goode Seed & Grain, McPaul, Fremont County, Iowa; Lincoln Grain, Murray, Cass County, Nebraska (located inside Lincoln Inspection Service, Inc.'s, area).

Omaha's assigned geographic area does not include the following grain elevators inside Omaha's area which have been and will continue to be serviced by the following official agency: Fremont Grain Inspection Department, Inc.: Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska.

Interested persons, including Lincoln, Memphis, and Omaha, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the Lincoln and Omaha geographic areas is for the period beginning May 1, 1997, and ending April 30, 2000. Designation in the Memphis geographic area is for the period beginning June 1, 1997, and ending April 30, 2000. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 15, 1996

Neil E. Porter

Director, Compliance Division

[FR Doc. 96–26912 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–EN–F

Designation for the Aberdeen (SD) Area and the State of Missouri

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Aberdeen Grain Inspection, Inc. (Aberdeen), and the Missouri Department of Agriculture (Missouri) to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: December 1, 1996.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 30, 1996, Federal Register (61 FR 27045), GIPSA asked persons interested in providing official services in the geographic areas assigned to Aberdeen and Missouri to submit an application for designation. Applications were due by June 29, 1996. There were three applicants: Aberdeen applied for designation to provide official services in the entire area currently assigned to them. Missouri applied for designation to provide official services in the entire area currently assigned to them, and Grain Belt Inspection Service (Grain Belt), an organization to be formed by Larry and Peggy Aschermann that plans to establish its main office in Jefferson City, Missouri, applied for designation to provide official services in the area currently assigned to Missouri.

Since Aberdeen was the only applicant for the Aberdeen area, GIPSA did not ask for comments on the applicant. GIPSA requested comments on the applicants for the Missouri area in the August 1, 1996, Federal Register (61 FR 40192). Comments were due by September 2, 1996. GIPSA received 43 comments by the deadline.

Thirty-five comments; 7 grain firms currently served by Missouri, 1 official agency, 2 grain associations, 11 State government officials, 2 farm organizations, and 12 individuals, supported designation of Missouri. These comments noted with satisfaction Missouri's past performance of official services, experience in providing official services, and overall good service. Many of the comments were of the view that Missouri was best able to continue to provide official services. Seven comments, 3 grain firms, 3 nongrain businesses, and 1 individual supported designation of Grain Belt based on their view that Grain Belt was qualified to provide official services, that grain inspection services should be privatized, and their concerns about the fees charged and the cost of official services provided by Missouri.

One commentor asked for information.

Six additional comments were received after the due date and these comments did not differ significantly from previously received comments.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Aberdeen is able to provide official services in the geographic area for which they applied,

and that Missouri is better able than any other applicant to provide official services in the geographic area for which they applied. Effective December 1, 1996, and ending November 30, 1999, Aberdeen and Missouri are designated to provide official services in the geographic areas specified in the May 30, 1996, Federal Register.

Interested persons may obtain official services by contacting Aberdeen at 605–225–8432 and Missouri at 375–751–5515.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 15, 1996

Neil E. Porter

Director, Compliance Division

[FR Doc. 96–26913 Filed 10–21–96; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:30 p.m. on Wednesday, November 13, 1996, at the Providence Marriott, Charles & Orms Streets, Providence, Rhode Island 02904. The purpose of the meeting is to plan future projects and update members on U.S. Commission on Civil Rights activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert G. Lee, 401–863–1693, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–27009 Filed 10–21–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Texas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 1:00 p.m. on November 16, 1996, at the Holiday Inn—Aristocrat, 1933 Main Street, Dallas, Texas 75201. The purpose of the meeting is to review current civil rights developments, plan future program activities, and receive reports from subcommittees on education, recent immigration legislation, disabilities, women's issues, aging, affirmative action, and current affairs.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Adolph Canales, 214–653–6779, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–27010 Filed 10–21–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on November 6, 1996, at the Federal Building, 300 Ala Moana Boulevard, Room 5311, Honolulu, Hawaii 96850. The purpose of the meeting is to review current civil rights developments in the State and plan future program activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oswald K. Stender, 808–523–6203, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–27011 Filed 10–21–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

The Department of Commerce (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: Survey of Plant Capacity Utilization.

Form Number(s): MQ–C1.

Agency Approval Number: 0607–0175.

Type of Request: Reinstatement with change.

Burden: 34,000 hours

Number of Respondents: 17,000.

Avg Hours Per Response: 2 hours.

Needs and Uses: The Census Bureau plans to reinstate the Survey of Plant Capacity Utilization. The Census Bureau has conducted this survey annually from 1973 through 1988. It was conducted biennially since 1988 based on availability of funding. This request is to conduct the survey to collect data for the fourth quarters of 1995 and 1996 and the fourth quarter of each subsequent year. Data are gathered from a sample of manufacturing plants in the United States. The survey forms will collect data on the value of plant production during actual operations and at full production capability. The survey will also collect estimates of production under a national emergency situation. Data are used in measuring inflationary pressures, capital flows, in understanding productivity determinants, and analyzing and forecasting economic and industrial trends. The survey results will be used by such agencies as the Federal Reserve Board, Federal Emergency Management Agency, and the International Trade Administration.

Affected Public: Businesses or other for–profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 182, 224, and 225.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, 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 within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 9, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26992 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–07–F

Submission For OMB Review; Comment Request

The Department of Commerce (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: 1997 Economic Census Covering Utilities; Transportation; Information; Finance & Insurance; and Real Estate, Rental and Leasing Sectors.

Form Number(s): UT–4100 thru UT–4900; SV–7801 thru SV–7807; and FI–6001 thru FI–6700 (38 forms in all).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 766,054 hours.

Number of Respondents: 625,099.

Avg Hours Per Response: 1.225 hours.

Needs and Uses: The economic census is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 1997 Economic Census will cover virtually every sector of the U.S. economy, including more than 944,000 establishments in the above mentioned sectors of the economy. The economic census will produce basic statistics by kind of business for number of establishments, revenue, payroll, and employment. It also will yield a variety of subject statistics, including sources of revenue and other industry–specific measures, such as insurance benefits paid to policyholders, exported services, purchased transportation, and exported energy. Basic statistics will be summarized for the United States, states, metropolitan areas and, in some cases, for counties and places having 2,500 inhabitants or more. Tabulations of subject statistics also will present data for the United States and, in some cases, for states.

Affected Public: Businesses or other for–profit; Individuals or households; Not–for–profit institutions; State, local or tribal government.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, 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 within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 9, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26993 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–07–F

Submission for OMB Review; Comment Request

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 of 1995, Public Law 104–13.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: The Globe Program Survey.

Agency Number: None assigned.

OMB Control Number: 0648–0310.

Type of Request: Reinstatement of a previously approved collection.

Burden: 817 hours.

Number of Respondents: 1,653.

Avg. Hours Per Response: Ranges between 15 and 60 minutes depending on the requirement.

Needs and Uses: The Global Learning and Observations to Benefit the Environment (GLOBE) is an international science and environmental education program that joins students, teachers, and scientists from around the world to study the global environment. Through this program, elementary and secondary students in the U.S. and around the world make regular environmental observations. The information collected from participants in the program—teachers and students alike—will be used to guide planning for this program and make enhancements to it.

Affected Public: Not for-profit institutions, individuals.

Frequency: Biennially and semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Adele Morris, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Adele Morris, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: October 9, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26996 Filed 10–21–96; 8:45 am]

BILLING CODE: 3510–12–P

Bureau of the Census

1997 Economic Censuses General Schedule

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 23, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information of copies of the information collection instrument(s) and instructions should be directed to William Bostic, Bureau of the Census, Room 2641, Building 3, Washington, DC 20233–6100 and 301–457–2672 or E-mail at William.G.Bostic.Jr@Info.Census.Gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector of timely, relevant and quality data about the people and the economy of the United States. Economic data are the Census Bureau's primary program commitment during non-decennial census years. The economic census, conducted under authority of Title 13 U.S.C., is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business, and the general public.

The 1997 Economic Census will cover virtually every sector of the U.S. economy. The Census Bureau will implement the new North American Industry Classification System (NAICS) in the 1997 Economic Census. The implementation of the NAICS as a replacement for the 1987 Standard Industrial Classification (SIC) system will require contacting businesses to collect classification information to update the 1997 Economic Census mailing lists.

Accurate and reliable industry and geographic codes are critical to the Bureau of Census statistical programs. New businesses are assigned industry classification by the Social Security Administration (SSA). However, approximately 22 percent of these businesses cannot be assigned industry codes because insufficient information is provided on Internal Revenue Service (IRS) Form SS–4. Since the 1992 Economic Censuses, the number of unclassified businesses has grown to over 500,000.

In order to provide detailed industry data reflecting NAICS for the 1997 Economic Censuses and the Standard Statistical Establishment List (SSEL), these unclassified businesses must be assigned industry codes. The Census Bureau has contracted with the Bureau of Labor Statistics (BLS) to receive classification information for unclassified businesses. However, differences in NAICS implementation schedules, coverage, and updating procedures between the two agencies and our further attempts to assign industry codes to these businesses based on their name will still leave some 300,000 unclassified businesses on the 1997 Economic Censuses mail list. This data collection, Form NC–9923, is designed to obtain classification information for different types of industries including reflecting changes from the SIC to NAICS and provide current information on physical locations.

The failure to collect this classification information will have an adverse effect on the quality and usefulness of economic statistics and severely hamper the Census Bureau's ability to implement NAICS in the 1997 Economic Censuses.

II. Method of Collection

The Census Bureau will select establishments to receive this survey from the Census Bureau's SSEL. The Census Bureau will mail the NC–9923 to establishments in order to collect classification information. The NC–9923 will contain a list of 6-digit codes and descriptions. Respondents are to select the activity which best describes their business by checking the box next to the activity listed or describe their principal business activity if no box can be checked.

III. Data

OMB Number: Not Available.

Form Number: NC–9923.

Type of Review: Regular Review.

Affected Public: Businesses or other for profit organizations, Non-for-profit institutions, Small businesses or organizations, and State, local or tribal governments.

Estimated Number of Respondents: 300,000.

Estimated Total Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 25,000 hours.

Estimated Total Annual Cost: The cost to government for this survey is included in the total cost of the 1997 Economic Census, estimated to be $218 million.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of pubic record.

Dated: October 16, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26991 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–07–P

Survey of Program Dynamics—1997 Bridge Survey

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 23, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patricia Johnson, c/o Bureau of the Census, HHES–Room 406 IMALL, Washington, DC 20233–8500, or telephone (301)763–8120.

SUPPLEMENTARY INFORMATION

I. Abstract

The Survey of Program Dynamics (SPD) is a household-based survey designed as an omnibus data collection vehicle that can provide the basis for an overall evaluation of how well welfare reforms are achieving the aims of the Administration and the Congress, and meeting the needs of the American people.

The SPD will be a large, longitudinal, nationally-representative study that measures features of the welfare programs, including both programs that are being reformed and those that remain unchanged. The SPD will also measure other important social, economic, demographic and family changes that reflect the effectiveness of the welfare reforms.

With the August 22, 1996 signing of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub L. 104–193), the Bureau of the Census is required to conduct the SPD using as the sample households from the 1992 and 1993 Survey of Income and Program Participation (SIPP). The information obtained will be used to evaluate the impact of this law on a sample of recipients of assistance under state programs funded under this law as well as assess the impact on other low-income families. Issues of particular attention include out-of-wedlock births, welfare dependency, the length of welfare spells, and the causes of repeat welfare spells. We also plan to collect information on the status of children who were in the 1992 and 1993 SIPP panels from 1998 survey and thereafter.

A sample of respondents originally in the 1992 and 1993 SIPP panels will be interviewed once a year from 1997–2001, and perhaps longer depending on funding. Separate OMB clearance requests will be submitted for a 1997 pretest and the 1998–2001 surveys. Prior to conducting a pretest of the initial SPD questionnaire, the Bureau of the Census will conduct a ''bridge'' survey during April–June 1997 using the March 1997 Current Population Survey (CPS) questionnaire, which contains annual retrospective questions on work experience, earnings, program participation, and health insurance coverage. This ''bridge'' survey and the 1992 and 1993 SIPP panels will provide baseline data for approximately 35,000 households for the period prior to the implementation of the welfare reform activities. With the pretest in the fall of 1997, the full survey implementation in the spring of 1998, and annually thereafter through 2001, the data gathered for the 10-year period (1992–2001) will aid in assessing short to medium-term consequences or outcomes of the welfare legislation.

We plan to utilize a financial incentive program in the ''bridge'' survey as an attempt to attain a higher response rate. Each household that completes an interview will receive a small monetary compensation for their cooperation in the survey.

A small sample of households will be selected for reinterview during the ''bridge'' survey. The reinterview process assures that all households in the survey were properly contacted, and that the data are valid.

II. Method of Collection

The SPD is designed as a longitudinal study of welfare related activities, with the sample respondents drawn from the 1992 and 1993 SIPP panels being interviewed again in the ''bridge'' survey in 1997, followed by interviews once a year from 1998–2001 (including a pretest in late 1997). Survey years 1998–2001 will emphasize questions pertaining to children and their well-being.

III. Data

OMB Number: Not available.

Form Number: CPS/CAPI Automated Instrument.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 35,000.

Estimated Time Per Response: 46 minutes per household (including reinterview).

Estimated Total Annual Burden Hours: 26,875.

Estimated Total Annual Cost: $10,000,000.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, Section 182 and Public Law 104–193, Section 414 (signed 8/22/96) (Title 42 United States Code, Section 614)

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 9, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26994 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–07–P

Economic Development Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic Development Administration Senior Executive Service (SES) Performance Appraisal System:

John E. Corrigan
Charles R. Sawyer
Chester J. Straub, Jr.
Stephen C. Browning

H. James Reese,

Executive Secretary, Economic Development Administration, Performance Review Board.

[FR Doc. 96–27015 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–BS–M

Foreign-Trade Zones Board

[Docket 73–96]

Foreign-Trade Zone 198—Volusia County, Florida; Request for Manufacturing Authority, Capo, Inc. (Sunglasses/Reading Glasses)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Volusia, Florida, grantee of FTZ 198, pursuant to § 400.32(b)(2) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Capo, Inc., to manufacture sunglasses/reading glasses (HTS #9004.10) under FTZ procedures. It was formally filed on October 9, 1996.

Capo operates a facility within FTZ 198 that manufactures sunglasses and reading glasses. Presently, the company uses FTZ procedures at its facility for the storage of inventory. This application requests authority for allowing Capo to also conduct its assembly activity under FTZ procedures.

Most components are sourced from abroad (up to 95%), including: metal frames, plastic frames, sunglass lenses, imitation leather cords, man-made fiber

cords, cloth cords, cases, and lens stickers (duty rate range: 3.4%–19.5%).

Zone procedures would exempt Capo from Customs duty payments on the foreign components used in export production. On its domestic sales, it would be able to choose the duty rates that apply to finished sunglasses/reading glasses (5.1%) for the foreign components noted above. The company is also seeking an exemption from Customs duties on scrap generated in the production process. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 21, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 6, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: October 11, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–27051 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 9–93]

Foreign-Trade Zone 198—Daytona Beach, FL; Withdrawal of Application for Subzone Status for Lockheed Martin (Formerly GE Aerospace Daytona) Plant

Notice is hereby given of the withdrawal of the application submitted by the County of Volusia, Florida, grantee of FTZ 198, requesting special-purpose subzone status for the aerospace systems manufacturing plant of Lockheed Martin (formerly GE Aerospace Daytona). The application was filed on March 18, 1993 (58 FR 16395, 3/26/93).

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: October 15, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–27054 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 74–96]

Foreign-Trade Zone 181—Akron-Canton, Ohio Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Akron-Canton Regional Airport Authority, grantee of Foreign-Trade Zone 181, requesting authority to expand its zone in the Akron-Canton, Ohio area, adjacent to the Cleveland/Akron Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 10, 1996.

FTZ 181 was approved on December 23, 1991 (Board Order 546, 57 FR 41, 1/2/92). The general-purpose zone currently consists of 110 acres within 2,121-acre Akron-Canton Regional Airport in North Canton, Ohio. An application is currently pending with the Board to expand the zone to include three additional sites in Trumbull, Columbiana and Stark Counties, Ohio (Docket 56–96).

This application is requesting authority to further expand the general-purpose zone to include two sites in Summit County (Akron area), Ohio: a warehouse facility on a site (30 acres) at 1779 Marvo Drive, Summit County; and, a warehouse facility on a site (5.5 acres) at 989 Home Avenue, Summit County. Both sites are owned/operated by Terminal Warehouse, Inc. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comments on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 23, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 6, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Akron-Canton Regional Airport Authority, 5400 Lauby Road NW, North Canton, Ohio 44720

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: October 11, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–27052 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 75–96]

Proposed Foreign-Trade Zone—Memphis, Tennessee Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Memphis International Trade Development Corporation (a Tennessee not-for-profit corporation), to establish a general-purpose foreign-trade zone in Memphis, Tennessee, adjacent to the Memphis Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 11, 1996. The applicant is authorized to make the proposal under Section 7–85–103 of the Tennessee Statutes.

The proposed zone would be the second general-purpose zone in the Memphis Customs port of entry area. The existing zone is FTZ 77 at sites in Memphis, Tennessee (Grantee: City of Memphis, Tennessee, Board Order 189, 47 FR 16191, 4/15/82).

The proposed new zone would be located at the Memphis TradeCenter industrial park (50 acres), U.S. Highway 78 and Tuggle Road, Memphis. It is owned by CP TradeCenter, Ltd. and will be operated by the Foreign Trade Zone Operating Company of Texas. The first phase of development will involve constructing a 268,000 square foot multi-tenant facility.

The application contains evidence of the need for additional zone services in the Memphis area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as electronics and medical products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff

has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on November 13, 1996, at 9:00 a.m., at the Memphis Chamber of Commerce, 22 North Front Street, Suite 200, Memphis, Tennessee 38103.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 23, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 6, 1997).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations: U.S. Department of Commerce, Export Assistance Center, 22 North Front Street, Suite 200, Memphis, TN 38103.

Office of the Executive Secretary Foreign-Trade Zones Board, Room 3716 U.S. Department of Commerce 14th and Pennsylvania Avenue, NW Washington, DC 20230.

Dated: October 11, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–27053 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–557–805]

Notice of Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia

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

SUMMARY: On May 20, 1996, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on extruded rubber thread from Malaysia. The review covers shipments of this merchandise to the United States during the period April 2, 1992, through September 30, 1993.

Based on our analysis of the comments received and the correction of certain clerical and computer program errors, we have changed the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Cameron Werker or Shawn Thompson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone, (202) 482–3874 and (202) 482–1776, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1996, the Department of Commerce (the Department) published in the Federal Register the preliminary results of its administrative review of the Antidumping Duty Order on Extruded Rubber Thread from Malaysia (61 FR 25190). The Department has now completed that administrative review in accordance with § 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this review is dispositive.

This review covers the following producers/exporters of extruded rubber thread: Heveafil Sdn. Bhd. (''Heveafil'') and Rubberflex Sdn. Bhd. (''Rubberflex''). The period of review (POR) is April 2, 1992, to September 30, 1993.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Merchandise Comparisons

In determining similar merchandise comparisons, in accordance with Section 771(16) of the Act, we considered the following physical characteristics, which appear in order of importance: (1) Quality (*i.e.*, first vs. second); (2) size; (3) finish; (4) color; (5) special qualities; (6) uniformity; (7) elongation; (8) tensile strength; and (9) modulus.

Fair Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV) for Rubberflex and Heveafil, as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

For both respondents, we disregarded sales to the United States and third countries which were written off as bad debt because bad debt was accounted for in respondents' reported indirect selling expenses.

United States Price

For sales by both respondents, 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 the exporter's sales price (ESP) methodology of § 772(c) of the Act was not otherwise indicated. In addition, where sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with § 772(c) of the Act.

A. Heveafil

We removed all sales from the sales database with entry dates after the POR. We also eliminated certain transactions that we verified were not subject to the antidumping duty order. Specifically, these transactions were sales to a U.S. customer that were shipped to Hong Kong for further manufacturing into non-subject merchandise (see page 7 and exhibit 5 of the Malaysian sales verification report, dated August 30, 1995).

We based purchase price on packed, CIF prices to the first unrelated purchaser in the United States. We revised Heveafil's data based on our verification findings. We made deductions from USP, where appropriate, for rebates. In addition, where appropriate, we made deductions for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs duty, harbor maintenance and merchandise processing fees, and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act.

At verification, we found that Heveafil did not report certain purchase price sales of extruded rubber thread which entered the United States during the POR. Because we specifically instructed Heveafil to report all entries into the United States during the POR

as well as all sales made during the POR, we based the margin for these unreported sales on the best information otherwise available (BIA) in accordance with section 776(c) of the Act. As BIA, we applied the weighted-average margin found in the less than fair value (LTFV) investigation, because it is the highest rate ever determined for Heveafil. This is consistent with the Department's general application of partial BIA (see, *e.g.,* Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, *et. al,* 60 FR 10900, 10907 (February 28, 1995) (AFBs)).

For sales made from the inventory of the U.S. branch office, we based USP on ESP, in accordance with section 772(c) of the Act. In addition, we reclassified certain purchase price sales as ESP sales because we verified that the sales were canceled by the original purchaser after shipment and resold after importation into the United States.

We calculated ESP based on packed, delivered prices to unrelated customers in the United States. We revised the reported data based on our findings at verification. We made deductions, where appropriate, for rebates. We also made deductions for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, U.S. customs duty, harbor maintenance and merchandise processing fees, and inspection charges. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses.

B. Rubberflex

We based purchase price on packed, CIF prices to the first unrelated purchaser in the United States. We made deductions from USP, where appropriate, for foreign inland freight, foreign brokerage and handling, containerization expenses, ocean freight, marine insurance, U.S. customs duties, harbor maintenance and merchandise processing fees, and U.S. inland freight expenses, in accordance with section 772(d)(2) of the Act. Rubberflex did not report certain movement charges, although the company reported that it incurred them on all purchase price transactions. Accordingly, we based the amount of the unspecified expenses on BIA. As BIA, we used the highest amount reported in the purchase price sales listing for each specific movement charge (see, *e.g.,* Chrome-Plated Lug Nuts From the People's Republic of China; Final Results of Antidumping Administrative Review, 60 FR 48687 (September 20, 1995) and AFBs). We disregarded a rebate which was erroneously reported for one purchase price sale, because Rubberflex stated in its questionnaire response that the company did not grant any U.S. rebates during the POR.

For sales made from the inventory of the U.S. subsidiary, we based USP on ESP, in accordance with section 772(c) of the Act. We calculated ESP based on packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, containerization expenses, ocean freight, marine insurance, U.S. customs duty, harbor maintenance and merchandise processing fees, and U.S. inland freight. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses.

Rubberflex did not report complete data for certain ESP sales. Accordingly, we used BIA to determine these data, as follows. Where price and/or credit expense data was missing for sales of second quality merchandise, we used the average price and expense data reported for other second quality sales. Where the date of sale was missing and/or the control number was missing, we applied the weighted-average margin found in the LTFV investigation, because it is the highest rate ever determined for Rubberflex. This is consistent with the Department's general application of partial BIA (see, *e.g.,* AFBs).

Foreign Market Value

In order to determine whether the home market was viable during the POR, we compared the volume of each of the respondent's home market sales to the volume of its third country sales, in accordance with section 773(a)(1)(B) of the Act and 19 CFR 353.48. Based on this comparison, we determined that neither respondent had a viable home market during the POR. Consequently, we based FMV on third country sales.

We selected the appropriate third country markets for Heveafil and Rubberflex. Specifically, we chose, as the appropriate third country markets, Italy for Heveafil and Hong Kong for Rubberflex, in accordance with 19 CFR 353.49(b).

Because the Department disregarded third country sales below the cost of production (COP) for both Heveafil and Rubberflex in the original investigation (see Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia, 57 FR 38465 (August 25, 1992)), in accordance with our standard practice, there were reasonable grounds to believe or suspect that both Heveafil and Rubberflex had made third country sales at prices below COP in this review.

In accordance with section 773(b) of the Act, and longstanding administrative practice (see, *e.g.,* Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Korea, 56 FR 16306 (April 22, 1991) and Final Results of Administrative Review: Mechanical Transfer Presses from Japan, 59 FR 9958 (March 2, 1994)), if over ninety percent of a respondent's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities. Where we found between ten and ninety percent of 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 ninety percent of a 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 constructed value (CV), in accordance with section 773(e) of the Act.

In order to determine whether third country prices were above the COP, we calculated the COP for each model based on the sum of the respondent's cost of materials, labor, other fabrication costs, and general expenses and packing. We calculated CV for each model based on the sum of the respondent's cost of manufacture (COM), 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 COM. For profit, we used the greater of the weighted-average third country profit during the POR or the statutory minimum of eight percent of the COM and SG&A, in accordance with section 773(e)(B) of the Act.

For Heveafil, we made the following adjustments to the COP and CV data used in the preliminary results. We recomputed Heveafil's general and administrative (G&A) and interest expenses by adjusting the cost of goods sold figure used as the denominator for clerical errors (see comment 5 below). For further discussion of these

adjustments, see also the cost calculation memorandum from Stan Bowen, accountant in the Office of Accounting, to Christian Marsh, Director of the Office of Accounting, dated August 22, 1996.

For Rubberflex, we made the following adjustments to the reported COP and CV data. We recalculated G&A and interest expenses using data contained in Rubberflex's audited financial statements. For further discussion of these adjustments, see the cost calculation memorandum from Elizabeth Lofgren, accountant in the Office of Accounting, to Christian Marsh, Director of the Office of Accounting, dated April 30, 1996.

A. Heveafil

Where FMV was based on third country sales, as in the original investigation, we based FMV on CIF prices to unrelated Italian customers in comparable channels of trade as the U.S. customer. Specifically, FMV was based on direct sales from Malaysia to Italy for purchase price sales comparisons, and on sales from the inventory of Heveafil's Italian branch office for ESP sales comparisons, in accordance with section 773(a)(1)(B) of the Act. We made adjustments to Heveafil's reported sales data based on our findings at verification. We made no adjustment to FMV for credits issued by the Italian branch office based on our finding at verification that they were incorrectly reported (see the Italian Branch's sales verification report, dated August 30, 1995).

For third country price-to-purchase price comparisons, we made deductions, where appropriate, for rebates. We also deducted post-sale home market movement charges from FMV under the circumstance of sale provision of section 773(a)(4)(B) of the Act and 19 CFR 353.56. This adjustment included Malaysian foreign inland freight, brokerage and handling, ocean freight, marine insurance, Italian brokerage and handling, and Italian inland freight to Heveafil's unrelated customers in Italy, where appropriate. 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, where appropriate, we made deductions for rebates and credit expenses. We deducted the third country market indirect selling expenses, including inventory carrying costs, pre-sale freight (*i.e.*, foreign inland freight, brokerage and handling, ocean freight, marine insurance, Italian brokerage and handling, and Italian freight to Heveafil's warehouse) and other 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).

For all price-to-price comparisons, we deducted third country packing costs and added U.S. packing costs, in accordance with section773(a)(1) of the Act. At verification, we found that Heveafil had incorrectly reported its third country and U.S. packing material expenses. Therefore, we based the adjustment for packing materials on BIA. As BIA, we used the lowest packing material expense reported for any Italian sale and the highest packing expense reported for any U.S. sale (*see* Concurrence Memorandum to Barbara R. Stafford from Team, dated April 30, 1996). In addition, where appropriate, we made adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act and 19 CFR 353.57.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses in accordance with section 773(a)(4)(B) and 19 CFR 353.56.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted the third country market indirect selling expenses, including inventory carrying costs and other 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).

For all CV-to-price comparisons, we added U.S. packing expenses as specified above, in accordance with section 773(e)(1)(C) of the Act.

B. Rubberflex

Where FMV was based on third country sales, as in the original investigation, we based FMV on CIF prices to unrelated Hong Kong customers in comparable channels of trade as the U.S. customer. Specifically, FMV was based on direct sales from Malaysia to Hong Kong for purchase price sales comparisons, and on sales from the inventory of Rubberflex's Hong Kong subsidiary for ESP sales comparisons.

For third country price-to-purchase price comparisons, we made deductions, where appropriate, for rebates. 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 Malaysian foreign inland freight, brokerage and handling charges, containerization, ocean freight, and marine insurance. Pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we also made circumstance of sale adjustments, where appropriate, for differences in credit expenses.

For third country price-to-ESP comparisons, we made deductions for rebates, where appropriate. We also made deductions for credit expenses.

We deducted the third country market indirect selling expenses, including inventory carrying costs, bank charges, pre-sale freight expenses (*i.e.*, foreign inland freight, brokerage and handling charges, containerization, ocean freight, marine insurance, Hong Kong duty and brokerage expenses, and freight from the port in Hong Kong to Rubberflex's warehouse), and other 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).

Regarding Hong Kong duties, Rubberflex reported a combined amount for document declaration fees, terminal handling charges, and bank charges. Because the Department's practice is to treat bank charges as a selling expense (rather than a movement charge), we reclassified bank charges as selling expenses and recalculated Hong Kong duties accordingly (see, e.g., Final Determination of Sales at Less Than Fair Value; Oil Country Tubular Goods from Korea, 60 FR 33561, 33562 (June 28, 1995) and Final Determination of Sales at Less Than Fair Value; Dynamic Random Access Memory Semiconductors of One Megabit and Above from Korea, 58 FR 15467, 15467–70 (March 23, 1993)).

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. In addition, where appropriate, we made adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act and 19 CFR 353.57.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses, in accordance with section 773(a)(4)(B) of the Act and 19 CFR 353.56.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted third country market indirect selling expenses, including inventory carrying costs, bank charges, and other 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).

For all CV-to-price comparisons, we added U.S. packing expenses, in

accordance with section 773(e)(1)(C) of the Act.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from both petitioner and respondents. We received rebuttal comments from Rubberflex only.

Comment 1: Treatment of Countervailing Duties

Respondents assert that, where FMV is based on CV, the Department should adjust USP for certain countervailing duties paid, in accordance with section 772(d)(1)(D) of the Act. Specifically, respondents assert that the Department should increase USP by the amount of the countervailing duties attributable to all income tax holidays and tax abatement programs.

According to respondents, the Department's assumption that export subsidies are reflected in a company's production costs is not correct when the benefit conferred is in the form of income tax holidays or abatements, because income taxes are not an element of COP. Therefore, respondents maintain, it is impossible for any benefit relating to income taxes to be reflected in either COP or CV, although these benefits are included in USP.

DOC Position

In this case, each of the countervailable programs identified by respondents (*i.e.*, Pioneer Status, Abatement of Income Tax Based on the Ratio of Export Sales to Total Sales, Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports, Industrial Building Allowance, and Double Deduction for Export Promotion Expenses) were classified as export subsidies in the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread from Malaysia, 57 FR 38472 (August 25, 1992). However, we disagree with respondents that U.S. price should be increased by the amount of the countervailing duties imposed in connection with these subsidies in the first and second administrative reviews of the countervailing duty order on extruded rubber thread from Malaysia.

In accordance with section 772(d)(1)(D) of the Act, we normally increase U.S. price by ''the amount of any countervailing duty imposed on the [subject] merchandise to offset an export subsidy.'' The purpose of this adjustment is to avoid double-counting when compensating for the same situation of dumping or export subsidization (*i.e.*, once in the form of antidumping duties and once in the form of countervailing duties). For example, we assume that U.S. price reflects the benefit of export subsidies (*i.e.*, it is lower than it would be were there no subsidies). However, FMV normally does not reflect the same benefit, because FMV normally is not based on an export price, but instead on the sales price in the home market. Under this scenario, all other factors being equal, comparison of U.S. price to FMV would yield a dumping margin equal to the export subsidy. Therefore, if no upward adjustment were made to U.S. price to offset the subsidy, the benefit from the subsidy would be double-counted.

On the other hand, we do not increase U.S. price under § 772(d)(1)(D) of the Act when, like the U.S. price, the foreign market value already reflects the benefit of the export subsidies. See, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from India, 60 FR 10545, 10550 (February 27, 1996). As in the Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia, 57 FR 46150 (October 7, 1992), foreign market value for both Rubberflex and Heveafil was based on third country sales and CV. With respect to exports to third country markets, respondents receive the same benefits from export subsidies as with exports to the United States. Therefore, the benefits from the export subsidies were reflected in both the U.S. price and the foreign market value and no adjustment was made to U.S. price. For those sales where CV was used as the basis for foreign market value, we used third country SG&A expenses, as well as third country profit in determining CV for both companies. Since third country SG&A and profit reflect the benefits from the export subsidies, we have similarly made no adjustment to U.S. price for the benefits from export subsidies.

Comment 2: Assessment of Antidumping Duties

Respondents assert that, in accordance with section 737(a) of the Act, the Department should instruct Customs to ''cap'' their antidumping duty liability for entries made between the time of the preliminary determination in the less-than-fair-value investigation and the final injury determination by the International Trade Commission (ITC) at the amount collected as security. Respondents assert that the cap should apply regardless of whether security was provided in the form of cash or a bond. In support of this position, respondents rely on *Daewoo Electronics Co., Ltd.* v. *United States*, 6 F.3d 1511 (Fed. Cir. 1993).

DOC Position

We agree with respondents that Heveafil's and Rubberflex's antidumping duty liability for entries made between the Department's preliminary determination and the ITC's final injury determination in this case should be ''capped'' at the amount collected as security for antidumping duties, and the Department will instruct the U.S. Customs Service accordingly. Section 737(a)(1) of the Act [19 U.S.C. 1673f(a)(1)] provides:

> (a) Deposit of Estimated Antidumping Duties Under § 733(d)(2).—If the amount of a cash deposit collected as security for an estimated antidumping duty under section 733(d)(2) is different from the amount of the antidumping duty determined under an antidumping duty order issued under section 736, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 735(b) is published shall be—
>
> (1) disregarded, to the extent that the cash deposit collected is lower than the duty under the order
>
> * * * * *

Section 737(a)(1) of the Act, known as the ''provisional measures deposit cap,'' operates to cap (*i.e.*, limit) the assessment rate at the amount provided as security for estimated antidumping duty liability at the time the subject merchandise is entered into U.S. commerce. See, *e.g.*, *AOC International, Inc.* v. *United States*, 721 F. Supp. 314, 322–323 (CIT 1989) (''*AOC International*''), *Daewoo Electronics* v. *United States*, 6 F.3d 1511, 1520–22 (Fed. Cir. 1993) (''*Daewoo*''), and *Torrington Co.* v. *United States*, 903 F. Supp. 79, 88 (CIT 1995).

Moreover, the Department's regulation implementing section 737(a)(1) of the Act makes clear that the provisional measures deposit cap applies whether the security for antidumping duty liability is provided by cash deposit or bond. The relevant regulation, 19 CFR section 353.23, provides in relevant part:

> This section applies to the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's notice of affirmative final determination. If the cash deposit *or bond* required under the Secretary's affirmative preliminary determination or affirmative final determination is different from the dumping margin * * *, the Secretary will instruct the Customs Service to disregard the

difference to the extent that the cash deposit *or bond* is less than the dumping margin * * *. (emphasis supplied)

Thus, the provisional measures deposit cap that limits the amount of assessment at the amount collected as security on the subject merchandise as entered before the ITC's final injury determination applies whether that security is provided in the form of a cash deposit or a bond. The courts have repeatedly upheld the Department's practice in this regard. *See, e.g., Daewoo,* 6 F.3d at 1521 and *AOC International,* 721 F. Supp at 723.

In the instant case, there are four provisional measures deposit caps. From the period of April 2, 1992 to April 28, 1992, the amount of security required for both respondents' entries was zero. See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Extruded Rubber Thread From Malaysia, 64 FR 12287, 12290 (April 2, 1992) (''Preliminary Determination''). From the period of April 28, 1992 to August 25, 1992, the amount of security required was 2.62 percent and 2.22 percent for Heveafil and Rubberflex, respectively. Id. From the period of August 25, 1992 to October 7, 1992, the amount of security required was 10.68 percent and 22.00 percent for Heveafil and Rubberflex, respectively. See Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia 57 FR 38465 (August 25, 1992). From the period of October 7, 1992 to October 15, 1992 (*i.e.*, the date of publication of the International Trade Commission's final determination), the amount of security required was 10.68 percent and 20.38 percent for Heveafil and Rubberflex, respectively. See Final Determination: Extruded Rubber Thread from Malaysia 57 FR 47351 (October 15, 1992).

Accordingly, we will instruct the U.S. Customs Service to cap respondents' dumping liability on the entries in question at the amount collected as security.

Comment 3: Assessment of Antidumping Duties More Than 120 Days After the Department's Preliminary Determination and Before Publication of the ITC's Final Injury Determination

Relying on Article 10.3 of the Antidumping Code of the General Agreement on Tariffs and Trade (GATT), respondents assert that the Department does not have the authority in an antidumping investigation to impose provisional measures for more than 120 days after the Department's preliminary determination and, therefore, does not have the authority to assess antidumping duties on entries made on August 1, 1992, through September 26, 1992. Accordingly, respondents argue that these entries should be liquidated without regard to antidumping duties.

DOC Position

We disagree with respondents that no provisional measures could be imposed, and no dumping duties can be assessed, on entries made during the period August 1, 1992, through September 26, 1992.

In the Preliminary Determination, we stated:

''Effective April 28, 1992, however, the Department will terminate the suspension of liquidation and the deposit of estimated countervailing duties in the countervailing duty investigation, because, in accordance with § 705 of the Act, and article 5, paragraph 3 of the Subsidies Code, provisional measures may remain in effect no longer than 120 days. Consequently, the adjustment to the United States price for countervailing duties imposed will not be made for entries made on or after this date. Therefore, by virtue of this antidumping determination, on April 28, 1992, we will also direct the U.S. Customs Service to suspend liquidation of all entries of extruded rubber thread from Malaysia, as defined in the ''Scope of the Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after April 28, 1992. In addition, the U.S. Customs Service shall require a cash deposit or posting of a bond on these entries equal to the estimated preliminary dumping margins shown above. This suspension of liquidation, when imposed, will remain in effect until further notice.'' Preliminary Determination, 60 FR at 11290.

Article 10.3 of the GATT Antidumping Code specifically states that the imposition of provisional measures for antidumping duty liability purposes may extend beyond four months (*i.e.,* 120 days) to six months (*i.e.,* 180 days). Article 5.3 of the GATT Subsidies Code (unlike Article 10.3 of the GATT Antidumping Code) does not contain a similar provision for the extension of provisional measures. Therefore, in a countervailing duty case, we do not impose provisional measures beyond the 120 days, as stated in the Preliminary Determination. Thus, in the Preliminary Determination, the Department did not terminate the imposition of provisional measures for antidumping liability purposes after 120 days as it did with respect to the imposition of provisional measures for countervailing duty liability. Indeed, the Preliminary Determination states that ''[t]his [AD] suspension of liquidation * * * will remain in effect until further notice.'' Preliminary Determination, 60 FR at 11290. The Department's differing treatment of provisional measures in the antidumping and countervailing duty cases is consistent with our GATT obligations.

Furthermore, there is no requirement in the statute that there be a request for an extension of provisional measures. In fact, it is the Department's practice (see, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 30326 (June 14, 1996)) to infer a request for the extension of the provisional measures period when, as in this case, exporters request an extension of the final determination pursuant to § 735(a)(2) of the Act. This practice is consistent with our new statute, which expressly incorporates the GATT provisions. Therefore, because provisional measures for antidumping duty liability purposes were properly imposed on entries made beyond the 120 days, the Department will instruct the U.S. Customs Service to assess antidumping liability on entries made during the period August 1, 1992, through September 26, 1992.

Comment 4: Contemporaneous Product Comparisons

According to Heveafil, the concordance program used in calculating the preliminary results does not limit the sales chosen as the ''most similar'' merchandise to U.S. sales to contemporaneous third-country sales. Heveafil argues that the Department should revise its product concordance programs to ensure that matches are made using only contemporaneous sales.

DOC Position

We agree and have revised our product concordances for Heveafil accordingly. Moreover, although this issue was not raised with respect to Rubberflex, it also applies to the comparisons selected for this respondent. Consequently, we have also revised the product concordances for Rubberflex to take contemporaneity into account in selecting the most similar merchandise.

Comment 5: Alleged Clerical Errors in the Margin Calculations for Heveafil

Heveafil argues that the Department made the following clerical errors in the calculation of its margin for purposes of the preliminary results: (1) The Department failed to adjust third country price for packing material expenses; (2) The Department deducted from USP the per kilogram cost of certain movement expenses, rather than the per pound cost; (3) the Department did not include certain sales reclassified as ESP sales in its ESP concordance; (4)

the Department double-counted effluent treatment costs in the calculation of COP and CV; and (5) G&A and financial expenses included in COP and CV were overstated because Heveafil's cost of sales stated on the income statement did not include fixed overhead. Heveafil requests that the Department correct these errors for purposes of the final results.

DOC Position

We agree with Heveafil on all items noted above and have made the appropriate corrections for purposes of the final results.

Comment 6: Consolidated G&A and Financial Expenses

Heveafil argues that the Department should not include any costs of its holding company, Perbadanan Nasional Berhad (PNB), in calculating G&A and financial expenses for purposes of computing COP and CV. Heveafil asserts that the Department does not collapse subsidiaries with entities which do nothing more than hold stock in the subsidiary. In support of this contention, Heveafil cites Silicon Metal from Argentina: Final Results of Antidumping Administrative Review (58 FR 65336, Dec. 14, 1993) (Silicon Metal). According to Heveafil, because PNB is merely a holding company, it is not actively involved in running Heveafil's business.

Moreover, regarding G&A, Heveafil contends that any management services provided by PNB (*e.g.*, participation on the Board of Directors) are paid for by Heveafil and, thus, are already reflected in the reported G&A expenses. Finally, Heveafil asserts that any internal audits performed by PNB are not for the benefit of Heveafil, but rather for PNB's shareholders. Therefore, Heveafil contends that these costs are not part of the cost of producing rubber thread.

DOC Position

We disagree with Heveafil that a portion of PNB's G&A and interest expenses should not be allocated to Heveafil. For G&A, it is the Department's long-standing practice to require the respondent to report not only its own G&A expenses, but also a proportional share of an affiliated party's G&A expense incurred on the reporting entity's behalf. (See, *e.g.*, Final Determination of Sales at Less than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom, (60 FR 10558, 10561, February 27, 1995); Final Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-length Carbon Steel Plate from Canada, (58 FR 37082, 37114, July 9, 1993); and, Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela, (58 FR 27524, May 10, 1993). Furthermore, the transactions that did occur between PNB and Heveafil clearly demonstrated that PNB's involvement was more than that of a passive investor. For example, PNB accountants performed internal audits on Heveafil's accounting records which resulted in changes to Heveafil's internal accounting controls and operating procedures. Further, Heveafil's reliance on Silicon Metal is misplaced because it is contrary to the facts of the instant review. In that determination, the Department found that the company in question was privately owned by seven Argentine citizens and that no corporate transactions occurred between the parties. As for Heveafil's concern that our G&A adjustment may double count some reimbursed general expenses (*e.g.*, Board of Director fees), we corrected our calculation for the final results to avoid double counting the reimbursed G&A expenses.

It is also the Department's long-standing practice to calculate interest expense for COP/CV purposes based on the borrowing costs incurred by the consolidated group. (See, *e.g.*, Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy, (60 FR 31981, 31990, June 19, 1995).) This methodology, which has been upheld by the CIT in *Camargo Correa Metals, S.A.* v. *U.S.*, 17 CIT 897, Slip Op. 93–163, at 12–13 (CIT 1993), is based on the fact that the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. In this case, the controlling entity has such power because it owns a substantial majority of Heveafil.

Comment 7: Inclusion of a Write-Off of Idle Equipment in Heveafil's G&A

Heveafil argues that the Department inappropriately increased its G&A expenses by including an extraordinary loss related to idle plant equipment. Heveafil maintains that, while this loss appeared in its draft financial statements, it was removed from the final financial statements issued by Heveafil's independent auditors. Heveafil further maintains that it provided copies of the final audited statements at verification, although these copies were not taken as verification exhibits. Heveafil notes, however, that the working trial balance associated with the final financial statement is included in the record of this administrative review as cost verification exhibit three, which demonstrates that the assets are still recorded on the books.

DOC Position

We disagree with Heveafil that the write-off of idle manufacturing equipment should not be included in the COP and CV. In 1993, company officials deemed this manufacturing equipment worthless. Heveafil's write-off is documented in footnote six of Filmax Sendirian Berhad's (a subsidiary of Heveafil's) 1993 audited financial statements provided as a supplemental section D exhibit. These financial statements are signed and dated by the company's independent auditors, they contain signed declarations of accuracy by the Chairman and Director of the company, and they contain the official dated regulatory seal of the Malaysian Commissioner for Oaths. As for Heveafil's concern that the 1993 working trial balance taken as cost verification exhibit three shows that it still owns these assets, this does not change the fact that this manufacturing equipment was considered worthless, unusable, and no longer depreciable by company officials during the POR.

There is nothing unusual about a company's writing off manufacturing plants or equipment. Accordingly, we do not consider write-offs to be a type of extraordinary expense that we exclude from the cost of producing subject merchandise. The Department has in the past included similar equipment write-offs in the calculation of COP and CV. (See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy, 60 FR 31981, 31990 (June 19, 1995); Final Results of Antidumping Duty Administrative Review: Certain Cut-To-Length Carbon Steel Plate from Germany, 61 FR 13834, 13836 (March 28, 1996); and Final Results of Antidumping Duty Administrative Review: High-Tenacity Rayon Filament Yarn from Germany, 59 FR 15897, 15899 (March 28, 1995).)

Finally, although Heveafil attempted to defer this write-off based on the contents of revised 1993 audited financial statements, these revised financial statements were properly rejected and returned to the respondent because they constituted new factual information that was untimely submitted within the meaning of 19 CFR 353.31(a)(3). *See* Letter from Louis Apple, Acting Office Director, Group II,

Office of AD/CVD Enforcement, to White & Case, dated August 21, 1996.

Comment 8: Alleged Clerical Errors in the Margin Calculations for Rubberflex

Petitioner alleges that the Department made two clerical errors in the calculation of Rubberflex's margin for purposes of the preliminary results. First, petitioner claims that the Department did not deduct certain movement expenses denominated in Hong Kong dollars (*e.g.,* warehousing in Hong Kong and Hong Kong import duties) from the net price used in the cost test. In addition, petitioner maintains that the Department converted CV into pounds by dividing by 2.2046 twice.

Rubberflex disagrees. Regarding the question of movement expenses, Rubberflex notes that (1) it did not incur the types of expenses cited by petitioner on its purchase price sales, and (2) the Department properly deducted all movement expenses on its ESP sales. Regarding the calculation of CV, Rubberflex states that petitioner clearly misread the computer programs used in the preliminary results. Specifically, Rubberflex notes that petitioner's allegation is based on the computer language for the calculation of FMV for price-to-price comparisons, rather than the CV calculation language.

DOC Position

We agree with Rubberflex. Upon review of our computer programs, we find that the movement expenses referenced by petitioner were appropriately deducted from net price for ESP sales (see lines 1184, 1186, and 1190 of the computer program created for purposes of the preliminary results). Regarding purchase price transactions, we note that Rubberflex did not incur the expenses referenced in petitioner's brief. Because these expenses did not exist, they were not deducted from net price.

Regarding CV, we also agree with Rubberflex that we properly converted the per kilogram costs into pounds (see lines 1979 and 2008 in the ESP preliminary program and lines 1679 and 1704 in the purchase price preliminary program). Accordingly, we have made no changes to the movement expense or CV calculations performed for Rubberflex for purposes of the final results.

Comment 9: Matching Criteria for Diaper Grade Thread

Petitioner claims that the Department placed an undue importance on the matching criterion of color when matching sales of diaper grade thread. Specifically, petitioner maintains that diaper grade thread is differentiated from other types of rubber thread by color only. Therefore, because Rubberflex's control numbers included a designation for grade of thread (*i.e.,* diaper- vs. non-diaper grade), the Department counted color twice in its matching methodology.

Rubberflex maintains that the Department's matching methodology was not only appropriate, but it was also based on the characteristics identified in the questionnaire. Moreover, Rubberflex asserts that the company's differentiation of diaper grade in its control numbers had no bearing on the results of the model matching because control numbers were not used in determining the most similar merchandise.

DOC Position

We agree with Rubberflex. All matches involving non-identical products were based solely on the model matching criteria identified in the questionnaire and not on the control numbers. As such, contrary to petitioner's assertion, we made no distinction between diaper and non-diaper grades when making non-identical comparisons. Because neither petitioner nor respondents have contested the matching hierarchy established at the beginning of the review, nor has any interested party provided valid reasons to depart from this hierarchy, we have continued to use it for purposes of the final results.

Final Results of Review

As a result of our review, we determine that the following margins exist for the period April 2, 1992, through September 30, 1993:

Manufacturer/ exporter	Review period	Margin (percent)
Heveafil	4/2/92–9/30/93 ...	10.65
Rubberflex	4/2/92–9/30/93 ...	1.88

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of subject merchandise from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by § 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be as outlined above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original LTFV investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, an earlier review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the LTFV investigation, whichever is the most recent; and, (4) the cash deposit rate for all other manufacturers or exporters will be 15.16 percent, the ''all others'' rate established in the original LTFV investigation by the Department.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 16, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–27056 Filed 10–21–96; 8:45 am]

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[A–533–810]

Stainless Steel Bar From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review

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

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Todd Hansen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2815 or 482–1276, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On August 31, 1995, the Department received requests from Akai Asian Ltd. (''Akai'') and Viraj Impoexpo Ltd. (''Viraj'') for new shipper reviews pursuant to section 751(a)(2)(B) of the Act and section 353.22(h) of the Department's interim regulations. On November 28, 1995, the Department initiated new shipper reviews of Akai and Viraj (60 FR 58598). On June 20, 1996, we published an extension of the time limit for the preliminary results of this review until October 15, 1996. (61 FR 31508) The Department is now conducting this review in accordance with section 751 of the Act and section 353.22 of its regulations.

Scope of the Review

For purposes of this administrative review, the term ''stainless steel bar'' means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness have a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this administrative review is currently classifiable under subheadings 7222.11.0005, 7222.11.0050, 7222.19.0005, 7222.19.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

The review covers two producers/exporters. The period of review (POR) is February 1, 1995 through July 31, 1995.

Verification

We verified information provided by the respondents using standard verification procedures, including on site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification report.

Export Price

For both Viraj and Akai, sales of the subject merchandise for export to the United States were made to unaffiliated customers prior to importation. Therefore, we used export price (''EP'') as defined in section 772(a) of the Act, for determining whether, and to what extent, antidumping duties might apply.

For Viraj, we based EP on the packed, c.& f. or c.i.f., as appropriate, price to an unaffiliated customer in the United States. We made deductions for foreign brokerage, containerization, foreign inland freight, ocean freight, and marine insurance, where applicable, in accordance with section 772(c)(2) of the Act. No other adjustments were claimed or allowed.

For Akai, we based the EP on the packed, c.i.f. price to an unaffiliated customer in the United States. We made deductions for foreign brokerage, inland freight, and ocean freight and insurance in accordance with section 772(c)(2) of the Act. No other adjustments were claimed or allowed.

Normal Value

Viraj

We found that section 773(a)(1)(C)(i) of the Act applied to this review because no home market sales were made during the POR. In addition, Viraj's only third country sale of the subject merchandise was for export to Canada. In accordance with section 773(a)(1)(B)(ii) of the Act, we based normal value (''NV'') on that sale of the foreign like product for export to Canada because the price was representative, the aggregate quantity of that sale in Canada exceeded five percent of the aggregate quantity of the subject merchandise sold for export to the United States, and we did not find that the particular market situation prevented a proper comparison with export price or constructed export price. We based NV on the Canadian price for the comparison product when the difference in merchandise adjustment for that product did not exceed 20 percent, and on constructed value when the difference in the merchandise adjustment for the comparison product exceeded 20 percent, in accordance with sections 773(a)(1)(C)(i) and 773(a)(4) of the Act.

When NV for Viraj was based on price, we calculated NV based on the packed, c.&f. price to an unaffiliated customer in Canada. We made deductions for foreign brokerage, containerization, foreign inland freight, and ocean freight. We adjusted for differences in packing cost between the two markets.

We made a circumstance of sale adjustment for differences in credit costs between the two markets. Viraj incurred no actual credit cost on the U.S. sale because it elected to sell the 90-day, dollar denominated letter of credit received in payment for this sale on the forward currency market in exchange for rupees. It then discounted the 90-day-Rupees receivable to receive immediate payment from its bank. We found that the premium received by selling its U.S. dollar receivable on the forward currency market more than offset the interest expense for discounting the 90-day-Rupee receivable and bank fees. For a more

detailed discussion of this offset, see the October 7, 1996 concurrence memorandum from team to Barbara R. Stafford, Deputy Assistant Secretary for AD/CVD/Enforcement/Group I, Import Administration (concurrence memorandum). No other adjustments were claimed or allowed.

When NV for Viraj was based on constructed value, we calculated the constructed value in accordance with section 773(e) of the Act, based on the company's cost of (1) materials and fabrication, (2) selling, general and administrative (SG&A) expenses, (3) packing labor and materials and other expenses incidental to placing the subject merchandise in condition packed ready for shipment to the United States, and (4) Viraj's profit.

In accordance with section 773(e)(2)(A) of the Act, we used Viraj's SG&A expenses and profit in producing and selling a foreign like product in the foreign country.

Viraj reported selling expenses consisting of testing expenses and the expenses of providing samples to prospective customers. For testing expenses, Viraj did not provide a breakdown by market. At verification, we found that Viraj's financial accounting system included an account for testing expenses but not a breakdown by market. We did obtain, however, the testing certificates for testing done during production of the U.S. and the Canadian sales. Therefore, for constructed value, we allocated testing expenses to the Canadian market in proportion to the number of testing certificates issued to the Canadian buyer over the total number of certificates issued.

For the expenses incurred providing samples, we divided total expenses by combined sales in the two markets and used this percentage to allocate selling expenses to the Canadian market.

We found that certain expenses, such as travel and promotion expenses, were classified by Viraj as administrative expenses but are more appropriately classified as selling expenses. Therefore, in calculating constructed value, we treated these expenses as selling expenses.

For certain employees engaged in both selling and administrative activities, Viraj allocated all of the salaries and expenses of these employees to general and administrative expenses. At verification, we confirmed that Viraj's accounting system did not provide a basis for allocating these salaries and expenses between the selling and general and administrative activities. Therefore, we have treated these salaries and expenses as general and administrative expenses.

Akai

Because Akai had no sales of the subject merchandise in the home market or for export to third countries during the POR, we based normal value on constructed value in accordance with section 773(a)(4) of the Act. In accordance with section 773(e) of the Act, we calculated constructed value based on Akai's cost of (1) materials and fabrication in producing the merchandise, (2) selling, general and administrative expenses (3) packing and other expenses incidental to placing the merchandise in condition packed ready for shipment to the United States, and (4) Akai's profit.

Akai subcontracted labor and fabrication to an unrelated processor. We based labor and processing costs on the amount paid by Akai to the processor. We did not take into account scrap, which was kept by the processor as part of its processing charges. Instead, we included in the cost of materials the gross value of the input. See the concurrence memorandum for a more detailed discussion of our treatment of scrap.

In accordance with section 773(e)(2)(B)(i) of the Act, we used Akai's SG&A expenses and profit in producing and selling in the foreign country merchandise that is in the same general category of products as the subject merchandise.

Akai claimed that it had no selling expenses on its U.S. sale. At verification, we found that Akai's accounting system did not segregate selling expenses by market. Therefore, for constructed value, we calculated selling expenses based on overall company selling expenses as a percent of the company's total cost of goods sold less total cost of the subject merchandise sold for export to the U.S.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period February 1, 1995 through July 31, 1995:

Manufacturer/exporter	Margin
Akai Asian	4.83
Viraj	0.00

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than November 22, 1996. If a hearing is requested, case briefs and/or written comments from interested parties should be submitted no later than 14 days prior to the hearing and rebuttal briefs should be submitted not later than 7 days prior to the hearing. If no hearing is requested, case briefs should be submitted by November 8, 1996, and rebuttal briefs by November 15, 1996. Rebuttal briefs and rebuttal comments should be limited to issues raised in the case briefs. The Department will issue the final results of this new shipper administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 90 days of issuance of these preliminary results.

Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's interim regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise.

The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be those established in the final results of this new shipper administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.45 percent, the all others rate established in

the LTFV investigation (59 FR 66915, December 28, 1994).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: October 15, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–27055 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 961008283–6283–01]

RIN 0693–XX27

Notice of Termination of Validation Services for Five Federal Information Processing Standards (FIPS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; termination of validation services.

SUMMARY: The NIST is terminating validation services for implementations of the following FIPS:

—FIPS 109, Pascal (ANSI/IEEE 770x3.97–1983/R1990)

—FIPS 120–1, Graphical Kernel System (GKS) (ANSI X3.124–1985/R1991, X3.124.1–1985/R1991, X3.124.2–1988/R1994, X3.124.3–1989 and ISO/IEC 8651–4:1991)

—FIPS 125–1, MUMPS (ANSI/MDC X11.1–1990)

—FIPS 153–1, Programmer's Hierarchical Interactive Graphics System (PHIGS), (ANSI/ISO 9592.1,2,3:1989, 9592.1a,2a,3a,4:1992, 9593.1:1990, 9593.3:1990, 9593.4:1991, and 9593.1/AM1, 3/AM1,4/AM1:1991)

—FIPS 177–1, Initial Graphics Exchange Specification (IGES) (Digital Representation for Communication of Product Definition Data), ANIS/US PRO/IPO–100–1993, Version 5.2, and the specified APs: Layered Electrical Product (LEP) Application Protocol, IPO–110–1994; 3–D Piping Application Protocol; and Engineering Drawing (Class II) Subset (MIL–D–28000A).

These validation services are being terminated because the FIPS have not been updated to reference current or revised voluntary industry standards, products implementing the voluntary industry standards are widely available, or there have been few or no requests for validation services. As a result, it is no longer practical or necessary for the government to continue providing validation services for these FIPS.

Agencies requiring validation of implementations for conformance to the above standards may specify their own testing or adopt other techniques for evaluating conformance to these specifications.

In many cases the test methods and validation procedures were developed by NIST, and are freely available. In other cases the test suites for standards, such as Pascal, are provided by others. Information on how to obtain the test methods and validation procedures that were used by NIST for testing conformance to these FIPS can be obtained through the NIST Validated Products List internet Universal Resource Locator (URL) address ftp://speckle.ncsl.nist.gov/vpl/intro.htm or contacting: Information Technology Laboratory, Software Diagnostic and Conformance Testing Division, Conformance Testing Group, Building 820, NIST North, Room 562, Gaithersburg, MD 20899, Phone: (301) 975–3283.

EFFECTIVE DATE: Validation services for FIPS 109, 120–1, 125–1, 153–1 and 177–1 will be terminated on November 21, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. L. Arnold Johnson, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3247, e-mail johnson@speckle.ncsl.nist.gov.

AUTHORITY: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, Public Law 104–106.

Dated: October 16, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–27066 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Fisheries Capital Construction Fund Deposit/Withdrawal Report

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(A)).

DATES: Written comments must be submitted on or before December 23, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Management Analyst, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Charles L. Cooper, Financial Services Division, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910, (301) 713–2396.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents will be commercial fishing industry individuals, partnerships, or corporations which entered into Capital Construction Fund agreements with the Secretary of Commerce allowing deferral of Federal taxation on fishing vessel income deposited into the fund for use in the acquisition, construction, or reconstruction of fishing vessels. Deferred taxes are recaptured by reducing an agreement vessel's basis for depreciation by the amount withdrawn from the fund for its acquisition, construction, or reconstruction. The deposit/withdrawal information collected from agreement holders is required pursuant to 50 CFR Part 259.35 and P.L. 99–514 (The Tax Reform Act, 1986). The information collected is required to ensure that agreement

holders are complying with fund deposit/withdrawal requirements established in program regulations and properly accounting for fund activity on their Federal income tax returns. The information collected must also be reported annually to the Secretary of Treasury in accordance with the Tax Reform Act, 1986.

II. Method of Collection

The collection of information will be collected on the Capital Construction Fund—Deposit/Withdrawal Report form which agreement holders are required to submit at the end of their tax year.

III. Data

OMB Number: 0648–0041.

Form Number: NOAA Form 34–82.

Type of Review: Regular Submission.

Affected Public: Businesses and other-for profit organizations—commercial fishermen, partnerships, and corporations with Capital Construction Fund agreements.

Estimated Number of Respondents: The universe of respondents is estimated at 4,000 annually. Number of responses is estimated at 5,000 due to some participants having more than one agreement.

Estimated Time Per Response: Preparation of reports is estimated at 20 minutes per report. The total annual burden of hours is estimated at 1,650 hours per year.

Estimated Total Annual Cost: No capital, operations, or maintenance costs are expected.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 7, 1996.

Linda Engelmeier,

Management Analyst, Office of Management and Organization.

[FR Doc. 96–26997 Filed 10–21–96; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: [insert FR citation].

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., October 23, 1996.

CHANGES IN MEETING: The meeting date and time concerning the FY 1997 Operating Plan has been changed to Thursday, October 24, 1996 at 10:00 a.m.

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: October 17, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–27194 Filed 10–18–96; 2:13 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Finding of No Significant Impact (FONSI) for the M1 Breacher Life Cycle Environmental Assessment

AGENCY: U.S. Army Program Executive Office, Ground Combat & Support Systems.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969 and Army Regulation 200–2, the proposed FONSI for the M1 Breacher is being published for comment. The U.S. Army Program Executive Office, Ground Combat & Support Systems (PEO–GCSS) has prepared a Life Cycle Environmental Assessment (LCEA) which examines the potential impacts to the natural and human environment from the proposed development of the Breacher as a combat vehicle that combines capabilities to reduce both simple and complex obstacle systems into a single armored vehicle chassis. Based on the LCEA, PEO-GCSS and the Tank-automotive and Armaments Command (TACOM) have determined the proposed action is not a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Therefore the preparation of an environmental impact statement is not required and the Army is issuing this proposed FONSI.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action should be directed to Mr. Brian Bonkosky, Program Executive Office, Ground Combat & Support Systems, Breacher Product Manager's Office, ATTN: SFAE–GCSS–CV–B, Warren, Michigan 48397–5000, telephone number: (810) 574–7687, fax number: (810) 574–7822.

SUPPLEMENTARY INFORMATION: Note: PEO, GCSS absorbed the U.S. Army Program Executive Office, Armored Systems Modernization (PEO, ASM) in September 1996. The LCEA, upon which this FONSI is based, was conducted within PEO, ASM. Organizational references within the LCEA to PEO, ASM should be considered to be changed to PEO, GCSS.

Proposed Action

This LCEA examines the potential impacts to the natural and human environment from the proposed development of the M1 Breacher as a combat vehicle combining capabilities to reduce both simple and complex obstacle systems into a single armored vehicle chassis. The Breacher would meet the Army's Operational Requirements Document (ORD) specified requirements for increased capability in a single armored vehicle based on the M1 Abrams chassis. These requirements call for capability to remove and destroy obstacles to troop and vehicular movement (such as ditches, berms, barbed wire, and other natural or man-made obstacles). The Breacher also provides countermine capability, as well as more mobility and survivability than is currently available. In accordance with the Army's combat maintenance emphasis on designing for discard, Breacher combat components, to the maximum extent feasible, would be designed for discard at failure in the field. However, in non-combat situations, packaging, handling, and storage for transportation of Breacher systems would include the consideration of such recycling and pollution prevention measures as employing reusable containers and the breakdown and recycling of discarded components.

Environmental Impacts

The Breacher vehicle life cycle includes design and manufacture, transport of vehicles to test sites, testing, production vehicle manufacturing, deployment and operations of production vehicles, and eventual demilitarization. Potential environmental impacts of these life cycle stages may include air, water, hazardous waste, noise, biotic, and socioeconomic (social, economic, historical, archaeological, and cultural) impacts at each of these life cycle phases.

Constructing and assembling Breacher units involves working with a variety of industrial processes and materials, and would involve the generation of air emissions, wastewater discharges, and limited quantities of solid and hazardous wastes at various facilities, which in turn may result in impacts to air, water, biotic, and socioeconomic resources at those facilities. Transport of assembled vehicles can result in minor environmental impacts along the various transport routes.

Breacher units would receive preliminary testing at the production facilities and then be transported to a number of other Army facilities for various stages of testing before deployment. Testing of the Breacher would involve determining its transportability, performance capabilities, and vulnerability/survivability to various combat threats. Simulated field training and combat conditions would be employed during this testing. Testing phase environmental impacts may involve modest amounts of various emissions (particularly air emissions) resulting from truck and rail transport between the production facilities and the testing facilities. These emissions could result in modest impacts to air, water, biotic, and socioeconomic resources along the travel routes. Testing of the Breacher units would result in air emissions from the Breacher, smoke, dust, and other materials from field testing, as well as land disturbance from the Breacher tracks and from breaching operations. This land disturbance could result in some habitat destruction and nonpoint source runoff at the test ranges, particularly at more vulnerable sites.

Operational impacts are likely to be quite similar to, somewhat more extensive, and greatly more dispersed in place and time than the impacts described for the manufacture and testing described above. Demilitarization impacts would be similar to manufacturing impacts, but would likely involve more extensive generation of solid and hazardous waste. Recycling of components and alternative end uses could reduce this waste generation.

a. Comparison of Environmental Consequences of the Alternatives (Including the Proposed Action). None of the alternatives would result in significant impacts to the human environment. There would be some modest differences in intensity of impacts between the alternatives in the design and manufacturing, deployment and operations, and demilitarization phases of the Breacher life cycle due to the larger number of vehicles produced in the higher production alternative and the use of new materials to produce the vehicle chassis in the unrecycled alternative. All of the alternatives would have the same level of impacts in the transport to test site, testing, and transport to deployment site life cycle stages because the activities in those phases would be identical for all alternatives.

The proposed action would be likely to have the least impacts of all of the alternatives considered because the Breacher vehicle would eliminate the use of various types of equipment that are less well suited to its mission. The Breacher would thus be less likely to suffer the type of accidents, breakdowns, and leakage during operations that could result in substantial releases of hazardous substances into the air and water or onto the ground. Such impacts will continue to occur under the no action alternative, and likely increase in the future as the current inventory of equipment ages. This factor would likely more than offset the modest emissions, discharges, and potential releases that result from the production of the Breacher vehicles. The location alternative would be likely to have greater impacts than the proposed action because the UDLP San Jose, California plant is located in a more sensitive environmental setting than the UDLP York, Pennsylvania plant. The higher production alternative would have a greater impact than the proposed action because the increased production would result in more emissions, discharges, and releases. The unrecycled alternative would result in greater impacts than the proposed action because the reliance on new materials and the absence of recycling of existing M1 Abrams vehicles would result in the generation of considerably more solid and hazardous waste.

b. Summary of Environmental Consequences of the Proposed Action. Impacts from the proposed action would be minimal and not significant for the following reasons (references in the parentheses refer to pages in the LCEA):

(1) Solid and Hazardous Waste Impacts. Solid and hazardous waste impacts would not be significant because even though measurable environmental impacts would be likely to occur during the design and manufacture stage there is no evidence of any environmental violation history at either Anniston Army Depot or the UDLP plant at York, Pennsylvania. In addition, during the transport to test facility and test phases no measurable environmental impacts would be likely under normal conditions and while there might be some likelihood of measurable environmental impacts from accidents they would still be likely to be minor. (See pp. 18–19, 25, 33, 47–48, 50).

(2) Water Quality Impacts. Water quality impacts would not be significant because the amounts of both point source and nonpoint pollutants from all of the life cycle stages would likely result in no measurable environmental impacts under normal conditions and there would be little likelihood of measurable impacts even under accidents. (See pp. 19–20, 24–25, 33–35, 38, 45, 47–49).

(3) Air Quality Impacts. Air quality impacts would not be significant because the very minor amount of air emissions from all of the life cycle stages would likely result in no measurable environmental impacts under normal conditions and there would be little likelihood of measurable impacts even under accidents. (See pp. 20, 26, 32, 47, 48–49).

(4) Noise impacts. Noise impacts would not be significant to either human or wildlife populations because noise-producing activities would be of short duration under all life cycle stages and the facilities where the activities would take place are well-buffered from sensitive human populations. (See pp. 20, 26, 32–33).

(5) Biotic Resources Impacts. Biotic resources impacts would not be significant because only negligible wildlife disturbance would result from any direct disturbance or from nonpoint source runoff associated with soil disturbance during any of the life cycle stages. Additionally, such disturbance would be widely dispersed at a number of facilities and thus even less significant at any one of the facilities. (See pp. 20, 26, 32–35, 38, 45, 48–49).

(6) Socioeconomic Resources Impacts. Socioeconomic resources impacts would not be significant because the economic activity involved would simply supplement or replace other activities that might otherwise be

occurring at the facilities involved. To that extent these impacts would be generally positive. Since no new facilities need to be constructed and no facilities will be closed as a result of the proposed action there would be very little chance of any negative socioeconomic impacts occurring. Likewise, no significant cultural resources impacts would be expected. (See pp. 20, 26, 35).

(7) Cumulative Impacts. Cumulative impacts would be very unlikely because of the modest intensity of all activities involved in the Breacher life cycle and the dispersed nature of those activities. Coupled with their low intensity and widespread nature, the lack of general environmental compliance problems at any of the facilities involved in the Breacher life cycle reinforces this conclusion. (See pp. 23, 27, 36, 39, 46, 49).

(8) Mitigation of Impacts. The use of readily available pollution prevention measures in place at the facilities that would be involved in the proposed action would be likely to mitigate the environmental impacts of all life cycle stages to the point of being undetectable, or at the most negligible. (See pp. 23, 27, 36–37, 46, 49).

c. Summary of the Significance of Environmental Consequences and Mitigation Opportunities. Because of the relatively modest number of Breacher vehicles anticipated to be constructed, existing and anticipated environmental compliance at the various Breacher facilities, and the availability of mitigation measures such as in-place pollution prevention and nonpoint source control programs, these impacts are not expected to be significant. All military and civilian facilities have in-place pollution prevention, pollution control, and emergency preparedness programs. None of these facilities have extensive environmental compliance problems. Thus, the direct, indirect and cumulative impacts of the proposed action or alternatives would not be expected to cause significant adverse impacts to the human environment.

Alternatives Considered: Alternatives considered in this environmental assessment include: (1) the proposed action (preferred alternative) of manufacturing 313 Breacher vehicles by tearing down and recycling existing M1 Abrams tanks; (2) a ''no-action'' alternative halting the current program as of June 1966; (3) a ''location alternative'' that would consist of carrying out the proposed action at a different facility; (4) a ''higher-production'' alternative of 500 vehicles rather than the 313 vehicles proposed in the preferred alternative; and (5) an ''unrecycled alternative'' that would involve carrying out the proposed action using all new components rather than recycling M1 Abrams tank chassis. No other alternatives have been considered because the demonstrated need for the Breacher system to carry out the minefield breaching and countermine missions makes the five alternatives considered above a reasonable range of alternatives.

Determination

Based on the analyses in the LCEA, production and deployment of the Breacher do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA. Therefore, an Environmental Impact Statement for the proposed action is not required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–27013 Filed 10–21–96; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Notice Of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 23, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. 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 3506 of the Paperwork Reduction Act of 1995 (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 Director of the Information Resources Group 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) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 16, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Case Service Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 82.

Burden Hours: 3,690.

Abstract: As required by Section 13 of the Rehabilitation Act, the data are submitted by State rehabilitation agencies each year. They contain the personal and program related characteristics, including economic outcomes, of disabled persons whose cases are closed.

[FR Doc. 96–26951 Filed 10–21–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Sale of Surplus Natural and Low Enriched Uranium Finding of No Significant Impact

AGENCY: U.S. Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The U.S. Department of Energy (DOE) has prepared an Environmental Assessment (EA) evaluating the impacts associated with the proposed sale or disposition of surplus uranium, both natural and low enriched, stored at the Department's gaseous diffusion plants in Piketon, Ohio, and Paducah, Kentucky. This EA, entitled *DOE Sale of Surplus Natural and Low Enriched Uranium,* was issued in draft form for public comment. The availability of the draft EA was announced in the Federal Register on August 12, 1996 [61 FR 41,776], with a thirty-day comment period extending through September 11, 1996. The Department received 14 letters commenting on the draft EA. These comments were evaluated and changes have been incorporated into the final EA as appropriate. The comments and the Department's responses to them are included as an appendix to the EA.

The EA evaluates the impacts of selling uranium from the Department's inventory and uranium to be transferred to DOE. The uranium from the Department's inventory being considered for sale or disposition in this EA was declared surplus to national security needs and therefore can be used for commercial purposes. In addition to this uranium, DOE is proposing to sell ''Russian'' natural uranium transferred from the United States Enrichment Corporation (USEC) pursuant to the USEC Privatization Act, which requires the Secretary to sell this material within seven years of the date of enactment (April 26, 1996).

Based on the analysis in the EA, the Department has decided to proceed with the sale or disposition of the surplus uranium consistent with the proposed action. In addition, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 USC 4321 et seq.). Therefore, the preparation of an Environmental Impact Statement (EIS) is not required.

FOR FURTHER INFORMATION CONTACT: Copies of the Environmental Assessment for the DOE Sale of Surplus Natural and Low Enriched Uranium (DOE/EA–1172) are available from: Mr. John F. Kotek, Office of Nuclear Energy, Science, and Technology, NE–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Mr. Kotek may also be reached by calling (202) 586–6823.

For further information regarding the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Ave, SW, Washington, DC 20585. Ms. Borgstrom may also be reached by calling (202) 586–4600, or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Proposed Action

DOE proposes to sell approximately 35.7 million pounds of natural uranium equivalent (U_3O_8(e)), in the form of uranium hexafluoride. The uranium available for sale under this action consists of the following types: 20.3 million pounds of U_3O_8(e); 1.2 million pounds of U_3O_8(e) in the form of 4.5 percent low enriched uranium (LEU); and 14.2 million pounds of ''Russian'' U_3O_8(e)[1] that DOE will receive from USEC pursuant to the *USEC Privatization Act.*

All of the uranium is located at the gaseous diffusion plants at Portsmouth, Ohio, and Paducah, Kentucky. Sale of this surplus uranium would take place between 1996 and the end of 2004, depending upon market conditions. In order to sell uranium from DOE's inventory, the Secretary must determine that the sale will not have an adverse material impact on the domestic uranium industry. Other conditions apply to the sale of the 14.2 million pounds of ''Russian'' U308(e). The uranium would be sold to buyers for subsequent enrichment, if needed, and fabrication into commercial nuclear power fuel. Potential buyers include USEC, over 60 domestic and foreign utilities, and various uranium traders and producers. The proposed action is fully described in the EA.

Alternatives Analyzed

The EA analyzed in detail the following alternatives to the proposed action:

1. Selling only the transferred ''Russian'' uranium;
2. Selling all of DOE's inventory of surplus natural and low enriched uranium for domestic use in a single year, selling half of the ''Russian'' uranium in 1996 for future use as the ''Russian'' component in matched sales, and selling the remainder of the ''Russian'' uranium in 2001 for domestic use in 2002 and later;
3. Selling all of DOE's inventory of surplus natural and low enriched uranium for foreign use either in a single year or over a number of years between 1996 and 2004, and selling half of the ''Russian'' uranium in 1996 and the remainder at the same time as the DOE surplus inventory uranium; or
4. Taking no action, which would result in indefinitely storing the uranium or holding it for future use in other DOE activities such as for blending down highly enriched uranium.

Environmental Consequences of the Alternatives

The EA analyzes the impacts of selling or disposing of the uranium in terms of radiological effects on uranium industry workers and the public, socioeconomic impacts on the domestic uranium industry, transportation impacts from shipments of uranium to and from the enrichment plants, accident analyses at various facilities, environmental justice considerations, cumulative impacts and avoided environmental impacts.

The EA demonstrates that the proposed action would not have a significant impact on collective radiological doses to workers or the public as the result of transportation or normal operations. In some cases, including the proposed action, there would be a decrease in radiological dose due to reduced handling and transportation activities. Sale of all of the material in one year could result in a substantial reduction in the collective radiological dose to workers in the mining and conversion industries. Only if the uranium were all sold for foreign end use and shipped abroad for enrichment would there be an increase in risk due to transportation. The analysis shows a slight increase in dose to port workers and cylinder handlers at

[1] This 14.2 million pounds of U_3O_8(e), stored at the Portsmouth Gaseous Diffusion Plant, is associated with the *Russian Highly Enriched Uranium (HEU) Agreement.* Under this Agreement, highly enriched uranium from Russian nuclear weapons is blended down in Russia and shipped to USEC for use in satisfying its enrichment contracts. Under the terms of these contracts, utility companies send natural uranium to the gaseous diffusion plants to be enriched. Since USEC started receiving Russian LEU under the *Russian HEU Agreement,* some of its contracts have been and will continue to be filled with the already-enriched Russian material. As a result, some of the natural uranium supplied by the utilities remains unenriched. It is being held in storage by USEC and is deemed by law to be of ''Russian'' origin. As a result, this ''Russian'' uranium is subject to restrictions on its sale in the United States under the *USEC Privatization Act* and the *Russian Uranium Antidumping Suspension Agreement.*

the gaseous diffusion plants under this alternative. Impacts resulting from a transportation accident and effects on the global commons are analyzed and shown to be minimal.

The analysis of severe accidents for all alternatives indicates that potentially fatal exposures to hydrofluoric acid (HF) could result if a cylinder were to fall and be punctured while its UF6 contents were temporarily in liquid form (heated) for purposes of sampling; however, the probability of such accidents is very low. In addition, administrative and procedural controls are in place at Portsmouth and Paducah to protect against such accidents, and emergency response procedures have been established to reduce or eliminate potential health effects to workers, neighboring populations and the environment.

In terms of socioeconomic effects, the greatest impact to the domestic uranium industry would occur under Alternative 2, selling all of the Department's surplus uranium for domestic use in a single year. This alternative could result in an estimated 46–53 percent decrease in domestic employment in the uranium production industry or a projected decrease of from 295 to 410 workers nationwide for that one year. The potential socioeconomic impacts of the proposed action would be substantially less than those anticipated from Alternative 2, because the sale of uranium in the proposed action would occur over a number of years, thereby minimizing any potential impacts on the domestic uranium industry. Under the proposed action, the overall employment level will still be expected to increase above 1995 employment levels.

In terms of cumulative impacts, the uranium that would be introduced into the market under the proposed action, when added to the uranium available as a result of other government actions considered in the EA (e.g., U.S. HEU blend down, Russian HEU Agreement, etc.), would not significantly affect the domestic uranium market and industry because demand is projected to increase for the near-term and DOE's sales are dependent upon existing market conditions. In addition, for DOE to sell the uranium from its inventory (which is all but 14.2 million pounds of the 35.7 million pounds proposed for sale or disposition), the Secretary must determine that the sale will not have an adverse material impact on the domestic uranium industry. Such determinations may be made on a periodic basis (for example, for all contemplated sales over a certain period), as opposed to a sale-by-sale basis. The requirement for a determination prior to sales of inventory uranium operates as a mitigation measure against potential adverse material impacts on the domestic uranium industry. Thus, there will be no significant adverse cumulative impacts from the proposed action.

Finding

Based upon the information and analyses in the EA (DOE/EA–1172), the Department of Energy has determined that the proposed sale or disposition of the surplus uranium at Portsmouth and Paducah does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore, the preparation of an Environmental Impact Statement on the proposed action is not required.

Issued in Washington, D.C. this day of October 1996.

Terry R. Lash,

Director, Office of Nuclear Energy, Science and Technology, U.S. Department of Energy.

[FR Doc. 96–27028 Filed 10–21–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, November 12, 1996: 6:30 p.m.—9:30 p.m., 7:00 p.m. to 7:30 p.m. (public comment session).

ADDRESSES: The Northern New Mexico Community College, 1002 North Onate Street, Espanola, New Mexico 87501, 505–988–3400.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800)753–8970, or (505)753–8970, or (505)262–1800.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Tuesday, November 12, 1996.

6:30 p.m.—Call to Order and Welcome
7:00 p.m.—Public Comment
7:30 p.m.—Old Business
8:30 p.m.—Sub-Committee Reports
9:30 p.m.—Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (800) 753–8970. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on October 17, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–27060 Filed 10–21–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Wednesday, October 30, 1996: 6:30 p.m.–9:30 p.m., 7:00 p.m. to 7:30 p.m. (public comment session).

ADDRESSES: The Northern New Mexico Community College, 1002 North Onate Street, Espanola, New Mexico 87532.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board

Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800)753–8970, or (505)753–8970, or (505)262–1800.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Wednesday, October 30, 1996.

6:30 p.m. Call to Order and Welcome
7:00 p.m. Public Comment
7:30 p.m. Old Business
8:30 p.m. Sub-Committee Reports
9:30 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (800) 753–8970. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on October 17, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–27061 Filed 10–21–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of an Open Teleconference of the Secretary of Energy Advisory Board

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee teleconference of the Secretary of Energy Advisory Board. The purpose of the teleconference is to discuss whether to approve a letter report dated September 26, 1996, from the Task Force on the Arms Control and Nonproliferation Implications of Fissile Materials Disposition Alternatives to the Secretary of Energy Advisory Board.

Date and Time: Monday, November 4, 1996 5:00 PM–6:00 PM EDT.

Place: Participation by calling (202) 287–1373 at 5:00 PM, EDT, on November 4, 1996.

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Program Analyst, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4040.

SUPPLEMENTARY INFORMATION: In early 1996, the Secretary of Energy directed the Office of Arms Control and Nonproliferation to conduct a Nonproliferation and Arms Control Assessment of the Weapons-Usable Fissile Material Storage and Plutonium Disposition Alternatives addressed in the Materials Disposition Programmatic Environmental Impact Statement. This Assessment will help form the basis for a Record of Decision as to how the United States will store and dispose of materials that can be used in nuclear weapons. In order to ensure that the widest possible range of technical and policy factors are addressed fully in the final version of the Assessment, the Secretary directed the Secretary of Energy Advisory Board to form a Task Force, a temporary subcommittee of the Secretary of Energy Advisory Board, to review the draft Assessment. On September 26, 1996, the Task Force transmitted a letter report to the Secretary of Energy Advisory Board for review.

Public Participation: During its teleconference on November 4, 1996, from 5:00 PM to 6:00 PM EDT, the Secretary of Energy Advisory Board welcomes public comment. Teleconference lines will be assigned on a first come basis. Members of the public can participate in the discussion, and the Board will make every effort to hear the views of all interested parties. Members of the public who wish to make a brief oral presentation at the teleconference should contact Bruce Bornfleth no later than October 30, 1996 in order to have time reserved on the agenda. In general, each individual or group making an oral presentation will be limited to a total time of three minutes. Written comments may be submitted to David Cheney, Executive Director (Acting), Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW, Washington, DC 20585.

Copies of the September 26, 1996, Task Force Letter Report, and the Department's Draft Nonproliferation and Arms Control Assessment of Weapons-Usable Fissile Material Storage and Plutonium Disposition Alternatives can be obtained by contacting the Office of the Secretary of Energy Advisory Board, AB–1, 1000 Independence Ave. SW, Washington, D.C. 20585, (202) 586–6279, or can be found on the Internet under the corresponding Task Force of the Secretary of Energy Advisory Board's home page at: HTTP://WWW.DOE.GOV/SEAB/SEAB.HTML. In addition, public meetings conducted by the Department of Energy's Office of Arms Control and Nonproliferation on the Draft Assessment will be held at ten locations nationwide October 28–November 8, 1996 (61 FR 51093).

Any member of the public wishing further information, such as a proposed agenda on the meeting, should contact Bruce Bornfleth, Program Analyst; Secretary of Energy Advisory Board; 1000 Independence Avenue, SW, Washington, DC 20585 or via the Internet at BRUCE.BORNFLETH@HQ.DOE.GOV. This Federal Notice is being published less than 15 calendar days prior to the teleconference date because the Secretary's decision on the Department's preferred options for the disposal of excess weapons-usable fissile material has been scheduled on an earlier date than originally anticipated.

Minutes: Minutes of the teleconference will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on October 17, 1996.

Rachel M. Samuel,

Acting Advisory Committee Management Officer.

[FR Doc. 96–27062 Filed 10–21–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. F–088]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Nordyne From the DOE Furnace Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to Nordyne from the existing Department of Energy (DOE or Department) test procedure regarding blower time delay for the company's G5RD and G5RL series furnaces.

Today's notice also publishes a ''Petition for Waiver'' from Nordyne. Nordyne's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Nordyne seeks to test using a blower delay time of 30 seconds for its G5RD and G5RL series furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than November 21, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Codes and Standards, Case No. F–088, Mail Stop EE–43, Room 1J–018, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0121, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0121, (202) 586–9138.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding Section 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, DOE amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. Title 10 CFR Part 430, Section 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, Section 430.27 (g). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On September 6, 1996, Nordyne filed an Application for Interim Waiver and a Petition for Waiver regarding blower time delay. Nordyne's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Nordyne requests the allowance to test using a 30-second blower time delay when testing its G5RD and G5RL series furnaces. Nordyne states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an approximately 2.0 percent increase in AFUE. Since current DOE test procedures do not address this variable blower time delay, Nordyne asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993, (58 FR 44583) to amend the furnace test procedure, which addresses the above issue.

Previous Petitions for Waiver for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, 57 FR 34560, August 5, 1992; 59 FR 30577, June 14, 1994, and 59 FR 55470, November 7, 1994; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, 58 FR 68138, December 23, 1993, and 60 FR 62835, December 7, 1995; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, 56 FR 63945, December 6, 1991 and 61 FR 27057, May 30, 1996; DMO Industries, 56 FR 4622, February 5, 1991, and 59 FR 30579, June 14, 1994; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993, 59 FR 14394, March 28, 1994, and 60 FR 62832, December 7, 1995; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992, 59 FR 12586, March 17, 1994 and 61 FR 17289, April 19, 1996; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, 57 FR 54230, November 17, 1992, and 59 FR 30575, June 14, 1994; Thermo Products, Inc., 57 FR 903, January 9, 1992, and 61 FR

17887, April 23, 1996; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992, and 61 FR 4262, February 5, 1996; Evcon Industries, Inc., 57 FR 47847, October 20, 1992, and 59 FR 46968, September 13, 1994; Bard Manufacturing Company, 57 FR 53733, November 12, 1992, 59 FR 30578, June 14, 1994, and 61 FR 50812, September 27, 1996; and York International Corporation, 59 FR 46969, September 13, 1994, 60 FR 100, January 3, 1995, 60 FR 62834, December 7, 1995, and 60 FR 62837, December 7, 1995.

Thus, it appears likely that this Petition for Waiver for blower time delay will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Nordyne an Interim Waiver for its G5RD and G5RL series furnaces. Nordyne shall be permitted to test its G5RD and G5RL series furnaces on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix N, with the modification set forth below:

(I) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-) unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Nordyne's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Nordyne seeks to test using a blower delay time of 30 seconds for its G5RD and G5RL series furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. Pursuant to paragraph (b) of Title 10 CFR Part 430.27, DOE is hereby publishing the ''Petition for Waiver'' in its entirety. The Petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC, October 15, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

NORDYNE

September 6, 1996.

Ms. Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy, Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585.

Subject: Petition for Waiver and Application for Interim Waiver.

Dear Assistant Secretary Ervin: This is to submit a Petition for Waiver and an Application for Interim Waiver from requirements of the Department of Energy test procedure, prescribed in 10 CFR Part 430, Subpart B, Appendix N for home heating furnaces. The waiver concerns operation of the circulating blower in gas-fired furnaces manufactured by NORDYNE.

Waiver is requested for NORDYNE model G5RD and G5RL furnaces, which incorporate a control with a fixed circulating blower-on delay of 30 seconds. The DOE procedure requires that in testing these furnaces, the circulating blower be started 1½ minutes after burner ignition, ignoring the benefit of this control. Operation with the 1½ minute delay decreases the Annual Fuel Utilization Efficiency of these furnaces by approximately two percentage points. NORDYNE has data supporting this fact and will forward it if required.

Since the requested waiver is essentially identical to those granted to many other manufacturers, NORDYNE believes that DOE is fully aware of the competitive disadvantage NORDYNE will experience if the waiver is not granted. In view of the waivers already granted, NORDYNE is also confident that DOE will grant its petition. In anticipation of that action, NORDYNE requests an interim waiver until DOE acts on the Petition for Waiver.

Manufacturers who sell furnaces similar to those for which the waiver is requested are being sent a copy of this Petition for Waiver and Application for Interim Waiver. A list of these manufacturers is attached.

Your early action on this request would be appreciated. Production of these furnaces is scheduled for the very near future.

Sincerely,

Bradley J. Campbell,

Vice President, Engineering.

List of Manufacturers

Mr. Marty Schonberger, The Adams Manufacturing Co., 9790 Midwest Avenue, Cleveland, OH 44125–2425.

Mr. Stan McGill, Amana Refrigeration, Inc., 1810 Wilson Parkway, Fayetteville, TN 37334–3547.

Mr. Ed French, Armstrong Air Conditioning Inc., 421 Monroe Street, Bellevue, OH 44811–1730.

Mr. David Swanson, Atwood Mobile Products, 4750 Hiawatha Drive, Rockford, IL 61103–1232.

Mr. Richard O. Bard, Bard Manufacturing Co., P.O. Box 607, 1914 Randolph Drive, Bryan, Ohio 43506–0607.

Mr. John J. Meade, Jr., Boyertown Furnace Company, 156 Holly Road, Boyertown, PA 19512.

Mr. Matthew J. Chadderdon, Carrier Corporation, Carrier Parkway, P.O. Box 4808, Syracuse, New York 13221–4808.

Mr. Richard Hutchinson, Jr., Consolidated Ind. Corp., P.O. Box 7800, Lafayette, IN 47903–7800.

Mr. Jerry Ward, DMD Industries, 41 Fisher Avenue, Bradford, PA 16701–1649.

Mr. Johnny Johnson, Duncan Heating Division, Suite 200, Dutch Plaza, 800 Dutch Square Blvd., Columbia, SC 29210–7317.

Mr. Alan Zimmerman, Evcon Industries, Inc., 3110 N. Mead, P.O. Box 19014, Wichita, KS 67219–4057.

Mr. Alberto da Rosa, Goettl Air Conditioning Inc., 3830 E. Wier Avenue, Phoenix, AZ 85040–2936.

Mr. Peter H. Alexander, Goodman Manufacturing Corp., 1501 Seamist, Houston, TX 77008–5031.

Mr. W. Michael Clevy, Inter City Products Corp.,1136 Heil Quaker Blvd., P.O. Box 3005, LaVergne, TN 37086.
Mr. David Lewis, Lennox Industries Inc., P.O. Box 799900, Dallas, TX 75379.
Mr. Tom Koepke, Metzher Machine Corp., 8155 No. 76th Street, Milwaukee, WI 53223–3203.
Mr. Dick R. McCullogh, Reznor, A Thomas and Betts Co., 150 McKinley Avenue, Mercer, PA 16137–1326.
Mr. Ross W. Willis, Rheem Air Conditioning Division, 5600 Old Greenwood Road, P.O. Box 17010, Fort Smith, AR 72903–6586.
Mr. Walter J. Markowski, Sterling Gas Products, Division of Mestek, Inc., 260 North Elm Street, Westfield, MA, 01085–1614.
Mr. Bobby Vincent, Suburban Mfg. Co., 676 Broadway Street, P.O. Box 399, Dayton, TN 37321–1120.
Mr. Everett James, Thermo-Products Inc., 5235 West Street Road 10, P.O. Box 217, No. Judson, IN 46366–8851.
Mr. James T. VerShaw, The Trane Company, 6200 Troup Highway, Tyler, TX 75711.
Mr. Theron C. Stroke, Victa Hytemp Industrial Inc., 5540 Route 362, Bliss, NY, 14024–9775.
Mr. Gerald W. Sank, Welbilt Corp., 225 High Ridge Road, Stamford, CT 06905–3000.
Mr. Dennis Aughenbaugh, York International Corp., P.O. Box 1592, York, PA 17405–1592.

[FR Doc. 96–27029 Filed 10–21–96; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP97–24–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

October 16, 1996.

Take notice that on October 10, 1996, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP97–24–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate a new delivery point to accommodate deliveries of gas to El Paso Fuel Development Company (EPFD), in Mojave County, Arizona, under El Paso's blanket certificate issued in Docket No. CP82–435–000, 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.

El Paso proposes to construct and operate the new delivery point, to be known as the Needle Mountain LNG Meter Station, in order to deliver up to 12,000 Mcf natural gas on a peak day to EPFD, which is a subsidiary of El Paso, on a peak day and up to 4,380,000 Mcf on an annual basis. It is stated that EPFD has requested the delivery point in order to be able to receive gas for conversion to LNG at a liquefaction plant being constructed near Topock, Arizona. It is stated that the facilities would consist of a 4-inch tap and valve assembly, a 3-inch meter run and appurtenant facilities, as well as approximately 400 feet of 4-inch pipeline connecting the meter station to the LNG plant.

El Paso proposes to make the deliveries by transporting the gas on an interruptible basis under a transportation service agreement with El Paso Gas Marketing Company, also a subsidiary of El Paso. The cost of the facilities is estimated at $89,800, and it is stated that El Paso will be reimbursed by EPFD for such costs. It is asserted that the total volumes to be delivered to EPFD after the addition of the requested delivery point would not exceed those presently authorized. It is further asserted that El Paso has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers. It is further explained that El Paso's tariff does not prohibit the addition of delivery points.

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 Section 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. 96–26979 Filed 10–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP85–221–069]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

October 16, 1996.

Take notice that on October 10, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with 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 50,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an ''as metered'' basis to Prairielands Energy Marketing, Inc., for term ending October 31, 1997.

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 under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the Federal Register, file with the Federal Energy Regulatory Commission (888 1st 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. 96–26977 Filed 10–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP96–386–001]

Honeoye Storage Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 16, 1996.

Take notice that on October 10, 1996 Honeoye Storage Corporation (Honeoye)

tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets to be effective November 1, 1996.

Honeoye states that the purpose of the filing is to substitute certain tariff sheets for those filed on September 20, 1996 at Docket No. RP96–386–000 to convert Honeoye's tariff and rates from a volumetric (MCF) to a thermal energy basis (MMBTU). Honeoye states that there will be no change in rates and revenues under the proposed revisions since both volumes and rates are being converted.

Honeoye requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective November 1, 1996.

Honeoye states that copies of the filing are being mailed to Honeoye's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with the Section 386.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of Commission's Regulations. 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. 96–26987 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–296–004]

K N Interstate Gas Transmission Co.; Notice of Compliance Filing

October 16, 1996.

Take notice that on October 10, 1996, K N Interstate Gas Transmission Co. (KNI) tendered for filing certain revised tariff sheets in compliance with the Commission's September 27 Order On Rehearing in the above referenced proceeding. An effective date of August 1, 1996 is requested. In particular, KNI submitted for filing the following tariff sheets:

Third Revised Volume No. 1–A

Second Substitute Original Sheet No. 18
Second Substitute Original Sheet No. 45

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26982 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–361–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

October 16, 1996.

Take notice that on October 10, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1996:

Substitute Third Revised Sheet No. 1907
Substitute Third Revised Sheet No. 2707

Koch states that the purpose of this filing is to comply with the Commission's Letter Order dated September 26, 1996 in Docket No. RP96–361–000. Koch states that it has modified Sections 12.12 and 20.1(E)(iii) of its tariff to clarify that Koch will file requires reports with the Commission.

Koch states that copies of the filing are being served upon all parties on the official service list created by the Secretary in Docket No. RP96–361–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC, 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–26986 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–333–001]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 16, 1996.

Take notice that on October 11, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective February 6, 1997:

Substitute Seventh Revised Sheet No. 6A
Substitute Second Revised Sheet No. 111
Substitute First Revised Sheet No. 112
Substitute First Revised Sheet No. 113
Substitute Original Sheet No. 116C
Substitute Original Sheet No. 289B

National Fuel states that the filing is a supplement to the filing made August 6, 1996, which included a proposed new Firm Advance Service (FAS) Rate Schedule, and is intended to address concerns raised at a technical conference held in this proceeding on September 27, 1996. National Fuel states that the tariff sheets included in the supplemental filing (1) clarify that the source of the gas to be advanced to FAS shippers would be the 7.2 MMDth of top gas inventory retained by National Fuel to provide transportation and storage services in the restructured environment, (2) limit the term of an FAS Service Agreement to a maximum of six months, which shall include not more than three months during the months of November through March, (3) revise the FAS Capacity Charge to conform to the Capacity Charge for Firm Storage (FSS) Service, and (4) clarify the applicability of the charge for delayed returns of advanced gas.

National states that it is serving copies of the filing with its firm customers and interested state commissions. Copies are also being served on all interruptible customers as of the date of the filing.

Any party desiring to comment on said filing should file comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, on or before October 31, 1996, in accordance with the following schedule agreed upon by the parties at the technical conference convened on September 27, 1996: initial comments are due on or before October 31, 1996, and reply comments on or before November 8, 1996. 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. 96–26983 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–354–001]

Northern Natural Gas Company; Notice of Compliance Filing

October 16, 1996.

Take notice that on October 10, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariffs, the following tariff sheets, proposed to be effective October 1, 1996:

Fifth Revised Volume No. 1

Substitute Twenty-Fifth Revised Sheet No. 50
Substitute Twenty-Fifth Revised Sheet No. 51
Substitute Second Revised 30 Revised Sheet No. 53
Substitute Twenty-Sixth Revised Sheet No. 50
Substitute Twenty-Sixth Revised Sheet No. 51
Substitute Third Revised 30 Revised Sheet No. 53
Substitute Twenty-Seventh Revised Sheet No. 50
Substitute Twenty-Seventh Revised Sheet No. 51
Substitute Fourth Revised 30 Revised Sheet No. 53

Northern asserts that the purpose of this filing is to comply with the Commission's Order issued September 26, 1996, which required Northern to correct its premature elimination of the customer credits related to the Carlton proposal, and to reflect the recovery of the Great Lakes costs over a 12-month period.

Northern states that the Stranded Account No. 858 surcharge on Sheet Nos. Twenty-Eighth Revised Sheet No. 50, Twenty-Eighth Revised Sheet No. 51 and Fifth Revised 30 Revised Sheet No. 53 have been revised to reflect Northern's compliance.

Northern states that copies of the filing were served upon the company's customers and interested State Commissions.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26984 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–6–008]

Northwest Pipeline Corporation; Notice of Compliance Filing

October 16, 1996.

Take notice that on October 10, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing (1) six service agreements containing contract-specific operational flow order (OFO) provisions, and (2) First Revised Sheet No. 363 of its FERC Gas Tariff, Third Revised Volume No. 1, to become effective November 10, 1996.

Northwest states that this filing is submitted in compliance with the Commission's September 25, 1996 Letter Order in Docket No. RP95–6–007. Northwest states that the purpose of this filing is to submit service agreements which do not conform to Northwest's forms of service agreements, and to submit to a revised tariff sheet adding such agreements to the list of non-conforming service agreements.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–26980 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–29–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 16, 1996.

Take notice that on October 10, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective November 9, 1996.

First Revised Sheet No. 273
Original Sheet No. 273A

Panhandle states that this filing is made to memorialize Panhandle's policy with respect to the construction of a new interconnection on its facilities for the receipt or delivery of gas. As indicated by the Commission in its September 13, 1996 Order Terminating Show Cause in Docket No. CP95–755–000, 76 FERC ¶61,270, the submission of Panhandle's policy concerning new interconnections as reflected herein was agreed to by Panhandle upon the conclusion of the proceedings in Docket No. CP95–755–000, which now have been terminated.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26989 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–30–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 16, 1996.

Take notice that on October 10, 1996, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 9, 1996:

Fourth Revised Sheet No. 319
Fourth Revised Sheet No. 319A

Tennessee states that the filing (1) implements a new Gas Price Index in Tennessee's Unscheduled Flow provision in the General Terms and Conditions of Tennessee's FERC Gas Tariff, in accord with the Federal Energy Regulatory Commission's September 20, 1996 order in Docket No. RP96–345–000; and (2) reinstates Tennessee's currently effective historical imbalances provision as reflected in Substitute Original Sheet No. 319, instead of the

superseded historical imbalances provision contained in Original Sheet No. 319.

Tennessee states that copies of the filing have been mailed to all participants in the proceeding and to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26990 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–197–018 and RP96–44–002]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 16, 1996.

Take notice that on October 9, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Thirteenth Revised First Revised Sheet No. 52. Such tariff sheet is proposed to become effective November 1, 1996.

Transco states that the purpose of the filing is to implement, effective November 1, 1996, the rates for service under Rate Schedules X–319 and X–320 resulting from the Partial Settlement filed in the captioned Docket on October 9, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR and 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–26981 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–359–002]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

October 16, 1996.

Take notice that on October 10, 1996 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A to the filing. Such tariff sheets are proposed to be effective October 1, 1996 and November 1, 1996.

Transco states that the purpose of the filing is to comply with the Commission's order of September 25th, 1996 in Docket No. RP96–359–000, 76 FERC ¶ 61,318 (1996) (September 25th Order). In the September 25th Order, the Commission approved, subject to certain conditions, the tariff sheets containing the conforming changes to Transco's tariff to establish the flexibility to negotiate rates pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost of Service Ratemaking for Natural Gas Pipelines. The September 25th Order directed Transco to (1) file tariff language clarifying the definition of a negotiated rate, (2) explain what effect, if any, the negotiated rate proposal would have on the storage and transportation services used by Transco's marketing affiliate, as agent for Transco's Rate Schedule FS customers, to perform FS sales service, and (3) revise its rate schedule and form of service agreement for IT service to conform to revisions made to its rate schedules and forms of service agreement for firm services. Transco is thereby making the necessary changes to its tariff in order to comply with the September 25th Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–26985 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–18–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

October 16, 1996.

Take notice that on October 8, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–18–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon the receipt of transportation gas from Kenneth W. Cory, Ltd. (Cory) at the Humphreys PLD (Humphreys) located in Hemphill County, Texas under WNG's blanket certificate issued in Docket No. CP82–479–000 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.

WNG states that the metering facilities are owned by Cory and that gas is being delivered by Cory to an alternate pipeline. Since the meter setting is owned by Cory and Cory continues to use the setting to deliver gas to an alternate pipeline, there will be no reclaim costs incurred by WNG.

WNG states that this abandonment is not prohibited by its existing tariff and will not have an effect on WNG's peak day and annual deliveries.

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 Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed

for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26978 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–28–000]

Wyoming Interstate Company, Ltd.; Notice of Nonconforming Negotiated Rates Filing

October 16, 1996.

Take notice that on October 10, 1996, Wyoming Interstate Company, Ltd. (WIC), filed in Docket No. RP97–28–000 for authorization to implement nonconforming negotiated rates in its FERC Gas Tariff, Second Revised Volume No. 2. WIC avers that the filing complies with the Commission's requirements included in Docket No. RM95–6.

WIC has requested an effective date of November 15, 1996. WIC states that the filing has been mailed to all holders of its FERC Gas Tariff, Second Revised Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene in accordance with the Commission's Rules. 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. 96–26988 Filed 10–21–96; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Cases Filed for the Week of August 26 Through August 30, 1996

During the Week of August 26 through August 30, 1996, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: October 15, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 26 through August 30, 1996]

Date	Name and location of applicant	Case No.	Type of submission
August 27, 1996	FOIA Group, Inc., Alexandria, VA.	VFA–0208	Appeal of an information request denial. If granted: The July 16, 1996 Freedom of Information Request Denial issued by the Schenectady Naval Reactors Office would be rescinded, and FOIA Group, Inc. would receive access to certain Department of Energy information.
August 29, 1996	Albuquerque Operations Office, Albuquerque, NM.	VSO–0111	Request for hearing under 10 C.F.R. Part 710. If granted: An individual employed at Albuquerque Operations Office would receive a hearing under 10 C.F.R. Part 710.
August 29, 1996	Dirk T. Hummer, Richland, WA.	VFA–0209	Appeal of an information request denial. If granted: The August 6, 1996 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Dick T. Hummer would receive access to certain Department of Energy information.
August 30, 1996	Givaudan-Roure Corporation, Washington, DC.	RR272–245	Request for modification/rescission in the crude oil refund proceeding. If granted: The July 31, 1996 Dismissal Letter, Case Number RG272–531, issued to Givaudan-Roure Corporation would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.
August 30, 1996	James H. Stebbings, Naperville, IL.	VFA–0211	Appeal of an information request denial. If granted: The April 22, 1996 Freedom of Information Request Denial issued by the Department of Energy, Argonne Group would be rescinded, and James H. Stebbings would receive access to certain Department of Energy information.
August 30, 1996	Local Union No. 701, I.B.E.W., Lisle, IL.	VFA–0210	Appeal of an information Request Denial. If granted: The August 8, 1996 Freedom of Information Request Denial issued by the Department of Energy Fermi Group would be rescinded, and Local Union No. 701, I.B.E.W. would receive access to certain Department of Energy information.
August 30, 1996	United Truck Line Memphis, TN.	RR272–249	Request for modification/rescission in the crude oil refund proceeding. If granted: The August 7, 1996 Decision and Order Case No. RF272–89381 issued to United Truck Line would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of August 26 through August 30, 1996]

Date	Name of refund proceeding/name of refund application	Case No.
August 27, 1996	JERAIR PAMOSIAH	RF304–15505.

REFUND APPLICATIONS RECEIVED—Continued

[Week of August 26 through August 30, 1996]

Date	Name of refund proceeding/name of refund application	Case No.
August 26 thru August 30, 1996	Crude oil supplemental refunds	RK272–3890 thru RK272–3899.

[FR Doc. 96–27027 Filed 10–21–96; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5638–3]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Certification of Equipment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Certification of Equipment Supplied by Twin Rivers Technologies for the Urban Bus Retrofit/Rebuild Program.

SUMMARY: The Agency received a notification of intent to certify equipment signed August 21, 1995, from Twin Rivers Technologies (TRT) with principal place of business at 780 Washington Street, Quincy, Massachusetts 02159, for certification of urban bus retrofit/rebuild equipment pursuant to 40 CFR 85.1401–85.1415. On December 13, 1995, EPA published a notice (60 FR 64051) in the Federal Register that the notification had been received and made the notification available for public review and comment for a period of 45 days. The Agency has completed its review of this notification, and the comments received, and the Director of the Engine Programs and Compliance Division has determined that certain configurations of the candidate equipment meet the requirements for certification. Accordingly, today's Federal Register notice announces the Agency's decision to certify this equipment, as described below. The effective date of certification is established in a letter to TRT from the Director of the Engine Programs and Compliance Division, as described below.

Two configurations of equipment are certified for applicable engines: (1) A particular biodiesel fuel additive in combination with a particular exhaust system oxidation catalyst; and, (2) the additive and the catalyst, plus retarded fuel injection timing. The certified equipment is applicable to petroleum-fueled Detroit Diesel Corporation (DDC) two-stroke/cycle engines originally installed in urban buses of model years 1979 through 1993, excluding 1990 model year DDC 6L71TA engines. The oxidation catalyst of this equipment is the CMX™ catalyst which has been previously certified under the urban bus program by the Engelhard Corporation. Biodiesel is a potentially renewable, oxygen-containing fuel. As a component of this equipment, biodiesel is produced from original-use plant oil sources and methyl alcohol, consists of methyl esters of specified carbon chain-lengths, and must be blended at a ratio of 20 percent by volume with the balance federally required low-sulfur diesel fuel (having a maximum sulfur content of 0.05 weight percent). Some configurations of this equipment use retarded fuel injection timing to reduce exhaust emissions of NO_X.

Today's Federal Register notice announces certification of equipment having a biodiesel component of restricted specification. This notice, however, is not meant to preclude other Agency actions or considerations with respect to other specifications involving biodiesel in the urban bus retrofit/rebuild program or other programs. Use of biodiesel of other specifications, or without the specified exhaust catalyst, is not part of the equipment described in today's notice.

Some of the certified configurations do not reduce particulate matter (PM) emissions by at least 25 percent and, therefore, cannot be used to meet program requirements by bus operators that elect compliance option 1. Operators electing to use option 1 must, until such time that the 0.10 g/bhp-hr standard is triggered, use equipment certified to reduce PM emissions by at least 25 percent, when rebuilding or replacing engines.

Any certified configuration of the equipment may be used by operators electing compliance option 2, the fleet averaging option. Under option 2, an operator must use sufficient certified equipment so that its average fleet emission level complies with a specific annual target level.

Today's notice discusses limited data provided by TRT which indicate that engine emissions of unregulated aldehydes may increase when fuel injection timing is retarded. It is uncertain whether there would be an increase in ambient levels or, if there is an increase, whether it would become irritating to exposed populations. Operators concerned with the possibility for increased irritation to exposed populations may want to minimize the potential for increased ambient levels through management practices. The Agency concludes that the totality of available information support a net programmatic benefit from certifying B20 with the oxidation catalyst.

The specified biodiesel blend, in combination with the specified exhaust catalyst, has been demonstrated to reduce PM. This certification will make the specified biodiesel acceptable, when used in conjunction with the specified catalytic converter, for use by operators to comply with the urban bus program requirements. The TRT notification, as well as other materials specifically relevant to it, are contained in Public Docket A–93–42, category X, entitled ''Certification of Urban Bus Retrofit/Rebuild Equipment.'' This docket is located in room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by the Agency for copying docket materials.

DATES: Today's Federal Register notice announces the Agency's decision to certify equipment, as described below. The effective date of certification was established in a letter dated September 20, 1996, to TRT from the Director of the Engine Programs and Compliance Division. (A copy of the letter is in the public docket, which is located at the address noted above.) This certified equipment may be used immediately by urban bus operators, as described below.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Rutledge, Engine Programs and Compliance Division (6403–J), U.S. Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. Telephone: (202) 233–9297.

SUPPLEMENTARY INFORMATION:

I. Background

By a notification of intent to certify signed August 21, 1995, TRT applied for certification of equipment applicable to petroleum-fueled Detroit Diesel Corporation (DDC) two-stroke/cycle engines originally equipped in urban buses from model year 1979 to model year 1993, excluding the 1990 model year DDC model 6L71TA engines. The notification of intent to certify contains two equipment configurations described more fully below: (1) A biodiesel fuel additive used in conjunction with an exhaust system catalytic converter muffler; and, (2) the biodiesel additive and catalytic converter used in conjunction with a fuel injection timing retard.

Using engine dynamometer (transient) testing in accordance with the Federal Test Procedure for heavy-duty diesel engines, TRT demonstrated reductions in PM emissions. Additional data were provided from chassis testing of an urban bus coach equipped with a 1988 model year 6V92TA DDEC II. The engine dynamometer data are shown below in Table 1, and are the bases for the PM reduction attributed to the equipment and the certification approval of the equipment when used on applicable engines. The emissions test data is part of TRT's notification of intent to certify, which is available in the public docket located at the above-mentioned address. All testing was conducted using soy methyl ester (SME) additive blended with #2 low-sulfur diesel fuel. Hereinafter, the term ''B20'' is used to mean biodiesel blended at the ratio of 20 percent by volume with federally required low-sulfur diesel fuel (with a maximum sulfur content of 0.05 weight percent).

TABLE 1.—TEST ENGINE EMISSIONS (TRANSIENT TEST)

	Gaseous and particulate					Smoke			Comment
	HC	CO	NO_X	PM	ΔPM (percent)	ACC	LUG	Peak	
Engine:	g/bhp-hr					percent opacity			
	1.3	15.5	10.7	0.60		20	15	50	1988 HDDE Standards.
Engine Dyno:									
1977 6V71N MUI[1]	0.86	3.18	11.72	0.282		1.2	1.8	1.8	Baseline (2D).
	0.42	1.64	11.72	0.159	–43.6	1.4	2.1	2.1	2D+cat.
	0.38	0.86	12.11	0.166	–41.1	0.9	1.7	1.7	B20[3]+cat[4].
	0.53	1.37	8.1	0.247	–12.4	4.6	5.4	5.6	2D, cat+4° retard.
	0.42	0.94	8.47	0.213	–24.5	2.2	2.8	2.9	B20, cat+4° retard.
1988 6V92TA DDEC[2]	0.60	1.60	8.52	0.20		6.0	5.3	8.7	Baseline (2D).
II									
	0.21	0.95	9.06	0.11	–45.0	3.7	1.7	6.9	B20+cat.
	0.29	1.21	8.18	0.14	–30.0	6.5	2.1	11.6	2D, cat+1° retard.
	0.25	1.05	8.35	0.12	–40.0	5.1	2.5	8	B20, cat+1° retard.

[1] MUI=Mechanical Unit Injector.
[2] DDEC=Detroit Diesel Electronic Control.
[3] The B20 used is SME blended 20 percent by volume with low-sulfur diesel fuel.
[4] The data include an invalid cold cycle. See the text for discussion.

Initial review of the test data of Table 1 indicated that the B20 plus catalyst configuration reduced PM by between 40 to 45 percent compared to the baseline of neat petroleum diesel. However, the test of the 6V71N using B20, catalyst, and stock timing, include data from a cold start cycle that is invalid because it does not meet the minimum statistic for cycle torque (40 CFR 86.1341–84 requires the coefficient of determination for the cold cycle to be at least 0.8500; for the test in question it is reported as 0.84815). This statistic is out-of-specification for the cold cycle indicating that the engine could not adequately follow the transient driving schedule, perhaps because engines in general are often less responsive during cold operation.

The cold cycle data of this test, although invalid, is important for determining whether a basic configuration of the equipment on applicable engines [B20 plus catalyst when used on engines having mechanical unit injectors (MUI)] meets the emission standard of reducing PM by at least 25 percent, and for determining the certification level of those engines having the TRT equipment. The certification level is used by operators choosing compliance program 2 to calculate fleet averages, and will also be used if the Agency conducts in-use testing.

Ideally, Agency decisions concerning certification are based on accurate and valid test data. In this situation, however, there are several circumstances that mitigate our concern regarding use of this data. First, the statistic is only marginally out of specification. Second, the impact of the out-of-specification statistic on the accuracy of the emissions data is probably minimal—the data of the cold start cycle are weighted only one-seventh of the composite test results. Third, all other cycle statistics are within the CFR specifications, including integrated brake horsepower-hour for the cold cycle (i.e., the cycle work), which is within three (3) percent of the reference driving cycle. Fourth, reliance on the invalid test in this case is not unreasonable due to the extent of other supporting emissions data. As shown in Table 1, testing of the same engine shows that B20, catalyst, and four (4) degrees of retard provide PM reductions of almost 25 percent relative to conventional diesel, which is significantly greater than when diesel fuel is used with the catalyst and retard. Additionally, engine dynamometer testing of the DDEC engine show that PM emissions are reduced roughly 45 percent when using B20 plus catalyst. Further, data from testing another DDEC engine on a chassis dynamometer (included with TRT's notification) show that PM reductions range from 20 to 50 percent, depending upon the driving cycle used. Because of the extent of these support data, plus the technical argument of the minimal impact on the accuracy of the emissions data due to the out-of-specification statistic, we believe that it is not unreasonable to use the data from the invalid test.

As stated above, we believe that the impact of the out-of-specification statistic on the accuracy of the emissions data is minimal because the data of the cold start cycle are weighted only one-seventh of the composite test results (per 40 CFR 86.1342 and 86.1343). Therefore, the reported PM level of the test in question is used to base PM reductions and certification levels for the applicable MUI engines equipped with B20, catalyst, and stock timing.

The testing data submitted by TRT (included with TRT's notification as part of the public docket) indicate that use of B20 increases the soluble organic fraction (SOF) and possibly decreases the soot fraction of the exhaust particulate matter. Engelhard Corporation (the manufacturer of the exhaust catalyst), in its comments to the public docket, states that the greater SOF associated with biodiesel provides greater reductions in total particulates by oxidation of SOF. The emissions data provided by Engelhard in support of certification of its CMX ™ catalyst (60 FR 28402 on May 31, 1995) indicate that the catalyst, when using diesel fuel, provides PM reduction of roughly 30 percent. The 41 percent reduction shown in Table 1 above, along with the other emissions data noted above, is supportive of B20 improving PM reduction compared with the CMX ™ and diesel fuel.

The data of the TRT notification also indicate that, while use of B20 with an exhaust catalyst decreases regulated emissions of hydrocarbons (HC) and carbon monoxide (CO), it may increase exhaust emissions of oxides of nitrogen (NO_x). TRT analyzed the impact of the NO_x increase to determine whether engines would exceed federal emissions standards, and determined that the increase predicted by the test data will not cause engines equipped with MUI to exceed the applicable federal NO_x standards. However, TRT's analysis indicates that 6V92TA DDEC engines of model years 1990 through 1993 (equipped with electronically-controlled fuel injection) exceed applicable federal NO_x standards. (Federal standards for NO_x dropped to 6.0 g/bhp-hr for model year 1990 engines and 5.0 g/bhp-hr for the 1991 model year engines.) The Agency agrees with this conclusion but recognizes that it is based on limited emission test data. Based on the analysis, the certification of equipment announced in today's Federal Register notice applies to the 6V92TA DDEC engines of model year 1990 through 1993 only when the fuel injection timing is retarded one (1) degree. TRT's analysis is included in the public docket and discussed in the Federal Register notice of December 13, 1995 (60 FR 64051).

The Agency concludes that the totality of data support a net programmatic benefit from certifying B20 with the oxidation catalyst, basically because it shows PM reductions compared with the baseline of conventional (low sulfur) diesel fuel without an exhaust catalyst. The Agency believes that most of the reduction in PM emissions from the kit is probably attributable to the exhaust catalyst, although some additional PM emissions reduction is expected to be realized from addition of biodiesel.

II. Equipment Description

Table 2 provides PM certification levels for TRT's certified equipment. These levels are determined by applying the PM percentage reductions, predicted by the test data of Table 1, to the pre-rebuild PM levels specified in the program regulations [§ 85.1403(c)]. The test data indicate that PM is reduced by 41.1 percent on the MUI engines (24.5 percent with 4 degrees retard) and 45.0 percent on DDEC engines (40.0 percent with 1 degree retard). No configuration of TRT's equipment is certified for the 6L71TA MUI of model year 1990, because the MUI test engine was determined not to be a ''worst-case'' test engine as required by the program regulations at § 85.1406(a)(2). This was discussed in the Federal Register of December 13, 1995 (60 FR 64051).

TABLE 2.—CERTIFIED CONFIGURATIONS AND PM CERTIFICATION LEVELS

Engine model	Model year	Equipment configuration	
		B20, Cat+stock timing	B20, Cat+retard [1]
6V92TA MUI	79–87	0.29	[2] 0.38
6V92TA MUI	88–89	0.18	[2] 0.23
6V92TA DDEC	86–87	0.16	0.18
6V92TA DDEC II	88–89	0.17	0.19
6V92TA DDEC II	90–91	([3])	0.19
6V92TA DDEC II	92–93	([3])	0.15
6V71N MUI	73–87	0.29	[2] 0.38
6V71N MUI	88–89	0.29	[2] 0.38
6V71T MUI	85–86	0.29	[2] 0.38
8V71N MUI	73–84	0.29	[2] 0.38
6L71TA MUI	90	([3])	([3])
6L71TA MUI	88–89	0.18	[2] 0.23
6L71TA MUI DDEC	90–91	0.16	0.18

[1] Up to and including four (4) degrees fuel injection retard for MUI engines, and one (1) degree retard for DDEC engines.
[2] Not certified for compliance program 1.
[3] Not certified.

The certification announced in today's Federal Register is provided to TRT for equipment configurations of B20, catalyst, and timing retard that comply with the following specifications.

The key component of the certified equipment is a particular oxidation catalyst-muffler unit designed to replace the typical noise muffler in the exhaust system of applicable recipient engines. The particular catalyst is the CMX™ manufactured by the Engelhard Corporation and certified for use in the urban bus retrofit/rebuild program on May 31, 1995 (60 FR 28402). The Agency limits this certification of TRT equipment to use of CMX™ catalyst muffler units supplied by Engelhard and meeting the specifications covered by

Engelhard's certification of May 31, 1995. The Agency requires that use of catalysts of any other specification, or supplied by any other catalyst supplier, be the subject of a separate notification of intent to certify. In a letter to the Agency dated August 19, 1995, Engelhard states that it will notify the Agency and TRT if the specifications for its catalyst change. Engelhard's letter is in the public docket.

Another component of the certified equipment is use of biodiesel provided by TRT as an additive that complies with the specifications below. In general, biodiesel is an ester-based fuel oxygenate derived from biological sources for use in compression-ignition (that is ''diesel'') engines. It is the alkyl ester product of the transesterification reaction of biological triglycerides, or biologically-derived oils. TRT indicates that any biological oil source, such as vegetable oils, animal fats or used cooking oils and fats, can produce esters through this reaction. While TRT has registered biodiesel under the Agency's Fuel/Fuel Additive Registration Program, which defines TRT biodiesel (marketed as ''EnviroDiesel™'' and ''EnviroDiesel Plus™'') as an alkyl ester containing C1–C4 alcohols and C6–C24 fatty acids, the certification announced in today's Federal Register is limited to biodiesel complying with the following specification.

The biodiesel component of the certified equipment is provided by TRT and must be blended at a nominal 20 percent volume with federally-required low sulfur diesel fuel (with a maximum sulfur content of 0.05 weight percent). This blend is referred to as ''B20'' in this notice. The B20 blend is required to be no less than 19 percent and no more than 21 percent by volume biodiesel, with the specified diesel. The use of B20 alone (that is, without the catalyst) is not certified because certification data is not available which sufficiently demonstrate that it will reduce PM. The biodiesel component of this certification is limited to mono-alkyl methyl esters meeting the following specifications:

TABLE 3.—BIODIESEL COMPONENT SPECIFICATIONS

Feedstock: Original-use, plant oil sources only.		
Composition: Methyl esters of the following carbon chain length:		
Sum of C16 + C18's.	90.5 wt% min	Determined by GC.
Fraction <C16	2.0 wt % max	Determined by GC.
Fraction >C18	7.5 wt % max	Determined by GC.
Blend Ratio: minimum 19 percent and maximum 21 percent by volume biodiesel complying with the above specifications for feedstock and composition, and the balance federally required low sulfur diesel fuel complying with 40 CFR Section 80.29.		

The biodiesel component of the certified equipment must comply with the specifications of Table 3. The biodiesel component of this certification is limited to a nominal B20 blend, and to biodiesel meeting the specified carbon chain-lengths and consisting of esters produced from methyl alcohol and feedstocks of original-use plant oil sources. Because the certification testing was conducted solely using soy methyl ester, the Agency believes that compliance with the carbon chain-length specifications of Table 3 and the blend ratio are appropriate to provide assurance of the emissions performance. This specification, including the feedstock and alcohol limitations, is discussed further in the following section. Blend ratios less than 19 percent or greater than 21 percent are not covered by this certification.

Based on the data presented by TRT, the certification announced in today's Federal Register notice includes a biodiesel component having a relatively limited specification. Biodiesel not complying with the specifications of Table 3, and biodiesel provided or produced by others, must be certified to be used in compliance with the urban bus program. Certification by other parties or involving other biodiesel specifications may be appropriate upon satisfactory compliance with the requirements of the urban bus program (40 CFR Part 85, Subpart O).

Additionally, we are aware that the biodiesel industry is working to address other regulatory issues related to the Agency's fuel and fuel additive requirements under 40 CFR Part 79. The certification announced in today's notice applies to the limited context of the urban bus program, and is not intended to set a precedent as a generic definition of ''biodiesel''.

The initial TRT notification lists ''typical'' physical and fuel properties of biodiesel. While such properties may be important with respect to the operational characteristics of biodiesel, their effect on emissions performance is not clear at this point in time. The Agency understands that industry consensus-based fuel specifications of such physical and fuel properties for biodiesel is being developed by the American Society for Testing and Materials (ASTM), in cooperation with petroleum, engine, and biodiesel industry interests. TRT has indicated that the ''typical'' properties listed in the initial notification were based on earlier proposed ASTM specifications, and that TRT will maintain compliance with ASTM specifications as they evolve.

In addition to the concern for the emissions performance of equipment certified under the urban bus program, the Agency has concerns that any property of neat biodiesel not cause any B20 blend to exceed any standards otherwise established for petroleum diesel (for example, 40 CFR 80.29). If the Agency learns that any biodiesel property requires further limitation, it may take appropriate action using its authority under the decertification provisions of the urban bus program (§ 85.1413).

The Agency is certifying certain configurations of the TRT equipment which include retarded fuel injection timing to decrease NO_X emissions. TRT requested certification of these configurations because some operators may wish to achieve NO_X reductions while still reducing PM emissions, and some electronically-controlled engines may exceed Federal NO_X standards without the timing retard. The Agency recognizes that certain configurations with retarded injection may be useful for reduction of NO_X emissions. However, certification of NO_X levels is outside the context of the urban bus program. Today's Federal Register notice provides certification levels only for PM emissions levels.

For the DDC engines equipped with MUI as indicated in Table 2, the Agency is certifying any timing retard from zero to four (4) degrees from stock timing. The emission data of TRT's notification indicate that PM is reduced 24.5 percent when timing is retarded four (4) degrees. While these data do not show 25 percent reduction, the Agency believes the data support certification of retard from zero to three (3) degrees as providing PM reduction of at least 25 percent on MUI engines. Zero to three (3) degree range of retard, then, can be used by operators electing either compliance program 1 or 2. MUI engines retarded four (4) degrees do not reduce PM emissions by at least 25 percent and, therefore, can be used only by operators electing compliance program 2. Operators electing compliance program 2 and using any retard, must use the PM certification level specified in Table 2 for the

applicable engine when calculating fleet emissions averages.

Injection retard on MUI engines is accomplished by adjusting fuel injector height (for four degrees retard, 0.028 inches is added to the stock injector timing height). The Agency understands that some engine models equipped with MUI should not, or cannot, be retarded the full four (4) degrees because the engine manufacturer (DDC) recommended maximum injector height is 1.520 inches. As explained above, engines having injection retarded more than 3 degrees cannot be used by operators for compliance with compliance program 1 because it does not reduce PM emissions by at least 25 percent. The Agency is certifying MUI engines, having injection retarded up to and including three (3) degrees, as reducing PM by at least 25 percent. Information provided with the TRT notification indicates that each additional 0.007 inch increase in injector height, above stock height, results in one (1) degree of retard.

As discussed in the Federal Register notice of December 13, 1995, TRT performed analysis which indicates that 1990 through 1993 model year Detroit Diesel Corporation 6V92TA DDEC engines (when using B20 with catalyst) will exceed applicable federal standards for NO_x unless timing retard is used. Therefore, the only configuration certified for these engines requires retarding the injection timing one (1) degree. The TRT notification states that one (1) degree retard on these DDEC engines is accomplished by relocating the reference timing sensor.

All certified configurations, that is, the biodiesel additive and catalyst, are covered by emissions performance and defect warranties offered by TRT described by the urban bus regulations at § 85.1409.

Section 211 of the Clean Air Act establishes fuel and fuel additive prohibitions, and gives the Agency authority to waive certain of those prohibitions. The Agency, however, does not believe that TRT must obtain a fuel additive waiver under § 211(f)(4) of the Clean Air Act before certifying its additive system for the following reasons.

The Act prohibits the introduction into commerce of any fuel or fuel additive that is not substantially similar to a fuel or fuel additive used in the certification of any model year 1975 or later vehicle or engine under § 206. The Administrator may waive this prohibition, if she determines that certain criteria are met. The Agency believes that certification of an urban bus retrofit system constitutes the certification of an engine under § 206 for the purposes of the urban bus retrofit/rebuild program, and, since the additive is used in the certification of the system, a waiver is not required to market the additive in the limited context of use with the certified retrofit system. This determination does not affect whether the additive is ''substantially similar to any fuel or fuel additive'' outside the context of the urban bus retrofit/rebuild program. The Agency's position on this matter is discussed in additional detail as it relates to use of another fuel additive (Lubrizol Corporation) at 60 FR 36139 on July 13, 1995.

III. Summary and Analysis of Comments and Concerns

The Agency received comments from ten (10) parties. Three transit operators, the Bi-State Development Agency, Southwest Ohio Regional Transit Authority, and Mass Transit Administration of Maryland provided comments that are favorable, indicating support for biodiesel as a viable alternative fuel. These agencies have participated in demonstrations of biodiesel and have found that biodiesel has an excellent operational record, and indicate that biodiesel maintains power and mileage without extra infrastructure costs. No difficulties with biodiesel were noted.

A fourth transit, New York City Transit Authority (NYCT), comments that it reviewed emissions data provided to it by TRT, and concluded that their operation would not realize an emission benefit by using biodiesel. The Agency respects the conclusion of NYCT, regarding use of biodiesel in its own operation. However, the Agency believes that this certified TRT equipment, which includes a catalyst component, will provide program benefits and additional options for operators. Further, certification is consistent with Agency support for fuels that may be renewable. A copy of NYCT's comments are available, as are all comments, in the public docket for review.

While the PM reduction attributable to the B20 component may be of general interest, a quantifiable reduction is not a specific necessity for the certification announced in today's Federal Register notice. The PM reduction attributable to the B20 component of the equipment is difficult to quantify because of inconsistent test data. The data do not consistently show that, when a catalyst is used, B20 reduces PM more than diesel fuel. Test data from the MUI engine indicates that using B20 with the catalyst may increase PM by roughly four (4) percent when compared with diesel fuel plus the catalyst, which may raise a question regarding the contribution of the biodiesel component in the ability of the TRT kit to reduce PM. On the other hand, other data (see Table 1) from testing the MUI engine with timing retarded four (4) degrees, and from testing the DDEC engine with timing retarded one (1) degree, both indicate that the use of B20 with catalyst further improves PM reduction by roughly 14 percent over diesel fuel with catalyst. In summary, the Agency believes that this certified TRT equipment, which includes catalyst and B20 components, will provide program benefits by reducing PM relative to use of conventional diesel fuel without a catalyst.

Other comments supporting certification were received from the National Biodiesel Board (NBB) and the Fats and Proteins Research Foundation (FPRF). The NBB, a trade association dedicated to creating viable commercial markets for biodiesel, notes a number of benefits or advantages of biodiesel. For example, NBB notes that increased use of biodiesel within the urban bus program can improve the environment, enhance national energy security, and give affected transit systems greater flexibility in meeting requirements. NBB further indicates that more than 10 million miles of in-service demonstration projects involving urban bus transit systems across the nation have been conducted to test biodiesel's reliability and performance as a fuel technology under actual urban transit working conditions, and reports overwhelmingly favorable results. The NBB also states that it is coordinating the biodiesel industry's response to the request for emissions health effects data under the Agency's fuel and fuel additive (FFA) program (pursuant to § 211 of the Clean Air Act).

The NBB states that it is not aware of any data that would bring into question any adverse public health effects from the utilization of B20, compared with baseline use of diesel fuel in the same engines. Further, NBB does not interpret the Agency's request for comments on health effects related to use of B20 (contained in the Federal Register notice of December 13, 1995) to require separate and independent health effects determinations for urban bus equipment that would duplicate the requirements under the FFA program. Also, the NBB believes that the on-going data submission requirements of § 211 fully address the potential health effects issues raised in the Federal Register notice of December 13, 1995, unless significant, new health effects related data to the contrary is submitted to the

Agency as a consequence of this rulemaking.

FPRF is an organization dedicated to the development of new uses for and added value of animal by-products for the nation's meat producing industry. The FPRF expresses support for TRT's notification and believes that TRT has fully met EPA's regulatory requirements under the urban bus program regulations. FPRF also notes that, the Energy Policy Act of 1992 defines ''alternative fuels'' to include fuels derived from biological materials, or any other fuel determined to be substantially not petroleum and yielding substantial energy security benefits and substantial environmental benefits. FPRF requests that the Agency defer its consideration of any health effects under the urban bus program, until the full course of data development and collection requirements under the FFA program are met by the biodiesel industry.

The Agency notes the information and expressions of approval for certification of biodiesel provided by both NBB and FPRF.

Section 85.1406(d) of the urban bus regulations states that ''* * * installation of any certified * * * equipment shall not cause or contribute to an unreasonable risk to public health, welfare or safety,'' and this is the basis for the Agency's request in the December 13, 1995 notice, for any available information regarding health risk. While the general health concern of the urban bus program is similar to that of the FFA program, the scopes of the programs are different. The urban bus program, in general, does not require duplication of the on-going health-effects information and testing requirements under the FFA program, which need not be provided until May 1997. While emissions data made available by TRT on the use of biodiesel has been reviewed by the Agency, it is not an adequate basis on which to base a comprehensive health-risk evaluation. However, we have determined that it should not impede the certification announced in today's notice. (This information is discussed further below). The Agency does not propose, or believe that others are suggesting, to postpone the certification of today's notice until the testing under the FFA program are completed. Whether or not the data submission requirements of the FFA program address the issues of the urban bus program are not relevant at this point in time, because certification under the urban bus program does not guarantee completion, or the outcome, of the information or testing requirements under the FFA program. However, if information becomes available which indicates significant health risk associated with use of biodiesel relative to conventional diesel, then the certification announced in today's Federal Register notice may be re-evaluated. Section 85.1413 provides the Agency authority to decertify equipment.

As discussed in the December 13, 1995 Federal Register notice (60 FR 64051), the Agency has reviewed information submitted by TRT related to unregulated emissions. Information provided by TRT from testing a 1988 DDC 6V92TA DDEC II engine using three chassis driving cycles indicate that emissions of aldehydes and ketones are increased when the timing is retarded 1.5 degrees, compared with a baseline of diesel fuel #2 without a catalyst. The data were collected using three chassis dynamometer cycles for diesel #2 fuel, B20, B20 plus catalyst with stock timing, and B20 plus catalyst with retarded timing. The data indicate that aldehyde/ketone emissions increase on average about 40 percent when timing retard is used with B20 plus catalyst, compared to a baseline of diesel #2. The aldehyde/ketone emissions decrease on average about 20 percent when stock timing is used with B20 plus catalyst, compared to the diesel baseline.

The Agency, in general, is concerned when unregulated emissions increase. While the Agency has not conducted a formal health risk analysis associated with the above-mentioned increase in unregulated aldehyde emissions, it is uncertain whether there is any potential for an increased health risk. In the judgement of the Director of the Engine Programs and Compliance Division, the increase in emissions does not appear to be significant. Additionally, we believe that certifying the configurations with retarded timing is beneficial for several reasons. The configuration of B20, catalyst, and timing retard meet the program requirement to reduce PM emissions, when compared to the baseline of neat diesel fuel without catalyst, plus provide a benefit of reduced emissions of NO_X. This certification will make those configurations available as options to interested operators.

The Agency's decision to certify the configuration having retarded timing is mitigated by several factors. First, aldehyde emissions from diesel engines, in general, are very low. Second, TRT's emissions data indicate that engines using the TRT equipment with stock timing will reduce emissions of aldehydes and ketones. Third, TRT estimates that only one in eight buses using its equipment will use the configuration with timing retard. Due to the program restriction to pre-1994 model year buses, the number of these buses (using timing retard) will decline as older buses are retired from the affected fleet. In summary, while there are uncertainties, in our judgement, the program benefits and above factors offset these uncertainties. Therefore, the Agency is certifying configurations with retarded injection timing.

While unregulated aldehyde emissions data from buses using the certified equipment described in today's Federal Register notice are limited, they indicate that the directional changes in emissions relative to conventional diesel are dependent upon the fuel injection timing employed with a catalyst. If stock timing is used, aldehyde emissions can be expected to decrease relative to a baseline of conventional diesel without a catalyst. However, if retarded timing is used, then aldehyde emissions can be expected to increase relative to the baseline. We believe that transit operators should be aware that with configurations using retarded timing, there is a possibility for ambient levels of aldehydes to increase. An increase in ambient levels is most likely to occur in micro environments having topographic or construction features (e.g., without adequate ventilation) that limit ambient dispersion of pollutants, such as enclosed bus malls or maintenance bays. If there is an increase in ambient levels, then there may be increased respiratory irritation by exposed populations. In summary, it is uncertain whether there would be an increase in ambient levels or, if there is an increase, whether it would become irritating to exposed populations. Operators concerned with the possibility may want to minimize the potential for increased ambient levels through its management practices, such as bus routing, bus scheduling, and/or mix of emission reduction technologies.

The Agency is interested in gathering additional information on unregulated aldehyde emissions, and requests that the public and industry provide information with regard to the content of the exhaust of compression-ignition engines fueled with any blend of biodiesel. Additionally, we request operators using the retarded configuration to provide us as well as TRT, information on related public complaints or comments, and actions taken to avert or correct perceived problems.

With regard to FPRF's comment on ''alternative'' fuels, there are no specific provisions for designating ''alternative'' fuels under the urban bus program. However, the program regulations state

that urban buses using alternative fuel that ''* * * significantly reduces particulate emissions compared to emissions from diesel fuel'' can be assumed to be operating at a PM level of 0.10 g/bhp–hr [40 CFR 85.1403(d)]. Further, the preamble to the final rule (58 FR 21380, April 21, 1993), relates alternative fuel to ''* * * dedicated gaseous fueled or alcohol fueled * * * buses''. Based on the emissions performance demonstrated by the certification data, the B20 component of the certified equipment does not appear to fit the depiction of ''alternative'' fuel that ''significantly reduces particulate emissions'' in the context of this program.

Texaco comments that the Agency erred in the December 13, 1995, Federal Register notice when it stated that under compliance program 1, operators could use the TRT equipment, because TRT has not provided life cycle cost information according to 40 CFR 85.1403(b). Texaco indicates that because life cycle costs are not provided by TRT, the Agency cannot certify it for use under program compliance option one (1).

Section 85.1403(b)(2) states, in part: ''If no equipment meets the provisions of paragraph (b)(1) of this section for a particular model of urban bus engine, then any urban bus for which this Subpart is applicable shall use equipment that has been certified to achieve at least a 25 percent reduction in particulate emissions from the original certified particulate emission level of the urban bus engine model being rebuilt, if such equipment is available as specified in paragraph (b)(2)(i) of this section.'' In general, paragraph (b)(2)(i) defines ''available'' to mean equipment has been certified to reduce particulate emissions by at least 25 percent, has been approved for certification for at least 6 months, and has a life cycle cost of $2,000 (1992 dollars) or less.

The Agency believes that § 85.1403(b)(2) is clear—once equipment is ''available'' (that is, the PM standard has been ''triggered'') for particular engines, then an operator can select any equipment that is certified to comply with the standard, regardless of cost associated with the selected equipment. This provides operators with equipment options. The Engelhard CMX™ catalyst was certified on May 31, 1995, to reduce PM on all two stroke/cycle engines by at least 25 percent for less than the applicable life cycle cost. Until equipment is certified to meet the 0.10 g/bhp–hr standard for less than the applicable life cycle cost, all two stroke/cycle engine rebuilds or replacements by operators using compliance program 1 must use equipment certified to reduce PM by at least 25 percent. Some, but not all, configurations of the certified TRT equipment, reduce PM by at least 25 percent and can be used in compliance with the current requirement of compliance program 1.

Detroit Diesel Corporation (DDC), the manufacturer of the engines to which the TRT equipment applies, comments that it has experience with the fuel blend, the exhaust catalyst, and the timing retard technologies. DDC states that the emission data provided by TRT is generally consistent with DDC's understanding of the expected effects of these technologies and DDC believes that TRT used reasonable approaches to extrapolate the emission data to the other engine models, and does not question PM certification levels provided in the December 13, 1995, Federal Register notice. Also, ''While DDC is in fundamental agreement with the emission claims made in the notice * * *'' they express the following concerns relating to the use of the proposed technologies.

DDC is concerned that there is limited experience with long term effects of biodiesel use on engine durability. There are concerns about the low temperature behavior of biodiesel and its comparability with materials that could be found in some engine and vehicle fuel systems (especially relevant for retrofit usage of biodiesel fuels). DDC believes that if certified, the upper blend ratio should be clearly defined and no more than 20 percent.

DDC notes several concerns related to the exhaust catalyst and injection retard features of the equipment. DDC notes that some users may experience degraded engine performance or durability as a result of using the timing retard. DDC also notes several other effects that are, in general, associated with timing retard, including decreased fuel economy, poorer cold starting and white smoke control, increased exhaust temperature and reduced exhaust valve durability. DDC states that without a case-by-case assessments of each of the engine models, it cannot provide specific comments on the effects of the proposed levels of timing retard.

DDC also comments that the procedure provided in the TRT notification for checking catalyst backpressure is not adequate. DDC states that the backpressure specification (3 inches mercury) provided with the check should be conducted at wide open throttle, full engine load (not the wide open throttle, no load condition as stated in the Engelhard material provided as part of TRT's notification). DDC notes that its backpressure limits apply at all engine operating conditions, but are most applicable to maximum exhaust flow condition of the engine, which is most often at the rated speed, full load condition. If the engine backpressure limit is just met at the wide-open-throttle no-load condition, then the engine will be severely over-backpressured when it is operated at or near rated power.

The Agency appreciates that there may be short-comings, or room for improvement, in maintenance procedures of components or various aspects of equipment certified under the urban bus program. Such concerns, in general, can also occur with procedures relating to new engines. Indeed, the current backpressure specification and check procedure may not be entirely adequate. Perhaps a positive first step is user knowledge of these areas of potential concerns. The Agency encourages all certifiers to issue revised check procedures when appropriate. If, after review of DDC's concern, Engelhard determines another check procedure is more appropriate for purchasers of the CMX™, it should notify the Agency, the purchasers, and TRT. DDC also notes that the Engelhard service procedure calls for CMX™ inspection during normally scheduled vehicle maintenance, contrary to what was stated in the December 13, 1995, Federal Register notice.

The Agency appreciates the extensive substantive comments submitted by DDC, given its experience and expertise as manufacturer of the engines to which this certified equipment applies. Users of this equipment should be aware of the potential concern expressed by the engine manufacturer regarding the use of biodiesel, the exhaust catalyst, and injection timing retard. Some users may not be satisfied with some configurations of the certified equipment, but must recognize that a comprehensive and long-term durability demonstration of all possible engines and equipment configurations is not part of the certification process under the urban bus program. While the Agency recognizes these comments as areas of potential concern, it also believes that the data presented by TRT is adequate to justify certification. Further, several parties involved with demonstration programs of biodiesel have provided positive feedback, as mentioned previously. The effects involving the long-term use of biodiesel is important, given this certification. The Agency is requiring that the biodiesel component of the certified

equipment comply with the indicated specifications and, as DDC recommends, limiting biodiesel use to the nominal maximum 20 percent biodiesel blend discussed above. The Agency will continue to monitor the performance of equipment certified under the urban bus program, and encourages users to provide details of its specific experience with this certified equipment. As necessary, the Agency has authority to decertify equipment pursuant to program regulations at § 85.1413.

DDC also comments that the TRT equipment should not be certified for use under compliance program 1. The Agency discusses this concern above in relation to a comment by Texaco. While the TRT equipment is neither ''trigger'' technology nor required to be used, certain configurations have been demonstrated to reduce PM by at least 25 percent and therefore can be used under compliance option 1, until equipment is certified to meet the 0.10 g/bhp-hr standard for less than the applicable life cycle cost.

With its comments, DDC provided a copy of a report by the Engine Manufacturers Association (EMA) dated August 1995 and entitled ''Biodiesel Fuels and Their Use in Diesel Engine Applications''. DDC indicates that it provides a good discussion of the issues surrounding the use of biodiesel fuels in diesel engines, and notes that the report suggests some caution in using these fuels. While this report on biodiesel does not specifically address TRT's notification of intent to certify, several points may be relevant to the notification, and of interest to operators interested in biodiesel. Interested parties should refer to the EMA report (included with DDC's comments in the public docket) for additional information concerning the EMA position on biodiesel use.

The EMA report notes that a wide range of feedstock may be grown for fuel use, and states that different feedstocks have different relative proportions of specific fatty acids (e.g. oleic or linoleic acids) and, as a result, the finished fuel will have different characteristics. The report, however, does not elaborate on any different characteristics or concerns associated with them. As stated elsewhere, the biodiesel component that can be used with the certified equipment of today's notice is bounded by a chemical specification, which is based on the certification emissions data. Further, TRT has indicated that it will adhere to industry developed specifications for various fuel and physical properties of biodiesel, as those specifications evolve.

Today's Federal Register notice limits the biodiesel component of the certified equipment to the chemically-defined description of Table 3. This specification was proposed by TRT as one which meets its manufacturing needs. The Agency believes it acceptable because, as an approximation of esters produced from use of soybean oil, it provides assurance that emissions performance will be similar to that demonstrated by the certification testing.

TRT's initial notification proposed a broad specification for biodiesel (alkyl esters containing C1 through C4 alcohols and C6 through C24 fatty acids) to permit its production from a wide variety of feedstocks using four different alcohols. While the Agency has not seen any information which indicate concern for any particular feedstock or esters produced using other than methyl alcohol, the effect of these variables on either regulated or unregulated emissions is not clear at this time. For this reason, and because all of the certification testing was conducted using soy methyl ester, today's Federal Register notice limits the biodiesel component to the description of Table 3.

Based on information provided by the U.S. Department of Agriculture and on vocal communications with TRT, soybean oil is expected to be the predominant feedstock in the production of biodiesel. Methyl esters produced from soybean oil are predominantly molecules having carbon chain-lengths of C16 and C18. Other plant oil sources (such rape seed oil), however, can be used to produce ester molecules of this range depending upon factors, such as growing conditions. TRT indicates that the chemical structure of methyl esters are the same, regardless of feedstock origin, and therefore TRT proposed a specification based on chain-length which would allow use of other plant oil feedstocks. The carbon chain-length specifications will allow use of plant oil feedstocks other than soybean oil to make biodiesel for use in compliance with the urban bus program. Additionally, the specifications provide assurance that the demonstrated emissions performance will be attained in-use by virtue of imitating the primary carbon chain-lengths of soy methyl ester.

While the Agency recognizes that there may be uncertainties concerning different feedstocks, the information available do not support a need to restrict feedstocks for the biodiesel certified by TRT (assuming compliance with the specifications of Table 3). If significant information becomes available which indicates concern with specifications of today's Federal Register notice, then the Agency has authority through the decertification process to further restrict biodiesel used in compliance of the urban bus program.

Section 85.1412 of the program regulations requires that TRT, as the certifier, maintain data obtained during testing of the equipment, including the biodiesel, and a description of the quality control plan used to monitor production and assure compliance of the equipment with the certification requirements. This section of the regulations requires that the certifier provide this information to the Agency upon written request. Section 85.1404 requires urban bus operators maintain the purchase records for fuel additives and provide the Agency with access to such records. The Agency may conduct audits of operators and analyze fuel for compliance with specifications, and to perform in-use testing to measure emissions.

The EMA report states that ''If raw vegetable oil is used as feedstock in the esterification process, then the final biodiesel fuel may have high phosphorus content. High levels of phosphorus would reduce the life of a catalyst used to reduce soluble organic fractions of particulates.'' While raw vegetable oil is a common feedstock for biodiesel production, TRT has forwarded measured phosphorous levels, analyzed by the National Biodiesel Board, of samples of SME collected over an 18 month period from three suppliers. The results show the phosphorous level is very low (a maximum of 0.0000045 weight percent). There is currently no Federal specification for the phosphorous level in in-use diesel fuel. However, a comparison can be made with the maximum level permitted (40 CFR Part 80) for in-use gasoline (0.005 grams per gallon). (At an average weight per gallon for gasoline of 6.2 pounds, 0.005 grams is roughly 0.00018 weight percent.) The data supplied by TRT, when compared with the allowable phosphorous level for in-use gasoline, do not indicate that phosphorous level is a concern when B20 is used with a catalyst.

The EMA report also notes that ''In the absence of a fuel specification, the quality of the biodiesel fuel cannot be controlled. Therefore engine and vehicle manufacturers cannot warranty the product against failures attributed to the use of such fuels or their blends.'' As noted above, the Agency understands that physical and fuel specifications for biodiesel are being developed by ASTM, and will consider the interests of the engine manufacturers, and the petroleum and biofuel industries. The

Agency expects such a standard to reduce the potential for fuel quality to be a problem. Further, TRT has indicated that it will adhere to the ASTM specifications for biodiesel as it evolves and is finalized.

Conversations with DDC indicate that, as a general policy, they would not cover under warranty the cost of repairing a problem which was caused by use of biodiesel. DDC's instructions to owners state that the recommended fuels are diesel #1 and #2. The Agency believes that the potential lack of coverage by the original engine manufacturer will not be a significant problem under the urban bus program because the affected engines are generally out of warranty due to age. There are, of course, other warranty provisions applicable to certification of retrofit/rebuild equipment under the urban bus program.

The EMA report also indicates that oil change intervals for vehicles operating on biodiesel blends need to be shortened to avoid durability problems. Operators using biodiesel may want to monitor oil parameters more closely until they determine appropriate change intervals.

The EMA reports concludes that biodiesel blends can improve visible smoke and particulate emissions in older diesel engines.

The California Air Resources Board (CARB) provides comments on a number of concerns. Many of these comments apply to the testing performed by TRT on an engine calibrated to meet federal standards using diesel fuel meeting federal requirements, but not requirements of that State. The Agency recognizes the special situations existing in California, which are reflected in the unique emissions standards, engine calibrations, and fuel specifications of the State. While the requirements of the federal urban bus program apply to several metropolitan areas in California, the Agency understands CARB's view that equipment certified under the urban bus program, to be used in California, must be provided with an executive order exempting it from the anti-tampering prohibitions of that State. Those interested in additional information should contact the Aftermarket Part Section of CARB, at (818) 575–6848.

Engelhard commented on the use of its CMX™ exhaust catalyst in conjunction with biodiesel. Engelhard notes that the two technologies complement each other—biodiesel increases the SOF of particulates while the CMX™ catalyst reduces total particulates by oxidation of SOF. The greater the SOF, the greater reductions obtained. No concerns were expressed by Engelhard regarding use of biodiesel with its catalyst.

Copies of all comments can be found in the public docket located at the above address.

IV. Certification

The Agency has reviewed the notification of intent to certify and other information provided by TRT, along with comments received from interested parties, and finds, based on available data, that the equipment described above:

(1) Reduces particulate matter exhaust emissions (some configurations by at least 25 percent), without causing the applicable engine families to exceed other exhaust emissions standards;

(2) Will not cause an unreasonable risk to the public health, welfare, or safety;

(3) Will not result in any additional range of parameter adjustability; and,

(4) Meets other requirements necessary for certification under the Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (40 CFR 85.1401 through 85.1415).

Therefore, today's Federal Register notice announces certification of the above-described TRT equipment for use in the urban bus retrofit/rebuild program as discussed below in section V. The effective date of certification is the date of the letter, as noted above, provided earlier from the Director of the Engine Programs and Compliance Division to TRT. A copy of the letter can be found in the public docket at the address listed above.

V. Operator Requirements and Responsibilities

As discussed below, the certified TRT equipment announced in today's Federal Register notice may be used immediately in compliance with the urban bus program. Certain configurations apply only to compliance program 1. All configurations apply to compliance program 2.

In a Federal Register notice dated May 31, 1995 (60 FR 28402), the Agency certified an exhaust catalyst manufactured by the Engelhard Corporation, as a trigger of the program requirement to reduce PM by at least 25 percent. Until such time that the 0.10 g/bhp-hr standard is triggered, that certification of the Engelhard catalyst means that operators who elect to use compliance program 1 must use equipment certified to reduce PM emissions by at least 25 percent, when rebuilding or replacing engines. With the following exception, the certified TRT equipment may be used by operators in compliance with these current program 1 requirements. The configuration of the TRT equipment using fuel injection timing retard of four (4) degrees is not certified to reduce PM by at least 25 percent and, therefore, cannot be used by operators to comply with program 1.

Operators who choose to comply with compliance program 2 may use any configuration of the certified TRT equipment announced in today's Federal Register notice. Under option 2, an operator must use sufficient certified equipment so that its actual fleet emission level complies with the target level for its fleet. These operators must use the appropriate PM emission level from Table 2 when calculating their fleet level attained (FLA).

As stated in the program regulations (40 CFR 85.1401 through 85.1415), operators should maintain records for each engine in their fleet to demonstrate that they are in compliance with the requirements beginning in January 1, 1995. These records include purchase records, receipts, and part numbers for the parts and components used in the rebuilding of urban bus engines. In accordance with the program requirements of § 85.1404(a), operators using the certified equipment of today's notice must maintain purchase or delivery records of the B20 blend if the operator purchases the premixed blend from a fuel supplier, or, of biodiesel and low-sulfur diesel fuel if the operator mixes the B20. During compliance audits of transit operators, the Agency may review fuel purchase records and sample fuel supplies to verify blend ratios. To be in compliance with program requirements, operators must be able to demonstrate that biodiesel of the proper specification is being used in the proper proportions required by this certification.

Dated: October 15, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–27049 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–638–6]

Clean Air Act Advisory Committee Meeting

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990 to provide independent advice and counsel to EPA

on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical, scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Thursday, December 5, 1996, from 8:00 a.m. to 1:00 p.m. at Sheraton Grande, 333 South Figueroa Street, Los Angeles, California. Seating will be available on a first come, first served basis. The Permits/NSR/Toxics Integration Subcommittee, the Economic Incentives and Regulatory Innovations Subcommittee and the Linking Transportation and Air Quality Concerns Subcommittee will conduct meetings on Wednesday, December 4, 1996, from 8:00 a.m. to 12 noon. Subcommittee meeting times may change at the discretion of the co-chairs.

INSPECTION OF COMMITTEE DOCUMENTS: The committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with the CAAAC meeting minutes will be available by contacting Committee DFO Paul Rasmussen at (202) 260–6877.

FOR FURTHER INFORMATION CONCERNING THIS MEETING OF THE CAAAC PLEASE CONTACT: Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, Fax (202) 260–4185, or by mail at US EPA, Office of Air and Radiation (Mail Code 6102), Washington, DC 20460. If you would like to receive an agenda for the CAAAC meeting, please leave your fax number on Mr. Rasmussen's voice mail and it will be forwarded to you.

Dated: October 10, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–27046 Filed 10–21–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Wednesday, October 16, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), Director Nicolas P. Retsinas (Director, Office of Thirft Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2) and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: October 17, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–27141 Filed 10–18–96; 10:48 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Announcing an Open Meeting of the Board, Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. Thursday, October 24, 1996.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

Proposed Revised Community Support Regulation

Federal Home Loan Bank of Topeka AHP First-Time Homebuyer Set-Aside Program

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Rita I. Fair,

Managing Director.

[FR Doc. 96–27133 Filed 10–18–96; 10:22 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company 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'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 15, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. FNB Company, Livingston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of FNB Company of Delaware, Wilmington, Delaware, and thereby indirectly acquire The First National Bank of Livingston, Livingston, Texas.

In connection with this application, FNB Company of Delaware, Wilmington, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Livingston, Livingston, Texas.

Board of Governors of the Federal Reserve System, October 16, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–26950 Filed 10–21–96; 8:45 am]

BILLING CODE 6210–01–F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, October 28, 1996.

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: October 18, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–27204 Filed 10–18–96; 3:07 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Interim Application and Planning Document.

OMB No.: New.

Description: This legislatively-mandated plan serves as the agreement between the grantee and the Federal government as to how child care funds from the former Title IV–A, Aid to Families with Dependent Children (AFDC) program will be operated under the new integrated Child Care and Development Fund. The plans provide assurances that the funds will be administered in conformance with legislative requirements, pertinent Federal regulations, and other applicable instructions or guidelines issued by ACF.

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interim Application and Planning Document	277	1	20	5,540

Estimated Total Annual Burden Hours: 5,540.

Additional Information: ACF is requesting that OMB grant a 90 day approval for this information collection under procedures for emergency processing. A clearance under regular procedures is also being sought for this same information collection. A notice will be published in the Federal Register for the regular request inviting public comment to ACF for the normal 60-day period.

Dated: October 16, 1996.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 96–27033 Filed 10–21–96; 8:45 am]

BILLING CODE 4184–01–M

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Comprehensive Child Development Program Cohort 1 Longitudinal Follow up Study.

OMB No.: New Request.

Description: In 1988, the Congress enacted the Comprehensive Child Development Act (Pub. L. 100–297) that authorized the Administration for Children and Families to fund up to 25 Comprehensive Child Development Programs (CCDP). In 1989 and 1990, twenty-four CCDP programs located throughout the country were funded to demonstrate the long-term effectiveness of a comprehensive response to the multiple problems facing low income families including providing intensive, comprehensive, integrated, and continuous supportive services to (1) enhance the physical, emotional, and intellectual development of infants and young children, and (2) provide necessary support to their parents and other family members.

The Head Start Reauthorization Act of 1994 established priority for longitudinal studies that examine the developmental progress of children and their families during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress. In response to this priority, the Administration on Children, Youth and Families (ACYF) ACYF awarded a contract through a competitive procurement to Civitan International Research Center at the University of Alabama at Birmingham (CIRC) with a subcontract to CSR, Incorporated. The evaluation will be carried out from October 1, 1995, through September 30, 2000. Data collection activities that are the subject of this Federal Register notice are intended for the second and fourth phases of the CCDP Cohort 1 Longitudinal Followup Study.

Respondents: Focus children, parents of focus children, teachers of focus children, and key actors in the service delivery systems of the focus children's communities.

The sample for the child and family assessments consists of focus children and their families in eight of the original 24 CCDP sites. A total of 1,780 focus children and their families were randomly assigned to treatment (CCDP

services) and control (no CCDP services) groups in these eight sites. Vigorous recruitment of treatment and control group families for the CCDP Cohort 1 Longitudinal Follow-up Study has resulted in approximately 1,325 of the 1,780 families agreeing to participate.

The teacher assessments will be conducted by only those teachers of treatment and control group children. Early field work estimates the number of teachers to be 600.

Service delivery systems assessments will be completed by key actors in the service delivery systems of the CCDP site communities. It is anticipated that 5 key actors will complete the assessments in each site (for a total of 40 key actors).

The focus child and parent assessments will be conducted through computer assisted personal interviewing and pencil and paper self-administered questionnaires. All data collection instruments have been designed to minimize the burden on respondents by minimizing interviewing and assessment time. Participation in the study is voluntary and confidential.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Parent Interviews	1,325	1	2.27	3002
Direct Child Assessments	1,325	1	0.42	552
Teacher Assessments	600	1	1.25	737
Service Delivery System Questionnaire	40	1	0.42	17

Estimated Total Annual Burden Hours: 4,308.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 16, 1996.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 96–27034 Filed 10–21–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No.96F–0384]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of epichlorohydrin-dipropylene glycol and epichlorohydrin-polypropylene glycol as reactants in the preparation of epoxy-based resins used as adhesives for articles or components of articles intended for use in food-contact applications.

DATES: Written comments on the petitioner's environmental assessment by November 21, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4523) has been filed by the Dow Chemical Co., 2030 Dow Center, Midland, MI 48674. The petition proposes to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of epichlorohydrin-dipropylene glycol and epichlorohydrin-polypropylene glycol as reactants in the preparation of epoxy-based resins used as adhesives for articles or components of articles intended for use in food-contact applications.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 21, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 4, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–27021 Filed 10–21–96; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Announcement of Technical Assistance Workshops for Programs Administered by the Division of Disadvantaged Assistance, Bureau of Health Professions

SUMMARY: The Health Resources and Services Administration (HRSA) announces that technical assistance workshops will be held for the FY 1997 competitive grant cycles for the Health Careers Opportunity Program and the Minority Faculty Fellowship Program.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Brooks, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4493.

SUPPLEMENTARY INFORMATION: The Division of Disadvantaged Assistance will be conducting two (2) technical assistance workshops for potential applicants for the FY 1997 competitive grant cycles for the Health Careers Opportunity Program and the Minority Faculty Fellowship Program.

A workshop will be conducted on November 13 and will be repeated on November 14, 1996 in the Parklawn Building Conference Center, 5600 Fishers Lane, Rockville, Maryland 20857. Each workshop is limited to 100 attendees; therefore, individuals requesting to attend one (1) of these workshops must register in advance with Ms. Carolyn Robinson at (301) 443–4493 or by FAX on (301) 443–5242.

The program will commence at 8:30 a.m. each day and will conclude by 5:00 p.m. Attendees must make their own hotel reservations. Expenses incurred by attendees will not be supported by the Federal government. Participation in the technical assistance meetings does not assure approval and funding of applications submitted for competitive review.

Dated: October 9, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–27042 Filed 10–21–96; 8:45 am]

BILLING CODE 4160–15–M

Request for Nominations to the Advisory Committee to the Administrator

AGENCY: Health Resources and Services Administration, DHHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill the initial membership (16 members) of the Advisory Committee to the Administrator, HRSA.

DATES: Nominations must be received by close-of-business on December 12, 1996.

ADDRESSES: Nominations and the curricula vitae of nominees should be sent to Douglas S. Lloyd, M.D., M.P.H., Executive Secretary to the Advisory Committee to the Administrator, HRSA, Room 14–15, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Alexander F. Ross, Sc.D., at the above address, or phone (301) 443–4034 for further information.

SUPPLEMENTARY INFORMATION: The HRSA is requesting nominations for the Administrator's Advisory Committee, which was chartered on August 2, 1996. This notice is issued under the Federal Advisory Committee Act [5 U.S.C. app. 2] and 21 CFR part 14, relating to advisory committees.

The Administrator's Advisory Committee is a 16-member panel to be appointed by the Secretary, to assist the Administrator in developing major plans and policies and to provide guidance on the methods and resources required to address the current environment in the health services delivery system, and on improving HRSA's ability to monitor the health status of its service populations. The Committee will advise the Secretary and the Administrator regarding the organization and functioning of the Agency to ensure efficient and effective organizational relationships and internal management. It is anticipated that the majority of members for this Committee will have extensive knowledge and experience with the programs administered by HRSA.

Eleven of the Committee's members shall be authorities who are knowledgeable in the fields of health care delivery and finance, the health workforce and training of the workforce, public health, and the special needs of disadvantaged population. Five members shall be representatives of the general public.

Nominations Procedure

Any interested person may nominate for consideration no more than three qualified individuals for membership on the committee. Nominators shall note that the nominee is willing to serve as a member of the committee for the full, four-year term. Terms of office of the members first appointed to a newly initiated committee shall expire, as designated by the Secretary at the time of appointment, 4 at the end of 1 year, 4 at the end of 2 years, 4 at the end of 3 years and 4 at the end of 4 years. Nominated individuals should have no conflict of interest that would preclude this service. For each nominee, nominations must include a complete curriculum vitae, a current business address, and a daytime telephone number. Nominators are invited to state why they believe a nominee to be particularly well-qualified. Please note that due to time constraints, incomplete nominations (such as those without a curriculum vitae) will not be considered. The Department has a special interest in assuring that appropriately qualified citizens who are women, members of a minority, or who have a physical disability are adequately represented on advisory bodies. It therefore encourages the nomination of such candidates to the HRSA Administrator's Advisory Council. The Department will also give close consideration to an equitable geographic representation.

Final selections from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure balance of membership.

Dated: October 17, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–27067 Filed 10–21–96; 8:45 am]

BILLING CODE 4160–15–P

Program Announcement for Grant Programs Funded Under Title VIII of the Public Health Service Act for Fiscal Year 1997

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1997 Grants funded under the authority of title VIII of the Public Health Service Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of Pub. L. 102–408, Health Professions Education Extension Amendments of 1992, dated October 13, 1992. These grant programs include:

1. Nursing Special Projects (section 820)
2. Advanced Nurse Education Programs (section 821)
3. Nurse Practitioner and Nurse-Midwifery Programs (section 822)
4. Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds (section 827)
5. Professional Nurse Traineeships (section 830)
6. Grants for Nurse Anesthetists (section 831)
   a. Nurse Anesthetist Traineeships
   b. Nurse Anesthetist Education
   c. Nurse Anesthesia Faculty Fellowships

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. The Administration's budget request for FY 1997 includes a single line item of $70,000,000 for these programs. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, awards can be made in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. Listed below are the average award amounts for programs funded under Title VIII of the Public Health Service Act for FY 1996:

1. Nursing Special Projects	$159,000
2. Advanced Nurse Education Programs	189,700
3. Nurse Practitioner and Nurse-Midwifery Programs	243,600
4. Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds	170,400
5. Professional Nurse Traineeships	55,000
6. Nurse Anesthetists:	
a. Traineeships	14,400
b. Education Programs	153,900
c. Faculty Fellowships	23,300

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238). Additional information on this publication is available on the Internet at http://odphp.osophs.dhhs.gov/pubs/hp2000.

Academic and Community Partnerships

As part of its cross-cutting program priorities, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide primary care services to the underserved.

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.

Other Considerations

In addition, funding factors may be applied in determining funding of approved applications. Please see specific information regarding each of the grant programs listed later in this notice. Definitions of three types of funding factors are listed below.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

Special consideration is defined as the enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory General Preference

Grant programs which are subject to the statutory general preference include Advanced Nurse Education, Nurse Practitioner and Nurse-Midwifery Programs, Professional Nurse Traineeships and Grants for Nurse Anesthetists. As provided in section 860(e)(1) of the PHS Act, statutory preference will be given to any qualified applicant that—

(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

This statutory preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Specific information concerning the implementation of this statutory preference for each of these grant programs is included later in this notice. Additional general information regarding the implementation of this statutory preference has been published in the Federal Register at 59 FR 15741, dated 4/4/94.

Information Requirements Provision

Grant programs which are subject to the information requirements provision include Advanced Nurse Education, Nurse Practitioner and Nurse-Midwifery Programs, Professional Nurse Traineeships and Grants for Nurse Anesthetists. Under section 860(e)(2) of the Act, the Secretary may make an award under certain title VIII grant programs only if the applicant for the award submits to the Secretary the following required information:

1. A description of rotations, preceptorships or clinical training programs for students/trainees, that have the principal focus of providing health care to medically underserved communities.

2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

4. If applicable, the number of recent graduates who have chosen careers in primary health care.

5. The number of recent graduates whose practices are serving medically underserved communities.

6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the Federal Register at 58 FR 43642, dated August 17, 1993, and will be provided in the application materials.

Definitions

The following definitions shall apply for Grant Programs funded under Title VIII of the Public Health Service Act for Fiscal Year 1997.

Accredited means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college or university (or unit thereof) means a hospital, school, college or university (or unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education.

Advanced Nurse Education Program means a program of study in a collegiate school of nursing which leads to a master's and/or doctoral degree and which prepares nurses to serve as nurse educators, or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

Assistive Nursing Personnel refers to unlicensed individuals who assist nursing staff in the provision of basic care to clients and who work under the supervision of licensed nursing personnel. Included in this category are nurse aides, nursing assistants, orderlies, attendants, personal care aides, and home health aides.

Associate Degree School of Nursing means a department, division or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree, but only if such program, or such unit, college or university is accredited as provided in section 853(4) of the Act.

Clinical nursing specialty means a specific area of advanced clinical nursing theory and practice addressed through graduate education in nursing. Clinical nursing specialties prepare the nurse to provide direct patient/client nursing care to individuals or to population groups.

Collegiate School of Nursing means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

Cultural Competence means a set of academic and interpersonal skills that allow an individual to effectively utilize research and health status data to provide clinically competent care to racial/ethnic minority populations and to incorporate cultural knowledge into health education and preventive initiatives, as well as into operational policies and administrative activities.

Cultural Diversity means differences in race, ethnicity, language, nationality, or religion among various groups within a community, an organization, or a nation.

Diploma School of Nursing means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited as provided in section 853(5) of the Act.

Fellow means a Certified Registered Nurse Anesthetist (CRNA) faculty member enrolled in a formal program of study which leads to a master's or doctoral degree and supported with funds provided under section 831(b).

Fellowship recipient means a student appointed by the grantee to receive a long term care fellowship for certain paraprofessionals as authorized by section 820(d) of the Act.

Full-time Student means a student who is enrolled on a full-time basis as defined by the institution.

Graduate means an individual who has successfully completed all institutional requirements necessary to be granted a degree/certificate.

Graduate Education, Program or Training means a formal program administered by an institution of higher learning, leading to a master's or higher degree.

Home Health Agency as defined by the Social Security Act, section 1861(o), means a public agency or private organization, or a subdivision of such an agency or organization, which:

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to State law or (B) is approved by the agency of such State or locality responsible for licensing agencies or organizations of this nature as meeting the standards established for such licensing;

(5) has in effect an overall plan and budget that meets the requirements of subsection z of this section;

(6) meets the conditions of participation specified in section 1395bbb(a) of the Social Security Act and such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; and

(7) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary to the financial security of the program) as the Secretary finds necessary for the effective and efficient operation of the program, except that for purposes of Part A of this subchapter such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

Individual from a Disadvantaged Background as authorized under section 827 of the Act refers to an individual who: (1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of nursing; or (2) comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and multiplied by a factor to be determined by the Secretary for adaptation to this program (42 CFR 57.2904).

Licensed Practical/Vocational Nurse (LPN/LVN) means an individual who is currently licensed as a licensed practical nurse or a licensed vocational nurse in at least one jurisdiction of the United States and employed in a nursing facility or home health agency.

Medically Underserved Community as defined in section 799(6) of the law, means an urban or rural area or population that:

(1) is eligible for designations under section 332 as a health professional shortage area;

(2) is eligible to be served by a migrant health center (MHC) under section 329, a community health center (CHC) under section 330, a grantee under section 340 (relating to homeless individuals), or a grantee under section 340A (relating to residents of public housing); or

(3) has a shortage of personal health services, as determined under criteria issued by the Secretary under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics).

In keeping with the Congressional intent that eligible entities should not be limited to formally designated Health Professional Shortage Areas (HPSA's) and populations served by CHCs, MHCs, or homeless health centers, the list of types of practice sites that can be claimed under this provision has been expanded to include the following:

Community Health Centers (CHC) (section 330)
Migrant Health Centers (MHC) (section 329)
Health Care for the Homeless Grantees (section 340)
Public Housing Primary Care Grantees (section 340A)
Rural Health Clinics, federally designated (section 1861(aa)(2) of the Social Security Act)
National Health Service Corps (NHSC) Sites, freestanding (section 333)
Indian Health Services (IHS) Sites (Pub. L. 93–638 for tribal governed sites and Pub. L. 94–437 for IHS operated sites)
Federally Qualified Health Centers (section 1905 (a) and (1) of the Social Security Act)
Primary Medical Care Health Professional Shortage Areas (HPSA'S) (facilities and geographic) (designated under section 332) for primary care physicians, other health personnel except dentists and nurses
Dental HPSA'S (facilities and geographic) (designated under section 332) for dentists only
Nurse Shortage Areas (old section 836, currently section 846) for nurses only
State or Local Health Departments (regardless of sponsor—for example, local health departments who are funded by the state would qualify)
Ambulatory practice sites designated by State Governors as serving medically underserved communities

Information on HPSAs, CHCs, MHCs, and/or homeless health centers is available on HRSA's Web Site under BPHC Databases on the internet at http://www.bphc.hrsa.dhhs.gov.

In addition, information on rural health clinics and IHS sites can also be found on HRSA's Web Site at http://www.hrsa.dhhs.gov/bhpr/grants.html.

National of the United States means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in 8 U.S.C. 110(a)(22), the Immigration and Nationality Act).

Nurse Anesthetist means a registered nurse who has successfully completed a nurse anesthetist education program.

Nurse Anesthetist Trainee means a student enrolled in a graduate program and who is receiving traineeship support from a nurse anesthetist traineeship grant.

Nurse-Midwife is an individual educated in the two disciplines of nursing and midwifery who has successfully completed a nurse-midwifery education program approved by the American College of Nurse-Midwives. The nurse-midwife delivers primary health care, including nurse-midwifery services, using abilities to:

—Assess the health status of women and children, with a family-centered approach to care
—Institute and provide continuity of health care to clients (patients), with a focus on health education and promotion and management of selected acute and chronic health problems.
—Provide instruction and counseling to individuals, families, and groups in health promotion and maintenance, including involving such persons in planning for their health care;
—Work in collaboration with other health care providers and agencies to provide, and where appropriate, coordinate services to individuals and families.
—Independent management of primary health care for women, focusing particularly on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client.

Nurse Practitioner means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care including the ability to:

(1) Assess the health status of individuals and families through health and medical history taking, physical examination, and defining of health and developmental problems;

(2) Institute and provide continuity of health care to clients (patients), work with the client to ensure understanding of and compliance with the therapeutic regimen within the established protocols, and recognize when to refer the client to a physician or other health care provider;

(3) Provide instruction and counseling to individuals, families, and groups in the areas of health promotion and maintenance, including involving such persons in planning for their health care; and

(4) Work in collaboration with other health care providers and agencies to provide, and where appropriate, coordinate services to individuals and families

Nursing Facility as defined by the Social Security Act, section 1919(a), means an institution (or a distinct part of an institution which—

(1) is primarily engaged in providing to residents—

(A) skilled nursing care and related services for residents who require medical or nursing care;

(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, and is not primarily for the care and treatment of mental diseases;

(2) has in effect a transfer agreement (meeting the requirements of section 1395x(1) of this title) with one or more hospitals having agreements in effect under section 1395cc of this title; and

(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a state or an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d) of this section.

Paraprofessional refers to a person who is specially trained to assist professional nursing staff in the provision of nursing care and is employed, permanently and full-time, by a nursing facility or home health agency as either a licensed practical/vocational nurse (LPN/LVN) or other assistant nursing personnel.

Primary Health Care means care which may be initiated by the client or provider in a variety of settings and

which consists of a broad range of personal health care services including:

(1) Promotion and maintenance of health;

(2) Prevention of illness and disability;

(3) Basic care during acute and chronic phases of illness;

(4) Guidance and counseling of individuals and families;

(5) Referral to other health care providers and community resources when appropriate; and,

(6) Nurse-midwifery services when appropriate.

In providing such services:

(1) physical, emotional, social, and economic status, as well as the cultural and environmental backgrounds of individuals, families and communities (where applicable) are considered;

(2) the client is provided access to the health care system;

(3) a single provider or team of providers, along with the client, is responsible for the continuing coordination and management of all aspects of basic health services needed for individual and family care.

Professional Nurse means a registered nurse who has received initial nursing preparation from a diploma, associate degree, or collegiate school of nursing as defined in section 853 of the Act and who is currently licensed in a State to practice nursing.

Professional Nurse Trainee means a student enrolled in a graduate program and who is receiving traineeship support from a professional nurse traineeship grant.

Program means a combination of identified courses and other educational or training experiences at a specified academic level, the sum of which provides the required competence to practice.

Program for the Education of Nurse Practitioners or Nurse-Midwives means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the regulations and guidelines prescribed by the Secretary and which has as its objective the education of nurses who will, upon completion of their studies in such program, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, where appropriate, and other health care institutions.

Project refers to all proposed activities, including educational programs, specified or described in a grant application as approved for funding.

Rapid Transition Program as authorized under section 820(d) of the Act, means an accredited, innovative, professional nursing program that provides for expeditious progression from the status of an employed nursing paraprofessional to the status of a professional nurse and exhibits the following characteristics:

(1) work study component including full-time study and part-time work:

(2) financial considerations by the employer for costs of the educational program and for costs of living; and,

(3) selected support services for the Rapid Transition Program students to assure successful program completion.

Reappointment is any subsequent appointment in the same course of study of the same recipient of a long term care fellowship for certain paraprofessionals authorized by section 820(d) of the Act.

Registered Nurse means a person who has graduated from a school of nursing and is licensed to practice as a registered or professional nurse in a State.

Rural Area means an area other than a Metropolitan Statistical Area (MSA) as designated by the Office of Management and Budget based on current census data. Census tracts in certain metropolitan areas may also be eligible if they are located at a significant distance from the major city in the Standard Metropolitan Area (SMA).

Rural Clinical Experience means a structured primary care clinical experience in any appropriate outpatient, home health, public health agency setting or hospital located in a rural area.

Rural Health Facility means a hospital of less than 100 beds or other patient care facility located outside Office of Management and Budget (OMB) designated metropolitan areas. Census tracts in certain metropolitan areas may also be eligible if they are located at a significant distance from the major city in the SMA.

School of Medicine means a school which provides education leading to a degree of doctor of medicine and which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

School of Nursing means a collegiate, associate degree, or diploma school of nursing as defined in Section 853(2) of the Act.

School of Public Health means a school which provides education leading to a graduate degree in public health and which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

Structured Clinical Experience in Primary Care At the undergraduate level, this refers to the planned basic clinical nursing practice component of primary health care as provided by students of professional nursing and supervised by licensed registered nurses, in a variety of settings including urban or rural outpatient facilities, home health agencies, public health agencies or rural hospitals. At the graduate level, this refers to the planned advanced clinical nursing practice component of primary health care as provided by graduate students in nursing in their supervised clinical specialization curriculum beyond the basic requirements in a variety of settings as described above. For section 820(b), the setting for this experience is restricted to the proposed nurse practice arrangement.

The purpose, eligibility, review criteria, and funding factors for each of the six grant programs funded under title VIII are listed below.

1. Nursing Special Projects

Purpose: Section 820(a) of the PHS Act authorizes the Secretary to make grants for the purpose of assisting schools in increasing the number of students enrolled in programs of professional nursing.

Section 820(b) of the PHS Act authorizes the Secretary to make grants for the establishment or expansion of nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities.

Section 820(c) of the PHS Act authorizes the Secretary to make grants for the purpose of providing continuing education for nurses serving in medically underserved communities.

Section 820(d) of the PHS Act authorizes the Secretary to make grants for the purpose of providing fellowships to individuals who are employed by nursing facilities or home health agencies as nursing paraprofessionals.

The request for initial support may not exceed three years for applications submitted under sections 820(a), 820(b), 820(c) and 820(d).

This program is governed by regulations at 42 CFR part 57, subpart T to the extent to which these regulations are not inconsistent with the amended statute. The purposes, eligibility and statutory funding preferences have been changed by the Nurse Practice Improvement Amendments of 1992. Reference to the purposes, eligibility and statutory funding preferences in the regulations are superseded by the law. The current purposes, eligibility and

statutory funding preference are identified in this notice.

Eligibility: Eligible applicants for projects under section 820(a) are public and nonprofit private schools of nursing with programs of education in professional nursing. To receive support under 820(a) the school must agree to make available non-Federal contributions in an amount that is at least 10 percent of the project costs for the first fiscal year, at least 25 percent of the project costs for the second fiscal year, at least 50 percent of the project costs for the third fiscal year, and at least 75 percent of the project costs for the fourth or fifth fiscal years.

Eligible applicants for projects under section 820(b) are public and nonprofit private schools of nursing. To receive support under 820(b) the program proposed must be operated and staffed by the faculty and students of the school and must be designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

Eligible applicants for projects under section 820(c) are public and nonprofit private entities.

Eligible applicants for projects under section 820(d) are public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing.

To receive support under 820(d), the applicant must agree that, in providing fellowships, preference will be given to eligible individuals who (A) are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is underrepresented among registered nurses; or (B) are employed by a nursing facility that will assist in paying the costs or expenses. The applicant must also agree that the fellowships provided will pay all or part of the costs of (A) the tuition, books, and fees of the program of nursing with respect to which the fellowship is provided; and (B) reasonable living expenses of the individual during the period for which the fellowship is provided.

Review Criteria: The review of applications will take into consideration the following criteria:

1. The national or special local need which the particular project proposes to serve;
2. The potential effectiveness of the proposed project in carrying out such purposes;
3. The administrative and managerial capability of the applicant to carry out the proposed project;
4. The adequacy of the facilities and resources available to the applicant to carry out the proposed project;
5. The qualifications of the project director and proposed staff;
6. The reasonableness of the proposed budget in relation to the proposed project; and
7. The potential of the project to continue on a self-sustaining basis after the period of grant support.

Funding Factors

Statutory Funding Preferences: In making awards of grants under section 820(a), preference will be given to any qualified school that provides students of the school with clinical training in the provision of primary health care in publicly-funded (A) urban or rural outpatient facilities, home health agencies, or public health agencies; or (B) rural hospitals.

In making awards of grants under section 820(d), preference will be given to any qualified applicant operating an accredited program of education in professional nursing that provides for the rapid transition to status as a professional nurse from status as a nursing paraprofessional.

Established Funding Priorities: The following funding priorities were established in FY 1993 after public comment (58 FR 35020, dated 6/30/93) and the Administration is extending these funding priorities in FY 1997. A priority will be given to schools that offer generic baccalaureate programs. A priority will also be given to schools that offer both generic baccalaureate nursing programs and RN completion programs. These priorities apply to applications for grants under section 820(a).

A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes. This priority applies to applications for grants under sections 820(a), 820(b), and 820(d).

Finally, a funding priority will be given to applications for continuing education programs for nurses from medically underserved communities to increase their knowledge and skills in care of persons who are HIV positive or who have AIDS. This priority applies to applications for grants under section 820(c).

2. Advanced Nurse Education Programs

Purpose: Section 821 of the Public Health Service Act, as implemented by 42 CFR part 57, subpart Z, authorizes assistance to meet the costs of projects to: (1) Plan, develop and operate new programs, or (2) significantly expand existing programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education. The period of Federal support should not exceed 3 years.

Eligibility: To be eligible to receive a grant, a school must be a public or nonprofit private collegiate school of nursing and be located in a state.

Review Criteria: The review of applications will take into consideration the following criteria:

(1) The need for the proposed project including, with respect to projects to provide education in professional nursing specialties determined by the Secretary to require advanced education:

(a) The current or anticipated national and/or regional need for professional nurses educated in the specialty; and

(b) The relative number of programs offering advanced education in the specialty;

(2) The need for nurses in the specialty in which education is to be provided in the State in which the education program is located, as compared with the need for these nurses in other states;

(3) The potential effectiveness of the proposed project in carrying out the educational purposes of section 821 of the Act and 42 CFR part 57, subpart Z;

(4) The capability of the applicant to carry out the proposed project;

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds;

(6) The potential of the project to continue on a self-sustaining basis after the period of grant support; and

(7) The degree to which the applicant proposes to attract, retain and graduate minority and financially needy students.

Funding Factors

Statutory General Preference: As provided in section 860(e)(1) of the PHS Act, preference will be given to any qualified applicant that—

(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th

percentile of proposals recommended for approval by the peer review group.

Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate:'' ''High rate'' is defined as a minimum of 30 percent of graduates in academic year 1993–94, 1994–95 or academic year 1995–96, who spend at least 50 percent of their worktime in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1994–95 and 1995–96 the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Established Funding Priorities: The following funding priority was established in FY 1989 after public comment (54 FR 11570, dated March 21, 1989) and the Secretary is extending this priority in FY 1997.

A funding priority will be given to applications which develop, expand or implement courses concerning ambulatory, home health care and/or inpatient case management services for individuals with HIV disease.

The following funding priority was established in FY 1993 after public comment (58 FR 32710, dated June 11, 1993) and the Administration is extending this funding priority in FY 1997. In determining the order of funding of approved applications a funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at risk of poor health outcomes.

3. Nurse Practitioner and Nurse-Midwifery Programs

Purpose: Section 822 of the Public Health Service Act, as amended, authorizes grants to meet the costs of projects to:

(1) plan, develop and operate new programs; or

(2) maintain or significantly expand existing programs for the training of nurse practitioners and/or nurse-midwives who will, upon completion of their studies, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

The period of Federal support should not exceed 3 years.

Eligibility: Eligible applicants are public and nonprofit private schools of nursing or other public and nonprofit private entities. Eligible applicants must be located in a State.

Review Criteria: The review of applications will take into consideration the following criteria:

1. The degree to which the project plan adequately provides for meeting the requirements set forth in Section 57.2405 of the program regulations and the Appendix;

2. The potential effectiveness of the proposed project in carrying out the education purposes of section 822 of the Act and 42 CFR part 57, subpart Y;

3. The capability of the applicant to carry out the proposed project;

4. The soundness of the fiscal plan for assuring effective utilization of grant funds; and

5. The potential of the project to continue on a self-sustaining basis after the project period.

Funding Factors

Statutory Program Specific Preference: Preference will be given to any qualified applicant that agrees to expend the award to plan, develop, and operate new programs or to significantly expand existing programs.

Statutory General Preference: As provided in section 860(e)(1) of the PHS Act, preference will be given to any qualified applicant that—

(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate:'' ''High rate'' is defined as a minimum of 30 percent of graduates in academic years 1993–94, 1994–95 or academic year 1995–96, who spend at least 50 percent of their worktime in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1994–95 and 1995–96, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Considerations: Special consideration will be given to qualified applicants that agree to expend the award to train individuals as nurse practitioners and nurse-midwives who will practice in health professional shortage areas designated under section 332.

Established Funding Priority: The following funding priority was established in FY 1993 after public comment (58 FR 5009, dated 1/19/93) and the Administration is extending this funding priority in FY 1997.

Funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at risk of poor health outcomes.

4. Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

Purpose: Section 827 of the Public Health Service Act authorizes grants to increase opportunities for individuals from disadvantaged backgrounds to pursue a nursing education. Students who may have an associate degree in nursing would be eligible to receive funding under this section if they are financially, educationally or socially disadvantaged.

For purposes of Grants for Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, ''an individual from a disadvantaged background'' is one who: (1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of nursing; or (2) comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of Census, adjusted annually for changes in the Consumer Price Index, and multiplied by a factor to be determined by the Secretary for adaptation to this program (42 CFR 57.2904).

The following income figures determine what constitutes a low income family for purposes of Grants for Nursing Education Opportunities for

Individuals from Disadvantaged Backgrounds for FY 1997.

Size of parents' family[1]	Income level[2]
1	$10,200
2	13,200
3	15,700
4	20,200
5	23,800
6 or more	26,700

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1995, rounded to $100.

Grants may be awarded to eligible applicants to meet the costs of projects to increase nursing education opportunities for individuals from disadvantaged backgrounds:

1. By identifying, recruiting and selecting such individuals;

2. By facilitating the entry of such individuals into schools of nursing;

3. By providing counseling or other services designed to assist such individuals to complete successfully their nursing education;

4. By providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education;

5. By paying such stipends as the Secretary may determine for such individuals for any period of nursing education;

6. By publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools; and

7. By providing training, information or advice to the faculty of such schools with respect to encouraging such individuals to complete the programs of nursing education in which the individuals are enrolled. The initial period of federal support should not exceed 3 years.

Eligibility: Public and nonprofit private schools of nursing and other public or nonprofit private entities are eligible for grant support.

Review Criteria: The review of applications will take into consideration the following criteria:

1. The national or special local need which the particular project proposes to serve;

2. The potential effectiveness of the proposed project in carrying out such purposes;

3. The administrative and managerial capability of the applicant to carry out the proposed project;

4. The adequacy of the facilities and resources available to the applicant to carry out the proposed project;

5. The qualifications of the project director and proposed staff;

6. The reasonableness of the proposed budget in relation to the proposed project; and

7. The potential of the project to continue on a self-sustaining basis after the period of grant support.

5. Professional Nurse Traineeships

Purpose: Section 830 of the Public Health Service Act authorizes the Secretary to award grants to meet the cost of traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education. Federal support must be requested annually.

Eligibility: Eligible applicants are public or private nonprofit entities which provide (1) advanced-degree programs to educate individuals as nurse practitioners, nurse-midwives, nurse educators, public health nurses or as other clinical nursing specialists; or (2) nurse-midwifery certificate programs that conform to guidelines established by the Secretary under section 822(b).

Applicants must agree that:

(a) in providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332 of the Act;

(b) the applicant will not provide a traineeship to an individual enrolled in a master's of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant; and

(c) traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided and reasonable living expenses of the individual during the period for which the traineeship is provided.

Funding Factors

Statutory Preference: In making awards of grants under this section, preference will be given to any qualified applicant that—

(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate:'' ''High rate'' is defined as a minimum of 20 percent of graduates in academic years 1993–94, 1994–95 or 1995–96 who spend at least 50 percent of their worktime in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1994–95 and 1995–96, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Consideration: Special consideration will be given to applications for traineeship programs for nurse practitioner and nurse midwife programs which conform to guidelines established by the Secretary under section 822(b)(2) of the PHS Act. A copy of these guidelines will be included with the application materials for this program.

Established Funding Priority: The following funding priority was established in FY 1993 after public comment (58 FR 32712, dated 6/11/93) and the Administration is extending this funding priority in FY 1997. A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

6. Grants for Nurse Anesthetists

Purpose: Section 831 of the Public Health Service Act authorizes the Secretary to award grants to (1) cover the costs of traineeships for licensed registered nurses to become nurse anesthetists (traineeships); (2) cover the costs of projects to develop and operate, maintain or expand programs for the education of nurse anesthetists (education programs); and (3) provide financial assistance to certified registered nurse anesthetists (CRNA) who are faculty members in accredited programs to enable such nurse anesthetists to obtain advanced education relevant to their teaching

functions (faculty fellowships). To receive support for traineeships, programs must meet the requirements of regulations as set forth in 42 CFR 57, subpart F. For education program grants, the period of Federal support may not exceed 3 years. For traineeship or faculty fellowship grants, applicants must compete for Federal support annually.

Eligibility: Eligible applicants for Grants for Nurse Anesthetists are public or private nonprofit institutions which provide registered nurses with full-time nurse anesthetist training and are accredited by an entity or entities designated by the Secretary of Education.

Review Criteria: Applications for traineeship grants will be reviewed and award amounts will be calculated by staff in the Division of Nursing and in the Grants Management Branch of the Bureau of Health Professions based on the formula set forth in 42 CFR 57, subpart F.

The review of applications for education program grants will take into consideration the following criteria:

1. The national or special local need which the particular project proposes to serve with special emphasis on meeting shortages in underserved areas;
2. The potential effectiveness and impact of the proposed project including its potential contribution to nursing;
3. The administrative and managerial capability of the applicant to carry out the proposed project;
4. The appropriateness of the plan, including the timetable for carrying out the activities of the proposed project and achieving and measuring the project's stated objectives;
5. The capability of the applicant to carry out the proposed project;
6. The reasonableness of the budget for the proposed project, including the justification of the grant funds requested; and
7. The potential of the nurse anesthetist program to continue on a self-sustaining basis after the period of grant support.

Applications for faculty fellowships will be reviewed and award amounts will be calculated by staff in the Division of Nursing and in the Grants Management Branch of the Bureau of Health Professions. The review of applications for faculty fellowships will take into consideration the following criteria which were established in 1990 (55 FR 36325, 9/5/90):

1. The eligibility of applicants;
2. The eligibility of faculty; and
3. The extent to which an applicant meets the funding preferences.

The following criteria for fellows were established in FY 1993 after public comment (58 FR 40658, 7/29/93), and will be extended in fiscal year 1997.

To be eligible for fellowship support an individual must be:

1. A United States citizen, noncitizen national, or foreign national who possesses a visa permitting permanent residence in the United States;
2. A certified registered nurse anesthetist with current licensure to practice, and with teaching responsibilities in an accredited nurse anesthetist education program;
3. Enrolled or accepted for enrollment in a formal program of study which leads to a master's or doctoral degree;
4. Proposed for a fellowship in the applicant institutions' grant proposal; and
5. A faculty member employed by, or affiliated with, the applicant institution during the period of approved fellowship support.

The following policy on payment of stipends for faculty fellowships was established in FY 1990 after public comment (55 FR 36325, dated 9/5/90) and is being extended in FY 1997. A faculty member may be paid a stipend for living costs if attending an educational institution as a full-time student; no stipend would be available for a faculty member who is enrolled in part-time study or who is employed on a full-time basis. This policy is designed to target stipend assistance to the individuals who are most in need of such aid.

Funding Factors

Statutory Funding Preference: Section 860(e) of the PHS Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102–408, enacted on October 13, 1992, provides for the following statutory preference for this program of Grants for Nurse Anesthetists, as well as for certain other programs under titles VII and VIII of the PHS Act.

Statutory preference will be given to qualified applicants that:

(A) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings.

Minimum Percentages for ''High Rate'' and ''Significant Increase in the Rate'' for Traineeship and Education Program Grants: ''High rate'' is defined as a minimum of 20 percent of graduates in academic years 1993–94, 1994–95 or 1995–96 who spend at least 50 percent of their worktime in clinical practice in the specified setting. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

Significant increase in the rate means that, between academic years 1994–95 and 1995–96, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Established Funding Priority for Traineeship and Education Program Grants: The following funding priority was established in FY 1993 after public comment (58 FR 42079, dated 8/6/93 and 58 FR 40657, dated 7/29/93) and the Administration is extending this funding priority in FY 1997. A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Established Funding Preference for Faculty Fellowship Grants: The following funding preference was established in FY 1990 after public comment (55 FR 36325, dated 9/5/90). A revised version is being extended in FY 1997. A funding preference will be given first to faculty who will be completing degree requirements before or by the end of the funded budget year, second to faculty who are full-time students, and third to faculty who are part-time students.

Application Availability

Application materials are available on the World Wide Web at address: ''http://www.hrsa.dhhs.gov/bhpr/grants.html''. In Fiscal Year 1997, the Bureau of Health Professions (BHPr) will use Adobe Acrobat to publish the grants documents on the Web page. In order to download, view and print these grants documents, you will need a copy of Adobe Acrobat Reader. This can be obtained without charge from the Internet by going to the Adobe Web page (''http://www.adobe.com'') and downloading the version of the Adobe Acrobat Reader which is appropriate for your operating system, i.e., Windows, Unix, Macintosh, etc. A set of more detailed instructions on how to download and use the Adobe Acrobat Reader can be found on the BHPr Grants Web page under ''Notes on this WWW Page.

Questions regarding grants policy and business management issues should be directed to Ms. Wilma Johnson, Acting Chief, Centers and Formula Grants Section (wjohnson@hrsa.dhhs.gov), Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857. Information for requesting hard copy of application materials:

Telephone Number: 888–300–HRSA
FAX Number: 301–309–0579
EMail Address:
HRSA.GAC@ix.netcom.com

Completed applications should be returned to: Grants Management Officer (CFDA #), HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850. If additional programmatic information is needed, please contact the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857. Please see Table 1 for specific names and phone numbers for each grant program.

Application Forms

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for these grant programs have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

Deadline Dates

The deadline dates for receipt of applications for each of these grant programs are shown in Table 1. Applications will be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

TABLE 1

PHS title VIII section No./program title/CFDA No.	Grants management contact/ phone No. (FAX: 301/443–6343)	Programmatic contact/phone No. (FAX: 301/443–8586)	Deadline date for competing applications
820, Nursing Special Projects, 93.359	Ms. Wilma Johnson (301) 443–6880.	Ms. Janet Clear (301) 443–6193.	02/03/97
821, Advanced Nurse Education, 93.299	Ms. Brenda Selser (301) 443–6960.	Dr. Madeleine Hess (301) 443–6333.	02/06/97
822(a), Nurse Practitioner and Nurse Midwifery, 93.298	Ms. Brenda Selser (301) 443–6960.	Dr. Irene Sandvold (301) 443–6333.	12/11/96
827, Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, 93.178.	Ms. Wilma Johnson (301) 443–6880.	Ms. Helen Lotsikas (301) 443–5763.	12/15/96
830, Professional Nurse Traineeships, 93.358	Ms. Wilma Johnson (301) 443–6880.	Ms. Marcia Starbecker (301) 443–6193.	12/17/96
831, Nurse Anesthetist Program	Ms. Wilma Johnson (301) 443–6880.	Ms. Marcia Starbecker (301) 443–6193.	
Nurse Anesthetist Traineeships, 93.124			12/16/96
Nurse Anesthetist Education Programs, 93.916			01/22/97
Nurse Anesthesia Faculty Fellowships, 93.907			12/16/96

These title VIII grant programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). Also, these grant programs are not subject to the Public Health System Reporting Requirements.

Dated: October 17, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–27068 Filed 10–21–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Committee Name: Minority Program Review Committee MARC, Minority Access to Research Careers Sub-Committee.

Date: October 17–18, 1996.

Time: 8:30 a.m.

Place: Natcher Conference Center, Conference Room C–1&2, Bethesda, Maryland 20892–6200.

Contact Person: Richard I. Martinez, Ph.D., Office of Scientific Review, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19G, Bethesda, MD 20892–6200, 301–594–2849.

Purpose: To review institutional research training grant applications and proposals.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: October 15, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26969 Filed 10–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Drug Abuse Initial Review Group, Neurophysiology and Neuroanatomy Research Subcommittee, which was

published in the Federal Register on September 30, 1996 (61 FR 51119).

This committee was to have convened at 8:30 a.m., on October 15–17, 1996 at the Bethesda Marriott, Bethesda, MD. The date and place has been changed to October 21–23, 1996 at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD.

Dated: October 16, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26970 Filed 10–21–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: October 24, 1996.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 4114 (Telephone Conference).

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Clinical Sciences.

Date: October 24, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 4114 (Telephone Conference).

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Clinical Sciences.

Date: October 24, 1996.

Time: 4:00 p.m.

Place: NIH, Rockledge 2, Room 4114 (Telephone Conference).

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Propose/Agenda: To review Small Business Innovation Research.

Name of SEP: Microbiological and Immunological Sciences.

Date: October 29, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Bethesda, Maryland.

Contact Person: Dr. Marcel Pons, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, Maryland 20892, (301) 435–1217.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 16, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26971 Filed 10–21–96; 8:45 am]

BILLING CODE 4140–01–M

Office of Research on Women's Health; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Advisory Committee on Research on Women's Health (ACRWH) to be held November 14–15, 1996, National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 10, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m., November 14, to adjournment on November 15. The purpose of the meeting will be for the Committee to provide advice to the Office of Research on Women's Health (ORWH), on its research agenda and to provide recommendations regarding ORWH activities. The agenda will include an update on ORWH activities and programs to meet the mandates of the office and discussion of scientific issues. The committee will hear scientific presentations from other directors of program offices at NIH and also will discuss activities related to its regional meetings to update the research agenda on women's health. Attendance by the public will be limited to space available.

Anne R. Bavier, M.N., F.A.A.N., Executive Secretary, ACRWH, and Deputy Director, Office of Research on Women's Health, OD, NIH, Building 1, Rm. 201, Bethesda, Maryland 20892, 301/402–1770, 301/402–1798 (Fax), will furnish the meeting agenda, roster of Committee members, and substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Bavier in advance of the meeting.

Dated: October 15, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26968 Filed 10–21–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the teleconference meeting of the SAMHSA Special Emphasis Panel II in October.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301)443–4783.

Substantive program information may be obtained from the individual named as Contact below.

The meeting will include the review, discussion and evaluation of individual grant applications. The discussion could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Date: October 22, 1996 12:00 Noon–2:00 p.m.

Place: Parklawn Building, Room 17–74—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed: October 22, 1996 12:00 Noon–2:00.

Panel: FEMA—Crisis Counseling—Pennsylvania.

Contact: Ray Lucero, Review Administrator, Room 17–89, Parklawn Building, Telephone: (301)443–9917 and FAX: (301)443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: October 16, 1996.

Jeri Lipov,

Committee Management Officer SAMHSA.

[FR Doc. 96–27023 Filed 10–21–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4021–N–04]

NOFA for Public and Indian Housing Economic Development and Supportive Services (EDSS) Grant: Notice of Extension of Application Due Date for Puerto Rico Field Office Because of Hurricane Hortense

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of extension of application due date for applicants submitting applications to HUD's Puerto Rico Office because of Hurricane Hortense.

SUMMARY: For applicants submitting applications to HUD's Puerto Rico Office, this notice extends to November 12, 1996, the application due date for the Economic Development and Supportive Services NOFA published in the Federal Register on August 14, 1996 (61 FR 42356), and for which the deadline was extended for all applicants to October 29, 1996 by notice published on September 26, 1996 (61 FR 50501). The application deadline extension to November 12, 1996 is only for applicants submitting applications to HUD's Puerto Rico Office.

FOR FURTHER INFORMATION CONTACT: Marcia Y. Martin, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 7th Street, SW, room 4108, Washington, DC 20410; telephone (202) 708–4233. Hearing- or speech-impaired persons may contact the Federal Information Relay Service on 1–800–877–8339 or 202–708–9300 for information on the program. (With the exception of the ''800'' number, the numbers listed above are not toll free numbers).

SUPPLEMENTARY INFORMATION: On August 14, 1996 (61 FR 42356), HUD published a notice announcing the availability of Fiscal Year 1996 funding for the Economic Development and Supportive Services (NOFA), and for which the deadline was extended for all applicants to October 29, 1996 by notice published on September 26, 1996 (61 FR 50501).

Due to Hurricane Hortense which caused severe flooding on the Island of Puerto Rico resulting in travel problems, electrical outages and in the close of HUD's office in Puerto Rico, the Department is extending the deadline for applications to be submitted to HUD Puerto Rico Office to November 12, 1996.

Dated: October 10, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–27040 Filed 10–21–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise to discuss a variety of district and regional issues, including riparian management efforts, fire rehabilitation projects, Draft Owyhee Resource Management Plan, and Upper Columbia River Basin EIS project.

DATES: November 20 and 21, 1996. The meeting will begin at 8:30 a.m. A public comment period will begin at 9:00 a.m., November 20.

ADDRESS: The Lower Snake River District Office is located at 3948 Development Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Dated: October 9, 1996.

Jerry L. Kidd,

District Manager.

[FR Doc. 96–27045 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–GG–P

[ID–990–1020–01]

Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM) council meeting of the Upper Snake River Districts Resource Advisory Council will be held as indicated below. The agenda includes a meeting to discuss historical and cultural issues and Off Road Vehicle issues. All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Debra Kovar at the Shoshone Resource Area Office, P. O. Box 2–B, Shoshone, ID, 83352, (208) 886–7201.

DATE AND TIME: Date is November 14, 1996, starts at 8:30 a.m. at the Power County Courthouse, American Falls, Idaho. Public comments from 9:00 a.m.–9:30 a.m. on November 14, 1996.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION: Contact Debra Kovar, Shoshone Resource Area Office, P.O. Box 2–B, Shoshone, ID 83352, (208) 886–7201.

Dated: October 16, 1996.

Howard Hedrick,

Acting District Manager.

[FR Doc. 96–27014 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–GG–P

[AZ–040–7122–00–5513; AZA 28793]

Notice of Proposed Exchange of Additional Lands in Cochise, Pima, La Paz and Graham Counties, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Bureau of Land Management is considering a proposal to exchange additional federal land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. The exchange has been proposed by the Phelps Dodge Corporation and is referred to as the Safford Exchange Project.

In accordance with Section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, the following described lands are hereby classified for disposal by exchange.

Gila and Salt River Meridian, Arizona

T. 5 S., R. 26 E.,
  Sec. 26, all unpatented lands;
  Sec. 36, all.
T. 6 S., R. 26 E.,
  Sec. 16, S½;
  Sec. 17, S½;
  Sec. 23, W½.
T. 6 S., R. 27 E.,
  Sec. 35, NE¼ (part of).

The areas described aggregate approximately 2,015 acres.

Subject to valid existing rights, the public land identified above has been segregated from appropriation under the public land laws, mineral laws, and mineral leasing laws for a period of four (4) years beginning on July 3, 1996.

In exchange, the United States will acquire from Phelps Dodge Corporation the following additional described land:

T. 16 N., R. 3 E.,
Sec. 15, SW¼ (part of);
Sec. 22, NW¼ (part of), N½SW¼.
T. 10 N., R. 14 W.,
Sec. 14, S½;
Sec. 15, S½;
Sec. 22, NE¼NE¼;
Sec. 23, N½;
T. 19 S., R. 18 E.,
Sec. 9, SE¼NE¼;
Sec. 10, SW¼NW¼, SW¼;
Sec. 15, SW¼SW¼;
Sec. 21, E½NE¼, NE¼SE¼;
Sec. 22, NW¼, N½SW¼;
T. 23 S., R. 22 E.,
Sec. 21, W½NE¼ (part of).
T. 14 S., R. 28 E.,
Sec. 4, S½NW¼;
Sec. 7, lots 1 to 4, inclusive, E½SW¼NE¼, E½W½;
Sec. 9, NW¼NE¼.

The areas described aggregate approximately 2,380 acres.

Background Information

The lands described above are lands that were not identified in the original Notice of Exchange Proposal (NOEP). The original NOEP notice was published in the Federal Register on May 26, 1995, Volume 60, Page 27985, FR Doc. 95–12918. This Notice was also published on May 24, May 31, June 7, and June 14, 1995 in the Eastern Arizona Courier newspaper; on May 25, June 1, June 8, and June 15, 1995 in the Arizona Business Gazette; and on June 7, June 14, June 21 and June 28, 1995 in the Copper Era newspaper.

More detailed information concerning the additional selected and offered lands in the proposed exchange may be obtained by contacting Tom Terry, Project Manager, Safford District Office, 711 14th Avenue, Safford, Arizona 85546, at telephone number (520) 428–4040, or Bill Ruddick, Team Leader, Arizona Exchange Team, Phoenix District Office, 2015 West Dear Valley Road, Phoenix, Arizona 85027, at telephone number (602) 780–8090.

Interested parties may submit comments concerning the above described lands to the District Manager, Safford District Office, at the above Safford address. In order to be considered in the environmental analysis of the proposed exchange, comments must be sent in writing to the District Manager, and be postmarked within 45 days after the publication of this notice.

Dated: October 8, 1996.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 96–27043 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–32–M

[CA–066–1430–01; CARI–4386]

Notice of Realty Action; Classification for Conveyance of Recreation and Public Purposes Leased Land for Sanitary Landfill

AGENCY: Bureau of Land Management, Interior.

The lands were found suitable and classified for lease in 1972; however, at that time they were not classified for conveyance.

SUMMARY: The following described land in Coachella, Riverside County, California, has been examined and found suitable for conveyance under provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869 *et seq.* The 640 acres were classified as suitable in 1972 and were leased to Riverside County Waste Management Department under Bureau of Land Management (BLM) Serial Number CARI–4386. This R&PP lease was for the Coachella Landfill. By Resolution No. 94–050, on February 8, 1994, Riverside County's Board of Supervisors established the Riverside County Waste Resources Management District (the District). All assets under control of the County Waste Management Department were transferred to the District, and approval was given for the District to manage solid waste disposal and operate all of the County Landfills.

In 1994, requests were submitted for the Coachella Landfill to be patented to the District. Subsequently, the District has completed the necessary procedures for conveyance. These procedures included submission of an Indemnification Statement for Patent Issuance on a Disposal Site and preparation of a Lands Transfer Audit (LTA) and Environmental Assessment (EA).

San Bernardino Meridian, California

T. 5 S., R. 8 E.,
Sec. 22: All

Containing 640 acres, more or less.

SUPPLEMENTARY INFORMATION: The lands are not required for Federal purposes. Conveyance of the Coachella Landfill to the District without reversionary interests is consistent with current Bureau planning for this area and would be in the public interest. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Those rights for power transmission line purposes granted to Southern California Edison Company, its successors or assigns, by right-of-way CACA–4163, pursuant to the Act of October 21, 1976, as amended (43 U.S.C. 1761).

2. Those rights for power transmission line purposes granted to Southern California Edison Company, its successors or assigns, by right-of-way CACA–17905, pursuant to the Act of October 21, 1976, as amended (43 U.S.C. 1761).

3. Those rights for oil and gas pipeline facilities granted to Southern California Gas Company, its successors or assigns, by right-of-way CALA–0107395, pursuant to the Act of February 25, 1920 (30 U.S.C. 186).

4. Those rights for oil and gas pipeline facilities granted to Southern California Gas Company, its successors or assigns, by right-of-way CALA–0110795, pursuant to the Act of February 25, 1920 (30 U.S.C. 186).

Upon publication of this notice in the Federal Register, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

Detailed information concerning this action is available at the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507. For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, in care of the above address. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective December 5, 1996.

The lands will not be conveyed until after the classification becomes effective. The patent to Riverside County Waste Resources Management District of the leased disposal site will include these provisions (43 CFR 2743.3–1):

(a) The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances;

(b) The patentee shall indemnify and hold harmless the United States against any legal ability or future costs that may arise out of any violation of such laws;

(c) No portion of the land covered by such patent shall under any circumstances revert to the United States.

Dated: October 11, 1996.

James L. Williams,

Acting District Manager, California Desert.

[FR Doc. 96–27044 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–40–P

[WY–985–0777–66]

Seasonal Road Closure to Motorized Vehicles Outlaw Cave Road and Campground, Johnson County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of a seasonal road closure to motorized vehicles for the Outlaw Cave Road and Campground in Johnson County, Wyoming.

SUMMARY: Notice is hereby given that pursuant to the provisions of the Federal Regulations (43 CFR 8364.1) the Outlaw Cave Road (BLM Road No. 6217), as listed below, is hereby closed to motorized vehicles from November 16th through April 15th.

Outlaw Cave Road (BLM No. 6217) 6th Principal Meridian

T.42N., R. 84W.
Section 21
Section 22
Section 23, NW¼, NW¼NE¼

EFFECTIVE DATES: November 16, 1996 through April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Neil O. Schiche, Casper District (Buffalo Resource Area), 189 N. Cedar St., Buffalo, Wyoming 82834, (307–684–5586).

SUPPLEMENTARY INFORMATION: This action was part of the proposed action analyzed in EA No. WY–061–5–052 (Outlaw Cave Road and Campground Environmental Assessment) and the decision record was signed on March 28, 1996. The seasonal road closure was established to help prevent damage to the road and adjacent areas; and to help prevent the public from becoming stuck and stranded during the winter months.

The seasonal road closure does not restrict any Federal, State or local law enforcement officers, BLM or Wyoming Game and Fish Department employees in performance of their duties, or any person authorized by the BLM through permit, lease or contract.

Any person who violates or fails to comply with this seasonal closure may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: October 10, 1996.

Donald Hinrichsen,

Casper District Manager.

[FR Doc. 96–27008 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–22–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 October 12, 1996. 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 November 6, 1996.

Patrick Andrus,

Acting Keeper of the National Register.

Arkansas

Benton County

Smith House (Benton County MRA), 806 N.W. A St., Bentonville, 96001273

Calhoun County

Pratt, Charles H., House, 4979 E. Camelback Rd., Phoenix, 96001274

Craighead County

Berger House, 1120 S. Main St., Jonesboro, 96001272

Hot Spring County

Hot Spring County Courthouse (Thompson, Charles L., Design Collection TR), 210 Locust St., Malvern, 96001271

Pulaski County

Pyeatte—Mason Cemetery, Jct. of Waterside and Lily Sts., SW corner, Maumelle, 96001276

Yell County

Methodist Episcopal Church, South, Jct. of Locust Dr. and 2nd St., NE corner, Dardanelle, 96001275

Mountain View Farm, Co. Rd. 218, approximately .75 mi. S of Plainview, Plainview vicinity, 96001270

California

Alameda County

Harrison and Fifteenth Streets Historic District, 1401—1501 Harrison St., 300–312 14th St., 300–349 15th St., Oakland, 96001277

Colorado

Adams County

Wilson, Blanche A., House, 1671 Galena St., Aurora, 96001278

Connecticut

Fairfield County

Greenwich YMCA, 50 E. Putnam Ave., Greenwich, 83004541

Georgia

Banks County

Chambers, William, House (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately 1 mi. W of jct. with GA 59, Carnesville vicinity, 96001305

Mount Pleasant Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), Jct. of GA 51 and GA 184, Carnesville vicinity, 96001306

Nails Creek Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), Jct. of GA 51 and GA 59, Carnesville vicinity, 96001307

Franklin County

Ariail, William, House (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately .25 mi. SE of the Banks—Franklin County line, Carnesville vicinity, 96001297

Baty School (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 198, approximately .25 mi. N of jct. with GA 59, Carnesville vicinity, 96001302

Bellamy Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately 2.75 mi. NW of jct. with I–85, Carnesville vicinity, 96001304

Bond, John R. and Mary Bond, House (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 59, approximately .5 mi. NE of jct. with GA 51, Carnesville vicinity, 96001301

Brown-Kennedy House (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 59, approximately 1 mi. NE of jct. with GA 51, Carnesville vicinity, 96001303

Hamilton Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately .5 mi. NW of jct. with I–85, Carnesville vicinity, 96001300

McConnell Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately 2.5 mi. NW of jct. with I–85, Carnesville vicinity, 96001299

Strange-Duncan House (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately .75 mi. E of

the Franklin-Banks County line, Carnesville vicinity, 96001298
Walnut Hill Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately 1 mi. NW of jct. with I–85, Carnesville vicinity, 96001296

Illinois

Adams County

Fall Creek Stone Arch Bridge, 1.2 mi. NE of Fall Cr.—Payson Rd., across Fall Cr., Payson vicinity, 96001282

Cook County

Promontory Apartments, 5530–5532 South Shore Dr., Chicago, 96001281

Fulton County

Chipman, Edith, House (Vermont, Illinois MPS), 201 W. 3rd St., Vermont, 96001290
Durell, William Franklin and Rebecca, House (Vermont, Illinois MPS), 408 W. 5th St., Vermont, 96001292
Hamer, Edward, House (Vermont, Illinois MPS), 200 W. 2nd St., Vermont, 96001293
Hamer, Patterson, House (Vermont, Illinois MPS), 405 W. 5th St., Vermont, 96001287
Hoopes, William, House (Vermont, Illinois MPS), 204 N. Liberty St., Vermont, 96001285
Hunter, Lucinda, House (Vermont, Illinois MPS), 101 E. 8th St., Vermont, 96001286
McCormick, Charles Emmor, House (Vermont, Illinois MPS), 712 W. 3rd St., Vermont, 96001284
Mershon, Joab, House (Vermont, Illinois MPS), 507 W. 5th St., Vermont, 96001294
O'Connell, Daniel, House (Vermont, Illinois MPS), 115 N. Union St., Vermont, 96001288
Page, Henry H., House (Vermont, Illinois MPS), 221 N. Union St., Vermont, 96001289
Ross, Harvey Lee, House (Vermont, Illinois MPS), 602 S. Main St., Vermont, 96001295
Snowden, Elsworth, House (Vermont, Illinois MPS), 504 W. 3rd St., Vermont, 96001283
Stapleford-Hover-Whitney House (Vermont, Illinois MPS), 401 N. Main St., Vermont, 96001291

Whiteside County

Sterling Masonic Temple, 111–113 W. 3rd St., Sterling, 96001279

Minnesota

Beltrami County

Buena Vista Archeological Historic District, Address Restricted, Puposky vicinity, 96001311

Goodhue County

Spring Creek Petroglyphs (American Indian Rock Art in Minnesota MPS), Address Restricted, Red Wing vicinity, 96001310

Houston County

Yucatan Fort Site (Precontact American Indian Earthworks MPS), Address Restricted, Yucatan vicinity, 96001308

Traverse County

Shady Dell Site (Precontact American Indian Earthworks), Address Restricted, Beardsley vicinity, 96001309

Mississippi

Alcorn County

Rienzi Commercial Historic District, Jct. of Front and Main Sts., Rienzi, 96001312

Hinds County

Holly Grove Plantation House, 1056 Old Bridgeport Rd., Bolton vicinity, 96001313

Pennsylvania

Lancaster County

Reyer, Peter and Catherine, Farmhouse (Historic Farming Resources of Lancaster County MPS), Trout Run Rd., W of jct. with PA 272, Ephrata, 96001314

Rhode Island

Washington County

Cottrell House (Single-Family Houses in Rhode Island MPS), 500 Waites Corner Rd., South Kingstown, 96001319
Gardner, R. R., House (Single-Family Houses in Rhode Island MPS), 700 Curtis Corner Rd., South Kingstown, 96001320
Red House (Single-Family Houses in Rhode Island MPS), 2403 Post Rd., South Kingstown, 96001323
Westerly Armory, Railroad Ave., W of downtown Westerly, Westerly, 96001322
Willow Dell (Single-Family Houses in Rhode Island MPS), 2700 Cmdr. Oliver Hazard Perry Hwy., South Kingstown, 96001321

Tennessee

Carter County

Butler House, 206 Main St., Hampton, 96001315

[FR Doc. 96–27039 Filed 10–21–96; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree with Defendant Spitzer Great Lakes, Ltd. (''Spitzer'') in *United States* v. *Cleveland Asbestos Abatement, et al.*, Case No. 1:93CV1317, was lodged on September 30, 1996 with the United States District Court for the Northern District of Ohio. The proposed consent decree settles claims against Spitzer pursuant to the Clean Air Act for violation of the asbestos NESHAP, 40 CFR Part 61, Subpart M, in the course of asbestos removal activities at a building owned by Spitzer. The decree requires Spitzer to pay a civil penalty of $5,000, to comply with the asbestos NESHAP in the future, and to implement a compliance program including inspection and sampling for asbestos containing materials, employee training, and detailed recordkeeping requirements.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cleveland Asbestos Abatement, Inc., et al.*, Case No. 1:93CV1317, and the Department of Justice Reference No. 90–5–2–1–1825.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 1800 Bank One Center, 600 Superior Ave., Cleveland, Ohio 44114; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce M. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–27012 Filed 10–21–96; 8:45 am]
BILLING CODE 4410–01–M

LEGAL SERVICES CORPORATION

Audit Guide for LSC Recipients and Auditors

AGENCY: Legal Services Corporation.

ACTION: Proposed Revisions to the LSC Audit Guide for Recipients and Auditors.

SUMMARY: The Legal Services Corporation (LSC) hereby publishes as final the revisions to the November 1995 LSC Audit Guide for Recipients and Auditors. The revisions incorporate the audit requirements and additional provisions imposed by Congress through 110 Stat. 1321 (1996). There are seven appendices to the revised Audit Guide, which in themselves establish no new rules, regulations or guidelines for recipients and auditors, and therefore are not published herein.

EFFECTIVE DATE: The requirements of this Audit Guide are effective for audits

of fiscal years ending on or after December 31, 1996 except as otherwise directed by the Corporation.

ADDRESSES: Comments should be submitted to the Office of Inspector General, Legal Services Corporation, 750 First St., N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Karen M. Voellm, Chief of Audits (202) 336–8812.

SUPPLEMENTARY INFORMATION: Section 1009(c)(1) of the Legal Services Corporation Act, 42 USC § 2996h(c)(1), requires that the Corporation either directly ''conduct, or require each grantee, contractor, or person or entity receiving financial assistance'' from the Corporation to provide for an annual financial audit. LSC's FY 1996 appropriation act, 110 Stat. 1321 (1996), declared that audits conducted pursuant to the provisions of Section 509 of that Act shall be in lieu of the financial audits otherwise required by Section 1009(c) of the LSC Act. In Section 509, Congress: (1) mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by independent public accountants (IPAs or auditors), 110 Stat. 1321, § 509(a) and (c); (2) provided that such audits be conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States, under the guidance established by the OIG, 110 Stat. 1321, § 509(a); (3) established special requirements for interim reporting by recipients on noncompliance with laws and regulations identified by their IPAs during the course of the audit, thereby placing special emphasis on recipients' compliance with laws and regulations, 110 Stat. 1321,§ 509(b); and (4) made sanctions available to the Corporation and the OIG for audits that were not conducted in accordance with the guidance established by the OIG, 110 Stat.1321, § 509(c). Congress also increased the restrictions and prohibitions on the types of activities in which recipients may engage, 110 Stat. 1321, § 504–508. The revisions to the Guide incorporate these requirements and include, but are not limited to: (1) interim reporting requirements by the recipient on instances of noncompliance found by the auditor during the course of the audit; (2) changes to the submission date for audit reports; and (3) additional reports/notifications from the auditor.

On August 13, 1996 the OIG published in the Federal Register for public notice and comment the revisions to the November 1995 Audit Guide for LSC Recipients and Auditors. (61 FR 42064–42070). The notice provided for a thirty-day comment period. Comments were received from eight respondents: the American Institute of Certified Public Accountants (AICPA), Center for Law and Social Policy (CLASP), a certified public accounting firm, and five recipients. The comments were analyzed and addressed as follows. Some respondents opposed the proposed 90-day due date for the audit reports, one requested a clarification as to the reason for the change in the due date of audit reports from 150 days to 90 days. The LSC Board and senior management also expressed concerns about the revision to the 90-day time period for audit report submission. The 90-day time period had been in effect prior to promulgation of the November 1995 Audit Guide which changed the time period to 150 days.

The OIG believes its operational responsibilities for reviewing audit reports and ensuring compliance with reporting standards, as well as the timely resolution of audit findings support a shorter turn-around. However, upon careful consideration, the OIG has determined that a 120-day reporting requirement reasonably accommodates the concerns of the OIG and recipients.

One respondent stated that the Guide should clarify the relationship between the LSC Audit Guide and Office of Management (OMB) Circular A–133 requirements as some of the requirements of the Audit Guide are not requirements of OMB Circular A–133, e.g special reporting on noncompliance. In addition, the respondent noted that the Audit Guide should address situations where the LSC program may be determined to be ''low risk'' under the criteria of OMB Circular A–133, and not be audited as a ''major program''.

In order to clarify the relationship between A–133 and the Audit Guide, the language in the Audit Guide under the Section labeled ''PURPOSE'' has been revised to clarify that Section 509(a) of 110 Stat. 1321 (1996) mandates the objectives of the audit of each recipient of LSC funds. Those provisions and, hence, the Audit Guide, take precedence over the requirements of OMB Circular A–133. Stated another way, regardless of the particular criteria in A–133, the LSC program should always be considered a ''major program.''

A new Section II–1.D, *Auditor Access to Records*, has been added to make clear that, in performing the audit, the IPA will have access to all records of the recipient that the IPA believes are reasonably necessary to the performance of the audit. This was implicit in the proposed revisions but, because the OIG received some comments indicating that there may have been some confusion on this point, an explicit statement of access has been included.

It is axiomatic that IPAs cannot conduct an adequate audit if unable to obtain sufficient documentation regarding compliance with the requirements to be audited. Access to such documentation should not be impeded as it is well established that recipient IPAs in conducting audits are within the attorney-client privilege. *See* ABA Informal Opinion No. 1443 (December 10, 1979); *c.f.*, ABA Model Rules of Profession Conduct, Rule 5.3. Section 509 of the appropriations act was intended to reduce barriers to government auditors and monitors. It does not apply to the IPAs hired by the recipient. IPAs, of course, must abide by professional standards of conduct and, except if permitted to disclose such information, must keep confidential the information obtained in the course of the audit. AICPA Code of Professional Conduct, § 301.01.

One respondent viewed references to the laws and regulations subject to interim reporting as confusing. The criteria for reporting apply to any instances of noncompliance found by the auditor with respect to the practice restrictions identified in the Compliance Supplement. The language was revised to clarify the requirement.

The proposed revisions quoted under Section I–4, *Authority*, are those statutory provisions relied upon as authority to promulgate the Guide. The OIG deleted the quotations and simply cited the relevant statutory provisions. Full quotations are not only unnecessary, their inclusion in the Guide caused some confusion among respondents.

Respondents recommended that notification to the OIG be required only when there is disagreement between the recipient and the auditor resulting in the auditor's resignation or a termination of services during the course of the audit. The OIG views all notifications on change of auditors as important to its management information systems and its communication with recipients and auditors. No exceptions were made to the reporting requirement.

Some of the respondents suggested that the Audit Guide address the allocation of audit costs among funding sources, in light of the provision of Section 509(c) of 110 Stat. 1321 (1996), and current limitations imposed by some funding sources on the allocation of audit costs to the respective grants, e.g. Administration on Aging grants. The OIG and Corporation management

view the issue of audit cost allocation as an accounting rather than an auditing issue. Allocation of audit cost is a subject of the LSC Accounting Guide for Recipients and Auditors and 45 C.F.R Part 1630 (Cost Standards and Procedures) and is therefore not addressed in this Audit Guide. Management will provide guidance to recipients in the near future.

One respondent commenting on the statutory language that requires the auditor to select a representative number of transactions for testing compliance suggested that the Audit Guide provide information on minimum number of transactions to be tested for compliance. Auditors are required to refer to the AICPA's Statements on Auditing Standards, Government Auditing Standards, and OMB Circular A–133, and to use their own judgement in determining sample sizes for testing. No changes were made to the Audit Guide to address this comment.

One respondent commented that the auditor's reporting responsibility to the OIG under Section II–1.G, Disclosure of Irregularities, Illegal Acts, and Other Noncompliance, was unclear and not adequately distinguished from the recipient's reporting responsibility. The language was revised to clarify the recipient's responsibility for reporting to the OIG under the LSC grant assurance, and to recognize the auditor's responsibility to report to specified external parties (including the OIG) under Government Auditing Standards, Chapter 5.

There are seven appendices to the Audit Guide. One of the appendices to the Audit Guide is a revised Compliance Supplement which identifies regulations that the auditor should examine in the course of the recipient's annual audit, compliance requirements prepared by management, and audit procedures developed by the OIG for the auditor's use in assessing compliance with applicable laws and regulations. The other appendices include a sample audit agreement, a Guide for Procurement of Audit Services, a summary findings form, the recipient's and the auditor's 5-day notification to the OIG of the auditor's special report on noncompliance with laws and regulations, and the auditor's notification on cessation of services. Recipients and interested parties have been provided an opportunity to comment on the Compliance Supplement before final adoption. Because the appendices themselves establish no new rules, regulations, or guidelines for recipients, they are not published for comment.

For the reasons set forth above, the Audit Guide is revised to read as follows:

Legal Services Corporation

Audit Guide for Recipients and Auditors

Foreword

Under the Legal Services Corporation (LSC) Act, LSC provides financial support to organizations that furnish legal assistance to eligible clients. Section 1009(c) of the LSC Act requires that LSC either conduct or require each recipient of LSC funds to provide for an annual financial statement audit. In 1995, LSC promulgated an Audit Guide to replace the audit portions of both the 1981 and the 1986 LSC Audit and Accounting Guide for Recipients and Auditors. The 1995 Guide required that recipient audits be conducted in accordance with Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

In 1996, pursuant to 110 Stat. 1321 (1996) (Public Law 104–134), Congress:

1. Mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by independent public accountants (IPAs or auditors);

2. Provided that such audits be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States under the guidance established by the OIG;

3. Declared that audits conducted pursuant to the provisions of Section 509 shall be in lieu of the financial audits otherwise required by Section 1009'' of the LSC Act;

4. Increased the restrictions and prohibitions on the types of activities in which recipients may engage; and

5. Established special requirements for interim reporting by recipients on noncompliance with laws and regulations identified by their IPAs during the course of the audit, thereby placing special emphasis on recipients' compliance with laws and regulations.

This legislation contains substantial and fundamental changes in the law governing grants to LSC recipients. It incorporates restrictions in the legal work in which LSC recipients may participate, and changes the way compliance with these restrictions will be monitored. The IPA's special attention is directed to Appendix A, the Compliance Supplement, in planning the audit. The Compliance Supplement identifies by asterisk (*) practice restrictions that are considered material to the LSC program. Because of the increased reliance on IPAs for assessing recipients' compliance with these restrictions, the OIG is planning a heightened quality assurance review program. The overall objective of the quality assurance review program is to ensure the quality of the auditor's work, and it will focus on, among other things, the auditor's testing of compliance with laws and regulations and related internal controls.

Pursuant to the audit requirements of 110 Stat. 1321 (1996), LSC is promulgating this revised Audit Guide. Seven appendices have been attached to this Audit Guide for use by recipients and auditors, as follows:

Appendix A—The Compliance Supplement provides notice to both recipients and their auditors of the specific LSC regulations which are to be tested for compliance. The Compliance Supplement will change as LSC rules, regulations and guidelines are adopted, amended or revoked, but it establishes no new rules, regulations or guidelines itself.

Appendix B—A Sample Audit Agreement contains mandatory and suggested provisions which recipients should consider incorporating into their audit agreements.

Appendix C—A Guide for Procurement of Audit Services prepared by the LSC Office of Inspector General (OIG) in the spring of 1994 and revised in 1995 and 1996. This Guide is intended to assist recipients in planning and procuring audit services.

Appendix D—A Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions, along with instructions. This form provides a summary of the audit findings contained in the audit reports and financial data concerning the LSC support, fund balance and expenditures on Private Attorney Involvement (PAI).

Appendix E—The Recipient 5-day Letter to the OIG of the IPA's ''Special Report on Noncompliance with Laws and Regulations'' (''Recipient 5-day Letter''). This is the recipient's transmittal letter to the OIG accompanying the auditor's report.

Appendix F—The Auditor 5-Day Letter to the OIG of the IPA's ''Special Report on Noncompliance with Laws and Regulations'' not Reported by Recipient (''Auditor 5-Day Letter''). This is the auditor's transmittal letter to the OIG accompanying the auditor's report.

Appendix G—The Auditor Notification on Cessation of Services. This a form letter notifying the OIG that there has been a change in audit firms.

Table of Contents

Note: Appendixes A–G do not appear in the Federal Register. See **SUPPLEMENTARY INFORMATION.**

Authorities: The Legal Services Corporation Act of 1974, as amended, § 1008 (a) and (b), (42 USC 2996g (a) and (b)); § 1009(c)(1), (42 USC 2996h(c)(1)); and § 1010(c), (42 USC 2996i(c)); The Inspector General Act of 1978, as amended, 5 USC App. 3, § 4(a)(1); and § 4(b)(1); 110 Stat. 1321 §§ 501–509 (1996).

LSC Audit Guide for Recipients and Auditors

I. Introduction

The Office of Inspector General (OIG) of the Legal Services Corporation (LSC) is responsible for establishing and interpreting LSC audit policy pursuant to the Inspector General Act of 1978, as amended, and the LSC Board of Directors' resolution of May 13, 1995. In 1996, pursuant to the requirements of Section 509 of 110 Stat. 1321 (1996), Congress: (1) mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by IPAs; (2) increased the restrictions and prohibitions on the types of activities in which recipients may engage; (3) increased the OIG responsibility for oversight; and (4) declared that the audits conducted pursuant to Section 509 of 110 Stat. 1321 (1996) were in lieu of the financial audits otherwise required by the LSC Act § 1009(c). This Guide incorporates those requirements. The OIG will examine the audits to identify reported instances of noncompliance with laws and regulations, questioned costs and control deficiencies, and will refer the findings and recommendations to management for action.

I–1. Purpose

The Audit Guide provides a uniform approach for audits of LSC recipients and describes recipients' responsibilities with respect to the audit. The Audit Guide is to be used in conjunction with the Compliance Supplement (Appendix A). The Audit Guide and the Compliance Supplement provide the auditor flexibility in planning and performing the audit, encourage professional judgment in determining the audit steps necessary to accomplish audit objectives, and do not supplant the auditor's judgment. Auditors should be aware that all practice restrictions identified in the Compliance Supplement by asterisk (*) are considered material to the program, and the failure of a recipient to comply with the requirements may affect the recipient's eligibility for funding.

I–2. Required Standards and Guidance

Audits of recipients, contractors, persons or entities receiving financial assistance from LSC (all hereinafter referred to as ''recipients'') are to be performed in accordance with Government Auditing Standards (GAS or GAGAS) issued by the Comptroller General of the United States; Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Nonprofit Organizations; and this Audit Guide.

For purposes of OMB Circular A–133, the LSC Compliance Supplement is to be followed for LSC funds and includes the restrictions and prohibitions on the use of non-LSC funds. Accordingly, the OMB Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions (OMB Compliance Supplement) does not apply to LSC funds. If the non-LSC funds (Federal or state) of a recipient are subject to consideration under the OMB Circular A–133 audit, the OMB Compliance Supplement may otherwise apply to those funds.

Each recipient of LSC funds is required to have an audit in accordance with the requirements of this Guide. Such audit shall meet the objectives outlined in Section II–1.A, ''Objectives'', which include an assessment of the recipient's compliance with the laws and regulations identified in the Compliance Supplement (Appendix A).

I–3. Applicability

The requirements of this Audit Guide apply to all recipients and subrecipients of LSC funds, except where specific provisions have been otherwise made through grant or subgrant agreements. This Audit Guide does not apply to grants to law schools, universities or other special grants, which are covered by special provisions of the respective grant agreements. Exceptions to these audit requirements are determined by the OIG in consultation with management.

I–4. Authority

This Audit Guide has been prepared under the authority provided by the following sections of the LSC Act, the IG Act and 110 Stat. 1321 (1996): LSC Act § 1008 (a), (b), 42 U.S.C § 2996g (a), (b); LSC Act § 1009(c)(1), 42 U.S.C § 2996h(c)(1); and LSC Act § 1010(c), 42 U.S.C § 2996i(c). IG Act § 4(a)(1), 4(b)(1), 5 U.S.C APP 3 § 4(a)(1), 4(b)(1). 110 Stat. 1321 (1996) §§ 509 (a) to (l).

I–5. Effective Date

This Audit Guide is effective for audits of LSC programs for periods ending on or after December 31, 1996, except as otherwise authorized by the Corporation.

I–6. Communicating with the OIG Regarding Audit Matters

Recent legislation has brought a number of changes in the communication needs of recipients, IPAs, and the OIG. Because of these changes, the OIG is making special efforts to facilitate the additional communications needs. We are currently expanding reporting capabilities through electronic mail on the Internet, as well as providing a World Wide Web page for interactive ''Questions and Answers.''

In addition, the OIG also has a staff of auditors available to answer questions, or address audit issues by telephone or facsimile.

The phone numbers and addresses are:

Telephone—(202) 336–8812
Email—audits@smtp.lsc.gov
Fax—(202) 336–8955
Web Site—http://oig.lsc.gov/

I–7. Revisions to the Guide

The OIG will periodically revise the Audit Guide and its appendices through bulletins or replacement sections. Revisions may reflect changes to public law, corporate regulations, auditing standards, or other guidelines. Revisions should be incorporated into the recipient's copy of the Audit Guide, and furnished to the Independent Public Accountant (IPA) by the recipient. Questions relating to any revisions should be directed to the OIG. Information concerning the Audit Guide and any revisions will be posted periodically and will be available on the LSC OIG World Wide Web page.

I–8. Cumulative Status of Revisions

Effective Date	Description
Aug. 1976	Original Edition of ''Audit and Accounting Guide for Recipients and Auditors'' issued.
June 1977	Revised Original Edition of Audit and Accounting Guide issued.
Sept. 1979	Revision to Pages 4–1 and 6–6.
Sept. 1981	Revision to Pages ii, 4–1, 6–6, VIII–3, and addition of Page 4–2.
Jan. 1, 1986	Revised 1986 Edition of Audit and Accounting Guide Effective.
Aug. 13, 1986 ...	Regulation 1630 Replaces Chapter 4 of both the Original and 1986 Edition of the Audit and Accounting Guide.
Dec. 31, 1995 ...	Chapter 6 of both Original and 1986 Audit and Accounting Guide replaced by Audit Guide.
Dec. 31, 1996 ...	Revision to November 1995 Audit Guide to adopt audit provisions of 110 Stat. 1321 (1996).

I–9. Responsibilities of Recipients

I–9.A. Maintain Adequate Internal Controls

Recipients, under the direction of their boards of directors, are required to establish and maintain adequate accounting records and internal control procedures. Until revised, guidance relating to these responsibilities may be found in both LSC's 1981 and 1986 editions of the ''Audit and Accounting Guide for Recipients and Auditors,'' referred to above in Section I–8, ''Cumulative Status of Revisions.''

Internal Control is defined as the process put in place by the recipient's board of directors, management, and other personnel designed to provide reasonable assurance of achieving objectives over:

1. Reliability of financial reporting;

2. Compliance with laws and regulations that have a direct and material effect on the program; and any other laws so identified in the Compliance Supplement; and

3. Safeguarding of assets against unauthorized use or disposition.

I–9.B. Provide Audited Financial Statements

Recipients are responsible for preparing annual financial statements and arranging for an audit of those statements to be completed and submitted to the OIG within 120 days of the recipients' fiscal year ends. While the recipients' boards of directors have the final responsibility for the appointment of the auditor, pursuant to Section 509(d) of 110 Stat. 1321 (1996), the OIG has direct authority to ''* * * remove, suspend, or bar an independent public accountant, upon showing of good cause, from performing audit services required by this section * * *'', based upon rules of practice to be promulgated by the OIG.

Pursuant to Section 509(c) of 110 Stat. 1321 (1996), the recipient's failure to provide an acceptable audit in accordance with the guidance promulgated by the OIG may result in the following sanctions: (1) the withholding of a percentage of the recipient's funding until the audit is completed satisfactorily; or (2) the suspension of the recipient's funding until an acceptable audit is completed.

A written agreement between the recipient and the IPA must be executed and, at a minimum, should specifically include all matters described below in Section II–1, *Audit Requirements* (Subsections A through I). Contracts or engagement letters should also contain an escape clause that would allow, without significant penalty, modification or cancellation made necessary by changes in law.

Appendix B is a sample audit agreement that includes the required matters described in Section II–1, *Audit Requirements,* and additional provisions which can be used to document the understanding between the recipient and the IPA. Recipients should consider incorporating these additional provisions in their audit agreements.

In procuring audit services, recipients may refer to the Guide for Procurement of Audit Services (Appendix C).

I–9.C. Requirements for Recipient 5-Day ''Special Report'' to the OIG on Noncompliance with Laws and Regulations

Section 509(b) of 110 Stat. 1321 (1996) states that recipients ''shall report in writing any noncompliance found by the auditor during the audit * * * within 5 business days to the Office of the Inspector General and shall provide a copy of the report simultaneously to the auditor. If the recipient fails to report the noncompliance, the auditor shall report the noncompliance directly to the Office of the Inspector General within 5 business days of the recipient's failure to report. The auditor shall not be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to this section.''

In fulfilling this requirement, recipients are required to report to the OIG any instances of noncompliance with respect to the practice restrictions identified in the Compliance Supplement as reported by the auditor in accordance with Section II–1.H, *Requirements for Auditor 5-Day ''Special Report'' to the OIG on Noncompliance with Laws and Regulations.* The recipient must report to the OIG within five (5) business days after receiving the report of noncompliance from the IPA. The recipient's submission to the OIG pursuant to this section is to include a transmittal letter, and a copy of the auditor's ''Special Report on Noncompliance with Laws and Regulations'' (See Appendix E for Recipient 5-Day Letter). Reports submitted pursuant to the requirements of this section must be sent to the OIG by facsimile, Email or registered mail. The recipient is also required to simultaneously provide a copy of its report to the OIG to the auditor using the same manner of communication (facsimile, Email or registered mail).

I–9.D. Corrective Action Plans

Consistent with Section 509(j) of 110 Stat. 1321 (1996), recipient management is responsible for expeditiously resolving all recommendations and audit findings which include: (1) material reportable conditions in internal control; (2) material noncompliance with laws and regulations identified in the LSC Compliance Supplement (Appendix A); and (3) questioned costs, including those of sub-recipients. Recipients are required to develop and submit to the Corporation corrective action plans within 30 days of submission of the audit report to the OIG. The corrective

action plan must describe the corrective action taken or planned in response to the audit findings and recommendations identified by the IPA. The corrective action plan must identify: (1) each finding as reported by the IPA; and (2) the action that will be taken and the date by which it will be taken or completed. If the recipient disagrees with the finding or believes corrective action is not required, it shall provide an explanation and specific reason(s) (e.g. regulatory or legal requirements) that corrective action is not required. If practical, and as an option, a recipient may incorporate its corrective action plan in its response to the auditor's findings and recommendations. However, selection of this option shall not preclude submission of the audit reports within the required timeframe, nor serve as a basis for an extension request.

Pursuant to the requirements of Section 509(k)(1) of 110 Stat. 1321 (1996), LSC management has the responsibility for follow-up on ''* * * significant reportable conditions, findings and recommendations found by the independent public accountants and [referred] to the Corporation management by the Office of Inspector General to ensure that instances of deficiencies and noncompliance are resolved in a timely manner * * *'' To facilitate the responsibilities of LSC management and the OIG, recipients are required to submit the corrective action plans to the OIG; the corrective actions plans will be forwarded to LSC management by the OIG.

II. Audit Performance Requirements

II–1. Audit Requirements

II–1.A. Objectives

The primary audit objectives are to determine whether:

1. The financial statements are presented fairly, in all material respects, in conformity with Generally Accepted Accounting Principles (GAAP), or other Comprehensive Basis of Accounting;

2. The internal control structure provides reasonable assurance that the recipient is managing funds, regardless of source, in compliance with applicable Federal laws and regulations, and controls are in place to ensure compliance with the laws and regulations which could have a material impact on the financial statements; and

3. The recipient has complied with applicable provisions of Federal law, Corporation regulations and grant agreements, regardless of source of funds, which may have a direct and material effect on its financial statement amounts and on the LSC program.

II–1.B. Reports

The IPA will prepare the audit reports required by GAS and OMB Circular A–133. Recipients should ensure that management letters are included with the report submissions to LSC, as well as the Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions (See Appendix D for form and content). The IPA has additional responsibility under Section II–1.H, *Requirements for Auditor 5-Day ''Special Report'' to the OIG on Noncompliance with Laws and Regulations*, for interim reporting of noncompliance with certain laws and regulations.

II–1.C. Qualifications of the IPA

The comprehensive nature of auditing performed in accordance with GAS places on the IPA the responsibility for ensuring that: (1) the audit is conducted by personnel who collectively have the necessary skills; (2) independence is maintained; (3) applicable standards are followed in planning and conducting audits and reporting the results; (4) the IPA has an appropriate internal quality control system in place; and (5) the IPA undergoes an external quality control review. IPAs must meet the qualifications stated in GAS.

II–1.D. Auditor Access to Records

The IPA will be provided access to all records of the recipient the IPA reasonably believes to be necessary to the performance of the audit.

II–1.E. Audit Working Papers

The audit working papers are to be prepared in accordance with GAS, and are to be retained by the IPA for at least three years from the date of the final audit report.

II–1.F. Access to Audit Working Papers

The audit working papers are to be available for examination upon request by representatives of LSC and the Comptroller General of the United States. The LSC Act, § 1009(d), prohibits access by the Corporation and the Comptroller General to any reports or records subject to the attorney-client privilege. To the extent not protected by the attorney-client privilege, the Corporation, including the OIG, is provided with access by Section 509 (h) of 110 Stat. 1321 (1996) to ''* * * financial records, time records, retainer agreements, client trust fund and eligibility records, and client names * * *'' The audit working papers are subject to Quality Assurance Review by the LSC OIG.

II–1.G. Disclosure of Irregularities, Illegal Acts and Other Noncompliance

During an audit, if matters are uncovered relative to actual, potential, or suspected defalcations, or other similar irregularities, the IPA will comply with Statement on Auditing Standards (SAS) Number 53, ''The Auditor's Responsibility to Detect and Report Errors and Irregularities,'' and SAS Number 54, ''Illegal Acts by Clients.'' While the auditor may contract directly with the recipient for audit services, it is emphasized that any items considered by the auditor to justify reporting to the recipient's program director and/or board of directors, should also be included in the auditor's reports or management letter for LSC's consideration. IPAs should be aware that the recipient, by grant assurance, has a responsibility to report to the OIG within specified time periods on matters involving misappropriation, theft, embezzlement of any funds (LSC, non-LSC and client escrow funds) and property, regardless of recovery. IPAs should also follow Government Auditing Standards, Chapter 5, for guidance on direct reporting of irregularities and illegal acts to the OIG. The reporting requirements under this section are separate and distinct from the special reporting requirements discussed at Section II.1.H below.

II–1.H. Requirements for Auditor 5–Day ''Special Report'' to the OIG on Noncompliance with Laws and Regulations

Section 509(b) of 110 Stat. 1321 (1996):

(1) Recognizes the auditor's responsibility to select and test a representative number of transactions and report any instances of noncompliance with laws and regulations;

(2) Provides that the auditor shall not be liable in a private action for any finding, conclusion, or statement expressed in a special report on noncompliance made pursuant to this section; and

(3) Places additional responsibility on the auditor to report any instances of noncompliance directly to the OIG, in the event the recipient fails to notify the OIG within five (5) business days of receipt of the auditor's interim report on noncompliance.

The IPA is responsible for providing sufficient information to the recipient on the findings of noncompliance to facilitate the recipient meeting its interim reporting responsibilities under Section I–9.C, *Requirements for Recipient 5–Day ''Special Report'' to the*

OIG on Noncompliance with Laws and Regulations. The laws and regulations requiring special reporting are defined in the Compliance Supplement (Appendix A). When a determination has been made that an instance of noncompliance based on sufficient competent evidential matter has occurred, IPAs are to report *immediately* to the recipient. The IPA's report to the recipient pursuant to this section should not await completion of the audit reports identified below in Section III, *Audit Reporting Requirements.* The IPA's special report to the recipient shall be in letter format and shall specifically contain, at a minimum, the following: (1) a description of the particular instance(s) of noncompliance discovered during the course of the audit; and (2) the circumstances surrounding the instance(s) of noncompliance.

Within five (5) business days after issuance of the IPA's special report to the recipient, and in accordance with Section I–9.C, *Requirements for Recipient 5–Day ''Special Report'' to the OIG on Noncompliance with Laws and Regulations,* the auditor should receive from the recipient a copy of the recipient's 5-day letter to the OIG. If no such copy is received, the IPA shall submit a copy of the report directly to the OIG, within five (5) business days of the recipient's failure to provide the required copy of its report to the OIG. This statutory procedure thus ensures that the OIG will receive a copy of the IPA's special report on noncompliance within ten (10) business days after the recipient's receipt of the report from its auditor (See Appendix F for the Auditor 5–Day Letter to the OIG). The auditor's submission to the OIG under this section must be transmitted by facsimile, Email or registered mail.

II–1.I. IPA Notification to OIG on Cessation of Audit Services

Pursuant to Section 509(e) of 110 Stat. 1321 (1996), the IPA is required to notify the OIG when it ceases to provide audit services to the recipient. The IPA shall notify the OIG within five (5) business days of its termination or cessation of services to the recipient. (See Appendix G for the notification form.)

II–2. Review of Internal Controls

In accepting LSC funds, recipient management asserts that its accounting system is adequate to comply with LSC requirements. As part of the review of internal controls, the auditor is required to evaluate the effectiveness of the recipient's accounting system and internal controls. The primary objectives of this evaluation are to ensure that resources are safeguarded against waste, loss and misuse, and that resources are used consistent with LSC regulations and grant conditions.

II–3. Assessing Compliance with Laws and Regulations

The requirements set out in the Compliance Supplement (Appendix A) are those which could have a material impact on the LSC program. Accordingly, examination of these compliance requirements is part of the audit. As stated in Section I–1, ''Purpose'', Congress increased the restrictions and prohibitions on the types of activities in which recipients may engage. The failure of a recipient to comply with the practice restrictions contained in the Compliance Supplement may affect the recipient's eligibility for LSC funding.

The Compliance Supplement specifies the compliance requirements and provides suggested procedures to be considered in the auditor's assessment of a recipient's compliance with laws and regulations. The suggested procedures can be used to test for compliance with laws and regulations, as well as to evaluate the related controls. Auditors should use professional judgement in deciding which procedures to apply, and the extent to which reviews and tests should be performed. Auditors are required to select and test a representative number of transactions. If the reviews and evaluations are performed as part of the internal control structure review, audit procedures should be modified to avoid duplication. Auditors should also refer to the grant agreements for additional requirements.

In certain cases, noncompliance may result in questioned costs. Auditors are to ensure that sufficient information is obtained to support the amounts questioned. Working papers should adequately document the basis for any questioned costs and the amounts reported.

II–4. Audit Follow-up

Consistent with GAS paragraph 4.10, *Audit Follow-up,* the auditor is required to follow-up on known material findings and recommendations from previous audits that could affect the financial statement audit and, in this case, the program. The objective is to determine whether timely and appropriate corrective action has been taken. Auditors are required to report the status of uncorrected material findings and recommendations from prior audits. These requirements are also applicable to findings and recommendations issued in a management letter.

III. Audit Reporting Requirements

III–1. Audit Reports and Distribution

IPAs should follow the requirements of GAS, OMB Circular A–133, Statement on Auditing Standards (SAS) 74 and Statement of Position (SOP) 92–9 (and any revisions thereto) for guidance on the form and content of reports. The OMB Circular A–133 reports must reference the LSC Audit Guide and its Compliance Supplement. In addition to the reports required under OMB Circular A–133, IPAs are required to submit a Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions (Appendix D). Three copies of the audit reports, Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions and the management letter, where applicable, are to be submitted to the LSC OIG within 120 days of the recipient's year end.

III–2. Extension Requests for Audit Submissions

Under exceptional circumstances, an extension of the 120-day requirement may be granted. Requests for extensions must be submitted in writing not later than two weeks prior to the report due date, and directed to the Office of Inspector General. Requests not submitted in the required time frame will be granted only under unforeseen, extraordinary and compelling reasons.

III–3. Views of Responsible Officials

Consistent with GAS paragraph 7.38, Views of Responsible Officials, auditors are encouraged to report the views of the responsible program officials concerning the auditors' findings, conclusions, and recommendations, as well as planned corrective action, where practical.

IV. Reference Materials

A. Title X—Legal Services Corporation Act of 1974, 42 USC 2996, to 2996.l.

B. 45 Code of Federal Regulations Part 1600 to 1642.

C. Government Auditing Standards, issued by the Comptroller General of the United States, 1994 Revision.

D. OMB Circular A–133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

E. AICPA Professional Standards, Volume I.

F. AICPA Integrated Practice System, Not-For-Profit Organizations Audit Manual.

G. Practitioners Publishing Company Guide to Audits of Nonprofit Organizations, Seventh Edition (June 1994).

H. AICPA Audit and Accounting Guide for Not-for-Profit Organizations, June 1, 1996.

I. AICPA Statement of Position (SOP) 92–9, Audits of Not-for-Profit Organizations Receiving Federal Awards, December 28, 1992.

J. Pursuant to LSC Regulations, 45 C.F.R. 1630.4(g):

The Circulars of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations acts, this part, the Audit and Accounting Guide for Recipients and Auditors, and Corporation rules, regulations, guidelines, and instructions.

Among the OMB Circulars which should be referred to if not inconsistent with LSC policies are:

Office of Management and Budget (OMB) Circular A–50, Audit Follow-up.

OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Circular A–122, Cost Principles for Nonprofit Organizations.

OMB Circular A–123, Internal Control Systems.

OMB Circular A–127, Financial Management Systems.

Dated: October 17, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–27059 Filed 10–21–96; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Advisory Panel for Biological Infrastructure (#1215).

Dates and Time: November 12–13, 1996, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 330, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

For Further Information Contact: Karl Koehler and Berry Masters, Program Directors, Biological Instrumentation and Instrument Development, Room 615, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Instrument Development for Biological Research (IDBR) proposals as part of the selection process for award.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–27031 Filed 10–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Chemistry (#1191).

Dates and Time: November 7–8, 1996.

Place: Rooms, 1005, 1020 and 1060, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

For Further Information Contact: Dr. Karolyn Eisenstein, Program Director, Office of Special Projects, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1850.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for Sites for Research Experiences for Undergraduates in Chemistry as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–27030 Filed 10–21–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

ITEM #1

TIME AND DATE: 9:00 a.m., Tuesday, October 29, 1996.

PLACE: The Managing Director's Conference Room, Rm 6430—6th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Closed to the Public Under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

6724—Opinion and Order: Administrator v. Windwalker, Docket SE–14102; disposition of respondent's and Administrator's appeals.

ITEMS #2, #3 and #4

TIME AND DATE: 9:30 a.m., Tuesday, October 29, 1996.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6626D—Highway/Railroad Accident Report: Collision of Northeast Illinois Regional Commuter Railroad Corporation Train and Transportation Joint Agreement School District 47/155 School Bus at Railroad/Highway Grade Crossing, Fox River Grove, Illinois, October 25, 1995.

6676A—Railroad Accident Report: Collision of Washington Metropolitan Area Transit Authority Train T–111 with Standing Train at Shady Grove Passenger Station, Rockville, Maryland, January 6, 1996.

6671A—Aviation Accident Report: Runway Departure During Attempted Takeoff; Tower Air Flight 41, Boeing 747–136, John F. Kennedy International Airport, New York, December 20, 1995.

News media contact: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–27169 Filed 10–18–96; 12:33 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension/Revision.

2. The title of the information collection: 10 CFR Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions''.

3. The form number if applicable: Not applicable

4. How often the collection is required: On occasion. Upon submittal of an application for a construction permit, operating license, operating license renewal, early site review, design certification review, decommissioning or termination review, manufacturing license, materials license, or upon submittal of a petition for rulemaking.

5. Who will be required or asked to report: Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR Parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70 and 72.

6. An estimate of the number of responses: 24.

7. The estimated number of annual respondents: 24.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 38,410.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 51 of the NRC's regulations specifies information and data to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are to be interpreted and administered in accordance with the policies set forth in the National Environmental Policy Act of 1969, as amended.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by November 21, 1996: Edward Michlovich, Office of Information and Regulatory Affairs (3150–0021), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 15th day of October 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–27024 Filed 10–21–96; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

DATE: October 18, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.Q02

STATUS: Public.

MATTERS TO BE CONSIDERED:

Friday, October 18

9:00 a.m.—Briefing on Integrated Safety Assessment Team Inspection (ISAT) at Maine Yankee (Public Meeting) (Contact: Ed Jordan, 301–415–7472).

10:30 a.m.—Affirmation Session (PUBLIC MEETING) *(Please note: This item will be affirmed immediately following the conclusion of the preceding meeting.) a. Yankee Atomic Electric Company (Yankee Nuclear Power Station), Docket No. 50–029–DCOM, Memorandum and Order (Granting Motion for Summary Disposition), LBP–96–18 (Contact: Ken Hart, 301–415–1659).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact Person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: October 17, 1996.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–27163 Filed 10–18–96; 11:55 am]

BILLING CODE 7590–01–M

Sunshine Act Meeting

DATE: Weeks of October 21, 28, November 4, and 11, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 21

There are no meetings scheduled for the Week of October 21.

Week of October 28—Tentative

Thursday, October 31

11:00 a.m.—Affirmation Session (Public meeting) (if needed).

Week of November 4—Tentative

Monday, November 4

2:00 p.m.—Discussion of Interagency Issues (Closed—Ex. 9).

Week of November 11—Tentative

Wednesday, November 13

2:00 p.m.—Briefing on Control and Accountability of Licensed Devices (Public meeting), (Contact: John Lubinski, 310–415–7868).

3:30 p.m.—Affirmation Session (Public meeting), (if needed).

Thursday, November 14

2:00 p.m.—Briefing on Spent Fuel Pool Study (Public meeting), (Contact: Ernie Rossi, 301–415–7379).

3:30 p.m.—Discussion of Management Issues (Closed—Ex. 2).

* The schedule for Commission meetings is subject to change on short notice. To verify

the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill, (301) 415–1661.

* * * * *

ADDITIONAL INFORMATION: By a vote of 5–0 on October 16, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Discussion of Management Issues (Closed—Ex. 2)'' be held on October 16, and on less than one week's notice to the public.

By a vote of 5–0 on October 18, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Yankee Atomic Electric Company (Yankee Nuclear Power Station), Docket No. 50–029–DCOM, Memorandum and Order (Granting Motion for Summary Disposition), LBP–96–18'' be held on October 18, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: October 18, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–27190 Filed 10–18–96; 2:13 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings.

(2) *Form(s) submitted:* RL–231–F.

(3) *OMB Number:* 3220–0107.

(4) *Expiration date of current OMB clearance:* December 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 600.

(8) *Total annual responses:* 600.

(9) *Total annual reporting hours:* 300.

(10) *Collection description:* Under the Railroad Retirement Act, benefits are not payable if an annuitant works for an employee covered under the Act or last non-railroad employer. The collection obtains information regarding an annuitant's work and earnings from a non-railroad employer. The information will be used for determining whether benefits should be withheld.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–27041 Filed 10–21–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Approval of Existing Collections:

Rule 9b–1, SEC File No. 270–429, OMB Control No. 3235-new.

Rule 15c2–8, SEC File No. 270–421, OMB Control No. 3235-new.

Extensions:

Rule 12f–1, SEC File No. 270–139, OMB Control No. 3235–0128.

Rule 12f–2, and Form 27, SEC File No. 270–140, OMB Control No. 3235–0248.

Rule 12f–3 and Form 28, SEC File No. 270–141, OMB Control No. 3235–0249.

Rule 12a–5 and Form 26, SEC File No. 270–85, OMB Control No. 3235–0079.

Rule 15Aj–1, Form X–15AJ–1 and Form X–15AJ–2, SEC File No. 270–25, OMB Control No. 3235–0044.

Rule 15c2–11, SEC File No. 270–196, OMB Control No. 3235–0202.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collections for public comment.

Rule 9b–1 sets forth the categories of information required to be disclosed in an options disclosure document (''ODD'') and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b–1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b–1 requires a broker-dealer to furnish to each customer an ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 5 options markets that must comply with Rule 9b–1. These 5 respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file no more than one amendment per year, which requires approximately 8 hours per year for each respondent. Thus, the total compliance burden for options markets per year is 40 hours. The approximate cost per hour is $100, resulting in a total cost of compliance for these respondents of $4,000 per year (40 hours @ $100).

In addition, approximately 2,000 broker-dealers must comply with Rule 9b–1. Each of these respondents will process an average of three new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes, or 1.3 hours. Thus, the total compliance burden per year is 2,600 hours (2,000 broker-dealers × 1.3 hours). The approximate cost per hour to these

respondents is $10 per hour, resulting in a total cost of compliance for these respondents of $26,000 per year (2,600 hours @ 1.3 hours).

The total compliance burden for all respondents under this rule (both options markets and broker-dealers) is 2,640 hours per year (40 + 2,600), and total compliance costs of $30,000 ($4,000 + $26,000).

Rule 15c2–8 requires broker-dealers to deliver preliminary or final prospectuses to specified persons in association with securities offerings. This requirement ensures that information concerning issuers flows to purchasers of the issuers' securities in a timely fashion. There are approximately 8,500 broker-dealers, any of which potentially may participate in an offering subject to Rule 15c2–8. The Commission estimates that Rule 15c2–8 creates approximately 40,290 burden hours with respect to approximately 579 initial public offerings and 1,344 other offerings.

Estimating that records are to be kept by compliance or other related personnel paid at an hourly rate of $28, the total annualized cost burden for recordkeeping is $1,128,120 (28 × 40,290). Added to this are the costs of copying and mailing. These costs are estimated to be approximately $100,000 per initial public offering, for a total of $59,200,000, with other costs expected to be de minimis, as they would be incurred for purposes of complying with Securities Act of 1933 provisions. The total annualized cost burden is therefore $60,328,120.

Rule 12f–1 sets forth the information which an exchange must include in an application for unlisted trading privileges in a security. There are 5 national securities exchanges that require an aggregate total of 670 hours to comply with this rule. Each of these 5 respondents makes an estimated 134 annual responses, for an aggregate of 670 responses per year. Each response takes approximately 1 hour to complete. Thus, the total compliance burden per year is 670 burden hours. The approximate cost per hour is $100, resulting in a total cost of compliance for the respondents of $67,000 (670 hours @ $100).

Rule 12f–2 requires that a national securities exchange must report to the Commission certain changes in a security admitted to unlisted trading privileges. This report is generally made by filing Form 27. There is one respondent that requires an aggregate total of 42 minutes to comply with this rule. Thus, the total compliance burden per year is 42 minutes. The total cost of compliance for the respondents is $27.

Rule 12f–3 prescribes the information which must be included in applications for and notices of termination or suspension of unlisted trading privileges in a security. An exchange must notify the Commission of such action by promptly filing a Form 28. Each of the five national securities exchange respondents incurs an average of 20 burden hours per year in complying with the rule, for a total burden of 100 hours. The approximate cost per hour is $100, for a total annualized cost burden of $10,000.

Rule 12a–5, under paragraph (d), directs that after an exchange has taken action to admit any security to trading pursuant to the provisions of the Rule 12a–5, the exchange is required to file with the Commission a notification on Form 26. Form 26 provides the Commission with certain information regarding a security admitted to trading on an exchange pursuant to Rule 12a–5, including: (1) The name of the exchange, (2) the name of the issuer, (3) a description of the security, (4) the date(s) the security was or will be admitted to when-issued and/or regular trading, and (5) a brief description of the transaction pursuant to which the security was or will be issued.

The Commission generally is responsible for overseeing the national securities exchanges, and is particularly responsible under Section 12(a) of the Securities Exchange Act of 1934 (''Act'') to receive notification of any securities that are permitted to trade on an exchange pursuant to the temporary exemption under Rule 12a–5. Without the Rule and the Form, the Commission would be unable fully to implement these statutory responsibilities.

There are nine national securities exchanges which may avail themselves of the exemption provided by Rule 12a–5. While approximately 45 Form 26s are filed annually, the reporting burdens typically are not spread evenly among the exchanges. For purposes of this filing, the staff has assumed that each exchange files an equal number (five) of Form 26 reports. Each report requires approximately 20 minutes to complete, and so the aggregate annual compliance burden is estimated to be 100 minutes for each exchange and 15 hours for all nine exchanges.

The Commission staff estimates that the cost to respondents of completing Form 26 ranges from approximately $10 to $15, with an average cost per response of $13. The estimated total annual cost for complying with the rule 12a–5 is about $65 for each exchange, and $585 for all exchanges combined.

Rule 15Aj–1 implements the requirements of Sections 15A, 17, and 19 of the Act by requiring every association applying for registration or registered as a national, or as an affiliated securities association to keep its registration statement up to date by filing with the Commission on Form X–15AJ–1 and Form X–15AJ–2.

Rule 15Aj–1 requires a securities association to promptly notify the Commission on Form X–15AJ–1 of any change which renders inaccurate any information contained or incorporated in the registration statement or in any amendment or supplement thereto. Rule 15Aj–1 also requires a securities association to file each year with the Commission an annual consolidated supplement on Form X–15AJ–2.

There is presently only one registered securities association that is required to comply with Rule 15Aj–1. The number of hours necessary to comply with the rule by filing an amendment is approximately one-half hour per response. The average number of hours necessary to file the annual supplement is three reporting hours. The average cost per response for Rule 15Aj–1 is approximately $7. The average cost of annual supplements pursuant to Rule 15Aj–1 is approximately $45.

Rule 15c2–11 requires broker-dealers to collect information regarding issuers prior to initiating or resuming publication of quotations of the issuer's securities. The Commission estimates that 142 respondents collect information annually under Rule 15c2–11 and that approximately 13,580 hours would be required annually for these collections. The Commission estimates that the annual cost to comply with Rule 15c2–11 is $271,600 ($20 per hour times 13,580 hours).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange

Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: October 7, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–27036 Filed 10–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22283; 811–7284]

CR United States Blue Chip Timing Fund, Inc.; Notice of Application

October 15, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: CR Blue Chip Timing Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on October 4, 1996.

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 5:00 p.m. on November 12, 1996, and should be accompanied by proof of service on the 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 901 N. Spoede Road, St. Louis, Missouri 63146.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Alison E. Baur, Branch Chief, at (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 is an open-end, diversified management investment company. According to SEC records, on October 15, 1992, applicant filed a notification or registration on Form N–8A under section 8(a) of the Act, and filed a registration statement on Form N–1A under section 8(b) of the Act. Applicant's registration statement was never declared effective, and applicant has made no public offering of its shares.

2. Applicant never sold any securities. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26958 Filed 10–21–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Weldotron Corporation, $0.05 Par Value Common Stock) File No. 1–8381

October 15, 1996.

Weldotron Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''AMEX''' or ''Exchange'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Company received a letter dated September 24, 1996, from the Exchange stating that it intended to delist the Security and registration from the Exchange. The following day the Company informed the Exchange that it intended to appeal this decision to the Exchange's Board of Governors. Since the filing of the notice of appeal there have been numerous phone conversations with Exchange representatives as well as a meeting between the Company and the Exchange on October 2, 1996.

Although the Company initially elected to appeal the Exchange's decision is delist the Security to the Exchange's Board of Governors, the Company has decided to settle matters by removing the Security from the Exchange. The Company believes that in view of the large expenditures of money and management time that would be required before pursuing an appeal, it would be in the best interest of both the Company and its shareholders that the Company voluntarily apply to the Commission to withdraw its Security from listing and registration on the Exchange.

The Exchange has also agreed that it would be in the best interest of the Exchange and the investing public to resolve this issue between the Company and the Exchange in this manner.

Any interested person may, on or before November 4, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–26959 Filed 10–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37823; File No. SR–Amex–96–23]

Self-Regulatory Organizations; the American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Various Changes to the Exchange's Company Guide

October 15, 1996.

I. Introduction

On June 27, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4

[1] 15 U.S.C. § 78s(b)(1).

thereunder,[2] a proposed rule change to amend various sections of the Exchange's *Company Guide* to simplify the additional listing process, add a new shareholder distribution guideline applicable to banks, and make several minor ''housekeeping'' changes.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37550 (August 9, 1996), 61 FR 42667 (August 16, 1996). No comments were received on the proposal.

II. Description of the Proposals

A. Additional Listings

The Exchange proposes to simplify its additional listing process, which functions as the Exchange's formal review of a request by an issuer to increase the amount of securities listed. Before a listed company issues additional securities of an already listed class, it is required to submit an additional listing application and obtain the Exchange's prior approval. Similarly, transfer agents for listed companies are required to contact the Exchange to verify that a company's request for new share issuances has been approved. The additional listing process is an essential part of the Exchange's program to oversee its market generally and monitor the compliance of listed companies with Sections 711–713 of its *Company Guide,* which require prior shareholder approval of certain transactions involving the issuance of stock, *e.g.,* issuances of 20% or more of the outstanding shares at a discounted price or to effect an acquisition.

The Exchange typically receives in excess of 300 additional listing applications per year. Each application, depending on the nature of the circumstances giving rise to the additional listing request, is completed in one of four formats: short, standard, stock option/purchase, or stock dividend. Each format requires the detailed presentation of information that is often available in the applicant's proxy statement, prospectus or option plan, and must also be accompanied by a list of exhibits specified in the *Company Guide.*

In its filing, the Exchange states that it has determined that it can substantially simplify the additional listing process for listed companies and transfer agents alike without undercutting its ability to regulate its market. In this regard, the Exchange has for the first time prepared a simplified, standardized application form, which can be used for all additional listings.[3] According to the Exchange, this form will allow companies to incorporate by reference any transactional information that is set forth in a proxy statement, prospectus or certain other descriptive documents, thus eliminating the current practice of having to provide duplicative summary of this information on the application. Adopting a standardized form will, therefore, enable the Exchange to eliminate confusing and unnecessary instructions by significantly revising the applicable *Company Guide* provisions.[4]

The Exchange also is proposing to eliminate the requirement that each application contain a reconciliation of all of the company's previously listed share reserves, except for the cases of stock dividends, splits, or substitution listings.[5] The Exchange has determined to allow generally transfer agents to reconcile their records of shares outstanding with those of the Exchange on a quarterly basis instead of having the issuers and transfer agents engage in this extremely time-consuming exercise whenever an additional listing application is submitted.[6] The Exchange indicates that in a series of informal discussions with all of its major transfer agents it was evident that they would prefer that the Exchange adopt this proposal. The Exchange believes that these new procedures should provide substantial benefits to listed companies and the Exchange.

B. Distribution Guidelines for Banks

The Exchange's public distribution guidelines require 500,000 shares and 800 holders, or 1,000,000 shares and 400 holders. In recent years, the Exchange has listed a number of local banks, some immediately following their conversion from mutual association to stock ownership (''demutualizing'').[7] Such banks often have small, but because of their local concentration, stable ranks of shareholders. The Exchange notes that generally these small banks are well above the financial criteria for original listing, and due to the highly regulated nature of the banking industry there is usually little ''business risk'' associated with listing these banks on the Exchange.

The Exchange states it has occasionally found that otherwise attractive local banks have less than one million shares in their public float, and fewer than 800 shareholders. The Exchange notes that although the mix of shareholder and public float requirements in its listing standards is intended to accommodate a specialist's needs in maintaining a fair and orderly market, it has observed that shares of local banks generally trade steadily, with relatively stable prices, and that specialists have not encountered difficulties in trading them.

The Exchange, therefore, proposes to adopt a specific distribution guideline applicable to banks, which would require only 400 public holders of at least 500,000 shares.[8] Presently, there are two other circumstances where the Exchange lists issues with a float of less than one million shares and only 400 holders: stocks which trade 2,000 shares a day or more, and warrants sold as part of a unit offering. The Exchange states that it has not experienced any difficulties in providing an appropriate marketplace for these listings, and, given the stability of the banks' shareholder bases and the regulated nature of the banking industry, the Exchange does not anticipate any difficulties with banking stocks.

C. Miscellaneous

The Exchange seeks to make several miscellaneous changes necessary to conform particular sections of the Exchange's *Company Guide* to changes previously made to other sections. They are as follows:

[2] 17 CFR 240.19b–4.

[3] The Commission notes that each application still will have to be accompanied by the required exhibits—*e.g.,* Contract, Opinion of Counsel, Resolution, Amendment to Charter etc.,—prescribed in Section 330 (renumbered as 306 by this Order) of the *Company Guide.*

[4] The Commission notes that in simplifying its listings process, the Amex proposes the following changes to its *Company Guide:* § 310 is renumbered as § 303; §§ 311–313 is deleted; § 320 is deleted; § 321 is renumbered as § 304 with modification made to text; new § 305 is added (Listing of Shares Pursuant to a Reverse Split/Substitution Listing); and § 330 is renumbered as § 306.

[5] The Commission notes that a similar procedure was adopted by the New York Stock Exchange (''NYSE'') when its standard form application procedures were implemented. *See* Securities Exchange Act Release No. 30662 (May 1, 1992), 57 FR 19655.

[6] The Exchange notes in its filing that a similar procedure is followed at the NYSE.

[7] These transactions are typically conducted, in effect, as ''best efforts'' underwritings in the sense that it is impossible to predict how many deposit-holders will elect to become shareholders and the conversion itself is not contingent upon the ''accumulation'' of a specific number of shareholders.

[8] The new distribution provision for bank stocks will be included in Section 102 of the Amex's *Company Guide.* Further, the Exchange has indicated that bank stocks will continue to be subjected to the Exchange's continued listing criteria specified in Section 1003 of its *Company Guide,* which provides the standards for continued listing of common and preferred stocks, and bonds. *See* Letter from Claudia Crowley, Special Counsel, Amex, to Chester McPherson, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated October 9, 1996.

Section 1003 of the *Company Guide* is to be amended to provide that for continued listing purposes a company needs to have 300 public holders, and not 300 round lot holders. Similar changes were previously made to the Exchange's other public distribution guidelines.[9]

Section 505, which provides that the Exchange would not look favorably upon a stock split that would result in a price below $5, is to be amended to refer to a $3 minimum price, to be consistent with the $3 stock price original listing guideline set forth in Section 102(b).[10]

Finally, Section 220(b) of the *Company Guide* is to be amended to conform to changes that were previously made to Section 140 of the *Company Guide* with respect to the maximum listing fee applicable to foreign issuers.[11]

III. Discussion

The Commission has carefully reviewed the Amex's proposed rule changes and concludes that the proposed changes are consistent with the requirement of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b).[12] Specifically, the Commission believes the proposals are consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission supports the Amex's efforts of continuing to review the form and substance of its listed company regulations and to streamline its listing application process where appropriate.

The Exchange proposes to consolidate all types of additional listing applications into a single universal format by adopting a standard application form. The form will require listed companies to provide substantially the same information as is required under the existing procedures. However, instead of having to select one of four application formats: short, standard, stock option/purchase, or stock dividend, and having to present information that is often available in the applicant's proxy statement, prospectus or option plan, the proposed form provides for this information to be incorporated by reference. If there are no proxy statements, prospectuses, or option plans, then, when applicable the following information must be provided with the proposed standardized application form: Information for Stock Options, Plans and Grants; Information for a Private Placement; Information for an Acquisition; Information for Substitution Listing; Information for a Forward Stock Split or Stock Dividend; and a Reconciliation Sheet.

The proposal to adopt this new application form does not in any way amend the Exchange's role in performing substantive review of additional listing requests by issuers. It merely seeks to amend various sections of the *Company Guide* to streamline the Exchange's application process for additional listings. As stated by the Exchange, the additional listing process is an essential part of its program to oversee its market generally. In this context, the *Company Guide* specifically states that the Exchange regards the agreement to list additional shares as an important safeguard for the shareholders of listed companies, and, therefore, will review each application for the requisite shareholder approval when applicable.[13]

In addition to proposing the adoption of a standard application form, the Exchange, as part of the additional listing request review process, also proposes eliminating the requirement that each application contain a reconciliation of all of the company's previously listed share reserves, except for the cases of stock dividends, splits, or substitution listings. The Exchange has determined to allow transfer agents to reconcile their records of shares outstanding with those of the Exchange on a quarterly basis. According to the Exchange, this would eliminate the need for issuers and transfer agents to engage in an extremely time-consuming exercise whenever an additional listing application is submitted.[14] The Exchange indicates that in a series of informal discussions with all of the major transfer agents it was evident that they would prefer that the Exchange adopt this proposal.

The Commission believes that the consolidation of the additional listing application into a single standard form, and the elimination of the requirement that each application contain a reconciliation of all of the company's previously listed share reserves, will not reduce the quality or effectiveness of the Exchange's review of such additional listings, nor cause any unfair discrimination or disparate treatment among issuers.[15] The Commission believes that not only will the proposal benefit listing companies by streamlining the application process (*e.g.*, allowing incorporation by reference from other public documents) but it should also make the Exchange's review of additional listing applications more efficient.

Second, the Exchange proposes establishing a listing standard specifically for banks. The Commission believes that this proposal is consistent with the purposes of the Act. The Exchange's existing distribution guidelines call for 500,000 shares and 800 holders, or, 1,000,000 shares and 400 holders. The Exchange established this mix in order to accommodate a specialist's need in maintaining a fair and orderly market in each security. However, there are currently two circumstances under which the Exchange permits listing of securities with less than one million shares and only 400 shareholders: stocks which trade 2,000 shares a day or more, and warrants sold as part of a unit offering. The Exchange has indicated that it has not encountered any problems in providing an appropriate marketplace for these listings.

The Commission recognizes that for more actively traded securities, (i.e., 2000 shares a day), a lower distribution standard appears appropriate because a minimum amount of liquidity is ensured. Although the Amex's proposal does not require minimum daily trading volume for bank stocks to be eligible for the lower standards, the Exchange indicates that it finds the shares of local banks to generally trade steadily, with relatively stable prices. Further, the Exchange notes that banks usually have well above the financial criteria for original listing and operate in a highly

[9] *See Company Guide* Section 102(a)—Distribution—which describes the minimum number of shareholders as ''public shareholder.'' The *Company Guide* notes that the term ''public shareholders,'' as used therein, includes both shareholders of record and beneficial holders, but is exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated (i.e., 5% or greater) affiliated or family holdings.

[10] The Commission notes that the $3 minimum price was approved in Securities Exchange Act Release No. 24043 (January 30, 1987), 52 FR 4071.

[11] The Commission notes that the maximum $25,000 fee for non-U.S. issuers already listed on a foreign exchange was approved in Securities Exchange Act Release No. 34272 (June 28, 1994), 59 FR 34701.

[12] 15 U.S.C. 78f(b).

[13] *See* Exchange's *Company Guide* Section 302.

[14] The Exchange notes that a similar procedure is followed at the New York Stock Exchange ''NYSE''. *See* Securities Exchange Act Release No. 30662 (May 1, 1992), 57 FR 19655 (approving the adoption of a standard form application by the NYSE).

[15] The Commission notes that each application still will have to be accompanied by the required exhibits—*e.g.*, Contract, Opinion of Counsel, Resolution, Amendment to Charter, etc.—prescribed in Section 330 (renumbered as 306 by this Order) of the *Company Guide.*

regulated environment and believes the business risk associated with such listings to be minimal. Finally, as mentioned above, the same delisting criteria that apply to other stocks listed on the Exchange, continue to apply to bank stocks listed on the Amex.[16] These factors help to support the Amex's belief that fair and orderly markets can be made for bank stocks listed under the proposed distribution and holder standards, and also ensure that the Amex can take the appropriate action to delist a bank stock when it falls below the existing delisting standards.

Based on the above, the Commission finds that the creation of a special set of distribution guidelines for bank stock is consistent with the requirements of Section 6(b)(5) of the Act[17] and the rules and regulations thereunder applicable to a national securities exchange in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest. In approving this portion of the Amex's proposal, the Commission notes that its rational is limited to the special case of bank stocks and continues to believe that higher initial distribution and holder requirements serve investors by ensuring a minimal level of liquidity and that a fair and orderly market can be maintained.

Finally, the Exchange proposes making a number of miscellaneous changes to bring its *Company Guide* in conformity with previously approved changes. These proposed changes involve sections 1003, 505 and 220(b). The Exchange proposes to amend section 1003 to require that for continued listing purposes a company needs to have 300 public holders, and not 300 round lot holders. Similar changes to the Exchange's other public distribution guidelines were previously approved by the Commission.[18] Accordingly, the Commission is approving the proposed changes to Section 1003 as the Exchange further updates its *Company Guide.*

The Exchange proposes amending Section 505 to adopt a $3 floor for stock dividends or forward splits of lower price issues. The Commission is approving this change to bring Section 505 into conformity with the original listing $3 minimum stock price set forth in Section 102(b) of the *Company Guide.*[19] The Exchange also proposes amending Section 220(b) of its *Company Guide* to incorporate the maximum listing fee applicable to foreign issuers. The Commission approves this amendment to make Section 220(b) consistent with the limit required by Section 40.[20]

Based on the above, the Commission finds that the proposed changes to Sections 1003, 505 and 220(b) are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in general, to protect investors and the public, in that they will eliminate outdated references and revise these sections to conform to the other sections of the *Company Guide.*

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Amex–96–23) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–27037 Filed 10–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37826; File No. SR–NASD–96–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Software Subscription and Maintenance Fees for the CRD System

October 16, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on October 3, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one establishing or changing a fee under Section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Act, the NASD is herewith filing a proposed rule change to Schedule A of the NASD By-Laws. Below is the test of the proposed rule change. Proposed new language is italicized.

Schedule A to the NASD By-Laws

Section 15 Fees for Central Registration Depository

(a) Each member shall be assessed a Software Subscription Fee of $300 for each copy of CRD software purchased. Each member shall be assessed a fee of $10.00 for each set of Branch Filing Software.

(b) Each member shall be assessed an annual Software Subscription Maintenance Fee of $300 for each copy of the CRD software purchased by the member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rue change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Since 1992, the NASD has undertaken an extensive redesign effort to improve the Central Registration Depository (''CRD'') and move toward total electronic filing of registration-related forms. The central focus of the redesign effort is to provide efficient, reliable and effective state-of-the-art systems and procedures at reasonable cost to support licensing and regulation of the securities industry. Implementation of electronic filing will eliminate delays in processing information in hard copy. The redesigned CRD will offer efficient processing of registration-related filings and user friendly access to information contained in those filings for all industry and regulatory participants.

Two types of software will be available to be purchased by member firms. The ''Main Office'' software will

[16] *See supra* note 8.

[17] 15 U.S.C. § 78f(b).

[18] *See supra* note 9.

[19] *See supra* note 10.

[20] *See supra* note 11.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

contain the total package of registration, communications, and e-mail software. This software will be contained in one compact disk (CD–ROM). The NASD will charge a $300 software subscription fee for each copy of the Main Office software purchased. The ''Branch Filing'' software, a subset of the Main Office package, will be available on 3½″ diskettes and will enable firms to create an Initial U–4/DRP filing off-line for processing through the Main Office software functionality. The NASD will charge $10.00 for each set of Branch Filing software purchased.

An annual software subscription fee of $300 will be charged to offset the manufacture, packaging, and distribution of future releases of the software. Updated versions will be manufactured and shipped each year. These versions will contain enhancements to prior versions and are deemed necessary to keep all software current. This fee will be assessed for each copy of the software maintained by the firm.[1]

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act which requires that the rules of the NASD provide for equitable allocation of reasonable dues, fees, and other charges in that the proposed rule change allows the NASD to recover the costs of manufacturing, packaging, distributing and updating the software to be used in the new CRD system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received

[1] NASD member firms that had fewer than 50 registered representatives on April 26, 1996, may comply with the NASD's requirement to file electronically with the new CRD system through any of three methods: (1) They may file electronically on their own by purchasing the NASD's software; (2) they may utilize a third party vendor to file on their behalf; or (3) through December 31, 1997, for a prescribed fee, these firms may file paper forms with the NASD which will process the forms through its own internal processing unit. Securities Exchange Act Release No. 37439 (July 15, 1996); 61 FR 37950 (July 22, 1996) (File No. SR–NASD–96–21).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on October 3, 1996, pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder in that it establishes or changes a due, fee or other charge.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statement communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available to inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–96–36 and should be submitted by November 12, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–27035 Filed 10–21–96; 8:45 am]

BILLING CODE 8010–01–M

COMMISSION ON UNITED STATES-PACIFIC TRADE AND INVESTMENT POLICY

Office of the United States Trade Representative

Commission on United States Pacific Trade and Investment Policy; Notice of Meeting

AGENCY: Commission on United States-Pacific Trade and Investment Policy/ Office of the United States Trade Representative.

ACTION: Notice that the next meeting of the Commission on United States-Pacific Trade and Investment Policy is scheduled for October 18, 1996, from 9:30 a.m. to 5:30 p.m. The meeting will be closed to the public.

SUMMARY: The Commission on United States-Pacific Trade and Investment Policy will hold a meeting on October 18, 1996, from 9:30 a.m. to 5:30 p.m. The meeting will be closed to the public. The meeting will include a review and discussion of current issues affecting U.S. trade policy with Asia and discussion of the Commission's final recommendations for its report to the President. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, the USTR has determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States.

DATE: The meeting is scheduled for October 18, 1996, unless otherwise notified.

ADDRESS: The meeting will be held at the U.S. Department of Commerce, Patent and Trademark Office, Office of Patent Policy Dissemination, Crystal Square 4, Suite 700, 1745 Jefferson Davis Highway (Route 1) Arlington, VA 22202, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, Executive Director of the Commission on United States-Pacific Trade and Investment Policy, Room 400, 600 17th Street, NW, Washington, D.C. 20508, (202) 395–9679.

Nancy Adams,

Executive Director, Commission on United States-Pacific Trade and Investment Policy.

Charlene Barshefsky,

Acting United States Trade Representative.

[FR Doc. 96–26967 Filed 10–21–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–054]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, the Coast Guard announces three Information Collection Requests (ICR) for reinstatement. These ICRs include:

1. Transfer Procedures/Waste Management Plans; 2. Vital System Automation; and 3. Vessels Reporting Requirements. Before submitting the reinstatement packages to the Office of Management and Budget (OMB), the Coast Guard is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be received on or before December 23, 1996.

ADDRESSES: Comments may be mailed to Commandant (G–SII–2), U.S. Coast Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 2nd St. SW, Washington, DC 20593–0001, or may be hand delivered to the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. the telephone number is (202) 267–2326. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request For Comments

The Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identifying this Notice, the specific ICR to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½″ by 11″, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Interested persons can receive copies of the complete ICR by contacting Ms. Davis where indicated under **ADDRESSES.** Information Collection Requests:

1. *Title:* Transfer Procedures/Waste Management Plans.

OMB No. 2115–0120.

Summary: The collection of information requires vessels with a capacity of 250 or more barrels of oil to develop and maintain on board the vessel, oil transfer procedure plans which will provide basic safety information for operating the transfer system. (1) Vessels with a capacity of 250 or more barrels of oil must have written procedures for transferring oil to and from the vessel and from tank to tank and must follow the written procedures in operating the transfer system; (2) vessels with vapor control systems must include operating procedures and a line diagram of the system in the vessel's transfer procedures; (3) tank vessels with a capacity of 1,000 or more cubic meters that load oil or oil residue as cargo must include procedures regarding overfill devices in the transfer procedures; and (4) all oceangoing ships 40 feet or more in length, engaged in commerce or equipped with galleys and berths, must maintain management plans for the handling and disposal of ship generated-garbage.

Need: Title 33 U.S.C. 1221 authorized the Coast Guard to develop regulations for equipment, methods and procedures to prevent the discharge into the navigable waters of the U.S. of oil and hazardous materials from vessels, onshore facilities and offshore facilities.

Respondents: Vessels and facility owners or operators.

Burden: The estimated burden is 29,797 hours annually.

2. *Title:* Vital System Automation: 46 CFR Parts 52, 56, 58, 61, 62, 110, 111 and 113.

OMB No. 2115–0548.

Summary: The collection of information requires the vital machinery and engineering spaces of inspected commercial vessels to be automated for the convenience of operation, improvement of efficiency, reduction of personnel and the detection and control of unsafe conditions.

Need: Under 46 U.S.C. 3306, 46 U.S.C. 8105 and 49 CFR 1.46, the Coast Guard promulgated safety regulations for automated vital systems on inspected commercial vessels to ensure safety of life at sea.

Respondents: Vessel designers, shipyards, manufacturers and owners of inspected commercial vessels.

Frequency: On occasion.

Burden: The estimated burden is 14,400 hours annually.

3. *Title:* Vessel Reporting Requirements.

OMB No. 2115–0551.

Summary: The collection of information requires the owner, charterer, managing operator or agent of a U.S.-flagged vessel to immediately notify the Coast Guard if there is reason to believe the vessel is in distress or lost. The report must be followed up with written confirmation within 24 hours to the Coast Guard.

Need: Title 46 U.S.C. 2306 authorizes the Coast Guard to implement the reporting requirements necessary to determine if a vessel is in distress or lost and to take appropriate action to provide needed assistance.

Respondents: Owners, charterers, managing operators, or agents.

Frequency: On occasion.

Burden: The burden estimate is 93 hours annually.

Dated: October 7, 1996.

J.T. Tozzi,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 96–27071 Filed 10–21–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to renew 7 currently approved public information collection activities.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the FAA invites public comment on 7 currently approved public information collections which will be submitted to OMB for renewal.

DATES: Comments must be received on or before December 23, 1996.

ADDRESSES: Comments on any of these collections may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to: Evaluate the necessity of the collection; the accuracy of the agency's estimate of the burden; the quality, utility, and clarity of the information to be collected; and possible ways to minimize the burden of the collection. Following are short synopses of the 7 currently approved public information collection activities which will be submitted to OMB for review and approval.

1. 2120–0010, Repair Station Certification, FAR 145. The information

collected on FAA Form 8310–3, Application for Repair Station Certificate and/or Rating, is required from applicants who wish repair station certification. 14 CFR Part 145 prescribes the requirements for issuing repair station certificates and associated ratings to maintenance and alteration facilities. The collection of this information is necessary for the issuance, renewal, or amendment of applicants' repair station certificates, and ensuring that repair stations meet minimum acceptable standards. There are an estimated 1,000 applications annually for an annual burden of 270,000 hours.

2. 2120-–0043, Recording of Aircraft Conveyances and Security Documents. Approval is needed for security conveyances, such as mortgages, submitted by the public for recording against aircraft, engines, propellers, and spare parts locations. There is an estimated 56,000 respondents annually for an estimated burden of 56,000 hours. 14 CFR part 49 establishes procedures for implementation of the recording of aircraft conveyances and security Documents. Part 49 describes what information must be contained in a security conveyance in order for it to be recorded with FAA. The convention on the International Recognition signatory, prevents, by treaty, the export of an aircraft and cancellation of its nationality marks if there is an outstanding lien recorded. The Civil Aviation Registry must have consent or release of lien from the lien holder prior to confirmation/cancellation for export.

3. 2120–0049, Agricultural Aircraft Operations, FAR 137. Standards have been established for the operation of agricultural aircraft and for the dispensing of chemicals, pesticides, and toxic substances. Information collected shows applicant compliance and eligibility for certification by FAA. 14 CFR Part 137 prescribes requirements for issuing agricultural aircraft operator certificates and for appropriate operating rules. We estimate 1000 respondents with an estimated annual burden of 14,000 hours.

4. 2120–0552, Suspected Unapproved Part Notification, FAA Form 8120–11. The information collected on the FAA Form 8120–11 will be reported by manufacturers, repair station operators, owner/operators, or the general public who wish to report suspected unapproved parts to the FAA. The notification information is collected, correlated, and used to determine if an unapproved part investigation is in fact warranted. It is estimated that there will be 1500 respondents for an estimated total burden of 450 hours annually.

5. 2120–0553, Transition to an all Stage 3 Fleet operating in the 48 contiguous United States and the District of Columbia. 14 CFR Part 91 implements Sections 9308 and 9309 of the Airport Noise and Capacity Act of 1990, by establishing a schedule of reductions of Stage 2 airplanes and prohibiting their use in the contiguous U.S. after 12/31/99. Also, it precludes the operation of airplanes in the contiguous U.S. that were imported pursuant to contracts executed after 11/5/90. It is estimated that there will be 230 respondents annually for an estimated burden of 280 hours.

6. 2120–0554, Employment Standards—Parts 107 and 108 of the Federal Aviation Regulation. Section 105 of Public Law 101–604, the Aviation Security Improvement Act of 1990, directed the FAA to prescribe standards for the hiring, continued employment and contracting of air carrier and appropriate airport security personnel. These standards were developed and have become part of 14 CFR parts 107 and 108. Airport operators will maintain at their principal business office at least one copy of evidence of compliance with training requirements for all employees having unescorted access privileges to security areas. Air carrier ground security coordinators are required to maintain at least one copy of the annual evaluation of their security related functions. This is a recordkeeping burden and the affected public is 450 airport operators and an estimated 815 air carrier checkpoints. The estimated annual recordkeeping burden is 16,300 hours.

7. 2120–0571, Alcohol Misuse Prevention Program for Personnel Engaged in Specified Aviation Activities. This regulation requires specified aviation employers to implement an FAA-approved alcohol misuse prevention program, (AMPP), to provide the FAA with an AMPP certification statement, and to report annually on alcohol testing results. The respondents are an estimated 5,300 specified aviation employers for an estimated burden of 14,000 hours annually.

Issued in Washington, DC., on October 17, 1996.

Steve Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–27128 Filed 10–18–96; 8:45 am]

BILLING CODE 4910–13–M

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL201, Washington, DC 20590: telephone (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the Federal Register (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders

issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative. Since that first index was issued on October 26, 1990, the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions.

The indexes of the Administrator's decisions and orders have been published as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90.
10/1/90–12/31/90.	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91.	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92.	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
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7/1/94–12/31/94	60 FR 4454; 1/23/95.
1/1/95–3/31/95	60 FR 19318; 4/17/95.
4/1/95–6/30/95	60 FR 36854; 7/18/95.
7/1/95–9/30/95	60 FR 53228; 10/12/95.
10/1/95–12/31/95.	61 FR 1972; 1/24/96.
1/1/96–3/31/96	61 FR 16955; 4/18/96.
4/1/96–6/30/96	61 FR 37526; 7/18/96.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order number index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

The Administrator's final decisions and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

Civil Penalty Actions—Orders Issued by the Administrator

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Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of September 30, 1996)

The digests of the Administrator's final decisions and orders are arranged by order number and briefly summarize key points of each decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from July 1, 1996, to September 30, 1996. The FAA will publish noncumulative supplements to this compilation on a quarterly basis (*e.g.*, April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Donald M. Missirlian Order No. 96–20 (7/31/96)

Notice of Appeal Construed as Brief. Mr. Missirlian's notice of appeal contains sufficient information and argument to meet the requirements for an appeal brief. Agency counsel is given 35 days in which to file a reply brief.

In the Matter of Matthew P. Houseal Order No. 96–21 (8/2/96)

Appeal dismissed. Respondent has withdrawn his notice of appeal. The appeal is dismissed.

In the Matter of Mary Woodhouse Order No. 96–22 (8/13/96)

Late-filed EAJA Application. The Administrator affirmed the law judge's order dismissing Ms. Woodhouse's

EAJA application for lack of jurisdiction.

Ms. Woodhouse was a partially prevailing party in Order No. 94–2. She filed a petition for review with the U.S. Court of Appeals for the Ninth Circuit, but she submitted the petition late, and for that reason, the Court dismissed the petition for lack of jurisdiction. Subsequently, Ms. Woodhouse filed an application for fees and expenses with the Agency. Her application was filed approximately 5 months after the issuance of Order No. 94–2.

Under 14 CFR 14.20, an EAJA application may be filed by a prevailing party ''but in no case later than 30 days after the FAA Decisionmaker's final disposition of the proceeding.'' In this case, the Administrator's decision became the final disposition on the last date on which Ms. Woodhouse could have petitioned the Administrator to reconsider Order No. 94–2 (or 30 days after the issuance of Order No. 94–2). Then under the EAJA, Ms. Woodhouse had an additional 30 days in which to file her application. In other words, she has a total of 60 days in which to file her application with the Agency, but she failed to file in that time period.

Ms. Woodhouse argues that her application was timely because it was filed within 30 days of the Court's order denying her motion to reconsider its order dismissing her petition for review for lack of jurisdiction. She argues that it does not matter that the Court dismissed her petition for review for lack of jurisdiction. However, even if an EAJA application is not due until after an appellate court reviews a petition for review, that assumes the filing of a timely petition for review. Filing the petition for review after the expiration of the time period for filing a petition for review did not toll the time period for filing the EAJA application because Ms. Woodhouse had already foregone her right to seek Federal appellate court review of the Administrator's decision.

The 30-day limitation period for filing an EAJA application is jurisdictional and must be strictly construed in favor of the government because it is a waiver of the government's sovereign immunity. Thus, the Administrator lacks the authority to waive or extend the time limitation for filing the EAJA application in this case.

In the Matter of Thomas Kilrain Order No. 96–23 (8/13/96)

Petition for Reconsideration Denied. Mr. Kilrain sought reconsideration based upon his intention to ''submit newly obtained evidence.'' He failed to demonstrate that reconsideration based upon new matter is warranted under 14 CFR 13.234(c).; as a result, his petition for reconsideration is denied.

In the Matter of Horizon Air Industries, Inc. Order No. 96–24 (8/13/96)

Air Carrier Responsible for Employee Negligence. A Horizon flight took off with tape covering the static ports, resulting in erroneous altimeter and airspeed readings. The law judge correctly held that Horizon was responsible for the negligence of its employees—both its pilot, who failed to perform an adequate pre-flight inspection, and its maintenance personnel, who failed to remove tape from the static ports after washing the aircraft.

Consideration of Unauthenticated Exhibits Harmless Error. It was improper for the law judge to consider unauthenticated exhibits, particularly evidence of subsequent remedial measures. However, the law judge's error is harmless because, even without the documents, the agency was entitled to judgment as matter of law.

In the Matter of USAir, Inc. Order No. 96–25 (8/13/96)

Failure to Perform High Energy Stop Inspection. The law judge properly found that USAir violated 14 CFR 43.13, which requires air carriers to comply with the manufacturer's maintenance manual. There is no merit in USAir's argument that the manual was not clear enough on when a high energy stop inspection is required.

Operating an Unairworthy Aircraft. The law judge erred in failing to find violation of 14 CFR 121.153, which prohibits operating an unairworthy aircraft. USAir operated aircraft on 8 domestic flights before taking it out of service to perform the required high energy stop inspection. It is provided expressly in 14 CFR 21.181 that an airworthiness certificate is effective only as long as maintenance is performed in accordance with 14 CFR Part 43. Because the law judge properly found a violation of 14 CFR 43.13, he should also have found that USAir operated an unairworthy airdraft.

Sanction. As a result of the law judge's error in failing to find that USAir operated an unairworthy aircraft on 8 separate flights, the $5,000 civil penalty he assessed is too low. The $40,000 proposed civil penalty is reinstated.

In the Matter of Midtown Neon Sign Corp. Order No. 96–26 (8/13/96)

Proposed Hazmat Sanction Reinstated. The law judge reduced the $25,000 civil penalty proposed by the agency attorney in this case involving an undeclared, leaking shipment of 2 one-gallon cans of paint, a flammable, hazardous material, to $8,000. Due to several critical errors in the law judge's sanction analysis, the $25,000 penalty is reinstated. The law judge thought the agency attorney had proven only one third of the violations originally alleged, and reduced the civil penalty on a pro rata basis. The law judge also seems to have multiplied the number of violations by a set dollar amount. This mathematical, formulaic approach is inappropriate and is not the approach mandated by the statute. The statute provides that in setting the penalty one must consider all the factors that justice requires. The Administrator's precedent indicates that it is the egregiousness of the respondent's conduct and not the number of violations that justifies the assessment of a particular civil penalty.

Double Jeopardy Clause. The law judge based his decision to reduce the sanction in part on the Double Jeopardy Clause of the United States Constitution. The law judge stated that the multiple punishments component of the Double Jeopardy Clause prohibited him from finding violations of certain general, introductory sections of the Hazardous Materials Regulations when he was also finding violations of more specific regulations.

Even if the Double Jeopardy Clause applies in civil penalty cases arising under the Federal hazardous material statute—and it has not been established that it does—a civil penalty of $25,000 would still be appropriate. Even if the three general, introductory sections are not counted, there were still 9 violations under the law judge's analysis, each with a maximum civil penalty of $25,000. Thus, the proposed civil penalty of $25,000 is well within the range contemplated by Congress, and is appropriate given all the factors that Congress requires the Administrator to consider. Moreover, a penalty of $25,000 is not inconsistent with previous penalties imposed.

Commercial Reporting Services of the Administrators

Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily, 1156 15th Street, NW, Washington, DC 20005, (202) 822–4669;

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street

East, Rochester, NY 14694, (716) 546–1490.

2. *Disks/CD–ROM.* The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483, is placing the decisions on CD–ROM.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available on Compuserve, FedWorld, and Westlaw. The Database ID for Westlaw is FTRAN-FAA.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal building, Jamaica, NY 11430; (718) 553–3285.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337, (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic city International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western—Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 990261; (310) 725–7100.

Issued in Washington, DC on October 15, 1996.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 96–27070 Filed 10–21–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Melbourne International Airport, Melbourne, FL

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 Melbourne International 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 November 21, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James C. Johnson, Director of Aviation of the Melbourne Airport Authority at the following address: Melbourne International Airport, One Air Terminal Parkway, Suite 220, Melbourne, Florida 32901–1888.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Melbourne Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon P. Rupinta, Project Manager, 9677 Tradeport Drive, Suite 130, Orlando, Florida, 32827–5397, (407) 648–6583. 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 Melbourne Airport Authority 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 October 10, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Melbourne Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 9, 1998.

The following is a brief overview of PFC Application No. 96–01–C–00–MLB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1997.

Proposed charge expiration date: January 31, 1998.

Total estimated PFC revenue: $787,470.

Brief description of proposed project(s):

Airfield Signage and Vault Improvement
FAR Part 107.14 Security Improvements
Master Plan Update
Construct Midfield ARFF Building
Environmental Assessment for Runway 9L Safety Area
Acquire Radio Equipment (107.14)
Federal Inspection Station

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Melbourne Airport Authority.

Issued in Orlando, Florida on October 10, 1996.

W. Dean Stinger,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 96–27069 Filed 10–21–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 33123]

Missouri Pacific Railroad Company and Southern Pacific Transportation Company—Construction and Operation Exemption—Avondale, LA

Missouri Pacific Railroad Company (MP) and Southern Pacific Transportation Company (SP) have filed a notice of exemption under 49 CFR 1150.36 to construct connecting tracks between their adjacent rail lines at three locations near Avondale, LA.[2] The proposed construction is intended to facilitate transactions approved or exempted in *Union Pacific Corp., et al.—Control and Merger—Southern Pacific Rail Corp., et al.,* Finance Docket No. 32760, involving the authorized merger of the Union Pacific and Southern Pacific Railroads. Construction is scheduled to begin on December 31, 1996.

The Board's Section of Environmental Analysis (SEA) initially considered this construction and operation in the environmental documents prepared in Finance Docket No. 32760. In analyzing the applicants' environmental filings and the potential environmental impacts of the merger, SEA concluded that construction projects related to the merger that are limited in scope and are proposed over disturbed land within existing railroad rights-of-way should be exempt from environmental review. This is such a project. Accordingly, no additional environmental documentation will be prepared in this proceeding and the Board may make a finding of no significant impact.

This exemption will be effective on December 31, 1996, unless stayed. Petitions to stay the effective date of this notice on any grounds must be filed by November 1, 1996. Petitions for reconsideration must be filed by November 11, 1996.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33123, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W. Washington, DC 20423. In addition, a copy of each pleading must be served on: (1) Gary A. Laakso, Southern Pacific Transportation Company, Law Department, Room 846, One Market Plaza, San Francisco, CA 94105; and (2) Robert T. Opal, Missouri Pacific Railroad Company, Law Department, Room 830, 1416 Dodge Street, Omaha, NE 68179.

Decided: October 17, 1996.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–27177 Filed 10–21–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

[2] MP and SP simultaneously filed in this docket a motion to dismiss the notice of exemption on the grounds that the proposed construction and operation of connecting tracks do not require Board approval or exemption. That motion will be the subject of a separate decision by the Board.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 673

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 673, Statement For Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

DATES: Written comments should be received on or before December 23, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statement For Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

OMB Number: 1545–0666.

Form Number: Form 673.

Abstract: Under section 911 of the Internal Revenue Code certain income earned abroad is excludable from gross income. Form 637 is completed by a citizen of the United States and is furnished to his or her employer in order to exclude from income tax withholding all or part of the wages paid the citizen for services performed outside the United States.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 16, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–27063 Filed 10–21–96; 8:45 am]

BILLING CODE 4830–01–U

[PS–102–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–102–86 (TD 8316), Cooperative Housing Corporations (§ 1.216–1(d)(2)).

DATES: Written comments should be received on or before December 23, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Housing Corporations.

OMB Number: 1545–1041.

Regulation Project Number: PS–102–86 (Final).

Abstract: Section 1.216–1(d)(2) of this regulation allows cooperative housing corporations to make an election whereby the amounts of mortgage interest and/or real estate taxes allocated to tenant-stockholders of the corporation will be based on a reasonable estimate of the actual costs attributable to each tenant-stockholder's dwelling unit. In the absence of such a one-time election, such costs are allocated proportionally among the tenant-stockholders based on the number of shares held in the corporation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 625.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 16, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–27064 Filed 10–21–96; 8:45 am]

BILLING CODE 4830–01–U

Joint Board for the Enrollment of Actuaries; Advisory Committee on Actuarial Examinations; Notice of Renewal

Renewal of Advisory Committee. This notice is published in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). Be advised that the Joint Board for the Enrollment of Actuaries has renewed the Advisory Committee on Actuarial Examinations. The Chairman of the Joint Board has determined that renewal of this Committee is in the public interest.

Designation. Advisory Committee on Actuarial Examinations.

Purpose. The Committee is to advise the Joint Board on examinations in actuarial mathematics and methodology. The Joint Board administers such examinations in discharging its statutory mandate to enroll individuals who wish to perform actuarial services with respect to pension plans subject to the Employee Retirement Income Security Act of 1974. The Committee's advisory functions will include, but will not necessarily be limited to: (1) considering areas of actuarial knowledge that should be treated on the examinations; (2) developing examination questions; (3) recommending proposed examinations and pass marks; and (4), as requested by the Joint Board, making recommendations relative to the examination program.

Contact for Information. For additional information, contact Mr. Robert I. Brauer, Executive Director, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury/Internal Revenue Service, Washington, DC 20224; telephone 202–376–1456.

Dated: October 16, 1996.

Paulette Tino,

Chairman, Joint Board for the Enrollment of Actuaries.

[FR Doc. 96–27065 Filed 10–21–96; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 61, No. 205
Tuesday, October 22, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 228

RIN 0412–AA28

Rules on Source, Origin, and Nationality for Commodities and Services Financed by the Agency for International Development

Correction

In rule document 96–26246, beginning on page 53615, in the issue of Tuesday, October 15, 1996, make the following corrections:

§ 228.03 [Corrected]

1. On page 53617, in the third column, in §228.03(b), in the sixth line, insert ''Iran,'' before ''North Korea,''.

§ 228.25 [Corrected]

2. On page 53619, in the third column, in §228.25, in the fourth line, ''of'' should read ''or''.

BILLING CODE 1505–01–D

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1303

Property Management

Correction

In rule document 96–03449 appearing on page 6110 in the issue of Friday, February 16, 1996, make the following correction:

§ 1303.2 [Corrected]

In the second column ''*Tobacco project*'' should read ''*Tobacco product*''.

BILLING CODE 1505–01–D

Federal Register

Tuesday
October 22, 1996

Part II

Environmental Protection Agency

40 CFR Part 86

Motor Vehicle Emissions Federal Test Procedure Revisions; Final Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–5558–3]

RIN 2060–AE27

Final Regulations for Revisions to the Federal Test Procedure for Emissions From Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking (FRM).

SUMMARY: This rulemaking revises the tailpipe emission portions of the Federal Test Procedure (FTP) for light-duty vehicles (LDVs) and light-duty trucks (LDTs). The primary new element of the rulemaking is a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the current FTP in the representation of aggressive (high speed and/or high acceleration) driving behavior, rapid speed fluctuations, driving behavior following startup, and use of air conditioning. An element of the rulemaking that also affects the preexisting ''conventional'' FTP is a new set of requirements designed to more accurately reflect real road forces on the test dynamometer. The Agency is also finalizing new emissions standards for the new control areas with a specified phase-in period for these standards. These regulations are expected to reduce emissions from LDVs and LDTs by two percent for non-methane hydrocarbons (NMHC), 11 percent for carbon monoxide (CO), and nine percent for oxides of nitrogen (NO_x).

EFFECTIVE DATE: This rule becomes effective on December 23, 1996, except for §§ 86.000–7,86.000–8, 86.000–9, 86.001–9, 86.004–9, 86.000–21, 86.001–21, 86.000–23, 86.001–23, 86.000–24, 86.001–24, 86.000–25, 86.001–25, 86.000–26, 86.001–26, 86.000–28, 86.001–28, 86.004–28, 86.108–00, 86.129–00, 86.159–00, 86.160–00, 86.161–00, 86.162–00, 86.162–03, and 86.163–03 which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). EPA will publish a document in the Federal Register announcing the effective date of those sections. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1996.

ADDRESSES: Materials relevant to this final rulemaking have been placed in Docket No. A–92–64. The docket is located at the Air Docket Section, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Waterside Mall, Washington, DC 20460 (phone 202/260–7548; Fax 202/260–4400), and may be inspected weekdays between 8:00 a.m. and 5:30 p.m. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: John German, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4214.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which manufacture and sell motor vehicles in the United States. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	New motor vehicle manufacturers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your product is regulated by this action, you should carefully examine the applicability criteria in § 86.094–1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Availability

The Preamble, Regulations, Response to Comments, and Regulatory Impact Analysis (RIA) are available electronically from the EPA Internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of Internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. The official Federal Register version is made available on the day of publication on the primary Internet sites listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Internet sites listed below and on TTN.

Internet:

World Wide Web:
http://www.epa.gov/docs/fedrgstr/EPA–AIR/
or http://www.epa.gov/OMSWWW/
Gopher:
gopher.epa.gov Follow menus: Rules: EnviroSubset:Air
or gopher.epa.gov Follow menus: Offices:Air:OMS
FTP:
ftp.epa.gov Directory: pub/gopher/fedrgstr/EPA–AIR/
or ftp.epa.gov Directory: pub/gopher/OMS/

TTN BBS:

919–541–5742 (1,200–14,400 bps, no parity, eight data bits, one stop bit)
Off-line: Mondays from 8:00–12:00 Noon ET
Voice helpline: 919–541–5384

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking & Reporting
<1≥ Light Duty
<1> File area #1 FTP Review

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e. ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Table of Contents

I. Introduction

Automobiles are among the largest producers of hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NO_X), all of which have documented adverse impacts on public health. This final rule revises the test procedures used to measure emissions of CO, NO_X, HC, and particulate matter (PM) from MY2000 and later light-duty vehicles (LDVs) and light-duty trucks (LDTs). It does this by adding supplemental testing segments to cover driving conditions not represented in the current procedure, referred to as the ''Federal Test Procedure'' or ''FTP.''

These supplemental procedures were prompted by section 206(h) of the Clean Air Act (CAA, or ''The Act''), as amended in 1990, which reads,

> ''Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions related to fuel, temperature, acceleration, and altitude.''

EPA's FTP Review project team found that existing information was clearly inadequate for evaluating the need for revisions to the FTP. Consequently, a number of new data gathering and analytical efforts were undertaken. EPA resources were greatly supplemented by cooperative investments from other sources, including the American Automobile Manufacturers Association (AAMA), the Association of International Automobile Manufacturers (AIAM), and the California Air Resources Board (CARB). These studies provided EPA with unprecedented data on which to base its comparative review of the FTP.

The Agency published a Notice of Proposed Rulemaking (NPRM) on this topic on February 7, 1995.[1] The preamble to that proposed rule contains substantial information relevant to the matters discussed throughout this Notice. The reader is referred to that document for additional background information and discussion of various issues.

In the NPRM, the Agency proposed several additions and revisions to the tailpipe emission portions of the FTP. The primary new element was a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the current FTP. The SFTP consisted of three elements: (1) A new test cycle, US06, designed to address representation of aggressive (high speed and/or high acceleration) driving behavior and rapid speed fluctuations, (2) testing of emissions during actual air conditioning operation, and (3) testing of emissions after intermediate-duration periods where the engine is turned off. Another new cycle, SC01, was developed to represent start driving behavior and rapid speed fluctuations and was proposed to be run after a 60 minute soak with full air conditioning simulation.

A composite method was proposed to weigh results from each of the new control areas with bag 1 of the FTP. With this composite approach, non-methane hydrocarbons (NMHC) and CO SFTP standards were set at the FTP standard level, while NO_X SFTP standards were set 15 percent above the FTP standard level. The SFTP standards were proposed to be phased in at 40 percent of a manufacturers fleet for MY1998, 80 percent for MY1999, and 100 percent for MY2000, with a provision that small volume manufacturers did not have to comply until MY2000. A new set of requirements designed to more accurately reflect real road forces on the test dynamometer was also proposed.

A public hearing was held on April 19 and 20, 1995, in Ann Arbor, Michigan, at which the Agency took comment on the NPRM. The comment period initially remained open until May 22, 1995, but was extended to July 19, 1995 when it became apparent that additional time was needed to gather and analyze data. Additional comments, data, and analyses were received after the close of the comment period, which the Agency has considered in this final rule because the information helped the Agency develop appropriate test procedures, cost estimates, and leadtime.

As a result of the comments and significant new data submitted, the Agency reanalyzed the proposed emission standards when developing the Final Rule. The proposed US06 standards in the NPRM were largely based upon available test data on vehicles designed to meet Tier 0 emission standards. Subsequently, the vehicle manufacturers conducted testing on 32 Tier 1 vehicles over the FTP and US06 cycles and submitted this data to EPA (this data set is commonly referred to as the ''US06 phase II'' test program). Manufacturers provided the EPA and the docket with this new data in their comments. The US06 design targets in the Final Rule are based in part on this new data set, as it is much more representative of vehicles meeting the ''Tier 1'' emissions standards than the data available for the NPRM. Similarly, the air conditioning requirements proposed in the NPRM were based upon vehicles tested with low mileage catalysts, which are less appropriate for directly setting useful life emission standards. The vehicle manufacturers conducted three additional air conditioning test programs subsequent to the NPRM. The first, commonly referred to as ''ACR2'' (for phase 2 of testing at General Motor's AC-Rochester environmental chamber), was erroneously conducted with inappropriate humidity levels. The manufacturers retested six vehicles from ACR2 in another test program, referred to as ''ACR3,'' which also included testing on two air conditioning simulations. Finally, four vehicles from ACR3 were retested at Chrysler's environmental chamber, both for correlation purposes and to evaluate a third air conditioning simulation. This data is referred to as ''ACC3.''

These regulations extend emission control comparable to that for the FTP across in-use driving behavior and conditions that significantly impact in-use emissions. Additional control is not required because the main focus of this rule is to update and correct the test procedure and to control previously unregulated areas to the level of stringency of the existing requirements. Proper incorporation of the full range of in-use driving conditions and behavior will allow EPA to assess feasible increases in stringency when evaluating future standards.

The next two sections of this preamble provide a description of this final rule action and the consideration of public comment. The final sections of the preamble describe the economic and environmental impact, and cost

[1] 60 FR 7404

effectiveness, of the rule and address certain administrative requirements.

II. Description of the Action

Today's action deals primarily with four areas of driving behavior that are not adequately represented in the current test procedure: aggressive driving behavior (such as high acceleration rates and high speeds); rapid speed fluctuations (microtransient driving behavior); start driving behavior; and actual air conditioner (A/C) operation. The Agency is finalizing new requirements for these areas. These requirements shall be included in a supplemental federal test procedure (SFTP) that will be required in addition to the existing FTP requirements. Adjustments are included to accommodate certain vehicle types, transmission types, and performance categories where the additions are not representative of in-use driving.

These additions to the tailpipe emission portions of the FTP apply to all LDVs and LDTs certifying with gasoline and LDVs and LDT1s certifying with diesel motor fuel [2]. These additions do not apply to vehicles certifying with alternative fuels, although they do apply to flexible fuel vehicles and dual fuel vehicles. The changes apply to testing conducted during certification, Selective Enforcement Audits (SEA), and in-use enforcement (recall). The standards apply for full useful life under section 202 of the Clean Air Act. The warranty provisions under section 207 of the Clean Air Act also apply to this rulemaking. However, EPA is not requiring that the standards promulgated today be met at high altitude.

The requirements of this rule are phased-in, applying to 40 percent of each manufacturer's separate production (or at the manufacturer's option, combined production) of LDVs and light LDTs (LDT1s and LDT2s) for MY2000, 80 percent in MY2001, and 100 percent in MY2002. The requirements apply to 40 percent of each manufacturer's production of heavy LDTs (LDT3s and LDT4s) in MY2002, 80 percent in MY2003, and 100 percent in MY2004. Small volume manufacturers would not have to comply until MY2002 for LDVs and light LDTs, and MY2004 for heavy LDTs. All of the rule's requirements would apply during this phase-in period. The Agency recognizes that this phase-in schedule could create an additional burden for auto manufacturers if the National Low Emission Vehicle (National LEV) Program goes into effect as proposed with a MY2001 implementation nationwide (60 FR 53734, October 10, 1995). The Agency intends to address this issue by proposing language in an upcoming National LEV rulemaking that, contingent upon a National LEV program that is ''in effect,'' would harmonize the above phase-in schedule with the MY2001 nationwide implementation of National LEV. EPA expects such action would also harmonize with CARB's planned SFTP requirements for LEVs.

The new SFTP addresses various conditions under which vehicles are actually driven and used that are not in the FTP. The SFTP includes two new single-bag emission test driving cycles: (1) the US06, to represent aggressive and microtransient driving, and (2) the SC03, to represent driving immediately following vehicle startup and microtransient driving.

The US06 is run with the vehicle in the hot stabilized condition; that is, with the vehicle fully warmed up such that the engine and catalytic converter have reached typical operating temperatures. The SC03 follows a 10-minute soak and is run with vehicle air conditioning (A/C) in operation or with proper simulation of air conditioning operation. The cycles of the SFTP can be run as a sequence to save on preconditioning and setup time; however, separate runs of the cycles are permissible with the appropriate soak or preconditioning steps appended.

High-volume exhaust flow for heavier vehicles run on the US06 will dictate the use on some vehicles of a larger capacity constant volume sampler (CVS) than is needed for current FTP testing. The A/C simulation is not required for this test cycle. Appropriate shift schedules for manual transmission vehicles are to be determined by the manufacturer and submitted to EPA for approval.

Hot stabilized condition is achieved by including several preconditioning options as part of the formal procedure immediately prior to the US06 Cycle. If the vehicle has undergone a soak of 2 hours or less, the preconditioning may be a 505 Cycle, the 866 Cycle, the highway cycle, a US06, or the SC03.[3] Following longer soaks, the final preconditioning cycle is an LA4.[4] For manufacturers who have concerns about fuel effects on adaptive memory systems, the rule allows manufacturers and, upon manufacturer request, requires EPA to run the vehicle over the US06 Cycle on the certification test fuel before entering the formal test procedure.

The rule includes adjustments to the US06 test cycle for low-performance LDVs and LDTs. These adjustments reflect the actual operation of low performance vehicles in use and are designed to minimize problems with high engine and catalyst temperatures. The adjustments are applied dynamically by the dynamometer for any vehicle after it has been at wide open throttle for 8 seconds (only the lowest performance vehicles constituting a small portion of the fleet remain at WOT for 8 seconds over any part of the US06 cycle). Load adjustments will be made only during the five most aggressive portions of the US06 Cycle. In addition, for US06 Cycle testing of Heavy Light-Duty Trucks (HLDTs), the truck is to be ballasted to curb weight plus 300 lbs with the dynamometer inertia weight determined from this same basis, while FTP testing remains at Adjusted Loaded Vehicle Weight.

The required elements for the SC03 include the preconditioning, soak period, test cycle, and air conditioning requirements. Prior to the 10-minute soak period, the vehicle is to be preconditioned to allow engine and catalyst temperatures to stabilize at typical warmed-up operating temperatures. The Agency believes that running the vehicle over EPA's Urban Dynamometer Driving Schedule (LA4) is adequate to achieve engine and catalyst stabilization regardless of the time period for which the vehicle was not operational prior to preconditioning. However, in the event the vehicle was shut off for less than two hours prior to preconditioning, any of a 505, 866, or SC03 cycle is adequate for preconditioning the vehicle.

Immediately following the preconditioning cycle, the vehicle's

[2] Light-duty trucks are divided into two classes based on weight, each of which is further subdivided into two classes, also based on weight. Light light-duty trucks (LLDT) are those with a gross vehicle weight rating (GVWR) up to 6000 lbs. A light-duty truck 1 (LDT1) falls in this GVWR range and has a loaded vehicle weight (LVW) of no more than 3750 lbs; a light-duty truck (LDT2) falls in the same GVWR range but has an LVW greater than 3750 lbs. Heavy light-duty trucks (HLDT) are those with a GVWR greater than 6000 lbs but not greater than 8500 lbs, which are broken into light-duty trucks 3 (LDT3), those with an adjusted loaded vehicle weight (ALVW) up to 5750 lbs, and light-duty trucks 4 (LDT4), which are those with a ALVW greater than 5750 lbs. See 40 CFR 86.094–2 for definitions of LDT categories and vehicle weight terms.

[3] 505 refers to the driving cycle that consists of the first 505 seconds (seconds 1 to 505) of the EPA Urban Dynamometer Driving Schedule, 866 refers to last 866 seconds (seconds 505 to 1372) of the EPA Urban Dynamometer Driving Schedule. SCO3 refers to the driving cycle run during air conditioning operation test requirement.

[4] LA4 is the name commonly given to the Urban Dynamometer Driving Schedule.

engine is turned off for a 10-minute soak period with cooling fans directed at the vehicle. The vehicle may be removed from the dynamometer, provided the vehicle is not subjected to unrepresentative cooling of the engine or catalyst. Following the soak period, the vehicle will be run over the SC03 cycle using a full environmental chamber, with vehicle A/C on, for proper representation of start driving, microtransient driving, and air conditioning operation.

Procedures in a standard test cell that simulate actual air conditioning effects will be allowed as a option to using full environmental chambers. The Agency is allowing these conditions as a cost-effective surrogate for testing in a fully controlled environmental chamber set to simulate ozone-exceedance conditions of ambient temperature, humidity, solar load, and pavement temperature. For MY2000 through MY2002, either the AC1 simulation or the AC2 simulation may be used, as discussed in section IV.E.2.[5] Starting with MY2003, only simulations that can demonstrate correlation with the use of a full environmental chamber will be allowed. The use of a fully controlled environmental chamber is permitted at any time.

Manufacturers who choose to use an air conditioning simulation beginning with MY2003 must submit a description of the simulation procedure, data supporting the correlation between the simulation and the full environmental chamber, and any vehicle specific parameters to EPA in advance. In general, EPA will conditionally approve any procedure, provided that the procedure can be run by EPA for SEA and in-use enforcement testing and available data, including past correlation testing, does not indicate a correlation problem. EPA may require the manufacturer to demonstrate emission correlation between the simulation and the full environmental chamber on up to five vehicles per model year (one for small volume manufacturers). The vehicles will be selected by EPA and two additional vehicles may be selected by EPA to demonstrate emission correlation for every vehicle that fails the correlation criteria.

If a vehicle is selected for correlation demonstration, the demonstration is accepted if any of the following steps are met:

1: The NO_X emissions from the first simulation test are at least 85 percent of the NO_X emissions from the first test in a full environmental chamber and the fuel consumed is at least 95 percent of the fuel consumed in the full environmental chamber. These allowances are due to the inherent test to test emission variability, which is particularly large for NO_X emissions (see section IV.E.2 and the Response to Comments for further discussion).

2: Either the simulation test or the full environmental chamber test is rerun, at the manufacturers option, and, using the replacement test, the NO_X emissions from the simulation are at least 85 percent of the NO_X emissions from the full environmental chamber and the fuel consumed is at least 95 percent of the fuel consumed in the full environmental chamber.

3: Either the simulation test or the full environmental chamber test, whichever was not rerun in step 2 above, is rerun and the average of the two simulation tests are at least 85 percent of the average of the two full environmental tests for NO_X and at least 95 percent of the fuel consumed in the full environmental chamber.

If a spot check is failed, the Adminstrator will allow up to 60 days for the manufacturer to supply additional data. If that data prove to the satisfaction of the Administrator that the simulation produces results that correlate sufficiently with the environmental test chamber, the Administrator may allow the continued use of the simulation.

If a correlation is not passed, no further air conditioning testing will be accepted with the simulation until the manufacturer submits an engineering evaluation of the cause of the improper simulation and the extent of the vehicles affected. This evaluation is subject to review and approval by EPA. For vehicles determined to be represented by an improper simulation, the manufacturer will be given an opportunity to demonstrate that the simulation can be corrected. While there are no direct penalties for failing a correlation demonstration, all future emission testing on the affected vehicles, including SEA and in-use enforcement, will be conducted using the corrected simulation or a full environmental chamber.

The results from each manufacturers correlation demonstrations will also be tracked over time. The manufacturer is expected to target the simulation to at least 100 percent of the emissions from the full environmental chamber. If, over time, the emissions from the simulations are found to be statistically lower than the full environmental chamber, further use of simulations by that manufacturer will not be allowed until the causes of the offset are identified and corrected.

With the exception of changes prompted by use of new dynamometers and a change in the wording of driving instructions on following the speed trace, there are no changes in the final rule to the driving cycle of the preexisting conventional FTP. Similarly, EPA is retaining unchanged the method of calculating compliance with the existing FTP.

EPA is finalizing a ''composite'' compliance calculation for NMHC+NO_X that weighs results from the conventional FTP with results from the SFTP. In the composite SFTP calculation, emissions from the FTP are weighted at 35 percent, emissions from the SC03 at 37 percent, and US06 emissions at 28 percent. If an engine family or vehicle configuration is not available with air conditioning, the air conditioning test is not run and emissions from the FTP are weighted at 72 percent and US06 emissions at 28 percent (note that the air conditioning test is required for any vehicle available with air conditioning, even if the installation rate is projected to be less than 33 percent). For gasoline vehicles, the standards for the SFTP composite NMHC+NO_X emissions are the same as the combined NMHC and NO_X standards applicable under the conventional FTP.

Unlike NMHC+NO_X, a composite CO standard was not set based upon the weighted average of the individual CO standards over the various cycles. Due to the additional allowance in the US06 CO standard for commanded enrichment, discussed below, the final rule sets separate CO standards for the US06 and SC03 testing cycles. A composite CO standard is allowed, at the manufacturers' option, which is set at the level of the CO standard applicable under the conventional FTP.

Standards for light-duty diesel vehicles and light-duty diesel trucks in the LDT1 category are different than those for gasoline-powered vehicles in those categories. The supplemental FTP for diesel LDVs and LDT1s does not include the SC03 cycle, because sufficient test data was not available at this time to create an appropriate air conditioning standard for these diesel vehicles. In addition, the NMHC+NO_X standard is higher for diesel LDVs and LDT1s because of the inherently higher NO_X emissions associated with diesel engines. This is similar to EPA's treatment of conventional FTP Tier I standards for diesel LDVs and LDT1s, which are less stringent for NO_X emissions. Diesel LDVs and LDT1s will have to comply with the same US06

[5] During the development of these simulations, the AC1 and AC2 methods were informally referred to as the Nissan-II and Toyota simulations, respectively. The Agency has chosen to apply formal names to these procedures for regulatory purposes.

standards (or optional composite standards) for CO as gasoline-fueled LDVs and LDT1s. The composite SFTP NMHC+NO_X and CO standards will be weighted at 72 percent for the conventional FTP cycle and 28 percent for the US06 cycle. At this time, due to the absence of relevant test data on which to base a decision, no supplemental standards are being promulgated for light-duty diesel truck classes LDT2, LDT3 and LDT4, and no supplemental standards or test procedures are being promulgated for diesel particulate emissions.

TABLE 1.—COMPOSITE NMHC+NO_X EMISSIONS STANDARDS

Type	GVWR	LVW	ALVW	Intermediate useful life standards NMHC+NO_X (g/mi)	Full useful life standards NMHC+NO_X (g/mi)
LDV	All	All	All	0.65	0.91
LDV-diesel	All	All	All	1.48	2.07
LDT1	0–6000	0–3750	All	0.65	0.91
LDT1-diesel	0–6000	0–3750	All	1.48	2.07
LDT2	0–6000	3751–5750	All	1.02	1.37
LDT3	>6000	All	3751–5750	1.02	1.44
LDT4	>6000	All	>5750	1.49	2.09

TABLE 2.—CO EMISSION STANDARDS

Type	GVWR	LVW	ALVW	Intermediate useful life standards (g/mi)			Full useful life standards (g/mi)		
				A/C	US06	Composite (option)	A/C	US06	Composite (option)
LDV	All	All	All	3.0	9.0	3.4	3.7	11.1	4.2
LDV-dies	All	All	All	NA	9.0	3.4	NA	11.1	4.2
LDT1	0–6000	0–3750	All	3.0	9.0	3.4	3.7	11.1	4.2
LDT1-dies	0–6000	0–3750	All	NA	9.0	3.4	NA	11.1	4.2
LDT2	0–6000	3751–5750	All	3.9	11.6	4.4	4.9	14.6	5.5
LDT3	>6000	All	3751–5750	3.9	11.6	4.4	5.6	16.9	6.4
LDT4	>6000	All	>5750	4.4	13.2	5.0	6.4	19.3	7.3

The CO standards for the US06 cycle have been set at levels that allow limited amounts of commanded enrichment, i.e., the air/fuel ratio is deliberately set richer than necessary for complete combustion of the fuel. Commanded enrichment is needed to reduce the peak engine and catalyst temperatures experienced under very high engine loads, which are generated during certain short periods of high acceleration on the US06 cycle. If the standards for the US06 cycle did not allow for any commanded enrichment, there could be a danger of excessive heat that can cause severe damage to the engine or catalyst. However, commanded enrichment also causes a sharp increase in the amount of CO emitted during the enrichment period. The CO increase is directly proportional to the amount of additional fuel. To ensure that excessive amounts of enrichments and, hence, excessive CO emissions, do not occur during commanded enrichment, this Final Rule includes a minimum air/fuel ratio requirement. The air to fuel ratio shall not be richer at any time than the leanest air to fuel mixture required to obtain maximum torque at a given speed and load, termed the lean best torque, plus a tolerance of 6 percent of the lean best torque fuel consumption. Manufacturers may request additional enrichment, based upon the need to protect the engine or emissions control hardware.

As indicated above, 35 percent of the new composite SFTP standards for NMHC+NO_X are comprised of the standards from the conventional FTP. Currently, those conventional FTP standards are the Tier 1 standards promulgated under CAA sections 202 (g) and (h). However, for vehicles certified under any future National Low Emission Vehicle (National LEV) Program, the appropriate levels for the conventional FTP portion of the composite SFTP emissions standards will be the ''on cycle'' National LEV standards appropriate for such vehicles. As the composite approach is not mandated for CO, this adjustment would have no impact on the stand-alone CO standards for US06 and air conditioning, although a similar adjustment would apply if a manufacturer opted to use the composite CO standard. The formula for the new SFTP composite for NMHC+NO_X would be:

New SFTP standard = Old SFTP standard—[0.35 * (Tier 1 FTP standard—New FTP standard)], where all standard references are based upon NMHC+NO_X and the result is rounded to the nearest two decimal places.

The new US06 cycle requires significantly higher power absorption capacity, due to the higher power requirements of this aggressive driving cycle. Dynamometer improvements are needed to properly conduct this test. The dynamometer improvements also allow better representation of actual road load forces on all test cycles. Thus, each test cycle, including the conventional FTP, is to be run on a system providing accurate replication of real road load forces at the interface between drive tires and the dynamometer over the full speed range. While EPA intends to use a 48-inch single-roll dynamometer with electronic control of power absorption to meet these requirements for both the new SFTP and current FTP testing, any system will be allowed that yields equivalent or superior test results. The appropriate dynamometer load to match actual road load shall be determined for each vehicle. The EPA shall conduct confirmatory testing using a 48-inch single-roll dynamometer and manufacturers' test results must correlate with the EPA test results.

Dynamometers simulate vehicle weight with inertia forces. Currently,

this simulation of vehicle weight is capped at 5500 pounds equivalent test weight (ETW) due to dynamometer limitations. The existing 5500 ETW cap is removed concurrently with phase-in of the new dynamometer requirements.

The current 10 percent increase in dynamometer load to simulate the average nationwide, year-around air conditioning effects during FTP testing is deleted, as this effect cannot be accurately duplicated on the improved dynamometer simulation and it did a poor job of estimating actual average air conditioning loads. The emissions impacts of air conditioning are being addressed in this Final Rule. Adjustments to the dynamometer load for fuel economy purposes will be addressed as part of subsequent rulemaking on test procedure adjustments.

The improved road load simulation and the removal of the 5500 ETW cap for all test cycles are implemented concurrently with the SFTP requirements. Thus, any engine family that is included in the SFTP phase-in must also comply with the improved road load simulation and the removal of the 5500 ETW cap, although use of the pre-existing dynamometer requirements is allowed for Part 600 fuel economy testing for phase-in years 2000 and 2001. In addition, the improved road load simulation and the removal of the 5500 ETW cap apply to engine families not covered by the SFTP standard (alternative fuel vehicles and diesel LDT2s, LDT3s, and LDT4s), effective MY2002 for LDVs and LLDTs and MY2004 for HLDTs. Manufacturers may elect to use improved road load simulations on engine families prior to their inclusion in the SFTP phase-in, at their option.

Regulatory language regarding throttle and pedal movement while the vehicle is driven on the dynamometer is also revised. The current requirement to drive with ''minimum'' accelerator pedal movement is replaced with a requirement to drive the vehicle with appropriate accelerator pedal movement necessary to achieve the speed versus time relationship prescribed by the driving schedule. Both smoothing of speed variations and excessive accelerator pedal perturbations are to be avoided.

Note that this rule does not address heavy-duty engines or test requirements with respect to fuel and ambient temperature conditions. These aspects of the FTP were explicitly excluded from consideration in this rule, as discussed in the proposed rule and its support documents. The Agency did not receive any comments on these issues.

III. Statutory Authority

The promulgation of these regulations is authorized by sections 202, 206, 208, and 301 of the Clean Air Act (CAA or the Act) as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7521, 7525, 7542, and 7601). Section 206(h) of the Act requires EPA to ''review and revise as necessary * * * the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude.'' Congress mandated that EPA exercise its authority under section 206(a) of the Act, giving broad authority to determine appropriate test procedures, consistent with the broad direction of section 206(h), to determine appropriate changes to reflect real world conditions.

Although the text of the statute and the legislative history do not provide explicit criteria or intent for this review, EPA believes the primary concern of Congress is having test procedures for motor vehicles and motor vehicle engines reflect in-use conditions in order to obtain better in-use emission control. This flows from the basic purpose of test procedures—to measure compliance with the emission standards—and from standards designed to obtain in-use emission reductions. Therefore, EPA made this the primary concern and objective.

IV. Public Participation

A number of interested parties commented on EPA's February 7, 1995 NPRM. The comments include written submittals to the rulemaking docket and those presented at the April 19 and 20, 1995 public hearing held in Ann Arbor, Michigan. The Agency has fully considered these comments in developing today's final rule.

The following section presents a brief synopsis of the comments received on the NPRM and the EPA responses to those comments. A separate and more detailed Response to Comments has been prepared and is available in the public docket and electronically (as described in **SUPPLEMENTARY INFORMATION**) for review. The interested reader is referred to that document for a more complete discussion of the comments and EPA's response, including some of the comments which, though evaluated in the Response to Comments, are not presented here. Issues that are discussed only in the Response to Comments include:

—Adjustments for LDTs over 6000 lbs GVWR and for low performance vehicles
—General Criteria for setting US06 standards
—Determination of LDT2/LDT3/LDT4 and full-useful life standards
—Two-second timer requirement on high performance vehicles
—Equivalent test weight for electric dynamometers
—Road-load determination
—Dynamometer coefficient adjustments for ambient temperature
—Equivalent test weight cap
—Defeat device policy
—US06 shift schedules for manual transmission vehicles

A. Legal Requirements

1. Impact on Stringency of Tier 1 Emission Standard and Consistency with Section 202(b)(1)(C)

Summary of Proposal. In the Proposal, EPA noted that the proposed regulations were authorized by sections 202, 206, 208, and 301 of the Act, including section 206(h), which requires EPA to:

> ''* * * review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude.''

The Support Document to the Proposal noted that section 206(h) is silent on the impact that test procedure changes should have on emission standards, and does not limit or restrict EPA's authority to establish emission standards. The Support Document also noted that the proposed emission standards for the supplemental portion of the FTP do not violate section 202(b)(1)(C)'s prohibition on modification of the numerical emission standards specified in 202 (g) and (h) (i.e. the Tier 1 exhaust standards) prior to MY2004, as the standards proposed were new standards that were in addition to, not alternative to, the existing Tier 1 standards.

Finally, the Support Document noted that section 202(b)(1)(C) restricts EPA's ability to relax the Tier 1 numerical emission standards in order to account for changes in test procedure. EPA has dual requirements to revise the test procedures used to measure compliance with Tier 1 and to not revise the Tier 1 numerical standards prior to MY2004.

Summary of Comments. AAMA/AIAM argued that the EPA's proposal would effectively increase the stringency of the existing emission standards and that the 1990 amendments to the CAA do not give the EPA such authority. It is their

contention that the authority granted under section 202(a) of the act is expressly limited by 202 (b) and (g). They also reasoned that the Agency may propose an SFTP and supplemental standards that may require recalibration or adjustments, but cannot require such standards or procedures which require the installation of additional equipment or substantial alterations to existing vehicles.

AAMA/AIAM claimed that the authority granted in section 206(h) must be consistent with other provisions in the Act, i.e., EPA may not increase the stringency of the Tier I standards. AAMA/AIAM averred that section 206(h) did not provide the Agency with any new authority to revise the emission standards either directly or indirectly through revisions to the FTP. They also presented a related argument that section 206(h) does not provide the agency additional discretion to revise the Tier I standards. While not specifying how the Agency should revise the test procedures, the AAMA/AIAM suggested that Congress expected the Agency to exercise its 206(a) authority, as directed in 206(h) within the limits of 202(a) and 202(b)(1)(C).

Two other commenters, Volvo and Manufacturers of Emission Controls Association (MECA), also stated that the revised test procedures should not effectively increase the stringency of the current Tier 1 standards or future standards.

By contrast, both National Resources Defense Council (NRDC) and Northeast States for Co-ordinated Air Use Management (NESCAUM) quoted section 206(h) and interpreted the section as indicating that Congress was concerned with a large gap between the real world emissions and emissions measured during the existing test procedure. NRDC and NESCAUM believe that Congress wanted the EPA to revise the test procedure to be representative of actual driving conditions. The comments note that Congress explicitly prohibit EPA from revising the Tier 1 standards prior to 2004.

The comments stated, in the context of EPA's supplemental standards, that Congress did not indicate that the EPA was to develop any new emission standards. Both commenters went on to cite section 202(b)(1)(c) as evidence that Congress ''unequivocally prohibited EPA from modifying those numerical standards.''

Both NRDC and NESCAUM expressed their dismay that the EPA was proposing supplemental procedures while leaving essentially unchanged the current FTP. Both commenters also believed that the emission standards associated with the supplemental tests were more lenient than existing standards for the FTP, and thus, the EPA's proposal was inconsistent with Congressional intent.

Response to Comments. EPA reaffirms that its actions under section 206(h) and 202(a) to strengthen the test procedure and adopt related standards are not prohibited by section 202(b)(1)(C). EPA disagrees with the comments of AAMA/AIAM regarding their claims that section 202(b)(1)(C) limits EPA actions under section 206(h). On the contrary, the requirements of section 206(h) and 202(b)(1)(C) are separate requirements that create two different duties for EPA. EPA's actions under section 206(h), strengthening the test procedure, are not prohibited by section 202(b)(1)(C).

The provisions of section 206(h) and sections 202(g) and (b)(1)(C) are designed to address two different concerns of Congress. The legislative history shows that Congress' intent in adding section 206(h) was for EPA to increase the scope of the test to make it more representative, as well as to increase the overall in-use emissions control resulting from the test.

Congress added section 202(b)(1)(C) to keep the new Tier 1 ''numerical emission standards'' stable. However, Congress specifically restricted the language of section 202(b)(1)(C) to refer only to ''numerical emission standards.'' Thus, it is clear on the face of the statute that the language of section 202(b)(1)(C) does not apply to revisions of the test procedure. Congress could have included language that prevented EPA from revising its regulations in any way to make the Tier 1 standards more stringent. Congress also could have limited the scope of section 206(h) by stating that any actions revising the test procedure would have to be accompanied by a revision of the numerical emission standards to account for changes in the stringency of the standards resulting from such test revisions.

Congress made absolutely clear that EPA was to revise its test procedure to make it more representative *and* EPA was not to revise the numerical Tier 1 exhaust standards prior to MY2004. It is AAMA/AIAM who wish to avoid the clear intent of Congress by requesting that EPA either not revise its test procedures as Congress required or that EPA revise the Tier 1 standards prior to MY2004, which Congress clearly forbid.

Regarding AAMA/AIAM's claim that section 206(h) is limited to test revisions that require only ''minimal'' changes to vehicles (''minimal changes'' could include recalibration of existing emission control equipment, but could not require installation of additional equipment or substantial alteration of existing vehicles), absolutely nothing in section 206 or 202 indicates any such limitation on EPA's authority under section 206.

Finally, EPA has not failed to recognize that there is an interconnection between numerical emission standards and the procedures that test for compliance with such standards. EPA is merely noting that the prohibitions in section 202(b)(1)(C) are directed specifically towards the former, not the latter, and that section 206(h)'s mandate specifically requires that EPA revise the latter to ensure that the test for compliance with such standards, including the Tier 1 standards, are consistent with the actual conditions under which the vehicles are used.

Regarding the comments of NRDC and NESCAUM, EPA agrees that Congress specifically intended that the Tier 1 standards not be revised prior to 2004. Moreover, EPA agrees that Congress was worried about the gap between emissions as measured by the FTP and real world emissions and that Congress intended EPA to revise the test procedure to eliminate that gap. However, EPA does not agree that Congress intended to prevent EPA from promulgating supplemental standards in order to effectuate the requirements of section 206(h). Congress provided no prohibition on EPA promulgating supplemental standards under section 202(a). In fact, EPA has clear authority to promulgate such standards and was given broad authority by Congress to revise appropriate regulations under section 206(h). Moreover, section 202(b)(1)(C) merely prevents EPA from changing the specific standards of sections 202 (g) and (h). It does not prevent EPA from promulgating supplementary standards relevant to procedures that were not in existence and emissions that were not regulated prior to the promulgation of these regulations. The standards promulgated today are in addition to, not instead of, Tier 1 standards. In the long term EPA believes it makes sense to consolidate all the test requirements into a revised FTP because replacing the FTP would simplify the test procedure. Nevertheless, to avoid jeopardizing work on more stringent emission standards and to avoid delaying implementation of this rule, EPA believes it is better to incorporate consolidation of the FTP with future consideration of tighter federal standards.

2. High altitude

Summary of Proposal. The Agency did not propose to supplement by further regulation the altitude testing flexibility in current law. EPA stated that it believed any emission controls required for aggressive driving would also be effective during high altitude driving. However, the EPA reaffirmed its authority to perform vehicle testing at any altitude.

Summary of Comments. AAMA/AIAM, Ford and Suzuki comments were against high altitude testing on the SFTP. They noted that EPA did not consider the issue of high altitude compliance in the NPRM and that EPA had no basis or technical support for requiring an SFTP standard at all altitudes. They also commented that significant redesign to all vehicles would be necessary to comply at high altitude. AAMA/AIAM also argued that the clause in section 206(h) only requires EPA to review and revise the test procedures ''as necessary'' and does not require that the new requirements apply at all altitudes. Finally, AAMA/AIAM commented that the Agency had not complied with section 202(a) (1) and (2), given the absence of data for high altitude.

Response to Comments. The Agency acknowledges comments that EPA did not have any data on the SFTP requirements at high altitude. The EPA reviewed the data submitted by AAMA/AIAM and member companies on vehicles tested at high altitude. The data clearly show the dramatic impact high altitude has on wide-open throttle (WOT) time during the aggressive driving cycle. As discussed in the context of the CO standard, EPA has concluded that control of WOT emissions should be limited to 2 to 4 seconds due to the durability impact of elevated engine and catalyst temperatures. Testing at high altitude would go well beyond the level of WOT control which EPA feels is appropriate. In addition, the lower performance levels at high altitude may affect driving behavior. As the Agency does not have any data on driving behavior at high-altitude, it is not known whether or not the US06 cycle is representative of high-altitude driving.

For all elements of the SFTP, the emission control attained by compliance at low altitude would also be achieved at high altitudes. Given that low-altitude emission control will also be effective at high altitude and the lack of data on driving behavior and emissions at high altitude, the EPA will not extend the SFTP requirements to high altitude testing at this time.

3. Motor Vehicle Information and Cost Savings Act

Summary of Proposal. The EPA did not explicitly discuss fuel economy impacts in the NPRM.

Summary of Comments. AAMA/AIAM commented that the EPA did not address the issue of fuel economy decreases in the proposal. The comments requested that EPA issue fuel economy test procedure adjustments as soon as possible and to work with NHTSA to assure similar adjustments for light-duty trucks. AAMA/AIAM argued that the Motor Vehicle and Information Cost Savings Act required the EPA to give adjustments for measuring fuel economy whenever it modified the test procedures for measuring fuel economy.

AAMA/AIAM also commented on the timing of the test procedure adjustments. Citing the Preamble to the CAFE adjustment rule published as 50 Fed. Reg. 27183 (1985), they stated that the EPA must make test procedure adjustments at the same time that it promulgates the final regulations on the FTP changes. AAMA/AIAM concluded that, to comply with its legal obligations, the EPA should do the following: delay finalizing proposed rule until fuel economy test procedure adjustments are developed, issue a notice of proposed rulemaking on the final test procedures with sufficient information so the EPA and industry can carry out a comprehensive test program, and issue final changes to the test procedures at the same time as the fuel economy test procedure adjustments.

Response to Comments. EPA agrees that, to the extent changes in the portion of FTP also used to measure fuel economy have an effect on the fuel economy test that is run in conjunction with the FTP, then EPA must issue adjustment factors to ensure comparability with the fuel economy test procedures used in 1975. EPA will promulgate any adjustments to the fuel economy calculations through notice and comment rulemaking. EPA will address the substantive issues raised by AAMA in that rulemaking.

Regarding the timing of promulgation of the FTP revisions and the rulemaking for CAFE calculation adjustments, EPA disagrees with AAMA/AIAM's suggestion that EPA should delay promulgating final regulations revising the FTP until it makes a final determination regarding CAFE calculations. EPA was required by Congress to promulgate its FTP revisions by March 15, 1992. These regulations are well overdue. EPA is under court order to promulgate these regulations by August 15, 1996. Therefore, EPA cannot fail to promulgate these regulations by that date.

Nor does EPA believe that either the Motor Vehicle and Information Cost Savings Act or EPA's rules require that EPA delay its FTP revisions until the rulemaking regarding CAFE calculations is complete. The preamble language in the 1985 rulemaking cited by AAMA/AIAM expresses EPA's intentions, the actual rules do not require the result sought by AAMA/AIAM. In any case, this preamble language cannot control the timing of rulemaking that is mandated by more recent statutory obligations. Moreover, given the changes that have occurred as a result of comment on the proposal to revise the FTP, the calculations and procedures necessary to begin a rulemaking to determine CAFE adjustments resulting from today's rule could not easily have been initiated until its final regulations were relatively certain. EPA does, however, recognize the manufacturers' need for sufficient leadtime once the Agency makes a final determination of CAFE calculation adjustments, if any. Thus, for *only* Part 600 fuel economy testing for phase-in years 2000 and 2001, the manufacturers may use the pre-existing dynamometer requirements for their entire fleet.

EPA notes that these final regulations delay implementation of the FTP revisions until MY2000. EPA also notes that the July 1, 1985 rulemaking cited by AAMA/AIAM instituted retroactive changes to the CAFE calculations for all manufacturers.

B. SFTP—General

1. Margin for Variability (Headroom)

Summary of Proposal. To account for various sources of vehicle and test variability, vehicles are designed to meet emissions targets below the standard. The NPRM proposed a composite standard that would preserve the FTP cold start/hot stabilized driving mix, such that the current FTP compliance headroom would be implicitly preserved. The proposal stated that if data were submitted to help establish appropriate in-use margins, EPA would reevaluate this compliance structure.

Summary of Comments. No comments were received that disagreed with the NPRM proposal to use the same headroom factor for off-cycle standards as has been used historically for the

FTP.[6] AAMA/AIAM presented substantial amounts of in-use data on FTP emissions that support an historical headroom factor of two. The data also indicate that hot, stabilized emissions from bags two and three of the FTP are more variable than bag one.

Mercedes-Benz commented that if the EPA were to promulgate SFTP standards for diesel vehicles, that they be diesel-only NMHC+NO_x standards with sufficient headroom. They did not elaborate as to what they considered sufficient headroom.

Response to Comments. Headroom is necessary to account for variability in emissions due to normal production tolerances, variation between prototype and production parts, test-to-test variability, and variability in lab correlation. Not only does historical data indicate that manufacturers currently use a headroom factor of two for the FTP, but the new cycles being promulgated are hot, stabilized tests and, thus, may share the higher variability of the bag two and bag three emissions from the FTP. Based upon these factors, EPA concurs with AAMA/AIAM's assessment that a headroom factor of two is appropriate for the SFTP.

In examining the most recent diesel LDV certification data, it became apparent that the historical headroom factor of two for gasoline vehicles did not apply to diesel LDV for NO_x. For the diesel LDV's, the Tier 1 NO_x standard is 1.0 g/mi. Certification emission data indicates that diesel LDV's NO_x emissions average 0.82 g/mi This results in a headroom factor of 1.22. Therefore, a headroom factor of 1.22 will be used for setting SFTP standards for diesel LDVs and LDT1s.

2. NMHC+NO_x Standards

Summary of Proposal. The NPRM proposed separate NO_x and NMHC standards for the supplemental test requirements. The NPRM stated that the Agency was also considering the alternative of establishing a single standard for NMHC+NO_x, instead of separate standards, and invited comment on the cost and emission impacts of this alternative.

Summary of Comments. CARB supported setting a combined NMHC+NO_x standard for high speed/acceleration compliance on US06, stating that they had committed to proposing the setting of an NMHC+NO_x standard for US06 in response to an October 1994 proposal by the automotive industry. However, CARB does not believe it would be appropriate to employ an NMHC+NO_x standard for air conditioning standards. CARB recommended setting separate standards for NMHC, CO, and NO_x emissions for A/C-on operation, because the range of engine loads encountered with the A/C on is similar to the standard FTP and the evidence suggests that little or no increment to current NMHC or CO standards is necessary for A/C-on operation.

AAMA/AIAM recommended the use of NMHC+NO_x standards for all of the supplemental test requirements. All of AAMA/AIAM's standard analyses were presented in terms of NMHC+NO_x. AAMA/AIAM also stated as a general rule that there are tradeoffs in catalyst efficiency between NMHC/CO and NO_x.

NRDC stated that a combined NMHC+NO_X standard would be in direct contradiction of the Congressionally established standards, which set separate limits for specific pollutants, and for the same reasons that EPA can't relax the standards, it can't combine them.

Response to Comments. EPA's analyses of the second-by-second emission data from the US06 testing program clearly indicate that catalyst conversion efficiency is very sensitive to air/fuel ratio. Air/fuel shifts less than 1 percent lean of stoichiometry can cause dramatic reductions in NO_X conversion efficiency. While NMHC conversion efficiency is not as sensitive to short air/fuel shifts as NO_X conversion efficiency, consistent operation about 1 percent rich of stoichiometry can cause dramatic reductions in NMHC conversion efficiency. Thus, there is only a very narrow range of air/fuel ratio in which the catalyst will convert both NMHC and NO_X at the levels required to meet the individual design targets in this rule for NMHC and NO_X.

Unfortunately, the oxygen sensors which are used as the basis for air/fuel control are not 100 percent accurate and normal variation occurs in production. Thus, some production vehicles will run slightly richer than designed and some slightly leaner due to the normal variation. This is not a major problem for compliance with the current FTP emission standards, as about 70 percent of the NMHC emissions over the entire cycle are generated during the cold start, as well as about 30 percent of the NO_X emissions, and cold start emissions are largely unaffected by minor changes in air/fuel ratio. However, the variation in air/fuel ratio is a much larger problem for both the US06 and air conditioning requirements in this rule, as they are conducted in hot, stabilized conditions.

An NMHC+NO_X standard minimizes the risk of failing the supplemental requirements in this rulemaking simply due to production variation in oxygen sensor output. In addition, the NMHC+NO_X standard should have no negative impact on overall in-use ozone precursor emissions, as any substantial increase in either NMHC or NO_X must be offset by a decrease in the other to avoid failing the standards. As there should be no negative emission impact and it allows the manufacturers increased flexibility in meeting the standards, the Agency is adopting NMHC+NO_X standards in the Final Rule.

Adoption of NMHC+NO_X standards is consistent with AAMA/AIAM's comments about the tradeoffs between NMHC/CO and NO_X and their recommendations to use NMHC+NO_X standards. It is also consistent with CARB's position on US06 standards. It is not consistent with CARB's position on air conditioning standards. While EPA understands CARB's reasons for not using NMHC+NO_X standards for air conditioning, EPA believes they are less important than giving flexibility to account for production variation in air/fuel ratio. In addition, CARB's position would make any composite of US06 and air conditioning standards impossible, which is inconsistent with EPA's position on composite standards (see below).

Regarding the comments of NRDC against a combined NMHC+NO_X standard, NRDC's comments were based upon the same legal basis as their argument that EPA can't relax the standards by setting emission levels different from the Tier 1 standards. As discussed in section I.A., EPA does not agree that Congress intended to prevent EPA from promulgating supplemental standards in order to effectuate the requirements of section 206(h). Section 202(b)(1)(C) merely prevents EPA from changing the specific standards of sections 202 (g) and (h). It does not prevent EPA from promulgating supplementary standards relevant to procedures that were not in existence and emissions that were not regulated prior to the promulgation of these regulations. As the standards promulgated today are in addition to, not instead of, Tier 1 standards, there is no prohibition against a combined NMHC+NO_X standard.

[6] ''Compliance Margin/Headroom, Compliance Standards vs. In-Use Emissions,'' Attachment V to a letter from Gerald A. Esper, AAMA, and Gregory J. Dana, AIAM, to U.S. EPA, January 30, 1995. Available in the public docket for review.

C. Aggressive Driving Cycle (US06) Requirements

1. Use of US06 Cycle for Aggressive Driving Standard

Summary of Proposal. The EPA proposed the US06 driving cycle and corresponding emission standards for the control of emissions resulting from aggressive driving. The US06 driving cycle was originally developed with extensive coordination with CARB and the vehicle manufacturers. The US06 driving cycle is ten minutes in duration and has a maximum speed of 80.3 mph.

Summary of Comments. NESCAUM and MECA indicated general support for the US06 cycle to account for the aggressive driving behavior of today's drivers. NESCAUM did, however, express concern that the data EPA used may not be representative of regional-scale driving, which they felt was more heavily influenced by high speed driving and hard, high-speed acceleration.

AAMA/AIAM and Specialty Equipment Manufacturers Association (SEMA) raised a number of concerns about the US06 cycle. AAMA/AIAM stated that the US06 is a very poor compliance cycle for significant NO_X reductions, because EPA designed a cycle concentrating on controlling enrichment. AAMA/AIAM also stated that the EPA incorrectly claimed US06 represents driving done by all vehicles, claiming that it represents only the single vehicle that generated the cycle, that most vehicle classes aren't represented, and that the cycle is clearly not representative for those vehicles that cannot follow it.

SEMA also commented that the US06 cycle contains non-representative conditions. Specifically, SEMA noted concern that maximum speed on US06 was 15 mph over the legal speed limit, which only represents infrequent and illegal activity. They also felt that EPA incorrectly implied that the fraction of vehicle time spent outside the envelope of the LA4 speed and accelerations (13 percent) was only the higher speed and accelerations. SEMA also had comments regarding their power statistics that are addressed in the Response to Comments document.

Response to Comments. EPA is finalizing the US06 driving cycle as proposed. The agency believes that, as a control cycle, the US06 adequately represents the range of in-use operation and provides for the necessary emission control of such operation.

In developing the US06, the EPA sought to create a cycle that was comprised of segments of in-use driving and would control emissions under driving conditions not represented by the FTP. The US06 cycle is made up of portions of EPA's inventory cycle (REP05) and the California Air Resources cycle ARB02, and is representative of driving behavior outside of the traditional FTP for most vehicles. EPA agrees that the US06 cycle, unadjusted, is not appropriate for all vehicles classes; EPA therefore proposed and is finalizing cycle adjustments for certain cases, as summarized in the Summary of Proposal, above, and discussed in the Response to Comments.

The Agency disagrees with AAMA/AIAM's comment that a cycle segment can only represent the vehicle that generated the segment in use. The underlying cycle generation methodology used by the EPA selected representative segments of actual in-use driving data from a very large database to match the distribution of in-use speeds and accelerations. Thus, the segments were selected as the best representation of the entire data set.

The EPA also disagrees with AAMA/AIAM's comment that the US06 is a poor NO_x control cycle. The US06 cycle was not designed for control of enrichment but, rather, to control emissions during high load and high speed operation. It should also be noted that the relationship between US06 and REP05 emissions, with and without enrichment, is more stable for NO_x than for either NMHC or CO. This indicates that US06 does a good job of correlating with the NO_x emission levels on REP05, the high speed/acceleration emission inventory cycle.

EPA disagrees with SEMA's characterization that EPA included outliers in the in-use driving behavior database. First, the raw driving behavior data went through a quality control process to remove any suspect data before inclusion into the final database. Second, the Baltimore/Spokane database contains nearly 7 million seconds of driving behavior data, and thus one-tenth of one percent represents nearly 7000 seconds of real in-use driving behavior. As with any dataset, the data will be distributed across a range of values. It is not appropriate to assume that data in the tails of the distribution should be treated as outliers, especially when working with a dataset as large as the in-use driving behavior dataset.

The Agency believes that it is appropriate to include speeds above 65 mph, since EPA believes it was Congress' intent for EPA to characterize actual current driving conditions, without constraining the characterization to behavior within the legal speed limits.

2. US06 CO Standards and Durability Impact Considerations

Summary of Proposal. The implicit US06 CO standard proposed by EPA in the NPRM for Tier I LDV and LDT1 vehicles was 3.4 g/mi. Due to the extremely high CO emissions emitted during commanded enrichment, the 3.4 g/mi CO standard proposed in the NPRM would have completely eliminated commanded enrichment over the US06 cycle. Comments were specifically requested on the need to allow some commanded enrichment events during the US06 cycle to avoid elevated catalyst temperature levels from in-use operation that would lead to catalyst deterioration.

Summary of Comments. AAMA/AIAM had a number of comments on the potential impacts of the proposed rules on catalyst durability. They commented that, first, EPA's proposed standards seek to eliminate all enrichment without regard for impact on durability. Second, EPA glossed over the impact of completely eliminating commanded enrichment on increasing catalyst temperature, since in-use catalyst temperatures can easily exceed those experienced over the US06 cycle if in-use WOT events are preceded by higher loads or the WOT events occur at higher speeds. Third, catalyst deterioration is not on-off; a long period of time at 850 °C can produce the same deterioration as a short period of time at 900 °C. Fourth, the catalyst temperature data used in the analyses were from Tier 0 vehicles without close-coupled catalysts. Fifth, if it is true, as EPA stated, that extended WOT in-use driving situations will be infrequent and not of much consequence on catalyst temperature, then the same can be said about the need to control emissions during these situations. CO emissions from WOT events over 2 seconds have an extremely small impact on fleet-average CO emissions and air quality. Finally, all vehicles should be allowed to use enrichment after two seconds of WOT. A two second limit will keep NO_x increases down and the increase in catalyst temperature to manageable limits for Tier I vehicles.

A number of comments from individual manufacturers and from SEMA echoed AAMA/AIAM's catalyst durability concerns. Honda stated that the maximum catalyst temperature they could tolerate was 900 °C and that the CO standard would need to be less stringent to protect catalysts from overheating on US06. SEMA stated that EPA's imposition of a timer and/or

elimination of commanded enrichment will further aggravate the tendency for vehicles, particularly high performance vehicles, to experience excess catalyst and engine/component temperatures. Both GM and Suzuki stated that extended stoichiometric control results in excess temperature in warm-up catalysts.

Ford stated that, if longer WOT times are dictated, then the CO standard should be raised commensurately to allow commanded enrichment to cool the catalysts.

MECA did not support concerns about catalyst durability, stating that catalyst formations exist which are capable of withstanding temperatures in excess of 900 °C.

CARB, in an April 10, 1996 memo[7], stated that they were revising their position on the control of commanded enrichment and now supported allowing limited amounts of commanded enrichment. CARB recommended establishing a US06 CO standard, without a WOT enrichment delay criterion, based on both stoichiometric non-WOT operation and four seconds of WOT enrichment delay on lower performance vehicles.

Response to Comments. EPA shares the concerns expressed by most commenters about impacts of stoichiometric control during WOT on catalyst deterioration. EPA and CARB spent considerable time evaluating three approaches to limit the duration of WOT stoichiometric control to periods that would not be likely to cause catalyst deterioration (i.e. 2–4 seconds, based upon EPA analyses and manufacturer comments):

1. Dynamically adjust the load during the test whenever a vehicle had stayed at WOT for two seconds, so that the vehicle can continue to follow the trace without having to stay at WOT.

2. Raise the CO standard and extend the two-second timer criteria for high-performance vehicles in the NPRM to all vehicles.

3. Raise the CO standard to a level that would allow enrichment on most vehicles after, at most, two seconds of WOT operation and no more than four seconds of operation on any vehicle.

Despite the small loss of CO control on higher performance vehicles, EPA has concluded that Option 3, raising the CO standard without a two-second design criteria, is the most appropriate choice. Option 3 avoids the potential NO_X increase associated with the frequent load reductions that would occur during testing for Option 1, as well as the complexity of having a secondary timer criteria and some increased potential for catalyst degradation for Option 2. The approach in Option 3 is also consistent with that recommended by CARB. In addition, the CO loss associated with WOT operation on high performance vehicles is small, as about two-thirds of enrichment CO is generated at part-throttle in use, plus most WOT operation occurs on lower performance vehicles.

In setting the level of the CO standard for the US06 cycle, EPA's primary criteria was to select a CO standard that most vehicles could meet while eliminating enrichment for no more than two seconds at WOT. However, setting the CO standard at a high enough level to allow low performance vehicles to meet it while eliminating commanded enrichment for only two seconds would allow higher performance vehicles to use enrichment at part throttle. To prevent this and to reflect the much higher proportion of time low performance vehicles spend at WOT in use, a secondary criteria was added to allow the CO standard to be set at a level that would require low performance vehicles to use stoichiometric control at WOT for up to four seconds.

Based upon these criteria, total CO emissions over the US06 cycle were calculated from a combination of the production and stoichiometric calibration data. The data showed that a CO design target of 4.5 g/mi meets the primary criteria that most vehicles meet the standard with no more than two seconds of stoichiometric control at WOT and, with the allowance of dynamic load adjustments for the lowest performance vehicles, would allow all vehicles to meet the standard with no more than four seconds of stoichiometric control at WOT.

Using the ''times two'' headroom previously determined to be appropriate for off-cycle standards, the result is a 50,000 mile US06 CO standard of 9.0 g/mi for LDV and LDT1 vehicles. While this almost triples the CO standard proposed in the NPRM, the impact on in-use CO emissions is proportionally far less. This is because the US06 cycle only represents 28 percent of all in-use operation and, even within this window, overstates the amount of extended WOT operation compared to in-use operation. (This overstatement is intentional in order to insure control over the range of high load acceleration events which are associated with the extended WOT operation.)[8] Most enrichment CO emissions are generated during part-throttle and most in-use WOT throttle operation does not last more than two seconds in duration. Thus, even at 9.0 g/mi, about 80 percent of CO from commanded enrichment will be controlled.

EPA believes that US06 is the preferable method for establishing control of emissions from non-LA4 driving behavior. The US06 covers the range of non-LA4 driving, while targeting severe, high emission events. Because the driving modes generating the highest emissions differed widely across vehicles, it is very important to include a variety of high load events representing actual aggressive driving behavior. In addition, the US06 cycle achieves the objectives of both EPA and CARB, thus eliminating issues or costs associated with the respective agencies having two different control. An important CARB objective is to make sure outer bounds of in-use aggressive driving is represented and controlled; this is achieved with the inclusion of the ARB02 high-speed microtrip. A second, ARB02 high-speed microtrip was rejected due to an *extended,* high-speed acceleration which might result in excessive catalyst temperatures in vehicles which are controlling commanded enrichment. Thus, the US06 provides for control of *short*-duration commanded enrichment events associated with aggressive driving. As discussed in the feasibility section which follows, the duration of commanded enrichment control needs to be limited due to catalyst temperature concerns. EPA's analysis of catalyst temperature data from the manufacturer's test program concluded that the ARB02 high-speed microtrip used in US06 provides for a reasonable duration of control.

The amount of CO control inherent in the CO standard is illustrated by the average CO emissions generated on US06 by the Tier 1 vehicles in the US06 phase II test program. LDV and LDT1 vehicles averaged 17.6 g/mi with production calibrations. Compared to this baseline level, raising the CO design target from the implicit level of 1.7 g/mi in the NPRM to the Final Rule level of 4.5 g/mi reduces the CO benefit on the US06 cycle from 15.9 g/mi to 13.1 g/mi, a reduction of only 18 percent. The in-use emission impact will be less yet, as the US06 cycle overstates the amount of WOT operation. While it may

[7] Memorandum from Robert H. Cross, Assistant Chief, Mobile Source Division, CARB, to Margo Oge, Director, Office of Mobile Sources, EPA, ''Reference No. TF–96–008'', April 10, 1996. Available from EPA Air Docket A–92–64.

[8] A discussion on the development of the US06 can be found in the ''Final Technical Report on Aggressive Driving Behavior for the Revised Federal Test Procedure Notice of Proposed Rulemaking,'' available in the public docket.

seem as if raising the standard from 3.4 to 9.0 g/mi should have a major impact on the stringency of the standard, given the severity of the US06 cycle and the extremely high baseline emission levels, analyses support that a standard of 9.0 g/mi will still achieve the large majority of the potential CO emission benefits.

The CO standard needs to be at this level because of the extreme sensitivity of CO emissions to commanded enrichment. Each second of commanded enrichment generates 2–4 grams of CO, enough to add about 0.3–0.5 g/mi to the overall weighted US06 test results. Thus, raising the standard from 3.4 to 9.0 g/mi, which raises the design target level from 1.7 to 4.5 g/mi, is an allowance of only about 6–10 seconds of enrichment on a cycle which over represents extended WOT operation.

The CO standards on US06 have been deliberately set at this level to allow limited amounts of commanded enrichment, which is needed to ensure excessive engine and catalyst temperatures do not occur. As CO emissions are directly proportional to the amount of extra fuel, this Final Rule includes a minimum air/fuel ratio requirement to ensure that excessive amounts of enrichment and, hence, CO emissions, do not occur during commanded enrichment. The air/fuel ratio shall not be richer than the lean best torque, plus a tolerance of six percent of the lean best torque fuel consumption. The six percent tolerance is included to allow for normal variance in production torque characteristics, as well as the impact of engine deposits on knock in use.

The CO standards for truck classes and for full-useful life standards are calculated based upon the ratio of the FTP CO standards. The full list of the CO standards was presented in the ''Description of the Action'' section.

3. Performance Impacts of US06 CO Standards

Summary of Comments. In their comments AAMA/AIAM stated that they felt EPA's proposed standards sought to eliminate all enrichment without regard for impact on performance and in doing so EPA glossed over the impact of completely eliminating commanded enrichment on reducing engine power. AAMA/AIAM argued that EPA must either factor the lost value of performance to consumers or factor in engine or drive train modifications into it's analysis of emissions and fuel economy. AAMA/AIAM also stated that EPA did not use proper statistical techniques to distinguish variability from consistent trends in the WOT time analysis used to claim minimal effects on performance, and AAMA/AIAM alternatively proposed that a two second limit on WOT control would keep the loss of power to manageable limits for Tier I vehicles.

Both GM and Suzuki stated that extended stoichiometric control at WOT would result in elimination of small displacement engines.

SEMA expressed their belief that stoichiometric control at WOT would create a safety concern for low-powered vehicles, as they could be underpowered and thus less safe when merging onto highways or climbing hills. SEMA also stated that the use of timers on high performance vehicles will cause an in-use safety problem when enrichment is invoked and extra power is suddenly introduced.

Response to Comments. EPA believes the revisions to the CO standards render the comments on performance impact moot, for all practical purposes. With the 9.0 g/mi CO standard, higher performance vehicles will be able to use enrichment immediately at WOT, most vehicles will need to delay enrichment for no more than two seconds, and no vehicle should need to delay enrichment for more than four seconds. As the manufacturers stated in their comments that a two second limit on WOT control will keep the loss of power to manageable limits for Tier 1 vehicles and proposed a method for such control that would inherently require a three to four second timer, there should not be a significant performance impact even on the lower performance vehicles that would need a short period of WOT enrichment control.

EPA disagrees with SEMA's statements about potential safety concerns on low-powered vehicles and the use of timers on high-performance vehicles. Even if enrichment were eliminated for extended periods of time, the performance reduction would be very small (3–5 percent) compared to the range of performance levels that already exist in the vehicle fleet (which differ by a factor of 2–3). Similar logic applies to the use of timers on high performance vehicles. The introduction of enrichment after a period of stoichiometric operation causes an increase in the power output of the engine of no more than five percent. This impact is quite small compared to the engine output increase as the engine increases in RPM from second to second and to the sudden increase in power delivered by a turbocharger, which can be in the range of a 50 percent power boost.

4. US06 NMHC+NO_X Standard

Summary of Proposal. The NPRM proposed to hold US06 NO_X emissions to overall FTP emission levels and NMHC emissions to FTP bag 2 emission levels. For Tier I LDV and LDT1 vehicles, the FTP NO_X standard is 0.4 g/mi. While no standards exist for FTP bag 2 emissions, the average FTP bag 2 emissions for Tier I LDV and LDT1 vehicles would correspond to an NMHC standard of roughly 0.05 g/mi. Thus, the NPRM implicitly proposed an US06 NMHC+NO_X standard of about 0.45 g/mi for LDV and LDT1 vehicles.

Summary of Comments. AAMA/AIAM submitted a proposal to set US06 standards by averaging all the Tier I LDV and LDT1 US06 stoichiometric test results, multiplied by a factor of two to provide necessary headroom. Based upon this methodology, they proposed US06 standards of 1.1 g/mi NMHC+NO_X. AAMA/AIAM also stated that this emission level, with appropriate load adjustments, should be feasible with only recalibration for most vehicles.

AAMA/AIAM also submitted a number of comments questioning the data analysis done by EPA to develop proposed NO_X standards, and stated that recalibration alone would be insufficient to meet EPA's proposed standards and larger catalysts would be required.

Ford also commented that EPA's proposed standards could not be met with only calibration changes and stated that catalyst systems would have to be redesigned, including catalyst volume, precious metal loading, and catalyst placement. Ford also expressed concern that increasing EGR flow to reduce NO_X over the US06 cycle could have negative impacts on driveability, HC emissions, and fuel economy.

Response to Comments. Comments and new data provided by AAMA/AIAM convinced EPA to revise the US06 standards based on new data for Tier 1 vehicles.

EPA expended considerable effort examining the impact of a wide variety of factors on US06 NMHC+NO_X emissions, including vehicle and engine size, vehicle weight, performance, catalyst loadings and size, exhaust flow, and eight different air/fuel parameters. The only factor identified with a consistent, significant impact on US06 emissions was the bias of the air/fuel ratio (i.e., whether the vehicle exhibited significant lean or rich bias during US06 operation). Of the 29 LDV, LDT1, and LDT2 Tier 1 vehicles tested over the US06 cycle, 14 were identified as having no significant air/fuel bias. Ten

vehicles were identified with a lean-bias to their air/fuel calibration or with a shift in the air/fuel calibration from the production to stoichiometric calibration; these vehicles generated NO_X emissions two to four times higher than the unbiased vehicles. The remaining five vehicles with a rich bias all had significant increases in NMHC and CO emissions, with erratic NO_X impacts (i.e. some had relatively low NO_X emissions, but two had high NO_X emissions).

The 14 vehicles with unbiased air/fuel calibrations covered a wide range of manufacturers, size, weight, performance, and catalyst loadings and size. Substantial work on identifying additional factors causing differences in emissions and catalyst conversion efficiency between these 14 vehicles again failed to reveal any other significant influences. Given the lack of additional factors identified and the reasonable representation of the whole fleet by the vehicles having unbiased air/fuel calibrations, EPA established Tier 1 US06 NMHC+NO_X design targets based on the simple average of the vehicles identified as having unbiased air/fuel calibrations. The intermediate useful life NMHC+NO_X design target was calculated to be 0.29 g/mi for LDVs and LDT1s.

The Agency believes that the great majority of vehicles can meet the design target level simply with better attention to proper air/fuel calibration. This conclusion is supported by the following factors:

1. Each vehicle identified as having a lean-bias or an erratic stoichiometric calibration had NMHC+NO_X levels over twice the design target. The Agency believes that better air/fuel calibration will reduce the emissions from all of the vehicles with lean-bias and erratic calibrations to the level of the vehicles with good calibrations.

2. The conclusion from the preceding paragraph is supported by the emissions from the LDT1 and LDT2 trucks. All five of the LDT1s tested had unbiased air/fuel control; four of the five meet the design level even with the unoptimized stoichiometric calibrations used for the test program. For the LDT2s, four of the six vehicles tested had unbiased air/fuel control; all four of these vehicles plus one vehicle with a rich air/fuel bias meet or come very close to meeting the design target with the unoptimized stoichiometric calibration used for the test program. While the stoichiometric emissions were higher on the sixth vehicle, with the production calibration this vehicle produced NMHC+NO_X emissions right at the design target level. Thus, it appears likely that all six of the LDT2s can meet the design target level with little, if any, modification. As these trucks constitute an extremely broad range of weight, performance, and engine size, the Agency believes that LDVs would be able to duplicate the emission performance of the trucks, given similar air/fuel calibration strategies.

3. The US06 NO_X design target is about 75 percent above the current NO_X emission level from hot, stabilized driving over the FTP driving cycles. As engine-out NO_X emissions are also about 75 percent higher on the US06 compared to the FTP, the US06 design target can be met by maintaining the same NO_X conversion efficiency on US06 as the vehicle achieves during hot, stabilized FTP operation. Analyses conducted by EPA indicate that equivalent NO_X conversion efficiency is a reasonable assumption.

While NMHC+NO_X standards were not promulgated for US06 separately, a US06 standard level of 0.58 g/mi for LDVs and LDT1s (the 0.29 g/mi design target multiplied by the headroom factor of two) was used in the calculation of the NMHC+NO_X composite standards presented in the ''Description of the Action'' section, above. Further description of how the composite standards were calculated can be found in the ''Composite Standard'' section, below.

D. Intermediate Soak

Summary of Proposal. The Agency proposed to control tailpipe emissions following soaks of intermediate duration (between 10 minutes and 3 hours) by requiring that emissions on the SC01 cycle following a 60 minute soak not be greater than emissions over Bag 3 of the FTP. The NPRM also stated that the decision to finalize the intermediate soak requirement would be contingent on the cost effectiveness of the requirement for vehicles complying with LEV and lower standards. The Agency surmised that increased thermal insulation around the catalytic substrate(s) would be used to meet this requirement.

Summary of Comments. All comments received from auto manufacturers and manufacturer organizations, including AAMA/AIAM, GM, Honda, and Land Rover, objected to the intermediate soak requirement on the basis of the cost not justifying the benefits. These arguments were centered on four major points: (1) The emissions benefit would be significantly reduced as more advanced cold start technologies are implemented to comply with lower emission standards, (2) the cost of implementing EPA's primary control strategy, catalyst insulation, would be prohibitive from an exhaust system packaging standpoint, (3) the use of catalyst insulation would increase the thermal severity of the catalyst environment, bringing greater risk of catalyst deterioration over the life of the vehicle, and (4) the test facility implications of adding an intermediate soak procedure would be significant.

Comments that supported the inclusion of the intermediate soak requirement were submitted by the NESCAUM, the National Renewable Energy Laboratory (NREL), and the MECA. NESCAUM and MECA supported the intermediate soak requirement in the context of making the test procedure representative of in-use driving per the intent of the Clean Air Act Amendments of 1990. NREL recommended that the intermediate soak period be extended to at least 2 hours to provide an improved representation of in-use soak periods, with waivers available for catalyst technology that is demonstrated to remain at high temperature during such soaks. Comments supplied by NREL and MECA also provided information on technology under development that would mitigate intermediate soak emissions.

Response to Comments. Controlling intermediate soak emissions would require hardware changes to keep the catalyst warm longer or to heat it up faster. Possible techniques include catalyst insulation and catalyst preheaters, but any technique will likely result in significant redesign and retooling investments. For example, the most inexpensive technique, as discussed in the NPRM, is likely to be catalyst insulation. Even this option would require redesign of the catalyst can, possibly including new can material, and development of a thicker, insulated, catalyst mounting material. The overall size of the catalyst would increase due to the insulating material, possibly to the point at which it would not fit into current space, which would require redesign of the vehicle floorpan. Finally, the catalyst insulation would increase internal catalyst temperatures, potentially leading to higher catalyst deterioration.

In the analysis conducted by EPA in support of the NPRM, all of the redesign problems were considered manageable and cost effective for Tier 1 vehicles, provided that the high up-front redesign and tooling costs could be amortized over at least five years of production. This differs from US06 and air conditioning control, which can be predominantly accomplished without hardware changes and high retooling costs. Because of the hardware investment to meet intermediate soak requirements and the high potential for intermediate soak requirements to be in effect on Tier 1 vehicles for only a couple of years before being replaced by National LEV or Tier 2 requirements, it would likely be a waste of

manufacturers' resources to establish intermediate soak requirements only for Tier 1 vehicles. Thus, one of EPA's criteria in promulgating intermediate soak requirements was whether or not they would continue to be cost effective for LEV-like vehicles.

Unfortunately, the feasibility of intermediate soak requirements on Tier 2 or NLEVs is much less certain. While catalyst temperature data indicate that the increased catalyst temperature caused by catalyst insulation is not likely to be a problem for Tier 1 vehicles, Tier 2 or NLEVs are likely to move catalysts closer to the engine, increasing the temperature concerns with catalyst insulation. EPA does not have sufficient information on the impact of catalyst insulation on the durability of Tier 2 or NLEVs catalysts, including their higher baseline temperatures and improved catalyst formulations, to quantify the extent of this concern.

Moving the catalysts closer to the engine will also reduce catalyst light-off time, potentially reducing intermediate soak emissions even without intermediate soak standards. Using new emission data provided by AAMA/AIAM and CARB in their comments on vehicles certified to emission standards lower than Tier 1, EPA assessed the potential emission benefits of the intermediate soak requirement on Tier 2 or NLEVs. This data indicated that the benefit on LEV vehicles would be about 60 percent of that on Tier 1 vehicles, or about 0.04 g/mi NMHC+NO_X. Under the Agency's ''best-case'' cost scenario, this would result in a cost per ton of NMHC+NO_X reduced of approximately $3100. Taking into account some uncertainties about the need to revise floorpans on some vehicles, possible reduced benefit of insulation, and possibly requiring insulation on multiple catalysts, the upper bound estimate is approximately $13,000 per ton NMHC+$NO_X$ reduced. These estimates include an estimate of the NO_X increase resulting from A/C operation over soaks based on data from a LEV prototype vehicle.

Although the analysis of the LEV soak data indicates that there would continue to be some emissions benefits from controlling soak emissions, these data also indicate that intermediate soak emissions are being reduced as a result of the technology to be used for complying with Tier 2 or LEV standards, which target cold start emission reductions. The Agency believes that adding a 1 to 2 hour soak would add little value to the FTP for the purpose of controlling emissions. As a result of the reduced benefit on LEV-like vehicles and uncertainties regarding cost and feasibility of control discussed above, the Agency has decided not to finalize the intermediate soak requirement at this time.

However, because this action is based on emission levels from a small sample of prototype vehicles as well as current technological restrictions, the Agency is not ruling out the possibility of promulgating this requirement at a later time. Intermediate soak emissions will continue to contribute somewhat to the in-use inventory even as LEV and ULEV technologies penetrate the in-use fleet. The Agency will monitor the performance of production LEV and ULEV vehicles over intermediate soaks to verify the conclusions from the prototype analysis. At the same time, the Agency will encourage the development of technologies that will allow for the control of intermediate soak emissions in a manner that is cost effective and not detrimental to the emission control system.

E. Air Conditioning

1. Test Cycle

Summary of the Proposal. The proposed SFTP included an air conditioning simulation to be performed during the hot stabilized 866 cycle and the start control cycle (SC01). The standards implicitly assumed that emissions over the SC01 cycle could be held to the same level as emissions over the 505 cycle used for Bag 3 of the FTP.

Comments were specifically solicited on the possibility of substituting the 505 component of the LA4 (The LA4 consists of a 505 cycle followed by an 866 cycle) for SC01 and on whether full air conditioning simulation should be added to the US06 cycle. The Agency also stated that it believes it may be appropriate to return to the issue of cold start testing with air conditioning operation with respect to future technologies and future test procedures and emission standards; comments were also solicited on this issue.

Summary of Comments. NESCAUM, MECA, and CARB all supported the need to account for air conditioning load over the cycles proposed. NESCAUM and CARB also supported testing with actual air conditioning load over cold start conditions (bag 1 of the FTP). MECA and CARB stated that air conditioning load should also be accounted for during aggressive diving (US06).

AAMA/AIAM stated that EPA has not demonstrated the feasibility of its proposed standards for operation over the SC01 cycle. They were especially critical of EPA's conclusion that the difference in emissions between SC01 and the 505 were due to microtransient emission response, which could be controlled with sequential multi-point fuel injection and better calibrations. AAMA/AIAM stated that the data did not justify using SC01 and recommended that the air conditioning test procedure consist of the hot LA4 without a soak. AAMA/AIAM also stated that cold start emissions related to air conditioning operation are already addressed through the FTP and can only be improved by increasing the overall stringency of the current Tier 1 standards.

Suzuki stated that the SC01 cycle is too aggressive in general and too severe for small engines. They recommended that EPA consider a unique schedule or cycle adjustment for small engines, due to the disproportional load that air conditioning places on small engines.

Response to the Comments. As discussed in the NPRM, EPA recognized that the proposed SC01 cycle needed revisions to better reflect the in-use speed/acceleration distribution; the revised cycle is known as SC03. The final A/C test requirement will consist of a 10 minute soak and the SC03 cycle. Except for the revisions to SC01, EPA did not find the arguments presented by the commenters sufficient to make additional modifications.

EPA is concerned about emissions from microtransient driving behavior. Many vehicles' emissions are sensitive to driving behavior, and data indicate that small speed variations actually occur about 50 percent more frequently than on the LA–4 driving cycle. On the other hand, there is some merit to AAMA/AIAM's arguments that factors other than microtransients likely impact the difference in emissions seen on the SC01 versus the 505 driving cycles. Thus, the standards have been adjusted for the difference in emissions between the new cycle and the 505.

As indicated in the NPRM, an error was made in the generation of the SC01 cycle. Proper matching of the in-use driving distribution yielded a revised cycle, called SC03. Overall, the positive kinetic energy (PKE) from accelerations on the SC03 cycle is about halfway between the PKE of the 505 and the SC01 cycles. EPA calculated the likely difference in emissions between the 505 and SC03 to be 48 percent of the difference in emissions observed between SC01 and the 505.

The adjustments made in SC03 address Suzuki's comment that the SC01 was too aggressive in general, although EPA disagrees that SC01 is too severe for small engines. While it is true that air conditioning places a

disproportional load on small engines, this is merely a reflection of what actually occurs in use. In addition, the total mass flow through a small engine is still lower than occurs with larger engines and vehicles; thus, small engines should be able to comply with the standards.

The 866 cycle was dropped in the final rule because inclusion of the 866 cycle would greatly over-represent low speed, low acceleration driving. Emission reductions achieved on the 866 with air conditioning operation may not result in equivalent in-use emission reductions. As the SC03 cycle was specifically developed to match the speed and acceleration distribution of in-use driving, less the high speed and acceleration driving represented by US06, the SC03 offers far more assurance that emission reduction on the cycle will proportionally reduce in-use emissions.

While EPA agrees in principal with comments from MECA and CARB that air conditioning load should be included in aggressive driving (US06), EPA believes that, in practical terms, adding air conditioning load to the US06 cycle would be largely meaningless. The US06 cycle already pushes virtually all vehicles into WOT; inclusion of air conditioning load would simply expand the amount of time spent at WOT and increase the overall engine-out NO_X emissions proportionally to the extra load. This increase would wind up being incorporated into higher emission levels, without any real impact on the control of emissions during air conditioning operation.

EPA also agrees in principal with comments from NESCAUM and CARB that air conditioning operation during cold starts should be accounted for. Unfortunately, as AAMA/AIAM points out in their comments, the primary way to control the addition to emissions during cold starts would be to shorten catalyst light-off time. The Agency believes that requiring control of air conditioning-related emissions on a cold start test is inappropriate at this time because of the lead time and cost necessary to implement new catalyst technology. The Agency intends to revisit this issue as part of the Tier 2 standards, when the air conditioning impact can be assessed as part of the standard setting process.

2. Air Conditioning Simulation

Summary of the Proposal. As an alternative to using a full environmental chamber for air conditioning testing, the Agency proposed a simulation procedure that could be conducted in a standard test cell. The proposed simulation included a 95°F ± 5°F test cell ambient temperature, front-end supplemental fan cooling, driver's window down, and vehicle climate controls settings of maximum A/C, interior air recirculation, high interior fan, and coldest temperature. Testing in a full environmental chamber was proposed to also be permitted, at the manufacturer's option.

Comments were also requested on two other simulations, bench testing and a dynamometer simulation approach proposed by the vehicle manufacturers, dubbed ''Nissan-II.''

Summary of the Comments. NESCAUM stated that EPA should rely on the actual operation of the air conditioner with an environmental simulation. They also expressly requested that EPA not lower the maximum ambient temperature. Horiba also opposed using the dynamometer to simulate the air conditioning load, stating that it would affect the driveability of the vehicle on the dynamometer differently from highway driving. Horiba suggested that the air conditioning be turned on for the test, with the windows open and an auxiliary heat source if necessary.

CARB advocated the use of full environmental chambers for air conditioning testing, stating that its incremental cost would be less than $3 per test and requesting that EPA also do a cost-effectiveness analysis of using full environmental chambers. CARB was willing to consider options for a ''short-cut procedure if sufficient correlation with environmental chamber data can be demonstrated.''

AAMA/AIAM stated that correlation of the proposed simulation with the full environmental chamber results was poor and that EPA's analysis of the correlation was misleading. AAMA/AIAM also noted cost concerns with performing the simulation, since facilities must be capable of handling the increased cell temperature, humidity, and air flow.

Honda stated that a full environmental chamber would not be cost effective, considering the cost of the technology needed to comply with the air conditioning requirement. They strongly recommended that EPA not only address air conditioning simulation technology, but also consider facility cost and feasibility so that all manufacturers could conduct SFTP tests without an additional heavy burden.

Response to the Comments. As neither CARB nor vehicle manufacturers supported the air conditioning simulation as proposed, much work has been done since the NPRM developing other air conditioning simulations. None of the simulations, at this relatively early stage of development, have yet demonstrated sufficient correlation to be used as a permanent substitute for full environmental chambers. However, there is a strong probability that further development could yield an effective air conditioning simulation.

Meanwhile, EPA has spent considerable effort evaluating the cost of using full environmental chambers, as well as the incremental savings associated with an air conditioning simulation. While EPA estimates that using full environmental chambers for all air conditioning testing would cost a little more than estimated by CARB, $3.05 per vehicle, the cost is still low enough to support CARB's conclusion that using full environmental chambers is cost-effective. However, a workable simulation would allow a significant cost reduction to manufacturers and consumers, which would be worthwhile so long as it did not significantly impact the air quality benefits.

The long range solution reached by EPA is to mandate the use of full environmental chambers, with an option for using a simulation if correlation can be demonstrated. To encourage proper development and use of simulations, ''acceptance criteria'' have been developed. Before a simulation procedure may be used by a manufacturer, the manufacturers must agree to perform spot check verifications to demonstrate that the simulation procedure satisfactorily correlates with the full environmental chamber for each engine/vehicle combination covered. This consists of verifying the correlation for up to five vehicles per manufacturer (one for small volume manufacturers) of EPA's choice at the time of certification. Five vehicles per manufacturer are specified to allow EPA flexibility in targeting new A/C simulations and manufacturers with poor track records; in other cases EPA will likely specify only two vehicles per manufacturer. Due to the large variability in emissions from test to test and lab to lab and EPA's desire to avoid improperly failing good simulations, the simulation tailpipe NO_X emissions must be at least 85 percent of the full environmental chamber NO_X emissions. The fuel consumption, (a good surrogate for overall load on the engine) in the simulation must be at least 95 percent of the fuel consumption in the full environmental chamber. Retests and reapplication of these thresholds are also allowed, as described in the ''Description of the Action.'' If an engine/vehicle fails, the manufacturer must remedy the air conditioning load imposed during the simulation or use

full environmental chambers for future testing. Data must also be supplied establishing how many other engine/vehicle combinations are similar to the failing configuration. Any future data generated on these engine/vehicle combinations, including in-use enforcement testing, must use the corrected procedure. If any vehicle fails to meet the tailpipe emission standards due to a corrected air conditioning load, all applicable vehicles are subject to an emissions recall; however, there would be no recall liability associated with the air conditioning load correction itself. For every engine/vehicle combination which fails this demonstration, EPA may require the manufacturer to verify the correlation between the simulation and the full environmental chamber for an additional two vehicles of EPA's choice.

The results from each manufacturers correlation demonstrations will also be tracked over time. The manufacturer is expected to target the simulation to at least 100 percent of the emissions from the full environmental chamber. If, over time, the emissions from the simulations are found to be statistically lower than the full environmental chamber, further use of simulations by that manufacturer will not be allowed until the causes of the offset are identified and corrected.

While these acceptance and verification procedures should encourage development of accurate air conditioning simulations in the long run, applying them immediately would create a leadtime problem. No simulations have been developed yet that can meet the criteria and building full environmental chambers is time consuming and expensive. To avoid significant delays in implementing the air conditioning requirements and to allow additional time to develop simulations, EPA is allowing the use of the AC1 or the AC2 simulations used in the ACR3 and ACC3 testing programs without verification during the three-year phase-in period.[9] Starting with MY2003, any simulation procedure will be subject to the quality audit verification test program discussed above. Testing in a full environmental chamber will be acceptable at any time.

The long term requirement for any simulation to correlate with actual air conditioning operation in a full environmental chamber should satisfy the concerns expressed by NESCAUM and CARB. The requirement to correlate with a full environmental chamber also addresses Horiba's opposition to using the dynamometer due to inappropriate driveability impacts, as a procedure could not pass the correlation criteria if this effect were to occur.

3. Air Conditioning Standards

Summary of the Proposal. The NPRM proposed that vehicles maintain existing NMHC and CO emission levels with the air conditioning turned on. The NPRM concluded that 25 percent of the NO_X increase with the air conditioning engaged was likely to be unavoidable without increasing the stringency of the current NO_X standard, but proposed controlling the other 75 percent. In the proposed composite standard, the allowable 25 percent NO_X emission increase was calculated to be equivalent to an adjustment factor of 1.15 applied to the FTP NO_X standard. The NPRM specifically requested comments on the feasibility of the proposed levels of control and the technology implications of controlling emissions to this level.

Summary of the Comments. NRDC opposed the 15 percent ''relaxing'' of NO_X standards, stating that any revised standard requires a reduction in emissions.

CARB was generally supportive, but commented that there was no data on vehicles that were optimized for emissions with A/C on.

AAMA/AIAM commented that the proposed standards were not based on available test data or ''sound engineering analysis.'' Specifically, they stated that EPA performed no technical feasibility analysis for an A/C NO_X standard. They argued that their analyses indicated that 74 percent of the NO_X increase was due to an increase in engine-out emissions that was an inherent function of the additional load placed on the engine by the air conditioner. AAMA/AIAM did acknowledge that it may be possible to inexpensively eliminate much or most of the loss in NO_X conversion efficiency which occurred with the air conditioner on, which their analyses indicate was 26 percent of the total NO_X increase.

AAMA/AIAM also claimed that EPA did not adequately explain the CO increase with A/C on and that, in assessing NO_X conversion efficiencies, EPA ignored NMHC and CO levels. They also argued that EPA's approach of turning the air conditioning compressor off for brief periods of time at high load points actually produces very little emission improvement, as EPA did not add back in any additional compressor operation during other parts of the cycle and ignored the impacts of this additional cycling on compressor durability or efficiency. They claimed that EPA did not assess the feasibility of reducing engine-out NO_X emissions.

Response to the Comments. There is some validity to AAMA/AIAM's criticisms that EPA did not adequately explain the CO increases with the air conditioning on, ignored NMHC and CO levels when assessing NO_X emissions, did not add back in additional compressor operation to compensate for turning off the compressor at high load points, and did not adequately assess the feasibility of reducing engine-out NO_X emissions. In addition, subsequent to the publication of the NPRM, EPA learned that the vehicles used in the NPRM to set standards were tested with low mileage catalysts. Consequently, EPA and the manufacturers agreed to conduct a new test program.

Unfortunately, examination of the available data indicates that directly setting tailpipe air conditioning standards has some significant problems:

1. The ACR1 data was tested with low-mileage catalysts,
2. Only four LDVs were tested in the ACR3/ACC3 test programs, three of which were Fords,
3. One of the four LDVs was identified in the US06 analysis as having a lean air/fuel bias and generating high NO_X emissions under higher loads,
4. Another of the four LDVs had extremely high variability in tailpipe emissions from test to test, indicating an erratic emission control system.

Fortunately, it is reasonable to assume that catalyst conversion efficiency should not be significantly impacted by air conditioning operation. AAMA/AIAM comments that air conditioning emission increases due to loss in catalyst conversion efficiency can be relatively easily controlled support this assumption. This equivalency in conversion efficiency means that air conditioning design targets can be set by calculating the engine-out ratio of emissions with the air conditioning on to air conditioning off and applying this ratio to baseline tailpipe emissions with the air conditioning off.

Baseline hot, stabilized tailpipe emissions exist from 22 LDVs and LDT1s in the US06 test program. As these vehicles were chosen as a representative cross-section of the new vehicle fleet, they provide excellent baseline tailpipe emissions. The second step in the process is to assess what portion of the observed engine-out emission increase is unavoidable and what portion could be reduced with appropriate emission control. As this analysis can be done on engine-out emissions, EPA was able to assess the

[9] During the development of these simulations, the AC1 and AC2 methods were referred to as the Nissan-II and Toyota simulations, respectively. See § 86.162–00 of today's final regulations for details of these simulations.

performance of 12 cars and trucks in the ACR1 and ACR3/ACC3 test programs, a much larger and much more representative data set than the four cars (two of which have suspect emission controls) available to set tailpipe emission standards directly.

Air conditioning operation increases the overall, average load on the engine by about 25 percent. However, this increase in load has a disproportionate impact on NO_X formation, as very little NO_X is formed at low engine loads and the amount of EGR that can be tolerated decreases as engine speeds and loads increase beyond a relatively low level. As discussed more fully in the RTC, EPA has concluded that the load imposed by current air conditioning systems results in an unavoidable 50 percent increase in engine-out NO_X emissions. This NO_X increase is inherent to the additional load placed upon the engine and how this increased load impacts the peak combustion temperature in the engine. The conclusion of an inherent 50 percent engine-out NO_X increase is supported by the average NO_X increase on the Ford vehicles of 53 percent, as the Ford vehicles had closed-loop electronic EGR systems and the EGR flow rates were more carefully calibrated throughout the entire speed/load range than the other vehicles (engine-out NO_X on non-Ford vehicles in the test programs increased by an average of 67 percent with the air conditioning on). The only way to further reduce the emission increase is to reduce overall emissions, such as with improved catalyst formulations, or by reducing the load placed on the engine by the air conditioning system.

In the case of NMHC, EPA's analyses indicate that the best conclusion is still that reached in the NPRM, that HC emissions should not be affected by air conditioning operation.

In the NPRM, EPA attributed the increase in CO emissions with the air conditioning on to increased periods of brief commanded enrichment and proposed that CO emissions not increase with the air conditioner on. This assumption was challenged by the manufacturers in their comments, stating that CO emissions should be proportional to the overall load. While EPA continues to believe that the additional load imposed by the air conditioner triggers brief periods of commanded enrichment that will not occur once vehicles have been recalibrated to comply with the high speed and acceleration requirements, EPA also acknowledges that the mass flow through the engine is likely to have some impact on engine-out CO emissions. As engine-out CO emissions in both the ACR1 and ACR3 programs increased only moderately, the average increase in engine-out CO emissions from the ACR1 and ACR3 test programs (i.e. 22 percent) has been incorporated into the air conditioning CO standards.

TABLE 3.— LDV/LDT1 DESIGN TARGETS FOR AIR CONDITIONING OVER SC03

	NMHC	CO	NO_X
SC03 baseline (A/C off)	0.05	1.22	0.188
Allowable increase (in percentages)	0	22	50
A/C on design target	0.05	1.5	0.282

Similar to US06 standards, air conditioning standards are set by applying a multiplicative headroom factor of two to the LDV/LDT1 design target and by ratioing the FTP standards for other truck classes and for full useful life to the FTP 50,000 mile standards for LDV/LDT1. A table incorporating these calculations was presented in the ''Description of the Action'' section.

F. Final Standards and Leadtime

1. Composite Standards

Summary of Proposal. EPA proposed, in the NPRM, to retain compliance with the existing FTP and to add to this a ''composite'' compliance calculation to bring together elements of the conventional FTP with results from the SFTP. Cold start emissions from bag 1 of the FTP were included in the composite to allow manufacturers to maintain existing tradeoffs between cold start and hot, stabilized emission control and to implicitly maintain the existing ''headroom'' used by manufacturers to comply with FTP emission standards. The proposed SFTP standards were the result of appropriately weighing and summing the results from bag 1 of the FTP and the new US06, air conditioning, and intermediate soak requirements. For total hydrocarbon (THC), non-methane hydrocarbons (NMHC), organic material hydrocarbon equivalents (OMHCE), organic material non-methane hydrocarbon equivalents (OMNMHCE), and CO, the proposed standards worked out to be the same as the standards applicable under the conventional FTP. For NO_X, a multiplicative adjustment factor of 1.15 was applied to the conventional FTP standard to account for the emission response of vehicles to the new A/C test conditions.

Comments were also specifically requested on three other basic approaches; (1) stand-alone standards for each control area, (2) combine the non-FTP areas of control into a single standard, and (3) replace the current FTP with an entirely new FTP that reflects, as accurately as possible, actual driving behavior. The NPRM stated that if data were submitted that could help establish appropriate in-use compliance margins when establishing emission standards, EPA would reevaluate the most appropriate compliance structure and, if appropriate, may select one of these alternatives in the final rule.

Summary of Comments. AAMA/AIAM supported the concept of a composite standard encompassing all modes of in-use driving, providing that they were based on cost-effective, stand-alone standards for each component of the composite. They also expressed their belief that the NPRM composite proposal did not satisfy this criteria, for three reasons: (1) EPA apparently attempted to carry over the current numerical Tier 1 standards to its new composite SFTP standards, (2) EPA desired to develop an approach to setting the composite standards which could be automatically carried over to future FTP standards, and (3) EPA desired to avoid the need to develop headroom estimates for certain SFTP components. AAMA/AIAM also stated that an appropriate headroom factor has been developed by industry, making the third point moot.

AAMA/AIAM also presented their own recommendation for a composite standard. They agreed with EPA's proposal that cold-start emissions and warmed-up emissions with the A/C system on should be included. They also agreed that cold-start driving with the A/C system should not be included in the SFTP, as it would not have any impact on cold-start calibrations. However, they recommended that warmed-up emissions with the A/C system off also be included to produce a composite standard that reflects as closely as possible overall average in-use emissions and that the US06 test results be converted to their REP05 equivalent before applying the 28 percent weighting factor. In summary, AAMA/AIAM recommended that the air conditioning results be weighed at 33 percent, FTP emissions at 39 percent, and US06 emissions be converted to REP05 equivalent emission levels and weighed at 28 percent.

NESCAUM did not object to the concept of composite standards, but they did object to the use of bag weights and standard adjustments to reflect the proposed level of achievable emission

control in the NPRM. Instead, NESCAUM urged EPA to adopt an overall scheme that best represents real-world driving, and to use any resultant weightings for all pollutants. NRDC also supported the same overall scheme as NESCAUM and specifically opposed the 15 percent ''relaxing'' of the NO_X standards in the NPRM. NRDC stated that any revision to the standard requires a reduction in emissions.

CARB commented that the composite standards, overall, were fair and reasonable. However, they did ask for flexibility to allow CARB to go to stand alone standards if it is of equal or greater stringency.

Response to Comments. The EPA adopted a modified version of AAMA/AIAM's recommended composite methodology in the Final Rule for NMHC+NO_X emissions. The composite NMHC+NO_X standard is simply the weighted average of the FTP, air conditioning, and US06 standards, weighted at 35 percent, 37 percent, and 28 percent, respectively. For CO, a composite standard is optional with the composite CO standard is set equal to the FTP CO standard.

The specific composite scheme proposed by EPA in the NPRM was selected, in part, because it allowed for the existing headroom in the FTP standards to be implicitly continued for the SFTP requirements. As discussed in a previous section, data submitted by AAMA/AIAM has allowed EPA to quantify the FTP headroom. This removes the primary barrier from consideration of other composite schemes, as discussed in the NPRM.

EPA did not agree with the manufacturers recommendation to convert US06 emissions to REP05 equivalent emission levels before weighing them in the composite calculation. Incorporating US06 emissions directly into the level of the standard is mathematically identical, simpler, and skips a step that could introduce inaccuracies. The other revision EPA made to the manufacturers proposal was to incorporate revised analyses of the portion of time air conditioner compressor operation occurred during typical ozone exceedance days. This was calculated to be 52 percent of total vehicle operation during typical ozone exceedance days, which have an average ambient temperature maximum of 92°F and an average relative humidity of 43 percent. As US06 constitutes 28 percent of overall miles traveled, this means that the air conditioning results should be weighed at 37 percent of the total (or 52 percent of the 72 percent of miles traveled left after subtracting US06). The weight for the FTP emission results is the remainder, or 35 percent.

FTP emissions are included in the NMHC+NO_X composite calculation to allow flexibility to obtain emission reductions at the lowest possible cost. Adding the FTP and setting a single standard to be met as a weighted average of all the emission requirements allows manufacturers to simultaneously optimize hardware and calibration across the entire set of emission requirements. This allows manufacturers to find tradeoffs that lower the cost of compliance without impacting the overall emission benefits.

The composite NMHC+NO_X standard is simply the weighted average of the FTP, air conditioning, and US06 standards, weighted at 35 percent, 37 percent, and 28 percent, respectively. For LDV/LDT1 vehicles with an FTP NMHC+NO_X standard of 0.65 g/mi, air conditioning of 0.67 g/mi, and US06 of 0.58 g/mi, the weighted average is 0.64 g/mi. Given the similarity to the FTP NMHC+NO_X standard of 0.65 g/mi for LDV/LDT1, EPA has chosen to set the composite level at the FTP NMHC+NO_X level. This level implicitly requires that, compared with hot stabilized FTP emissions, the emission impacts of the SFTP test cycles and air conditioning operation may not exceed the incremental emissions from the cold start. For diesel LDVs and LDT1s there are no air conditioning requirements, thus the composite NMHC+NO_X standard is the average of the FTP and US06 standards, weighted at 72 percent and 28 percent. For diesel LDVs and LDT1s with a FTP NMHC+NO_X standard of 1.25 g/mi and US06 of 2.1 g/mi, the weighted average is 1.48 g/mi.

Directly compositing the different emission standards was not deemed to be appropriate for CO emissions, for two reasons. First, unlike the NMHC+NO_X standards for air conditioning and US06 which were carefully chosen to reflect the maximum feasible emission benefits with existing technology, some additional allowance was made in the CO standards to minimize problems with catalyst temperatures. In addition, due to the dominance of commanded enrichment on the US06 CO emission levels, both the headroom factor of two and the method of determining full useful life and LDT2/LDT3/LDT4 CO emission standards may prove to be overstated. Thus, it may be possible for a manufacturer to stack up these allowances in one area in order to increase CO emissions in another area, without any offsetting in-use CO reductions in a different area. Second, as CO emissions are heavily influenced by commanded enrichment and the CO standards were set with some allowance to avoid temperature problems, the individual CO standards for A/C and US06 operation should be easily met by all vehicles simply by eliminating commanded enrichment. Thus, there are no significant cost tradeoffs that can be made to reduce CO emissions in one area and raise them in another.

One way to mitigate the potential for inappropriate introduction of enrichment with a composite CO standard is to make the composite CO standard more stringent. While EPA does not feel it is appropriate to require the use of a more stringent composite CO standard, the Final Rule does allow it as an option. Consistent with the NMHC+NO_X standard, the composite CO standard is set equal to the FTP CO standard. Such a level ensures that any enrichment allowed during air conditioning operation or US06 by the composite standard would be offset by real in-use CO emission reductions in other driving conditions.

As the SFTP composite standards are set equal to the FTP standard levels, LDT2, LDT3, LDT4, and full useful life standards are also equal to the FTP standards. For the individual US06 and air conditioning CO standards, LDT2, LDT3, LDT4, and full useful life standards are set as the ratio of the FTP standards to the FTP half-life standards for LDV/LDT1. All the resultant emission standards were presented in the ''Description of the Action'' section.

An exception must be made for engines or vehicle configurations that are not available with air conditioning. For such vehicles, no weight should be assigned to air conditioning emissions. To maintain consistency with tradeoffs between US06 emissions and other operating modes, the US06 weight for vehicles without air conditioning should remain at 28 percent. This implicitly requires that the FTP weight for vehicles not available with air conditioning be reset at 72 percent.

Both NESCAUM and NRDC urged EPA to adopt an overall scheme that best represents real-world driving and to use any resultant weightings for all pollutants. This is essentially the same as their legal arguments that EPA should revise the existing FTP and apply the new procedures to the Tier 1 standards. NESCAUM's and NRDC's comments in this area were discussed and responded to in a previous section and are not duplicated here. In addition, while NESCAUM did not object to the concept of composite standards, they did object to the use of bag weights and standard adjustments to reflect the proposed level of achievable emission control in the NPRM. The composite method adopted

for the Final Rule is closer to NESCAUM's suggested methodology than the composite scheme in the NPRM.

2. Proportional Standards

Summary of Proposal. The NPRM proposed that changes in the achievable levels of control over the SFTP tests would track changes in the underlying FTP standards and, thus, adoption of the central proposal would have the effect of automatically reducing the composite standards in step with any mandatory future declines in the FTP standards.

Summary of Comments. AAMA/AIAM stated there is no technical or legal basis for EPA's proposal that future SFTP and FTP standards (e.g. Tier 2) be linked.

AAMA/AIAM also stated that, while temperatures with two-seconds of WOT stoichiometric control on US06 are manageable for Tier 1 vehicles, the two-second timer may need to be reevaluated for reduced standards (i.e. Tier 2 or LEV).

CARB stated that the standards proposed by EPA were reasonable, although for LEV-like vehicles the proposal to hold NMHC to FTP bag 2 levels may be too stringent and the proposal to hold NO_X to composite FTP levels may be too lenient.

Response to Comments. Based upon the technical analyses conducted to set standards for the final rule, there is substantial evidence that SFTP NO_X emissions should be roughly proportional to FTP NO_X emissions. However, the case for NMHC is not as strong. Roughly 70 percent of NMHC emissions occur during the cold start; thus, hot, stabilized NMHC emissions have relatively little impact on overall FTP NMHC emissions. On the other hand, hot, stabilized NMHC emissions are relatively small compared to hot, stabilized NO_X emissions. Thus, proportional standards may be viable for an NMHC+NO_X standard.

Proportional standards do not work well for CO. CO emissions on the US06 cycle are dominated by brief periods of commanded enrichment, which the standard allows for engine and catalyst cooling. The need for these periods of commanded enrichment will not change just because the FTP CO standard changes, nor will the impact of commanded enrichment on the amount of CO generated. Thus, a change in FTP CO emissions will only have a minor impact on SFTP CO emissions.

Despite the strong correlation between FTP and SFTP NO_X emissions, the Agency has decided to drop the proportional standard provision from the Final Rule for the following reasons:

1. The finding of strong correlation between FTP and SFTP NO_X emissions is based upon the use of current technology. It is quite possible that technologies may be developed in the future in response to the SFTP requirements that could have a different impact on SFTP NO_X emissions than on FTP NO_X emissions (for example, a more efficient air conditioning system).
2. SFTP CO standards would have to be addressed separately.
3. CARB is currently making their own assessment of appropriate standards for LEVs and their standards will likely be used for the National LEV program, if it is put into place. The standards that will be finalized by CARB are currently uncertain and the level chosen by CARB may have an impact on future development of SFTP technology and calibration strategies.
4. Certain technical issues, such as impacts of emission variability, may need to be revisited as the standards become more stringent.

Based on these considerations, the Agency believes that the issue of SFTP standards in the context of future lower FTP standards should be revisited as part of setting Tier 2 emissions standards.

3. Leadtime and Phase-In

Summary of Proposal. The NPRM proposed that the US06 and air conditioning requirements apply to 40 percent of each manufacturer's combined production of LDVs and LDTs for MY1998, 80 percent in MY1999, and 100 percent in MY2000. Small volume manufacturers would not have to comply until MY2000. The intermediate (i.e. 60 minute) soak requirement would be required for all vehicles starting with MY2001, including small volume.

Comments were specifically requested (1) on the impact of this phase-in schedule when considered with other programs and (2) providing suggestions for other schedules which will coordinate programs more effectively.

The improved road load simulation (including the electric dynamometer), removal of the 5500 ETW test weight cap, and the new criteria for allowable speed variation for FTP compliance determination were proposed to be implemented 100 percent in MY1998.

Summary of Comments. AAMA/AIAM proposed a six-year phase-in period to comply with the SFTP requirements. LDV/LDT1/LDT2 classes were proposed to start with MY2000. (AAMA/AIAM subsequently sent EPA a letter revising the recommended start date to MY2001 in response to the delay in the court deadline for the final rule). AAMA/AIAM stated an additional two year delay for the LDT3/LDT4 classes is needed because: (1) Little data has been gathered on the heavier LDTs over US06 or with A/C operation and, given their high weight, design as working trucks, and testing at half payload, they may not behave as expected over the new cycles; (2) these vehicles have significantly longer product life cycles than lighter vehicles and, thus, there are fewer opportunities to re-engineer these vehicles; and (3) this type of delay has been applied in the past.

AAMA/AIAM also stated that EPA's proposed phase-in schedule did not consider the need to build new facilities and to increase testing capacity. AAMA/AIAM emphasized that the speed of the phase-in significantly affects the total amount of engineering and testing resources needed at any one time, as requiring a vehicle to be redesigned to meet the standards before it was due for redesign for other purposes imposes significant additional costs. Consequently, AAMA/AIAM believes that a more aggressive schedule than the one they proposed would impose unnecessary costs, including the waste of valuable human resources, for little or no environmental gain.

Rolls-Royce commented that the removal of the 5500 ETW cap would pose unique hardships for their company. In order to accommodate leadtime for dynamometer replacement and to conduct new testing over the US06, Rolls-Royce requested that EPA change the ETW cap removal implementation for small volume manufacturers to coincide with the small volume phase-in for the other SFTP revisions.

Other comments are summarized in the Response to Comments (available in public docket for review).

Response to Comments. Revisions in the standards and test procedures, based on comments and data provided in response to the NPRM, have resulted in revisions to the proposed leadtime and phase-in. For LDVs and LDTs under 6000 lbs GVWR, EPA will require that 40 percent of each manufacturers fleet comply with the SFTP requirements for MY2000, 80 percent for MY2001, and 100 percent for MY2002. The phase-in for LDTs over 6000 lbs GVWR (LDT3 and LDT4) in the final rule follows the same phase-in rate, but is delayed for two years. As proposed in the NPRM, small volume manufacturers do not have to comply with the requirements until the last year of the phase-in, or MY2002 (MY2004 for small volume manufacturers of HLDTs).

In recognition of the comments from Rolls Royce on the leadtime for removal of the ETW cap, the final rule clarifies that MY2002 implementation for small

volume manufacturers applies to all the new requirements, including electric dynamometers and removal of the ETW cap.

It should be noted that all vehicles under 6000 lbs GVWR are subject to the same phase-in schedule. Thus, LDVs and LDTs under 6000 lbs GVWR can be combined into a single group for determining compliance with the yearly phase in requirements. It should also be noted that, consistent with earlier phase-in efforts, the phase-in must be verified with actual production figures.

For a more specific analysis of the comments and rationale for the revisions from the proposed phase-in, please see the Response to Comments. (available in the Public Docket for review; see **ADDRESSES**).

4. Diesel and Alternative Fueled Vehicles

Summary of Proposal. The NPRM stated that because very little emission data currently exists on the emission impacts of fuels other than gasoline over the SFTP, EPA considered exempting alternative and/or diesel fuel vehicles from the SFTP requirements. However, the Agency decided that such vehicles would be able to comply with SFTP requirements and requested any information and data related to applying the NPRM requirements to alternative and diesel fuel vehicles.

Summary of Comments. AAMA/AIAM stated that the driving surveys used by EPA were based solely on gasoline vehicles and did not include any alternative or diesel fuel vehicles. Therefore, AAMA/AIAM argued that the Agency could not conclude whether alternative and diesel fuel vehicles were operated in the same manner as gasoline vehicles, and thus, whether the SFTP is appropriate for these types of vehicles.

AAMA/AIAM also stated that EPA did not assess the environmental impact of alternative and diesel fuel vehicles off-cycle emissions. They also pointed out that EPA had no US06 or air conditioning emission data for alternative-fueled vehicles and had not provided an engineering assessment of how alternative fuel vehicles could meet the proposed standards. AAMA/AIAM concluded that alternative and diesel fuel vehicles should be exempt from the SFTP, and not doing so could potentially eliminate both vehicle types from the U.S. market.

In their comments, Mercedes-Benz stated that based on data they provided to EPA, diesel fuel vehicles could not meet the gasoline-generated SFTP standards. They argued that diesel fuel vehicles should either be exempt from the SFTP or that the EPA should develop an appropriate diesel-only NMHC+NO_x standard with sufficient headroom.

Response to Comments. a. General. EPA acknowledges that neither alternative or diesel fuel vehicles were included in the driving surveys. The primary goal of the driving survey was to gather data on in-use driving characteristics on a large, representative sample of vehicles and drivers. To meet these objectives, EPA's contractor recruited vehicles from centralized Inspection and Maintenance (I&M) stations. Both alternative and diesel fueled vehicles were excluded in the I&M programs, and thus, were not eligible for the survey. However, the EPA feels that under the conditions that the surveys were conducted (i.e., no altitude or extreme temperature variations), there is no reason to believe that alternative or diesel fuel vehicles would be operated in a manner different from gasoline vehicles. EPA has received no information to indicate that alternative or diesel fueled vehicles are driven in a manner that would suggest different cycles. Therefore, EPA believes that the SFTP driving cycles are appropriate for these types of vehicles.

EPA believes that SFTP requirements should apply to alternative- and diesel-fueled vehicles. The Agency interprets section 206(h) of the Act to require the inclusion of all types of light-duty vehicles in the SFTP, regardless of fuel type. In addition, the EPA has always required diesel fuel vehicles to comply with the same or similar requirements as gasoline vehicles and does not generally believe that diesel or alternative fueled vehicles should be exempted from rules that apply to gasoline-powered vehicles and trucks. However, EPA agrees with comments from AAMA/AIAM that without any off-cycle emission data for alternative fuel vehicles, it is impossible to determine feasibility of these vehicles meeting the proposed SFTP standards. In addition, the promulgation of standards for alternative fuel vehicles could potentially hinder the expansion of alternative fuel vehicles in the U.S. market. EPA believes that alternative fuel vehicles are, on average, inherently cleaner than most gasoline and diesel vehicles and encourages the continued development of alternative fuel vehicles. Therefore, alternative fuel vehicles will be exempt from the initial SFTP requirements. EPA plans to evaluate and test these vehicles as part of its Tier 2 study, and if EPA finds standards to be appropriate, EPA will promulgate such standards at that time.

In regards to diesel fueled vehicles, EPA's data are limited to LDVs. These data limitations are due to the very small number of diesel vehicles in production; vehicles are difficult to procure and testing facilities are not equipped to readily test these very low volume vehicles. The EPA does not have any data on light-duty diesel trucks, and therefore, the EPA will exempt light-duty diesel truck classes LDT2, LDT3, and LDT4 from the initial SFTP requirements. As discussed below, diesel LDT1s will be required to meet the same requirements as diesel LDVs. The EPA believes such treatment is appropriate as it is consistent with Tier 1 standards and there are no technological reasons to consider LDT1s separately. Further, the absence of data for LDT1s is because no manufacturer is currently producing a diesel LDT1. The EPA plans to evaluate and test light-duty diesel trucks in the exempted classes as part of its Tier 2 study, and if EPA finds diesel standards to be appropriate, EPA will promulgate such standards at that time.

b. Standards for Diesel LDVs and LDT1s. In their comments, Mercedes supplied EPA with US06 and air-conditioning emission data for two diesel passenger cars. After publishing the NPRM, a 1.9L diesel Volkswagen Passat was tested at EPA to collect US06 emission data. Although EPA has some limited SFTP emission data for diesel fuel light-duty vehicles, there are some concerns over the Agency's ability to promulgate standards based on this data. EPA has US06 cycle emission data for all three models, but only has air-conditioning data for the two Mercedes models, and that data is over the LA4 cycle (i.e., bags 1 and 2 of the FTP) rather than the SC03 cycle. EPA feels that there is no way to relate the LA4 data to the SC03 cycle for these emissions without being arbitrary. In addition, without any data for the Volkswagen (which constitutes a third of the available models, and the only low-cost diesel-equipped vehicle) there is no way for the Agency to know whether all of the available diesel fuel LDV's could meet any standards for air conditioning. Therefore, diesel fuel light-duty vehicles will be exempt from the SFTP air-conditioning requirements. As stated above, EPA will evaluate and test these vehicles as part of its Tier 2 study, and if it's determined necessary, appropriate standards will be promulgated.

The US06 emission data for the diesel LDV's indicate that NMHC and CO levels are well below gasoline vehicle levels. The EPA believes that diesel LDV's should have no trouble meeting the SFTP CO standards for gasoline vehicles. Diesel NO_X levels, however,

are 3–4 times higher than the gasoline vehicle levels. Diesel engines produce higher levels of NO_X emissions than gasoline engines because diesels have much higher combustion temperatures. Diesel engines typically have more difficulty in controlling NO_X emissions than gasoline engines because they have fewer control strategies available and the ones that are available have not been as effective as those available for gasoline engines. The primary NO_X control strategies for gasoline engines are reduced spark timing, EGR, and three-way catalysts. Three-way catalysts, which are capable of reducing NO_X emissions, are not yet available for diesels. Since diesels use compression rather than spark to ignite the air-fuel mixture, there is no spark timing to reduce. That leaves reducing the fuel injection timing and EGR as the main diesel NO_X control strategies. Of these two control strategies, EGR is the most effective.

In their comments, Mercedes stated that their electronically controlled EGR system operates under a broad range of engine load conditions, including areas outside of the FTP, and that their EGR calibrations are optimized for all operation, including high speed and load operation. This is a result of the fact that the German government requires vehicles sold in Germany to meet emission requirements over high speed and load conditions. However, even optimized, their use of EGR is limited during high speed and load operation because of increased particulate matter (PM) formation. Thus, there is a sensitive PM/NO_X tradeoff under high speed and load operation. EPA has no additional technical information to refute Mercedes claims that they have optimized the amount of EGR that can be used during high speed and load conditions. Based on the extremely low emission results of Mercedes and Volkswagen gasoline-powered vehicles over the US06 cycle, and the fact that German manufacturers have had incentive and time to develop high speed and load operation emission control strategies, EPA sees no reason to doubt that Mercedes vehicles have been optimized for the lowest NO_X levels possible over the US06 cycle at this time. Therefore, the EPA believes it is not currently feasible for LDV diesels to meet the SFTP $NMHC+NO_X$ standard for gasoline vehicles. Thus, there will be a separate and unique $NMHC+NO_X$ standard for diesel LDV's.

Based on the Mercedes' comments, EPA feels that it is only technically feasible for diesel-fueled LDV's to meet a $NMHC+NO_X$ standard that is designed to be a capping standard. That is, EPA feels that at this time, diesel LDV's are unable to reduce NO_X emissions resulting from high speed and load operation because of technological limitations. Therefore, the standard will be set such that it caps the amount of NO_X emissions diesel LDV's will be allowed to emit over high speed and load operation.

The methodology chosen by the Agency for developing the US06 $NMHC+NO_X$ standard for gasoline vehicles is to add the average NMHC level with the average NO_X level for well-calibrated vehicles and multiply the result by a certification headroom factor. However, because the diesel standard is intended to be a capping standard, the EPA must insure that all three LDV models can meet the standard. The Volkswagen Passat had an average US06 NO_X emission level of 1.70 g/mi, which exceeds the average of all three vehicles of 1.42 g/mi. Therefore, EPA believes that it is appropriate to use the Volkswagen NO_X emissions of 1.70 g/mi NMHC emissions for diesel vehicles are inherently very low, and thus, are not a limiting factor in complying with emission standards. The average NMHC emission level of 0.007 g/mi will be added to the NO_X emission level of 1.70 with the sum multiplied by the diesel headroom factor of 1.22 to yield a US06 standard level of 2.1 g/mi. While $NMHC+NO_X$ standards were not promulgated for US06 separately, this US06 standard level of 2.1 g/mi for diesel LDVs/LDT1s is used in the calculation of $NMHC+NO_X$ composite standard. The diesel LDV/LDT1 composite $NMHC+NO_X$ standard is equal to a US06 standard level of 2.1 g/mi weighted at 28 percent added with the conventional FTP diesel standard of 1.25 g/mi (NO_X=1.0, NMHC=0.25) weighted at 72 percent, yielding a numerical value of 1.48 g/mi. (see section IV.F.1. Composite Standards).

G. Technical and Enforcement Issues

1. Improved Dynamometers for FTP Compliance Testing

Summary of Proposal. The NPRM stated that each of the test cycles is to be run on a system providing accurate replication of real road load forces at the interface between drive tires and the dynamometer over the full speed range. Furthermore, the new US06 cycle requires significantly higher power absorption capacity, due to the higher power requirements of this aggressive driving cycle. The NPRM proposed the use of a large-diameter single roll dynamometer with electronic control of power absorption to meet these requirements for both the new SFTP and current FTP testing, but any system would be allowed that yields equivalent or superior test results. This new requirement was proposed to take effect for MY1998.

Summary of Comments. AAMA/AIAM supported the changeover to single-roll electric dynamometers for certification and compliance testing purposes. However, they presented a number of arguments in support of their contention that the proposed implementation date of 1998 for all FTP and SFTP testing is infeasible. Their primary concern was that vehicle modifications would be required to maintain compliance with the current Tier 1 emission and U.S. fuel economy standards. This concern was based upon the average results of the ''EPA/Industry Dynamometer Comparison Study—Nine Vehicle Fleet'' and AAMA/AIAM's contention that EPA performed no testing or engineering analyses to demonstrate that compliance with the applicable standards is feasible. AAMA/AIAM also emphasized the difficulty in installing enough new electric dynamometers to support testing of the entire fleet in MY1998.

Response to Comments. Improved dynamometers are an essential part of US06 testing. Thus, the electric dynamometers must be phased in no later than the US06 phase-in. EPA proposed a faster implementation of the improved dynamometers for FTP testing purposes primarily because it would mitigate the problem of having to maintain two different sets of dynamometers simultaneously. While EPA does not agree with comments that it is not feasible to implement the dynamometers early, EPA does agree that this would increase the difficulty in installing enough new dynamometers to support testing of the entire fleet and ensure that modifications to the vehicle are not needed in the first model year. Thus, phase-in of the improved dynamometers has been changed in the final rule to coincide with the US06 phase in, beginning in MY2000.

2. Microtransient Driving Control

Summary of Proposal. The EPA proposed to remove language specifying ''minimum throttle movement'' when conducting emission tests and replace it with ''appropriate throttle movement.'' The NPRM also proposed a specification of allowable speed variation, DPWRSUM (for ''delta power sum,'' or the sum of the positive power changes), which also would apply to both SFTP and FTP testing. EPA specifically asked for comments on the proper method for

setting the lower DPWRSUM threshold for a valid test.

Summary of Comments. AAMA/AIAM provided an analysis of test data which concluded that the DPWRSUM measure was technically flawed. Further, it was AAMA/AIAM's contention that DPWRSUM criteria may impact fuel economy and the ability to comply with Tier 1 emission standards, and thus, that EPA must make fuel economy and emission adjustments. AAMA/AIAM also stated EPA had failed to establish an environmental need for DPWRSUM or perform a cost effectiveness analysis. AAMA/AIAM concluded by recommending that EPA drop the DPWRSUM criteria.

In a May 2, 1996 meeting requested by AAMA/AIAM, additional data was presented by Chrysler (available in the public docket for review. See **ADDRESSES**). Chrysler concluded from the data that DPWRSUM does not identify tests with inappropriate throttle movement. AAMA/AIAM also submitted a suggested revision to the EPA's proposed regulatory language change regarding minimal throttle movement.

CARB stated it was inappropriate to use the DPWRSUM value associated with the nominal driving trace as the upper threshold value. CARB recommended the upper DPWRSUM threshold be significantly greater than nominal driving trace value and that the nominal trace value should be at the mid-point of the allowable range. CARB supported the proposed regulatory language change regarding minimal throttle movement.

Response to Comments. The EPA will not finalize the DPWRSUM criteria for several reasons. First, EPA has not been able to establish appropriate threshold values. More importantly, based on EPA's review of test data provided by Chrysler, DPWRSUM does not appear to adequately identify large differences in throttle variation. However, EPA believes it is desirable to have a quantifiable speed- or throttle-based measure to ensure that vehicles are driven in an appropriate manner, thus, it is EPA's intent to revisit this issue as part of the Tier 2 Study mandated by 202(I) of The Act.

Both CARB and AAMA/AIAM's comments on the proposed language change regarding throttle and pedal movement recognize the need to change ''minimum'' to ''appropriate.'' EPA recognizes the manufacturers' concern that excessive throttle variation should be avoided and the Agency will, in part, incorporate AAMA/AIAM's suggested language into the final regulatory language. However, the EPA believes it is equally important that appropriate throttle movement should exclude behavior which smooths the minor speed variations found in the driving cycles. Thus, the revised regulatory language specifies that the vehicle shall be driven with appropriate accelerator pedal movement necessary to achieve the speed versus time relationship prescribed by the driving schedule and that both smoothing of speed variations and excessive accelerator pedal perturbations are to be avoided.

3. Selective Enforcement Audit (SEA) Requirements

Summary of Proposal. Section III of the February 7, 1995 NPRM stated that the proposed SFTP would apply to testing conducted during certification, Selective Enforcement Audits (SEA), and in-use enforcement (recall).

Summary of Comments. American Honda Motor Company, Inc. (Honda) commented that the NPRM ''did not clearly indicate whether the SEA test must be carried out according to the Supplemental FTP (SFTP).'' In addition, Honda commented that such a requirement would cause ''significant hardship and expense'' and requested that EPA allow an [unspecified] alternative procedure.

Response to Comments. The compliance provisions in the NPRM were proposed as the best means of ensuring that vehicles are adequately designed and sufficiently durable to meet the applicable standards not only in prototype certification but in actual use.

In response to Honda's comments concerning the costs associated with the laboratory facilities required to conduct the SFTP, EPA assumes that manufacturers will have such laboratory capabilities in place (either in-house or through contract) to conduct design and certification testing. As EPA does not require that the testing of vehicles selected for SEA be at the location at which the vehicles were produced, selected vehicles could be shipped to any adequate in-house or contract laboratory. With these facts in mind, EPA believes that the incremental cost of conducting the infrequent SEA tests which EPA might require is not significant.

4. A/C Horsepower Adjustment for FTP Testing

Summary of Proposal. The current FTP adds load as a percentage (10 percent) of the base dynamometer power absorption curve to simulate air conditioning load. As the current 10 percent load increase will be difficult, if not impossible, to duplicate on a large, single roll dynamometer and it is not representative of real A/C loads, the NPRM proposed to drop the 10 percent air conditioning load factor for the existing FTP.

Summary of Comments. AAMA/AIAM recommended elimination of the current A/C dynamometer power absorption unit (PAU) increase of 10 percent for City and Highway emissions testing, based upon the lack of a defined methodology for A/C adjustment on single-roll dynamometers during the FTP and actual testing with the A/C unit operational as part of the SFTP. AAMA/AIAM expressed the necessity to include the impact of elimination of the 10 percent load adjustment in the overall determination of test procedure adjustments. AAMA/AIAM also stated that, if EPA were to retain the current load adjustment for A/C with the electric dynamometer over the current FTP, that the adjustment would need to be lower than 10 percent to reflect the higher DPA values on the electric dynamometer caused by lower tire rolling losses.

Response to Comments. EPA agrees with all of AAMA/AIAM's comments. While it would be desirable to implement a proper representation of average annual air conditioning load for use in FTP and fuel economy testing, development of such a factor was not presented in the NPRM. EPA intends to address the issue of proper A/C factors for FTP and fuel economy testing as part of a subsequent rulemaking addressing test procedure adjustments issues. Until then, the 10 percent dynamometer increase for air conditioning simulation is deleted, as proposed in the NPRM. Corporate Average Fuel Economy (CAFE) adjustments for the temporary deletion of the 10 percent dynamometer load adjustment will also be considered in the subsequent rulemaking on test procedure adjustments.

H. Regulatory Impact Analysis

Summary of Proposal. In the NPRM the EPA summarized it's Regulatory Impact Analysis (RIA) which considered the environmental and economic impact, consumer impact, and the cost effectiveness of the proposed requirements. The Agency's analysis demonstrated the efficacy of the proposed requirements as part of the Federal program to reduce ozone through the reduction of ozone precursors from motor vehicles.

Summary of Comments. The EPA received extensive comments as part of the joint AAMA/AIAM submission. The comments presented separate analyses on each of the three proposed control areas and commented on all aspects of

the RIA. New vehicle emissions data were presented in calculating AAMA/AIAM's estimate of the potential emission benefits. AAMA/AIAM also provided detailed facility and testing costs, as well as vehicle hardware costs to comply with the proposed requirements.

In their comments AAMA/AIAM raised questions regarding the need for additional control of CO and NO_X given the projections for compliance with National Ambient Air Quality Standards (NAAQS) for CO and the granting of NO_X waivers by many non-attainment areas. AAMA/AIAM also argued that the EPA's cost effectiveness analysis was flawed by the inclusion of benefits received in the northeast States comprising the Ozone Transport Region (OTR), NAAQS attainment areas, and NO_X waiver areas.

In their cost effectiveness analysis, AAMA/AIAM concluded that none of the requirements, as proposed, were acceptable on the basis of dollars per ton of pollutant reduced. However, AAMA/AIAM also concluded that if the Agency were to incorporate AAMA/AIAM's standards and procedure revisions for the aggressive driving control (US06) then they believed that such a requirement would be cost effective, although in this case AAMA/AIAM did not have to provide actual cost effective estimates.

Response to Comments. EPA incorporated much of the new vehicle emission data into revised benefit estimates. The EPA also incorporated AAMA/AIAM's data on testing and facilities costs, although the Agency does not believe that all of AAMA/AIAM's assumptions were appropriate (see the RIA for a full discussion of the EPA's methodology).

The Agency believes that today's revisions to the FTP are necessary for non-attainment areas to meet and maintain the NAAQS. The Agency rejects AAMA/AIAM's argument that attainment areas and non-attainment areas with NO_X waivers should be excluded from the benefits calculations. Effective NO_X control must consider the issue of NO_X transport from upwind areas outside of the non-attainment areas as well as motor vehicle migration patterns on both a micro (commuting) and macro level (interstate travel and change in vehicle ownership), and thus, the EPA believes the inclusion of attainment areas is appropriate for a federal mobile source program. EPA also believes that the petition for a NO_X waiver is itself insufficient evidence that a non-attainment area should be excluded from the benefits calculation. The second phase of the two-phase NO_X waiver process requires the consideration of the NO_X waiver's impact on a regional scale, unlike phase I which gave preliminary waivers based only on the local area impact. Again, EPA believes today's rule is a necessary part of NO_X control strategy which recognizes the regional dimension of the NO_X problem.

Today's final rule will be a requirement for all vehicles sold in the United States excluding California, and as such, the EPA will include the OTR in the benefits calculation. EPA disagrees with AAMA/AIAM's assumption that the OTR should be excluded. The existence of National LEV does not change EPA's authority over the OTR. Today's rule is applicable to all vehicles in the OTR.

The final rule contains significant revisions in terms of the standards and stringency ordinally proposed. In light of these revisions and the additional data brought forward by AAMA/AIAM, the Agency has revised its cost effectiveness estimates. EPA believes the aggressive driving control and air conditioning requirements will provide emission reductions in a cost effective manner. As previously discussed, the Agency will not finalize the proposed intermediate soak requirement. This decision is based on the uncertainties regarding the costs and feasibility of controlling intermediate soak emissions, as well as the reduced benefits from controlling these emissions at lower emission standards such as those levels found in California's LEV standards.

I. Cost and Benefit Estimates

Summary of Proposal. In its RIA, EPA evaluated the economic and environmental impacts of the revisions to the FTP. The economic impacts (costs) imposed on the equipment manufacturers included hardware for improved emission control and associated development and redesign costs, improved engine control calibrations, increased costs associated with the certification process including durability data vehicle testing and reporting, and facility costs.

The environmental impact (benefits) of the SFTP was evaluated by estimating the emission reductions associated with the proposed federal test procedure revisions by determining the expected lifetime emission reductions per vehicle sold after implementation of the proposed regulations nationally.

Summary of Comments. AAMA/AIAM commented that the EPA underestimated the cost for the individual requirements and overestimated the benefits of the testing changes and new standards. AAMA/AIAM felt that the EPA failed to consider the technological impact of the new requirements, and their comments went on to cite three examples where they felt the EPA did not properly account for all costs: the cost of vehicle redesign for complying with the intermediate soak requirement, engine and exhaust system changes need for complying with the air conditioning requirement, and the impact of the 48 inch dynamometer requirement.

It was AAMA/AIAM's contention that, in calculating emission benefits, the EPA included areas of the country which are already in compliance with NAAQS or areas where NO_X waivers are being granted. EPA also used worst case conditions in calculating the benefits from the air conditioning requirement, both of which led to an overestimation of emission benefits.

Based on AAMA/AIAM's cost and benefits calculations, elements of EPA's proposal were far in excess of the range of the cost effectiveness of recent rules. The comments suggest the appropriate range was $1600 to $5000 per ton for VOC and NO_X control. The comments claim that EPA has violated its cost-effectiveness policies as a result.

Response to Comments. In the revised RIA, the EPA is responding to many of the cost and benefit comments made by the manufacturers. In many cases the Agency has accepted AAMA/AIAM numbers for facilities and testing (for a more detailed explanation of the revised cost-effectiveness, see the RIA section of the Response to Comments). Based on comments and EPA re-analysis, the intermediate soak component of the SFTP has been removed from and several other requirements are revised in the final rule. For reasons discussed in detail in the RTC, the EPA has not agreed with and incorporated all of the comments of AAMA/AIAM. For example, the EPA continues to consider the SFTP as a national rule with all areas including NO_X waiver, OTR, and attainment areas used in the analysis.

Based on the revised RIA, the EPA continues to believe that the SFTP and its components (A/C and Aggressive Driving) to be cost-effective and consistent with EPA policy, with a cost-effectiveness conservatively estimated at $1,000–$2,000 per ton. This cost-effectiveness is well within the range cited by AAMA/AIAM in its comments as being cost effective. Furthermore, the EPA believes that the range is broader than the $1,600–$5,000 range cited by AAMA/AIAM as being potentially cost effective and should extend to $6,100, which was the cost-effectiveness of the Tier 1 rule.

V. Environmental and Economic Impacts

EPA has done extensive testing and modeling to evaluate the expected reductions in NMHC, CO, and NO_X emissions associated with this rule. EPA has also quantified the costs and calculated the cost-effectiveness involved in achieving the estimated benefits. These analyses, described in the final RIA, are summarized below.

The EPA has received many comments on the SFTP related to costs, benefits and cost effectiveness. The EPA has studied these comments and incorporated many of them into the cost and benefit calculations. For a more detailed discussion of the comments and the EPA's response to those comments please see the Response to Comments document for the SFTP rulemaking.

A. Environmental Impact

Several test programs were conducted to evaluate actual in-use driving patterns and various test cycles were developed in an effort to determine the emissions of typical vehicles under such driving conditions. Baseline emissions for this analysis are taken from the extensive test programs conducted by the Agency and the original equipment manufacturers in support of the FTP Review Project. The weighted averages of the emission results of these test vehicles over the various test procedures developed constitute the baseline emissions used in this analysis.

The emission reductions used in this analysis were calculated by subtracting the achievable level of control for each control area from the baseline test vehicle emissions. These test vehicle reductions were then weight averaged in an attempt to simulate the reductions associated with the actual in-use vehicle fleet mix. It should be noted that these test results were derived for a properly operating vehicle with a 50,000 mile catalyst and do not include any allowance for the higher emission levels that typically occur in use due to additional deterioration beyond 50,000 miles and malfunctions. Thus, the emission benefits calculated here are likely to be significantly understated.

The baseline NMHC, CO, and NO_X emission levels projected by EPA's MOBILE5 model with the added off-cycle emissions for the light-duty fleet are 0.99 g/mi for NMHC, 13.29 g/mi for CO, and 1.34 g/mi for NO_X. The corresponding projected reductions for vehicles designed to meet the new SFTP are 0.024 g/mi for NMHC, 1.472 g/mi for CO, and 0.125 g/mi for NO_X (in 2020 with virtually full fleet turnover).

In terms of NMHC, CO and NO_X reductions, EPA estimates that implementation of the SFTP will result in emission reductions from light-duty vehicles and light-duty trucks of 236 tons per summer day for NMHC, 14,739 tons per summer day for CO, and 1,249 tons per summer day for NO_X, in calendar year 2020. This represents reductions of 2.4 percent in NMHC, 11.1 percent in CO, and 9.3 percent in NO_X in annual motor vehicle emission inventory.

B. Economic Impact

The EPA has revised its cost assumptions and calculations from the original NPRM RIA based on manufacturer comments and further Agency analysis. These changes are described in detail in the Final RIA and the Response to Comments for this rule and are summarized below.

The proposed additions to emission test procedures will impose several costs on the original equipment manufacturers. These costs include added hardware and associated tooling costs for improved emission control, development and redesign costs, improved engine control calibrations, increased facilities costs, and increased costs associated with the certification process, including durability data vehicle testing and reporting. These costs are analyzed under a stand alone approach to test procedures and emission standards. No attempt has been made to quantify cost reductions associated with the flexibilities allowed by the composite standard adopted in this final rule. Thus, the cost estimates are almost certainly overstated. The EPA's analysis assumes that each federally certified engine family has roughly a 5 year lifetime, and that there is a 10 year lifetime for facility upgrades and an annual sales figure of 15 million vehicles outside the State of California. Spreadsheet calculations of all costs associated with the proposed test procedure changes can be found in Appendix D of the RIA for this rule.

EPA incorporated many of the manufacturers comments, including the number of tests performed for the SFTP at 162,000 and facility upgrading and construction costs. The manufacturers also submitted comments showing hardware and redesign costs totaling $143 per vehicle. These comments lacked any discussion or breakdown on the source of the costs. As these estimates included substantial costs associated with increased engine and catalyst temperatures, which the CO standard change in the Final Rule alleviates, and there was little or no detail to justify the estimates, the EPA did not incorporate these estimates into its analysis. The hardware costs were calculated using information gathered from an outside contractor and analysis done within the Agency.

Because of the simulation alternative for the A/C cycle, EPA has used two scenarios for analyzing costs of the SFTP. The simulation scenario assumes that the manufacturers will perform the A/C test cycle together with the FTP and USO6 cycles in an exhaust emission cell with some correlation testing done in a full environmental cell. The full environmental cell scenario (FEC) assumes that the manufacturers will perform all of their A/C testing in a full environmental cell and FTP/USO6 testing in an exhaust emission cell.

The recalibration, redesign, DDV testing, and mechanical integrity testing costs for the SFTP are $2.75 per vehicle for the simulation scenario and $4.07 per vehicle for the FEC scenario. The increased certification costs are $0.31 per vehicle for the simulation scenario and $0.78 per vehicle for the FEC scenario. The increased costs related to facilities are $4.01 per vehicle for the simulation scenario and $5.26 per vehicle for the FEC scenario. The hardware and associated tooling costs are $6.18 per vehicle for both the simulation and FEC scenarios.

Adding the above estimated costs results in an estimated annual cost of $13.26 per vehicle for the simulation and $16.30 for the FEC. The total annual cost (based on 15 million vehicles) is $198.9 million for the simulation and $244.5 million for the FEC. The per vehicle cost difference between the two scenarios is $3.04.

It should be noted that these costs do not include any savings from the flexibilities allowed by the composite $NMHC+NO_X$ standard, as discussed above. In addition, potential fuel economy benefits to the consumer from control of commanded enrichment have also not been incorporated. The NPRM estimated the lifetime fuel economy savings to be $16.56. No fuel consumption benefit was claimed in the NPRM because the Agency assumed this benefit would be roughly negated by the value consumers would place on the small performance loss associated with elimination of commanded enrichment. However, in the Final Rule, the performance loss has been largely eliminated by raising the CO standard (see discussion in RTC on US06 CO standard setting) to allow commanded enrichment most of the time at WOT. Although the Final Rule would still control part-throttle commanded enrichment, this has no impact on the performance of the vehicle. As the Final

Rule is estimated to still control about 80 percent of the CO benefit from commanded enrichment, it would be reasonable to conclude that the consumer would save about $13.45 ($16.56 times 80 percent) in fuel over the vehicle lifetime. As this cost reduction is no longer offset by a loss in vehicle performance, the Agency is being extremely conservative by not incorporating the potential fuel cost savings into the overall cost estimates.

C. Cost Effectiveness

Comparing benefits and costs yields an estimated overall cost-effectiveness of this action. The cost effectiveness estimate represents the expected cost per ton of pollutant reduced. For the air conditioning simulation scenario those costs designated ''Common Costs'' in this analysis, which refers to costs for engine control recalibration, exhaust emission test facilities, and certification, are allocated equally to each control area and each pollutant emission. For both the Simulation and FEC scenarios those costs associated with the US06 cycle have been allocated equally to the three pollutant emissions. Since the requirements associated with A/C are targeted for NO_X control, all costs associated with A/C have been allocated to NO_X, for both the Simulation and FEC scenarios. The following is a table that summarizes the cost per ton for each pollutant by test area for both the simulation and FEC scenarios:

TABLE 4.—COST EFFECTIVENESS ESTIMATES NATIONAL ANALYSIS

[$/ton]

Control area	NMHC	CO	NO_X
USO6:			
Simulation	457	7.3	150
FEC	522	8.3	172
A/C:			
Simulation	NA	NA	2050
FEC	NA	NA	2574
Total:			
Simulation	457	7.3	959
FEC	522	8.3	1194

As stated above, the emission benefits in these cost effectiveness calculations are likely to be understated because they do not consider the impact of in-use vehicles with malfunctions and higher deterioration on the off-cycle emission inventory. In addition, the costs are likely to be greatly overstated, as they do not include any savings from the flexibilities allowed by the composite $NMHC+NO_X$ standard or from fuel consumption reductions, as discussed above. Considering both the potential understatement of the emission benefits and the overstatement of the costs, the cost-effectiveness estimates are extremely conservative.

VI. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because of annual impacts on the economy that are likely 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 record.

B. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995 (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (i) Identification of the Federal law under which the rule is promulgated; (ii) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance; (iii) if feasible, estimates of the future compliance costs and any disproportionate budgetary effects of the mandate; (iv) if feasible, estimates of the effect on the national economy; and (v) a description of the Agency's prior consultation with elected representatives of State, local and tribal governments and a summary and evaluation of the comments and concerns presented. Section 203 provides that if any small governments may be significantly or uniquely impacted by the rule, the Agency must establish a plan for obtaining input from and informing, educating, and advising any such potentially affected small governments.

Under section 205 of the UMRA, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative, for State, local, and tribal governments and the private sector, that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this direct final rule is estimated to result in the expenditure by State, local, and tribal governments in aggregate, or the private sector of over $100 million per year, EPA has prepared a RIA in compliance with the UMRA. EPA summarizes that supplement as follows.

The Revised FTP final rule is promulgated under sections 202, 206, 208 and 301 of the Clean Air Act and its Amendments (CAA and CAAA respectively). Specifically, section 206(h) of the CAAA states that: ''Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions related to fuel, temperature, acceleration, and altitude.''

Through an Agency review the EPA has found that revisions to the Federal Test Procedures in the form of Supplemental Federal Test Procedures are necessary under 206(h) stated above.

The analysis in the RIA developed for this rulemaking evaluated qualitatively and quantitatively the benefits and costs of the SFTP, as required by the UMRA.

Total expenditures resulting from the direct final rule are estimated at: $200–$245 million per year starting in the vehicle MY2000. The Revised FTP is a national rule that supplements the

existing FTP. The SFTP will have a cost impact on the manufacturers and will not require expenditures of State, local and tribal governments.

There are important benefits from reductions of NMHC, CO, and NO_X emissions which have significant adverse impacts on human health and welfare and on the environment. The SFTP is expected to reduce emissions from LDVs and LDTs by two percent for NMHC, eleven percent for CO, and ten percent for NO_X.

The SFTP is a national rule that does not have any disproportionate budgetary effects on any particular region of the nation, any State, local, or tribal government, or urban or rural or other type of community.

Prior to issuing this rule, the EPA provided numerous opportunities, e.g., through public hearings and the public comment period, for consultation with interested parties, including State, local and tribal governments. The EPA evaluated the comments and concerns expressed, and the final rule reflects those comments and concerns.

The Agency considered several regulatory options in the development of the rule. The option selected in the final rule is the most cost-effective alternative currently available for achieving the objectives of sections 202, 206, 208, and 301.

C. Paperwork Reduction Act

The information collection requirements in this final 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 document has been prepared by EPA (ICR No. 2060–0104) and a copy may be obtained from Sandy Farmer, Information Policy Branch, EPA, 401 M St., SW (Mail Code 2136), Washington, DC 20460 or by calling (202) 260–2740.

The information collection burden associated with this rule (testing, record keeping and reporting requirements) is estimated to average 566 hours annually for a typical manufacturer. However, the hours spent annually on information collection activities by a given manufacturer depends upon manufacturer-specific variables, such as the number of engine families, production changes, emissions defects, and so forth. The burden estimate includes such things as reviewing instructions, searching existing data sources, setting up and maintaining equipment, performing emission testing, gathering and maintaining data, performing analyses, and reviewing and submitting information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence.

D. Regulatory Flexibility Analysis

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. This rule will not have a significant economic impact on a substantial number of small businesses. This final rulemaking relates to requirements applicable only to manufacturers of motor vehicles, a group which does not contain a substantial number of small entities. See 60 FR 52734, 52769; 1996 World Motor Vehicle Data, AAMA, pp. 282–285.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Judicial Review

Under section 307(b) of the Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of this document may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 86

Environmental Protection, Administrative practice and procedure, Confidential business information, Incorporation by references, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: August 15, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 chapter I part 86 of the Code of Federal Regulations is amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

2. Section 86.1 is amended by revising the entries for ASTM E29–67 and ASTM E29–90 in the table in paragraph (b)(1), to read as follows:

§ 86.1 Reference materials.

* * * * *

(b) * * *

(1) * * *

Document number and name	40 CFR part 86 reference
ASTM E29–67 (Re-approved 1980), Standard Recommended Practice for Indicating Which Places of Figures Are To Be Considered Significant in Specified Limiting Values..	86.1105–87
ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications..	86.000–26; 86.000–28; 86.001–28; 86.609–84; 86.609–96; 86.1009–84; 86.1009–96; 86.1442
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Subpart A—[Amended]

3. A new § 86.000–2 is added to subpart A to read as follows:

§ 86.000–2 Definitions.

The definitions of § 86.098–2 continue to apply to 1998 and later model year vehicles. The definitions listed in this section apply beginning with the 2000 model year.

AC1 means a test procedure as described in § 86.162–00 which simulates testing with air conditioning operating in an environmental test cell by adding the air conditioning compressor load to the normal dynamometer forces.

AC2 means a test procedure as described in § 86.162–00 which simulates testing with air conditioning operating in an environmental test cell by adding a heat load to the passenger compartment.

Alternative fuels means any fuel other than gasoline and diesel fuels, such as methanol, ethanol, and gaseous fuels.

866 Cycle means the test cycle that consists of the last 866 seconds (seconds 505 to 1372) of the EPA Urban Dynamometer Driving Schedule, described in § 86.115–00 and listed in appendix I, paragraph (a), of this part.

Environmental test cell means a test cell capable of wind-speed, solar thermal load, ambient temperature, and humidity control or simulation which meets the requirements of § 86.161–00 for running emission tests with the air conditioning operating.

Federal Test Procedure, or FTP means the test procedure as described in § 86.130–00 (a) through (d) and (f) which is designed to measure urban driving tail pipe exhaust emissions and evaporative emissions over the Urban Dynamometer Driving Schedule as described in appendix I to this part.

505 Cycle means the test cycle that consists of the first 505 seconds (seconds 1 to 505) of the EPA Urban Dynamometer Driving Schedule, described in § 86.115–00 and listed in appendix I, paragraph (a), of this part.

SC03 means the test cycle, described in § 86.160–00 and listed in appendix I, paragraph (h), of this part, which is designed to represent driving immediately following startup.

Supplemental FTP, or SFTP means the additional test procedures designed to measure emissions during aggressive and microtransient driving, as described in § 86.159–00 over the US06 cycle, and also the test procedure designed to measure urban driving emissions while the vehicle's air conditioning system is operating, as described in § 86.160–00 over the SC03 cycle.

US06 means the test cycle, described in § 86.159–00 and listed in appendix I, paragraph (g), of this part, which is designed to evaluate emissions during aggressive and microtransient driving.

4. A new § 86.000–3 is added to subpart A to read as follows:

§ 86.000–3 Abbreviations.

The abbreviations in § 86.098–3 continue to apply to 1998 and later model year vehicles. The abbreviations in this section apply beginning with the 2000 model year:

A/C—Air conditioning
FTP—Federal Test Procedure
SFTP—Supplemental Federal Test Procedure
WOT—Wide Open Throttle

5. A new § 86.000–7 is added to subpart A to read as follows:

§ 86.000–7 Maintenance of records; submittal of information; right of entry.

Section 86.000–7 includes text that specifies requirements that differ from § 86.091–7, § 86.094–7 or § 86.096–7. Where a paragraph in § 86.091–7, § 86.094–7 or § 86.096–7 is identical and applicable to § 86.000–7, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.091–7.'' or ''[Reserved]. For guidance see § 86.094–7.'' or ''[Reserved]. For guidance see § 86.096–7.''

(a) introductory text through (a)(2) [Reserved]. For guidance see § 86.091–7.

(a)(3) [Reserved]. For guidance see § 86.094–7.

(b) through (c)(2) [Reserved]. For guidance see § 86.091–7.

(c)(3) [Reserved]. For guidance see § 86.094–7.

(c)(4) through (d)(1)(v) [Reserved]. For guidance see § 86.091–7.

(d)(1)(vi) through (d)(2)(iv) [Reserved]. For guidance see § 86.094–7.

(d)(3) through (g) [Reserved]. For guidance see § 86.091–7.

(h)(1) The manufacturer (or contractor for the manufacturer, if applicable) of any model year 2000 through 2002 light-duty vehicle or light light-duty truck or model year 2002 through 2004 heavy light-duty truck that is certified shall establish, maintain, and retain the following adequately organized and indexed records for each such vehicle:

(i) EPA engine family;

(ii) Vehicle identification number;

(iii) Model year and production date;

(iv) Shipment date;

(v) Purchaser; and

(vi) Purchase contract.

(h)(2) through (h)(5) [Reserved]. For guidance see § 86.094–7.

(h)(6) Voiding a certificate. (i) EPA may void ab initio a certificate for a vehicle certified to Tier 1 certification standards or to the respective evaporative and/or refueling test procedure and accompanying evaporative and/or refueling standards as set forth or otherwise referenced in §§ 86.000–8, 86.000–9, or 86.098–10 for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

(h)(6)(ii) through (h)(7)(vi) [Reserved]. For guidance see § 86.096–7.

(h)(7)(vii) EPA evaporative/refueling family.

6. A new § 86.000–8 is added to subpart A to read as follows:

§ 86.000–8 Emission standards for 2000 and later model year light-duty vehicles.

Section 86.000–8 includes text that specifies requirements that differ from § 86.096–8 or § 86.099–8. Where a paragraph in § 86.096–8 or § 86.099–8 is identical and applicable to § 86.000–8, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.096–8.'' or ''[Reserved]. For guidance see § 86.099–8.''

(a)(1) introductory text through (a)(1)(ii)(B) [Reserved]. For guidance see § 86.096–8.

(a)(1)(iii) through (b)(4) [Reserved]. For guidance see § 86.099–8.

(b)(5) [Reserved]. For guidance see § 86.096–8.

(b)(6) [Reserved]. For guidance see § 86.099–8.

(c) [Reserved]. For guidance see § 86.096–8.

(d) [Reserved]. For guidance see § 86.099–8.

(e) SFTP Standards. (1) Exhaust emissions from 2000 and later model year light-duty vehicles shall meet the additional SFTP standards of Table A00–2 (defined by useful life, fuel type, and test type) according to the implementation schedule in Table A00–1. The standards set forth in Table A00–2 refer to exhaust emissions emitted over the Supplemental Federal Test Procedure (SFTP) as set forth in subpart B of this part and collected and calculated in accordance with those procedures. Compliance with these standards are an additional requirement to the required compliance with Tier 1 standards as defined in §§ 86.096–8 (a)(1) introductory text through (a)(1)(ii)(B) and 86.099–8 (a)(1)(iii) through (a)(3):

TABLE A00–1.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR ($NMHC+NO_x$) AND CO

Model year	Percentage
2000	40
2001	80
2002	100

TABLE A00–2.—USEFUL LIFE STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR (NMHC+NO_X) AND CO

Useful life	Fuel type	NMHC+NO_X composite	CO		
			A/C test	US06 test	Composite option
Intermediate	Gasoline	0.65	3.0	9.0	3.4
	Diesel	1.48	NA	9.0	3.4
Full	Gasoline	0.91	3.7	11.1	4.2
	Diesel	2.07	NA	11.1	4.2

(i) A minimum of the percentage shown in Table A00–1 of a manufacturer's sales of the applicable model year's light-duty vehicles shall not exceed the applicable SFTP standards in Table A00–2 when tested under the procedures in subpart B of this part indicated for 2000 and later model year light-duty vehicles.

(ii) Optionally, a minimum of the percentage shown in Table A00–1 of a manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall not exceed the applicable SFTP standards. Under this option, the light-duty vehicles shall not exceed the applicable SFTP standards in Table A00–2, and the light light-duty trucks shall not exceed the applicable SFTP standards in Table A00–4 of § 86.000–9.

(iii) Sales percentages for the purposes of determining compliance with this paragraph (e)(1) shall be based on total actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale. If the option of paragraph (e)(1)(ii) of this section is taken, such sales percentages shall be based on the total actual combined U.S. sales of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(iv) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Table A00–1. Such petition shall be submitted within 30 days of the end of the model year to the Vehicle Programs and Compliance Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(2) These SFTP standards do not apply to vehicles certified on alternative fuels, but the standards do apply to the gasoline and diesel fuel operation of flexible fuel vehicles and dual fuel vehicles.

(3) These SFTP standards do not apply to vehicles tested at high altitude.

(4) The air to fuel ratio shall not be richer at any time than the leanest air to fuel mixture required to obtain maximum torque (lean best torque), plus a tolerance of six (6) percent. The Administrator may approve a manufacturer's request for additional enrichment if it can be shown that additional enrichment is needed to protect the engine or emissions control hardware.

(5) The requirement to use a single roll dynamometer (or a dynamometer which produces equivalent results), discussed in §§ 86.108–00, 86.118–00, and 86.129–00, applies to all SFTP and FTP test elements as set forth in subpart B of this part for families which are designated as SFTP compliant under the implementation schedule in Table A00–1.

(6) Small volume manufacturers, as defined in § 86.094–14(b)(1) and (2), are exempt from the requirements of this paragraph (e) until model year 2002, when 100 percent compliance with the standards of this paragraph (e) is required. This exemption does not apply to small volume engine families as defined in § 86.094–14(b)(5).

(7) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages for certification purposes.

(8) A manufacturer cannot use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(9) Compliance with composite standards shall be demonstrated using the calculations set forth in § 86.164–00.

(f) [Reserved]

(g) through (k) [Reserved]. For guidance see § 86.096–8.

7. A new § 86.000–9 is added to subpart A to read as follows:

§ 86.000–9 Emission standards for 2000 and later model year light-duty trucks.

Section 86.000–9 includes text that specifies requirements that differ from § 86.097–9 or § 86.099–9. Where a paragraph in § 86.097–9 or § 86.099–9 is identical and applicable to § 86.000–9, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.097–9.'' or ''[Reserved]. For guidance see § 86.099–9.''

(a)(1) introductory text through (a)(1)(iii) [Reserved]. For guidance see § 86.097–9.

(a)(1)(iv) through (b)(4) [Reserved]. For guidance see § 86.099–9.

(b)(5) [Reserved]

(c) [Reserved]. For guidance see § 86.097–9.

(d) [Reserved]

(e) *SFTP Standards.* (1) Light light-duty trucks. (i) Exhaust emissions from 2000 and later model year light light-duty trucks shall meet the additional SFTP standards of Table A00–4 (defined by useful life, fuel type, truck type, loaded vehicle weight (LVW), and test type) according to the implementation schedule in Table A00–3. The standards set forth in Table A00–4 refer to exhaust emissions emitted over the Supplemental Federal Test Procedure (SFTP) as set forth in subpart B of this part and collected and calculated in accordance with those procedures. Compliance with these standards are an additional requirement to the required compliance with Tier 1 standards as defined in §§ 86.097–9(a)(1) introductory text through (a)(1)(iii) and 86.099–9(a)(1)(iv) through (a)(3):

TABLE A00–3.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR (NMHC+NO_X) AND CO

Model year	Percentage
2000	40
2001	80

TABLE A00–3.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR (NMHC+NO_X) AND CO—Continued

Model year	Percentage
2002	100

TABLE A00–4.—USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR (NMHC+NO_X) AND CO

Useful life	Fuel type	Truck type	LVW (lbs)	NMHC+NO_X Composite	CO		
					A/C test	US06 test	Composite option
Intermediate	Gasoline	LDT1	0–3750	0.65	3.0	9.0	3.4
		LDT2	3751–5750	1.02	3.9	11.6	4.4
	Diesel	LDT1	0–3750	1.48	NA	9.0	3.4
		LDT2	3751–5750	NA	NA	NA	NA
Full	Gasoline	LDT1	0–3750	0.91	3.7	11.1	4.2
		LDT2	3751–5750	1.37	4.9	14.6	5.5
	Diesel	LDT1	0–3750	2.07	NA	11.1	4.2
		LDT2	3751–5750	NA	NA	NA	NA

(A) A minimum of the percentage shown in Table A00–3 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable SFTP standards in Table A00–4 when tested under the procedures in subpart B of this part indicated for 2000 and later model year light light-duty trucks.

(B) Optionally, a minimum of the percentage shown in Table A00–3 of a manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall not exceed the applicable SFTP standards. Under this option, the light-duty vehicles shall not exceed the applicable SFTP standards in Table A00–2 of § 86.000–8, and the light light-duty trucks shall not exceed the applicable SFTP standards in Table A00–4.

(C) Sales percentages for the purposes of determining compliance with paragraph (e)(1)(i)(A) of this section shall be based on total actual U.S. sales of light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale. If the option of § 86.097–9(a)(1)(i)(B) is taken, such sales percentages shall be based on the total actual combined U.S. sales of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(D) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Table A000–3. Such petition shall be submitted within 30 days of the end of the model year to the Vehicle Programs and Compliance Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(ii) These SFTP standards do not apply to light light-duty trucks certified on alternative fuels, but the standards do apply to the gasoline and diesel fuel operation of flexible fuel vehicles and dual fuel vehicles.

(iii) These SFTP standards do not apply to light light-duty trucks tested at high altitude.

(iv) The air to fuel ratio shall not be richer at any time than the leanest air to fuel mixture required to obtain maximum torque (lean best torque), plus a tolerance of six (6) percent. The Administrator may approve a manufacturer's request for additional enrichment if it can be shown that additional enrichment is needed to protect the engine or emissions control hardware.

(v) The requirement to use a single roll dynamometer (or a dynamometer which produces equivalent results), discussed in §§ 86.108–00, 86.118–00, and 86.129–00, applies to all SFTP and FTP test elements as set forth in subpart B of this part for engine families which are designated as SFTP compliant under the implementation schedule in Table A00–3.

(vi) Small volume manufacturers, as defined in § 86.094–14(b) (1) and (2), are exempt from the requirements of this paragraph (e) until model year 2002, when 100 percent compliance with the standards of this paragraph (e) is required. This exemption does not apply to small volume engine families as defined in § 86.094–14(b)(5).

(vii) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which engine families will be used to attain the required implementation schedule sales percentages for certification purposes.

(viii) A manufacturer cannot use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same engine families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ix) Compliance with composite standards shall be demonstrated using the calculations set forth in § 86.164–00.

(2) Heavy light-duty trucks. (i) Exhaust emissions from 2002 and later model year heavy light-duty trucks shall meet the SFTP standards of Table A00–6 (defined by useful life, fuel type, truck type, adjusted loaded vehicle weight (ALVW), and test type) according to the implementation schedule in Table A00–5. The standards set forth in Table A00–6 refer to exhaust emissions emitted over the Supplemental Federal Test Procedure (SFTP) as set forth in subpart B of this part and collected and calculated in accordance with those

procedures. Compliance with these standards are an additional requirement to the required compliance with Tier 1 standards as defined in §§ 86.097–9(a)(1) introductory text through (a)(1)(iii) and 86.099–9(a)(1)(iv) through (a)(3):

TABLE A00–5.—IMPLEMENTATION SCHEDULE FOR HEAVY LIGHT-DUTY TRUCKS FOR (NMHC+NO_X) AND CO

Model year	Percentage
2002	40
2003	80
2004	100

TABLE A00–6.—USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR (NMHC+NO_X) AND CO

Useful life	Fuel type	Truck type	ALVW (lbs)	NMHC+NO_X composite	CO		
					A/C test	US06 test	Composite option
Intermediate	Gasoline	LDT3	3751–5750	1.02	3.9	11.6	4.4
		LDT4	>5750	1.49	4.4	13.2	5.0
	Diesel	LDT3	3751–5750	NA	NA	NA	NA
		LDT4	>5750	NA	NA	NA	NA
Full	Gasoline	LDT3	3751–5750	1.44	5.6	16.9	6.4
		LDT4	>5750	2.09	6.4	19.3	7.3
	Diesel	LDT3	3751–5750	NA	NA	NA	NA
		LDT4	>5750	NA	NA	NA	NA

(A) A minimum of the percentage shown in Table A00–5 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the applicable SFTP standards in Table A00–6 when tested under the procedures in subpart B of this part indicated for 2002 and later model year heavy light-duty trucks.

(B) Sales percentages for the purposes of determining compliance with paragraph (e)(1)(ii)(A) of this section shall be based on total actual U.S. sales of heavy light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(C) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Table A00–5. Such petition shall be submitted within 30 days of the end of the model year to the Vehicle Programs and Compliance Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(ii) These SFTP standards do not apply to heavy light-duty trucks certified on alternative fuels, but the standards do apply to the gasoline fuel operation of flexible fuel vehicles and dual fuel vehicles.

(iii) These SFTP standards do not apply to heavy light-duty trucks tested at high altitude.

(iv) The air to fuel ratio shall not be richer at any time than the leanest air to fuel mixture required to obtain maximum torque (lean best torque), plus a tolerance of six (6) percent. The Administrator may approve a manufacturer's request for additional enrichment if it can be shown that additional enrichment is needed to protect the engine of emissions control hardware.

(v) The requirement to use a single roll dynamometer (or a dynamometer which produces equivalent results), discussed in §§ 86.108–00, 86.118–00, and 86.129–00, applies to all SFTP and FTP test elements for families which are designated as SFTP compliant under the implementation schedule in Table A00–5.

(vi) Small volume manufacturers, as defined in § 86.094–14(b) (1) and (2), are exempt from the requirements of paragraph (e) of this section until model year 2004, when 100 percent compliance with the standards of this paragraph (e) is required. This exemption does not apply to small volume engine families as defined in § 86.094–14(b)(5).

(vii) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages for certification purposes.

(viii) A manufacturer cannot use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standard.

(ix) The NO_X averaging program is not applicable for determining compliance with the standards of Table A00–6.

(x) Compliance with composite standards shall be demonstrated using the calculations set forth in § 86.164–00.

(f) [Reserved]

(g) through (k) [Reserved]. For guidance see § 86.097–9.

8. A new § 86.000–16 is added to subpart A to read as follows:

§ 86.000–16 Prohibition of defeat devices.

Section 86.000–16 includes text that specifies requirements that differ from § 86.094–16. Where a paragraph in § 86.094–16 is identical and applicable to § 86.000–16, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–16.''

(a) through (d) introductory text [Reserved]. For guidance see § 86.094–16.

(d)(1) The manufacturer must show to the satisfaction of the Administrator that the vehicle design does not incorporate strategies that unnecessarily reduce emission control effectiveness exhibited during the Federal or Supplemental Federal emissions test procedures (FTP or SFTP) when the vehicle is operated under conditions which may reasonably be expected to be encountered in normal operation and use.

(d)(2) through (d)(2)(ii) [Reserved]. For guidance see § 86.094–16.

9. A new § 86.000–21 is added to subpart A to read as follows:

§ 86.000–21 Application for certification.

Section 86.000–21 includes text that specifies requirements that differ from § 86.094–21, § 86.096–21 or § 86.098–21. Where a paragraph in § 86.094–21, § 86.096–21 or § 86.098–21 is identical and applicable to § 86.000–21, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–21.'' or ''[Reserved]. For guidance see § 86.096–21.'' or ''[Reserved]. For guidance see § 86.098–21.''

(a) through (b)(1)(i)(B) [Reserved]. For guidance see § 86.094–21.

(b)(1)(i)(C) The manufacturer must submit a Statement of Compliance in the application for certification which attests to the fact that they have assured themselves that the engine family is designed to comply with the intermediate temperature cold testing criteria of subpart C of this part, and does not unnecessarily reduce emission control effectiveness of vehicles operating at high altitude or other conditions not experienced within the US06 (aggressive driving) and SC03 (air conditioning) test cycles.

(b)(1)(i)(C)(*1*) through (b)(1)(ii)(C) [Reserved]. For guidance see § 86.094–21.

(b)(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested, and data sufficient to determine projected compliance with the standards implementation schedules of §§ 86.000–8 and 86.000–9. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(b)(3) A description of the test equipment and fuel proposed to be used.

(b)(4)(i) [Reserved]. For guidance see § 86.098–21.

(b)(4)(ii) through (b)(5)(iv) [Reserved]. For guidance see § 86.094–21.

(b)(5)(v) [Reserved]. For guidance see § 86.098–21.

(b)(6) through (b)(8) [Reserved]. For guidance see § 86.094–21.

(b)(9) through (b)(10)(iii) [Reserved]. For guidance see § 86.098–21.

(c) through (j) [Reserved]. For guidance see § 86.094–21.

(k) and (l) [Reserved]. For guidance see § 86.096–21.

10. A new § 86.000–23 is added to subpart A to read as follows:

§ 86.000–23 Required data.

Section 86.000–23 includes text that specifies requirements that differ from § 86.095–23 or § 86.098–23. Where a paragraph in § 86.095–23 or § 86.098–23 is identical and applicable to § 86.000–23, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.095–23.'' or ''[Reserved]. For guidance see § 86.098–23.''

(a) through (b)(1)(ii) [Reserved]. For guidance see § 86.095–23.

(b)(2) [Reserved]. For guidance see § 86.098–23.

(b)(3) through (b)(4)(ii) [Reserved]. For guidance see § 86.095–23.

(b)(4)(iii) [Reserved]. For guidance see § 86.098–23.

(c) through (e)(1) [Reserved]. For guidance see § 86.095–23.

(e)(2) through (e)(3) [Reserved]. For guidance see § 86.098–23.

(f) through (k) [Reserved]. For guidance see § 86.095–23.

(l) Additionally, manufacturers certifying vehicles shall submit for each model year 2000 through 2002 light-duty vehicle and light light-duty truck engine family and each model year 2002 through 2004 heavy light-duty truck engine family the information listed in paragraphs (l) (1) and (2) of this section.

(1) Application for certification. In the application for certification, the manufacturer shall submit the projected sales volume of engine families certifying to the respective standards. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(2) End-of-year reports for each engine family.

(i) These end-of-year reports shall be submitted within 90 days of the end of the model year to: Director, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

(ii) These reports shall indicate the model year, engine family, and the actual U.S. sales volume. The manufacturer may petition the Administrator to allow volume produced for U.S. sale to be used in lieu of U.S. sales. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that production volume is functionally equivalent to sales volume.

(iii) The U.S. sales volume for end-of-year reports shall be based on the location of the point of sale to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(iv) Failure by a manufacturer to submit the end-of-year report within the specified time may result in certificate(s) for the engine family(ies) certified to Tier 1 certification standards being voided ab initio plus any applicable civil penalties for failure to submit the required information to the Agency.

(v) These reports shall include the information required under § 86.000–7(h)(1). The information shall be organized in such a way as to allow the Administrator to determine compliance with the SFTP standards implementation schedules of §§ 86.000–8 and 86.000–9.

(m) [Reserved]. For guidance see § 86.098–23.

11. A new § 86.000–24 is added to subpart A to read as follows:

§ 86.000–24 Test vehicles and engines.

Section 86.000–24 includes text that specifies requirements that differ from § 86.096–24 or § 86.098–24. Where a paragraph in § 86.096–24 or § 86.098–24 is identical and applicable to § 86.000–24, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.096–24.'' or ''[Reserved]. For guidance see § 86.098–24.''

(a) introductory text through (a)(4) [Reserved]. For guidance see § 86.096–24.

(a)(5) through (a)(7) [Reserved]. For guidance see § 86.098–24.

(a)(8) through (b)(1) introductory text [Reserved]. For guidance see § 86.096–24.

(b)(1)(i) Vehicles are chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle is selected. If air conditioning is projected to be available on any vehicles within the engine family, the Administrator will limit selections to engine codes which have air conditioning available and will require that any vehicle selected under this section has air conditioning installed and operational. The Administrator selects as the test vehicle the vehicle with the heaviest equivalent test weight (including options) within the family which meets the air conditioning eligibility requirement discussed earlier in this section. If more than one vehicle meets this criterion, then within that vehicle grouping, the Administrator selects, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family, and the maximum fuel flow calibration.

(ii) The Administrator selects one additional test vehicle from within each engine family. The additional vehicle

selected is the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. The selected vehicle will include an air conditioning engine code unless the Administrator chooses a worst vehicle configuration that is not available with air conditioning. If all vehicles within the engine family are similar, the Administrator may waive the requirements of this paragraph.

(b)(1)(iii) through (b)(1)(vi) [Reserved]. For guidance see § 86.096–24.

(b)(1)(vii)(A) through (b)(1)(viii)(A) [Reserved]. For guidance see § 86.098–24.

(b)(1)(viii)(B) through (e)(2) [Reserved]. For guidance see § 86.096–24.

(f) [Reserved]. For guidance see § 86.098–24.

(g)(1) through (g)(2) [Reserved]. For guidance see § 86.096–24.

(g)(3) Except for air conditioning, where it is expected that 33 percent or less of a carline, within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, that item may not be installed on any emission data vehicle or durability data vehicle of that carline within that engine-system combination, unless that item is standard equipment on that vehicle or specifically required by the Administrator.

(4) Air conditioning must be installed and operational on any emission data vehicle of any vehicle configuration that is projected to be available with air conditioning regardless of the rate of installation of air conditioning within the carline. Section 86.096–24(g) (1) and (2) and paragraph (g)(3) of this section will be used to determine whether the weight of the air conditioner will be included in equivalent test weight calculations for emission testing.

(h) [Reserved]. For guidance see § 86.096–24.

12. A new § 86.000–25 is added to subpart A to read as follows:

§ 86.000–25 Maintenance.

Section 86.000–25 includes text that specifies requirements that differ from § 86.094–25 or § 86.098–25. Where a paragraph in § 86.094–25 or § 86.098–25 is identical and applicable to § 86.000–25, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–25.'' or ''[Reserved]. For guidance see § 86.098–25.''

(a)(1) Applicability. This section applies to light-duty vehicles, light-duty trucks, and heavy-duty engines.

(a)(2) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust, evaporative or refueling emission deterioration factors is classified as either emission-related or non-emission-related and each of these can be classified as either scheduled or unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) introductory text through (b)(3)(vi)(D) [Reserved]. For guidance see § 86.094–25.

(b)(3)(vi)(E) through (b)(3)(vi)(J) [Reserved]. For guidance see § 86.098–25.

(b)(3)(vii) through (b)(6)(i)(E) [Reserved]. For guidance see § 86.094–25.

(b)(6)(i)(F) [Reserved]. For guidance see § 86.098–25.

(b)(6)(i)(G) through (H) [Reserved]. For guidance see § 86.094–25.

(i) When air conditioning SFTP exhaust emission tests are required, the manufacturer must document that the vehicle's air conditioning system is operating properly and that system parameters are within operating design specifications prior to test. Required air conditioning system maintenance is performed as unscheduled maintenance and does not require the Administrator's approval.

13. A new § 86.000–26 is added to subpart A to read as follows:

§ 86.000–26 Mileage and service accumulation; emission measurements.

Section 86.000–26 includes text that specifies requirements that differ from § 86.094–26, § 86.095–26, § 86.096–26 or § 86.098–26. Where a paragraph in § 86.094–26, § 86.095–26, § 86.096–26 or § 86.098–26 is identical and applicable to § 86.000–26, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–26.'' or ''[Reserved]. For guidance see § 86.095–26.'' or ''[Reserved]. For guidance see § 86.096–26.'' or ''[Reserved]. For guidance see § 86.098–26.''

(a)(1) [Reserved]. For guidance see § 86.094–26.

(a)(2) The standard method of whole-vehicle service accumulation for durability data vehicles and for emission data vehicles shall be mileage accumulation using the Durability Driving Schedule as specified in appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129, the manufacturer may elect to conduct the respective emission tests at higher loaded vehicle weight.

(3) Emission data vehicles. Unless otherwise provided for in § 86.000–23(a), emission-data vehicles shall be operated and tested as described in paragraph (a)(3)(i)(A) of this section; § 86.094–26(a)(3)(i)(B) and (D), § 86.098–26(a)(3)(i)(C) and (a)(3)(ii)(C), and § 86.094–26(a)(3)(ii) (A), (B) and (D).

(i) Otto-cycle. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.000–24(b)(1) shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.000–24(b)(1) with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with 40 CFR 600.006–87(c). Complete exhaust (FTP and SFTP tests), evaporative and refueling (if required) emission tests shall be conducted for each emission-data vehicle selection under § 86.000–24(b)(1). The Administrator may determine under § 86.000–24(f) that no testing is required.

(a)(3)(i)(B) [Reserved]. For guidance see § 86.094–26.

(a)(3)(i)(C) [Reserved]. For guidance see § 86.098–26.

(a)(3)(i)(D) through (a)(3)(ii)(B)[Reserved]. For guidance see § 86.094–26.

(a)(3)(ii)(C) [Reserved]. For guidance see § 86.098–26.

(a)(3)(ii)(D) through (a)(4)(i)(B)(*4*)[Reserved]. For guidance see § 86.094–26.

(a)(4)(i)(C) Complete exhaust emission tests shall be made at nominal test point mileage intervals that the manufacturer determines. Unless the Administrator approves a manufacturer's request to develop specific deterioration factors for aggressive driving (US06) and air conditioning (SC03) test cycle results, tail pipe exhaust emission deterioration factors are determined from only FTP test cycle data. At a minimum, two complete exhaust emission tests shall be made. The first test shall be made at a distance not greater than 6,250 miles. The last shall be made at the mileage accumulation endpoint determined in § 86.094–26 (a)(4)(i) (A) or (B), whichever is applicable.

(a)(4)(i)(D) through (a)(6)(ii) [Reserved]. For guidance see § 86.094–26.

(a)(6)(iii) The results of all emission tests shall be rounded to the number of places to the right of the decimal point indicated by expressing the applicable emission standard of this subpart to one additional significant figure, in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(a)(7) through (a)(9)(i) [Reserved]. For guidance see § 86.094–26.

(a)(9)(ii) The test procedures in §§ 86.106 through 86.149 and § 86.158 will be followed by the Administrator. The Administrator may test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(a)(9)(iii) through (b)(2) introductory text [Reserved]. For guidance see § 86.094–26.

(b)(2)(i) This paragraph (b)(2)(i) applies to service accumulation conducted under the Standard Self-Approval Durability Program of § 86.094–13(f). The manufacturer determines the form and extent of this service accumulation, consistent with good engineering practice, and describes it in the application for certification. Service accumulation under the Standard Self-Approval Durability Program is conducted on vehicles, engines, subsystems, or components selected by the manufacturer under § 86.000–24(c)(2)(i).

(ii) This paragraph (b)(2)(ii) applies to service accumulation conducted under the Alternative Service Accumulation Durability Program of § 86.094–13(e). The service accumulation method is developed by the manufacturer to be consistent with good engineering practice and to accurately predict the deterioration of the vehicle's emissions in actual use over its full useful life. The method is subject to advance approval by the Administrator and to verification by an in-use verification program conducted by the manufacturer under § 86.094–13(e)(5).

(b)(2)(iii) through (b)(4)(i)(C) [Reserved]. For guidance see § 86.094–26.

(b)(4)(i)(D) through (b)(4)(ii)(D) [Reserved]. For guidance see § 86.095–26.

(b)(4)(iii) [Reserved].

(b)(4)(iv) through (c)(3) [Reserved]. For guidance see § 86.094–26.

(c)(4) [Reserved]. For guidance see § 86.096–26.

(d) introductory text through (d)(2)(i) [Reserved]. For guidance see § 86.094–26.

(d)(2)(ii) The results of all emission tests shall be recorded and reported to the Administrator. These test results shall be rounded, in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1), to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure.

(d)(3) through (d)(6) [Reserved]. For guidance see § 86.094–26.

14. A new § 86.000–28 is added to subpart A to read as follows:

§ 86.000–28 Compliance with emission standards.

Section 86.000–28 includes text that specifies requirements that differ from § 86.094–28 or § 86.098–28. Where a paragraph in § 86.094–28 or § 86.098–28 is identical and applicable to § 86.000–28, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–28.'' or ''[Reserved]. For guidance see § 86.098–28.''

(a)(1) This paragraph (a) applies to light duty vehicles.

(2) Each exhaust, evaporative and refueling emission standard (and family particulate emission limits, as appropriate) of § 86.000–8 applies to the emissions of vehicles for the appropriate useful life as defined in §§ 86.000–2 and 86.000–8.

(a)(3) [Reserved]. For guidance see § 86.094–28.

(a)(4) Introductory text [Reserved]. For guidance see § 86.098–28.

(a)(4)(i) Separate emission deterioration factors for each regulated exhaust constituent shall be determined from the FTP exhaust emission results of the durability-data vehicle(s) for each engine-system combination. Unless the Administrator approves a manufacturer's request to develop specific deterioration factors for US06 and air conditioning (SC03) test results, applicable FTP deterioration factors will also be used to estimate intermediate and full useful life emissions for all SFTP regulated emission levels. Separate evaporative and/or refueling emission deterioration factors shall be determined for each evaporative/refueling emission family-emission control system combination from the testing conducted by the manufacturer (gasoline-fueled and methanol-fueled vehicles only). Separate refueling emission deterioration factors shall be determined for each evaporative/refueling emission family-emission control system combination from the testing conducted by the manufacturer (petroleum-fueled diesel cycle vehicles not certified under the provisions of § 86.098–28(g) only).

(a)(4)(i)(A) through (a)(4)(i)(B)(*2*)(*i*) [Reserved]. For guidance see § 86.094–28.

(a)(4)(i)(B)(*2*)(*ii*) These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(a)(4)(i)(B)(*2*)(*iii*) through (a)(4)(i)(B)(*2*)(*iv*) [Reserved]. For guidance see § 86.094–28.

(a)(4)(i)(C) through (a)(4)(i)(D)(*2*) [Reserved]. For guidance see § 86.098–28.

(a)(4)(ii)(A)(*1*) The official exhaust emission test results for each applicable exhaust emission standard for each emission data vehicle at the selected test point shall be multiplied by the appropriate deterioration factor: *Provided*, that if a deterioration factor as computed in paragraph (a)(4)(i)(B)(*2*)(*ii*) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph. For the SFTP composite standard of ($NMHC+NO_X$), the measured results of NMHC and NO_X must each be multiplied by their corresponding deterioration factors before the composite ($NMHC+NO_X$) standard is calculated.

(*2*) The calculation specified in paragraph (a)(4)(ii)(A)(*1*) of this section may be modified with advance approval

of the Administrator for engine-system combinations which are certified under the Alternative Service Accumulation Durability Program specified in § 86.094–13(e).

(a)(4)(ii)(B) through (a)(4)(ii)(C) [Reserved]. For guidance see § 86.098–28.

(a)(4)(iii) The emissions to compare with the standard (or the family particulate emission limit, as appropriate) shall be the adjusted emissions of § 86.098–28 (a)(4)(ii)(B) and (C) and paragraph (a)(4)(ii)(A) of this section 211a for each emission-data vehicle. For the SFTP composite ($NMHC+NO_X$) results, the individual deterioration factors must be applied to the applicable NMHC and NO_X test results prior to calculating the adjusted composite ($NMHC+NO_X$) level that is compared with the standard. The additional composite calculations that are required by the SFTP are discussed in § 86.164–00 (Supplemental federal test procedure calculations). Before any emission value is compared with the standard (or the family particulate emission limit, as appropriate), it shall be rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1). The rounded emission values may not exceed the standard (or the family particulate emission limit, as appropriate).

(a)(4)(iv) [Reserved]. For guidance see § 86.094–28.

(a)(4)(v) [Reserved]. For guidance see § 86.098–28.

(a)(5) through (a)(6) [Reserved]. For guidance see § 86.094–28.

(a)(7) introductory text [Reserved]. For guidance see § 86.098–28.

(a)(7)(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability data vehicles for each emission standard applicable under § 86.000–8, for each engine family group. Unless the Administrator approves a manufacturer's request to develop specific deterioration factors for US06 and air conditioning (SC03) test results, applicable deterioration factors determined from FTP exhaust emission results will also be used to estimate intermediate and full useful life emissions for all SFTP regulated emission levels. The evaporative and/or refueling emission deterioration factors for each evaporative/refueling family will be determined and applied in accordance with § 86.098–28(a)(4) introductory text, (a)(4)(i)(C) and (D), (a)(4)(ii)(B) and (C), and (a)(4)(v) and § 86.094–28(a)(4)(i)(A) through (a)(4)(i)(B)(*2*)(*i*), (a)(4)(i)(B)(*2*)(*iii*) and (*iv*), and (a)(4)(iv) and paragraphs (a)(4)(i) introductory, (a)(4)(i)(B)(*2*)(*ii*), (a)(4)(ii)(A), and (a)(4)(iii) of this section.

(a)(7)(ii) through (b)(4)(i) [Reserved]. For guidance see § 86.094–28.

(b)(4)(ii) Separate exhaust emission deterioration factors for each regulated exhaust constituent, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each standard and for each engine-system combination. Unless the Administrator approves a manufacturer's request to develop specific deterioration factors for US06 and air conditioning (SC03) test results, applicable deterioration factors determined from FTP exhaust emission results will also be used to estimate intermediate and full useful life emissions for all SFTP regulated emission levels.

(iii) The official exhaust emission results for each applicable exhaust emission standard for each emission data vehicle at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph (b)(4)(iii).

(iv) The emissions to compare with the standard(s) (or the family particulate emission limit, as appropriate) shall be the adjusted emissions of paragraph (b)(4)(iii) of this section for each emission-data vehicle. For the SFTP composite ($NMHC+NO_X$) results, the individual deterioration factors must be applied to the applicable NMHC and NO_X test results prior to calculating the adjusted composite ($NMHC+NO_X$) level that is compared with the standard. The additional composite calculations that are required by the SFTP are discussed in § 86.164–00 (Supplemental federal test procedure calculations). Before any emission value is compared with the standard, it shall be rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(5)(i) Paragraphs (b)(5)(i) (A) and (B) of this section apply only to manufacturers electing to participate in the particulate averaging program.

(A) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(B) The production-weighted average of the family particulate emission limits of all applicable engine families, rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1), must comply with the particulate standards in § 86.099–9 (a)(1)(iv) or (d)(1)(iv), or the composite particulate standard as defined in § 86.094–2, as appropriate, at the end of the product year.

(ii) Paragraphs (b)(5)(ii) (A) and (B) of this section apply only to manufacturers electing to participate in the NO_X averaging program.

(A) If a manufacturer chooses to change the level of any family NO_X emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(B) The production-weighted average of the family FTP NO_X emission limits of all applicable engine families, rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1), must comply with the NO_X standards of § 86.099–9(a)(1)(iii) (A) or (B), or the composite NO_X standard as defined in § 86.094–2, at the end of the product year.

(b)(6) [Reserved]

(b)(7)(i) through (b)(7)(iii) [Reserved]. For guidance see § 86.094–28.

(b)(7)(iv) The emission value for each evaporative emission data vehicle to compare with the standards shall be the adjusted emission value of § 86.094–28 (b)(7)(iii) rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(b)(8) through (c)(4)(iii)(B)(*3*) [Reserved]. For guidance see § 86.094–28.

(c)(4)(iv) The emission values for each emission data engine to compare with the standards (or family emission limits, as appropriate) shall be the adjusted emission values of § 86.094–28 (c)(4)(iii), rounded to the same number of significant figures as contained in the applicable standard in accordance with the Rounding-Off Method specified in

ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(c)(5) through (d)(4) [Reserved]. For guidance see § 86.094–28.

(d)(5) The emission level to compare with the standard shall be the adjusted emission level of § 86.094–28 (d)(4). Before any emission value is compared with the standard it shall be rounded to two significant figures, in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1). The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (d)(5) of this section, before any vehicle in that family may be certified.

(e) through (h) [Reserved]. For guidance see § 86.098–28.

15. Section 86.001–2 is amended by revising the introductory text to read as follows:

§ 86.001–2 Definitions.

The definitions of § 86.000–2 continue to apply to 2000 and later model year vehicles. The definitions listed in this section apply beginning with the 2001 model year.

* * * * *

16. Section 86.001–9 is revised to read as follows:

§ 86.001–9 Emission standards for 2001 and later model year light-duty trucks

Section 86.001–9 includes text that specifies requirements that differ from § 86.097–9, § 86.099–9 or § 86.000–9. Where a paragraph in § 86.097–9, § 86.099–9 or § 86.000–9 is identical and applicable to § 86.001–9, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.097–9.'' or ''[Reserved]. For guidance see § 86.099–9.'' or ''[Reserved]. For guidance see § 86.000–9.''

(a)(1) introductory text through (a)(1)(iii) [Reserved]. For guidance see § 86.097–9.

(a)(1)(iv) through (b)(4) [Reserved]. For guidance see § 86.099–9.

(b)(5) [Reserved]

(b)(6) Vehicles certified to the refueling standards set forth in paragraph (d) of this section are not required to demonstrate compliance with the fuel dispensing spitback standards contained in § 86.096–9 (b)(1)(iii) and (b)(2)(iii): Provided, that they meet the requirements of § 86.001–28(f).

(c) [Reserved]. For guidance see § 86.097–9.

(d) Refueling emissions from 2001 and later model year gasoline-fueled and methanol-fueled Otto-cycle and petroleum-fueled and methanol-fueled diesel-cycle light duty trucks of 6,000 pounds or less GVWR shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(1) Standards—(i) Hydrocarbons (for gasoline-fueled Otto-cycle and petroleum-fueled diesel-cycle vehicles). 0.20 gram per gallon (0.053 gram per liter) of fuel dispensed.

(ii) Total Hydrocarbon Equivalent (for methanol-fueled vehicles). 0.20 gram per gallon (0.053 gram per liter) of fuel dispensed.

(iii) Hydrocarbons (for liquefied petroleum gas-fueled vehicles). 0.15 gram per gallon (0.04 gram per liter) of fuel dispensed.

(iv) Refueling receptacle (for natural gas-fueled vehicles). Refueling receptacles on natural gas-fueled vehicles shall comply with the receptacle provisions of the ANSI/AGA NGV1–1994 standard (as incorporated by reference in § 86.1).

(2)(i) The standards set forth in paragraphs (d)(1)(i) and (ii) of this section refer to a sample of refueling emissions collected under the conditions as set forth in subpart B of this part and measured in accordance with those procedures.

(ii) For vehicles powered by petroleum-fueled diesel-cycle engines, the provisions set forth in paragraph (d)(1)(i) of this section may be waived: Provided, that the manufacturer complies with the provisions of § 86.001–28(f).

(3) A minimum of the percentage shown in Table A01–09 of a manufacturer's sales of the applicable model year's gasoline- and methanol-fueled Otto-cycle and petroleum-fueled and methanol-fueled diesel-cycle light-duty trucks of 6,000 pounds or less GVWR shall be tested under the procedures in subpart B of this part indicated for 2001 and later model years, and shall not exceed the standards described in paragraph (d)(1) of this section. Vehicles certified in accordance with paragraph (d)(2)(ii) of this section, as determined by the provisions of § 86.001–28(g), shall not be counted in the calculation of the percentage of compliance:

TABLE A01–09.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY TRUCK REFUELING EMISSION TESTING

Model year	Sales percentage
2001	40
2002	80
2003 and subsequent	100

(e) [Reserved]. For guidance see § 86.000–9.

(f) [Reserved]

(g) through (k) [Reserved]. For guidance see § 86.097–9.

17. Section 86.001–21 is revised to read as follows:

§ 86.001–21 Application for certification.

Section 86.001–21 includes text that specifies requirements that differ from § 86.094–21 or § 86.096–21. Where a paragraph in § 86.094–21 or § 86.096–21 is identical and applicable to § 86.001–21, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–21.'' or ''[Reserved]. For guidance see § 86.096–21.''

(a) through (b)(1)(i)(B) [Reserved]. For guidance see § 86.094–21.

(b)(1)(i)(C) The manufacturer must submit a Statement of Compliance in the application for certification which attests to the fact that they have assured themselves that the engine family is designed to comply with the intermediate temperature cold testing criteria of subpart C of this part, and does not unnecessarily reduce emission control effectiveness of vehicles operating at high altitude or other conditions not experienced within the US06 (aggressive driving) and SC03 (air conditioning) test cycles.

(b)(1)(i)(C)(*1*) through (b)(1)(ii)(C) [Reserved]. For guidance see § 86.094–21.

(b)(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested, and data sufficient to determine projected compliance with the standards implementation schedules of § 86.000–8 and 86.000–9. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(b)(3) A description of the test equipment and fuel proposed to be used.

(b)(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission and/or refueling emission deterioration factors, as appropriate, required to be

determined and supplied in § 86.001–23(b)(2).

(b)(4)(ii) through (b)(5)(iv) [Reserved]. For guidance see § 86.094–21.

(b)(5)(v) For light-duty vehicles and applicable light-duty trucks with non-integrated refueling emission control systems, the number of continuous UDDS cycles, determined from the fuel economy on the UDDS applicable to the test vehicle of that evaporative/refueling emission family-emission control system combination, required to use a volume of fuel equal to 85% of fuel tank volume.

(b)(6) through (b)(8) [Reserved]. For guidance see § 86.094–21.

(b)(9) For each light-duty vehicle, light-duty truck, evaporative/refueling emission family or heavy-duty vehicle evaporative emission family, a description of any unique procedures required to perform evaporative and/or refueling emission tests, as applicable, (including canister working capacity, canister bed volume, and fuel temperature profile for the running loss test) for all vehicles in that evaporative and/or evaporative/refueling emission family, and a description of the method used to develop those unique procedures.

(10) For each light-duty vehicle or applicable light-duty truck evaporative/refueling emission family, or each heavy-duty vehicle evaporative emission family:

(i) Canister working capacity, according to the procedures specified in § 86.132–96(h)(1)(iv);

(ii) Canister bed volume; and

(iii) Fuel temperature profile for the running loss test, according to the procedures specified in § 86.129–94(d).

(c) through (j) [Reserved]. For guidance see § 86.094–21.

(k) and (l) [Reserved]. For guidance see § 86.096–21.

18. Section 86.001–23 is revised to read as follows:

§ 86.001–23 Required data.

Section 86.001–23 includes text that specifies requirements that differ from § 86.095–23, § 86.098–23 or § 86.000–23. Where a paragraph in § 86.095–23, § 86.098–23 or § 86.000–23 is identical and applicable to § 86.001–23, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.095–23.'' or ''[Reserved]. For guidance see § 86.098–23.'' or ''[Reserved]. For guidance see § 86.000–23.''

(a) through (b)(1)(ii) [Reserved]. For guidance see § 86.095–23.

(b)(2) For light-duty vehicles and light-duty trucks, the manufacturer shall submit evaporative emission and/or refueling emission deterioration factors for each evaporative/refueling emission family-emission control system combination and all test data that are derived from testing described under § 86.001–21(b)(4)(i) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.001–30 will meet the evaporative and/or refueling emission standards in § 86.099–8 or § 86.001–9, as appropriate, for the useful life of the vehicle.

(b)(3) through (b)(4)(ii) [Reserved]. For guidance see § 86.095–23.

(b)(4)(iii) [Reserved]. For guidance see § 86.098–23.

(c) through (e)(1) [Reserved]. For guidance see § 86.095–23.

(e)(2) For evaporative and refueling emission durability, or light-duty truck or heavy-duty engine exhaust emission durability, a statement of compliance with paragraph (b)(2) of this section or § 86.095–23(b)(1)(ii), (b)(3) or (b)(4)(i) and (ii) or § 86.098–23(b)(4)(iii), as applicable.

(3) For certification of vehicles with non-integrated refueling systems, a statement that the drivedown used to purge the refueling canister was the same as described in the manufacturer's application for certification. Furthermore, a description of the procedures used to determine the number of equivalent UDDS miles required to purge the refueling canisters, as determined by the provisions of § 86.001–21(b)(5)(v) and subpart B of this part. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations and other documents, on which the above statement is based, are available to the Administrator upon request.

(f) through (k) [Reserved]. For guidance see § 86.095–23.

(l) [Reserved]. For guidance see § 86.000–23.

(m) [Reserved]. For guidance see § 86.098–23.

19. Section 86.001–24 is revised to read as follows:

§ 86.001–24 Test vehicles and engines.

Section 86.001–24 includes text that specifies requirements that differ from § 86.096–24, § 86.098–24 or § 86.000–24. Where a paragraph in § 86.096–24, § 86.098–24 or § 86.000–9 is identical and applicable to § 86.001–24, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.096–24.'' or ''[Reserved]. For guidance see § 86.098–24.'' or ''[Reserved]. For guidance see § 86.000–24.''

(a) through (a)(4) [Reserved]. For guidance see § 86.096–24.

(a)(5) through (a)(7) [Reserved]. For guidance see § 86.098–24.

(a)(8) through (b)(1) introductory text [Reserved]. For guidance see § 86.096–24.

(b)(1)(i) through (b)(1)(ii) [Reserved]. For guidance see § 86.000–24.

(b)(1)(iii) through (b)(1)(vi) [Reserved]. For guidance see § 86.096–24.

(b)(1)(vii)(A) through (b)(1)(viii)(A) [Reserved]. For guidance see § 86.098–24.

(b)(1)(viii)(B) through (e)(2) [Reserved]. For guidance see § 86.096–24.

(f) Carryover and carryacross of durability and emission data. In lieu of testing an emission-data or durability vehicle (or engine) selected under § 86.096–24(b)(1) introductory text, (b)(1)(iii) through (b)(1)(vi) and § 86.000–24(b)(1)(i) through (b)(1)(ii) and § 86.098–24(b)(1)(vii)(A) through (b)(1)(viii)(A) or § 86.096–24(c), and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data, evaporative emission data and/or refueling emission data, as applicable, on a similar vehicle (or engine) for which certification has been obtained or for which all applicable data required under § 86.001–23 has previously been submitted.

(g)(1) through (g)(2) [Reserved]. For guidance see § 86.096–24.

(g)(3) through (g)(4) [Reserved]. For guidance see § 86–000–24.

(h) [Reserved]. For guidance see § 86.096–24.

20. Section 86.001–25 is revised to read as follows:

§ 86.001–25 Maintenance.

Section 86.001–25 includes text that specifies requirements that differ from § 86.094–25 or § 86.098–25. Where a paragraph in § 86.094–25 or § 86.098–25 is identical and applicable to § 86.001–25, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–25.'' or ''[Reserved]. For guidance see § 86.098–25.''

(a)(1) Applicability. This section applies to light-duty vehicles, light-duty trucks, and heavy-duty engines.

(2) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust, evaporative or refueling emission deterioration factors, as appropriate, is classified as either emission-related or non-emission-related and each of these can be classified as either scheduled or

unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) introductory text through (b)(3)(vi)(D) [Reserved]. For guidance see § 86.094–25.

(b)(3)(vi)(E) through (b)(3)(vi)(J) [Reserved]. For guidance see § 86.098–25.

(b)(3)(vii) through (b)(6)(i)(E) [Reserved]. For guidance see § 86.094–25.

(b)(6)(i)(F) [Reserved]. For guidance see § 86.098–25.

(b)(6)(i)(G) through (H) [Reserved]. For guidance see § 86.094–25.

(i) [Reserved]. For guidance see § 86.000–25.

21. Section 86.001–26 is revised to read as follows:

§ 86.001–26 Mileage and service accumulation; emission measurements.

Section 86.001–26 includes text that specifies requirements that differ from § 86.094–26, § 86.095–26, § 86.096–26, § 86.098–26 or § 86.000–26. Where a paragraph in § 86.094–26, § 86.095–26, § 86.096–26, § 86.098–26 or § 86.000–26 is identical and applicable to § 86.001–26, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–26.'' or ''[Reserved]. For guidance see § 86.095–26.'' or ''[Reserved]. For guidance see § 86.096–26.'' or ''[Reserved]. For guidance see § 86.098–26.'' or ''[Reserved]. For guidance see § 86.000–26.''

(a)(1) [Reserved]. For guidance see § 86.094–26.

(a)(2) through (a)(3)(i)(A) [Reserved]. For guidance see § 86.000–26.

(a)(3)(i)(B) [Reserved]. For guidance see § 86.094–26.

(a)(3)(i)(C) [Reserved]. For guidance see § 86.098–26.

(a)(3)(i)(D) through (a)(3)(ii)(B) [Reserved]. For guidance see § 86.094–26.

(a)(3)(ii)(C) [Reserved]. For guidance see § 86.098–26.

(a)(3)(ii)(D) through (a)(4)(i)(B)(*4*) [Reserved]. For guidance see § 86.094–26.

(a)(4)(i)(C) [Reserved]. For guidance see § 86.000–26.

(a)(4)(i)(D) through (a)(6)(ii) [Reserved]. For guidance see § 86.094–26.

(a)(6)(iii) [Reserved]. For guidance see § 86.000–26.

(a)(7) through (a)(9)(i) [Reserved]. For guidance see § 86.094–26.

(a)(9)(ii) [Reserved]. For guidance see § 86.000–26.

(a)(9)(iii) through (b)(2) introductory text [Reserved]. For guidance see § 86.094–26.

(b)(2)(i) through (b)(2)(ii) [Reserved]. For guidance see § 86.000–26.

(b)(2)(iii) [Reserved]. For guidance see § 86.094–26.

(b)(2)(iv) Service or mileage accumulation which may be part of the test procedures used by the manufacturer to establish evaporative and/or refueling emission deterioration factors.

(b)(3) through (b)(4)(i)(B) [Reserved]. For guidance see § 86.094–26.

(b)(4)(i)(C) Exhaust, evaporative and/or refueling emission tests for emission-data vehicle(s) selected for testing under § 86.096–24(b)(1)(ii), (iii) or (iv)(A) or § 86.098–24(b)(1)(vii) shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at 6,436 kilometer (4,000 mile) test point under low-altitude conditions.

(b)(4)(i)(D) through (b)(4)(ii)(B) [Reserved]. For guidance see § 86.095–26.

(b)(4)(ii)(C) Exhaust, evaporative and/or refueling emission tests for emission data vehicle(s) selected for testing under § 86.094–24(b)(1)(ii), (iii), and (iv) shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at the 6,436 kilometer (4,000 mile) test point under low-altitude conditions.

(b)(4)(ii)(D) [Reserved]. For guidance see § 86.095–26.

(b)(4)(iii) [Reserved]

(b)(4)(iv) through (c)(3) [Reserved]. For guidance see § 86.094–26.

(c)(4) [Reserved]. For guidance see § 86.096–26.

(d) through (d)(2)(i) [Reserved]. For guidance see § 86.094–26.

(d)(2)(ii) [Reserved]. For guidance see § 86.000–26.

(d)(3) through (d)(6) [Reserved]. For guidance see § 86.094–26.

22. Section 86.001–28 is revised to read as follows:

§ 86.001–28 Compliance with emission standards.

Section 86.001–28 includes text that specifies requirements that differ from § 86.094–28, § 86.098–28 or § 86.000–28. Where a paragraph in § 86.094–28, § 86.098–28 or § 86.000–28 is identical and applicable to § 86.001–28, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–28.'' or ''[Reserved]. For guidance see § 86.098–28.'' or ''[Reserved]. For guidance see § 86.000–28.''

(a)(1) through (a)(2) [Reserved]. For guidance see § 86.000–28.

(a)(3) [Reserved]. For guidance see § 86.094–28.

(a)(4) [Reserved]. For guidance see § 86.098–28.

(a)(4)(i) introductory text [Reserved]. For guidance see § 86.000–28.

(a)(4)(i)(A) through (a)(4)(i)(B)(*2*)(*i*) [Reserved]. For guidance see § 86.094–28.

(a)(4)(i)(B)(*2*)(*ii*) [Reserved]. For guidance see § 86.000–28.

(a)(4)(i)(B)(*2*)(*iii*) through (a)(4)(i)(B)(*2*)(*iv*) [Reserved]. For guidance see § 86.094–28.

(a)(4)(i)(C) through (a)(4)(i)(D)(*2*) [Reserved]. For guidance see § 86.098–28.

(a)(4)(ii)(A)(*1*) through (a)(4)(ii)(A)(*2*) [Reserved]. For guidance see § 86.000–28.

(a)(4)(ii)(B) through (a)(4)(ii)(C) [Reserved]. For guidance see § 86.098–28.

(a)(4)(iii) [Reserved]. For guidance see § 86.000–28.

(a)(4)(iv) [Reserved]. For guidance see § 86.094–28.

(a)(4)(v) [Reserved]. For guidance see § 86.098–28.

(a)(5) through (a)(6) [Reserved]. For guidance see § 86.094–28.

(a)(7) introductory text [Reserved]. For guidance see § 86.098–28.

(a)(7)(i) [Reserved]. For guidance see § 86.000–28.

(a)(7)(ii) [Reserved]. For guidance see § 86.094–28.

(b)(1) This paragraph (b) applies to light-duty trucks.

(2) Each exhaust, evaporative and refueling emission standard (and family emission limits, as appropriate) of § 86.001–9 applies to the emissions of vehicles for the appropriate useful life as defined in §§ 86.098–2 and 86.001–9.

(b)(3) through (b)(4)(i) [Reserved]. For guidance see § 86.094–28.

(b)(4)(ii) through (b)(6) [Reserved]. For guidance see § 86.000–28.

(b)(7)(i) This paragraph (b)(7) describes the procedure for determining compliance of a new vehicle with evaporative emission standards. The procedure described here shall be used for all vehicles in applicable model years.

(ii) The manufacturer shall determine, based on testing described in § 86.001–21(b)(4)(i)(A), and supply an evaporative emission deterioration factor for each evaporative/refueling emission family-emission control system combination. The factor shall be calculated by subtracting the emission level at the selected test point from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative/refueling emission-data vehicle at the selected test point shall be adjusted by the addition of the appropriate

deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph (b)(7)(iii).

(iv) The evaporative emission value for each emission-data vehicle to compare with the standards shall be the adjusted emission value of paragraph (b)(7)(iii) of this section rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(8)(i) This paragraph (b)(8) describes the procedure for determining compliance of a new vehicle with refueling emission standards. The procedure described here shall be used for all applicable vehicles in the applicable model years.

(ii) The manufacturer shall determine, based on testing described in § 86.001–21(b)(4)(i)(B), and supply a refueling emission deterioration factor for each evaporative/refueling emission family-emission control system combination. The factor shall be calculated by subtracting the emission level at the selected test point from the emission level at the useful life point.

(iii) The official refueling emission test results for each evaporative/refueling emission-data vehicle at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph (b)(8)(iii).

(iv) The emission value for each evaporative emission-data vehicle to compare with the standards shall be the adjusted emission value of paragraph (b)(8)(iii) of this section rounded to two significant figures in accordance with the Rounding-Off Method specified in ASTM E29–90, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications (incorporated by reference; see § 86.1).

(9) Every test vehicle of an engine family must comply with all applicable standards (and family emission limits, as appropriate), as determined in § 86.000–28(b)(4)(iv) and paragraphs (b)(7)(iv) and (b)(8)(iv) of this section, before any vehicle in that family will be certified.

(c) Introductory text through (c)(4)(iii)(B)(*3*) [Reserved]. For guidance see § 86.094–28.

(c)(4)(iv) [Reserved]. For guidance see § 86.000–28.

(c)(5) through (d)(4) [Reserved]. For guidance see § 86.094–28.

(d)(5) through (d)(6) [Reserved]. For guidance see § 86.000–28.

(e) [Reserved]

(f) Fuel dispensing spitback testing waiver. (1) Vehicles certified to the refueling emission standards set forth in § 86.098–8, 86.099–8 and 86.001–9 are not required to demonstrate compliance with the fuel dispensing spitback standards contained in these sections: Provided, that—

(i) The manufacturer certifies that the vehicle inherently meets the Dispensing Spitback Standard as part of compliance with the refueling emission standard.

(ii) This certification is provided in writing and applies to the full useful life of the vehicle.

(2) EPA retains the authority to require testing to enforce compliance and to prevent non-compliance with the Fuel Dispensing Spitback Standard.

(g) Inherently low refueling emission testing waiver. (1) Vehicles using fuels/fuel systems inherently low in refueling emissions are not required to conduct testing to demonstrate compliance with the refueling emission standards set forth in §§ 86.098–8, 86.099–8 or 86.001–9: Provided, that—

(i) This provision is only available for petroleum diesel fuel. It is only available if the Reid Vapor Pressure of in-use diesel fuel is equal to or less than 1 psi (7 Kpa) and for diesel vehicles whose fuel tank temperatures do not exceed 130 °F (54 °C); and

(ii) To certify using this provision the manufacturer must attest to the following evaluation: ''Due to the low vapor pressure of diesel fuel and the vehicle tank temperatures, hydrocarbon vapor concentrations are low and the vehicle meets the 0.20 grams/gallon refueling emission standard without a control system.''

(2) The certification required in paragraph (g)(1)(ii) of this section must be provided in writing and must apply for the full useful life of the vehicle.

(3) EPA reserves the authority to require testing to enforce compliance and to prevent noncompliance with the refueling emission standard.

(4) Vehicles certified to the refueling emission standard under this provision shall not be counted in the sales percentage compliance determinations for the 2001, 2002 and subsequent model years.

(h) Fixed liquid level gauge waiver. Liquefied petroleum gas-fueled vehicles which contain fixed liquid level gauges or other gauges or valves which can be opened to release fuel or fuel vapor during refueling, and which are being tested for refueling emissions, are not required to be tested with such gauges or valves open, as outlined in § 86.157–98(d)(2), provided the manufacturer can demonstrate, to the satisfaction of the Administrator, that such gauges or valves would not be opened during refueling in-use due to inaccessibility or other design features that would prevent or make it very unlikely that such gauges or valves could be opened.

23. Section 86.004–9 is revised to read as follows:

§ 86.004–9 Emission standards for 2004 and later model year light-duty trucks.

Section 86.004–9 includes text that specifies requirements that differ from § 86.097–9, § 86.099–9, § 86.000–9 or § 86.001–9. Where a paragraph in § 86.097–9, § 86.099–9, § 86.000–9 or § 86.001–9 is identical and applicable to § 86.004–9, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.097–9.'' or ''[Reserved]. For guidance see § 86.099–9.'' or ''[Reserved]. For guidance see § 86.000–9.'' or ''[Reserved]. For guidance see § 86.001–9.''

(a)(1) introductory text through (a)(1)(iii) [Reserved]. For guidance see § 86.097–9.

(a)(1)(iv) through (b)(4) [Reserved]. For guidance see § 86.099–9.

(b)(5) [Reserved]

(b)(6) [Reserved]. For guidance see § 86.001–9.

(c) [Reserved]. For guidance see § 86.097–9.

(d) Refueling emissions from 2004 and later model year gasoline-fueled and methanol-fueled Otto-cycle and petroleum-fueled and methanol-fueled diesel-cycle light-duty trucks shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(d)(1) through (d)(2)(ii) [Reserved]. For guidance see § 86.001–9.

(d)(2)(iii) Heavy-duty vehicles certified as light-duty trucks under the provisions of § 86.085–1 shall comply with the provisions of § 86.001–9 (d)(1)(i) and (ii).

(3)(i) All light-duty trucks of a GVWR equal to 6,000 pounds or less (100%) must meet the refueling emission standard.

(ii) A minimum of the percentage shown in Table A04–09 of a manufacturer's sales of the applicable model year's gasoline- and methanol-fueled Otto-cycle and petroleum-fueled and methanol-fueled diesel-cycle light-duty trucks of 6,001 to 8,500 pounds GVWR shall be tested under the procedures in subpart B of this part indicated for 2004 and later model years, and shall not exceed the

standards described in § 86.001–9 (d)(1). Vehicles certified in accordance with § 86.001–9 (d)(2)(ii), as determined by the provisions of § 86.001–28(g), shall not be counted in the calculation of the percentage of compliance:

TABLE A04–09.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY TRUCK REFUELING EMISSION TESTING

Model year	Sales percentage
2004	40
2005	80
2006 and subsequent	100

(e) [Reserved]. For guidance see § 86.000–9.

(f) [Reserved]

(g) through (k) [Reserved]. For guidance see § 86.097–9.

24. Section 86.004–28 is revised to read as follows:

§ 86.004–28 Compliance with emission standards.

Section 86.004–28 includes text that specifies requirements that differ from § 86.094–28, § 86.098–28, § 86.000–28 or § 86.001–28. Where a paragraph in § 86.094–28, § 86.098–28, § 86.000–28 or § 86.001–28 is identical and applicable to § 86.004–28, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–28.'' or ''[Reserved]. For guidance see § 86.098–28.'' or ''[Reserved]. For guidance see § 86.000–28.'' or ''[Reserved]. For guidance see § 86.001–28.''

(a)(1) through (a)(2) [Reserved. For guidance see § 86.000–28.

(a)(3) [Reserved]. For guidance see § 86.094–28.

(a)(4) introductory text [Reserved]. For guidance see § 86.098–28.

(a)(4)(i) [Reserved]. For guidance see § 86.000–28.

(a)(4)(i)(A) through (a)(4)(i)(B)(*2*)(*i*) [Reserved. For guidance see § 86.094–28.

(a)(4)(i)(B)(*2*)(*ii*) [Reserved]. For guidance see § 86.000–28.

(a)(4)(i)(B)(*2*)(*iii*) through (a)(4)(i)(B)(*2*)(*iv*) [Reserved]. For guidance see § 86.094–28.

(a)(4)(i)(C) through (a)(4)(i)(D)(*2*) [Reserved]. For guidance see § 86.098–28.

(a)(4)(ii)(A)(*1*) through (a)(4)(ii)(A)(*2*) [Reserved]. For guidance see § 86.000–28.

(a)(4)(ii)(B) through (a)(4)(ii)(C) [Reserved]. For guidance see § 86.098–28.

(a)(4)(iii) [Reserved]. For guidance see § 86.000–28.

(a)(4)(iv) [Reserved]. For guidance see § 86.094–28.

(a)(4)(v) [Reserved]. For guidance see § 86.098–28.

(a)(5) through (a)(6) [Reserved]. For guidance see § 86.094–28.

(a)(7) introductory text [Reserved]. For guidance see § 86.098–28.

(a)(7)(i) [Reserved]. For guidance see § 86.000–28.

(a)(7)(ii) [Reserved]. For guidance see § 86.094–28.

(b)(1) This paragraph (b) applies to light-duty trucks.

(2) Each exhaust, evaporative and refueling emission standard (and family emission limits, as appropriate) of § 86.004–9 applies to the emissions of vehicles for the appropriate useful life as defined in §§ 86.098–2 and 86.004–9.

(b)(3) through (b)(4)(i) [Reserved]. For guidance see § 86.094–28.

(b)(4)(ii) through (b)(6) [Reserved]. For guidance see § 86.000–28.

(b)(7)(i) through (b)(9) [Reserved]. For guidance see § 86.001–28.

(c) introductory text through (c)(4)(iii)(B)(*3*) [Reserved]. For guidance see § 86.094–28.

(c)(4)(iv) [Reserved]. For guidance see § 86.000–28.

(c)(5) through (d)(4) [Reserved]. For guidance see § 86.094–28.

(d)(5) through (d)(6) [Reserved]. For guidance see § 86.000–28.

(e) [Reserved]

(f) through (g)(3) through [Reserved]. For guidance see § 86.001–28.

(g)(4) Vehicles certified to the refueling emission standard under this provision shall not be counted in the sales percentage compliance determinations for the 2004, 2005 and subsequent model years.

(h) [Reserved]. For guidance see § 86.001–28.

Subpart B—[Amended]

25. Section 86.101 is amended by removing and reserving paragraph (a)(2) and adding paragraph (a)(4) to read as follows:

§ 86.101 General applicability.

(a) * * *

(2) [Reserved]

* * * * *

(4) For fuel economy testing according to part 600 of this chapter, in the model years of 2000 and 2001 only, manufacturers have the option to use the dynamometer provisions of § 86.108–00(b)(1) and § 86.129–00 (a), (b), and (c) instead of the provisions of § 86.108–00(b)(2) and § 86.129–00 (a), (e), and (f).

* * * * *

26. A new § 86.106–00 is added to subpart B to read as follows:

§ 86.106–00 Equipment required; overview.

Section 86.106–00 includes text that specifies requirements that differ from § 86.106–96. Where a paragraph in § 86.106–96 is identical and applicable to § 86.106–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.106–96.''

(a) introductory text through (a)(2) [Reserved]. For guidance see § 86.106–96.

(a)(3) Fuel, analytical gas, and driving schedule specifications. Fuel specifications for exhaust and evaporative emissions testing and for mileage accumulation for petroleum-fueled and methanol-fueled vehicles are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule (UDDS), US06, and SC03 driving schedules, for use in exhaust emission tests, and the New York City Cycle (NYCC), for use with the UDDS in running loss tests, are specified in §§ 86.115, 86.130, 86.159, 86.160, and appendix I to this part.

(b) [Reserved]

27. A new § 86.108–00 is added to subpart B to read as follows:

§ 86.108–00 Dynamometer.

(a) The dynamometer shall simulate the road load force and inertia specified for the vehicle being tested, and shall determine the distance traveled during each phase of the test procedure.

(b) Two types of dynamometer roll configurations are currently approved by the Administrator:

(1) A small twin-roll dynamometer that has a nominal roll diameter of 8.65 inches and a nominal roll spacing of 17 inches; and

(2)(i) An electric dynamometer that has a single roll with a nominal diameter of 48 inches (1.20 to 1.25 meters).

(ii)(A) The dynamometer must be capable of dynamically controlling inertia load during the US06 test cycle as a function of a vehicle throttle position signal if a manufacturer desires using the following test option. Any time the duration of throttle operation greater than or equal to 85% of wide open throttle (WOT) is greater than or equal to eight seconds, the test inertia load may be adjusted during any of five EPA specified acceleration events by an amount of load that will eliminate additional throttle operation greater than or equal to 85% of WOT.

(B)(*1*) The specific US06 schedule accelerations time periods where inertia load adjustments may be applied are:

(*i*) 49 through 69 seconds;

(*ii*) 83 through 97 seconds;
(*iii*) 135 through 165 seconds;
(*iv*) 315 through 335 seconds; and
(*v*) 568 through 583 seconds.

(*2*) During these five time intervals when inertia load adjustment is occurring, inertia load adjustment is discontinued when throttle operation is less than 85% of WOT or at the end of the specified time interval.

(C) Each type of generic application for implementing this concept must receive the Administrator's approval before a manufacturer may use these inertia adjustments for official US06 schedule certification tests.

(c) Other dynamometer configurations may be used for testing if it can be demonstrated that the simulated road load power and inertia are equivalent, and if approved in advance by the Administrator.

(d) An electric dynamometer meeting the requirements of paragraph (b)(2) of this section, or a dynamometer approved as equivalent under paragraph (c) of this section, must be used for all types of emission testing in the following situations.

(1)(i) Gasoline vehicles which are part of an engine family which is designated to meet the phase-in of SFTP compliance required under the implementation schedule of Table A00–1 of § 86.000–08, or Table A00–3, or Table A00–5 of § 86.000–09.

(ii) Diesel LDVs and LDT1s which are part of an engine family which is designated to meet the phase-in of SFTP compliance required under the implementation schedule of Table A00–1 of § 86.000–08, or Table A00–3, or Table A00–5 of § 86.000–09.

(2) Starting with the 2002 model year, any light-duty vehicle or light light-duty truck which uses any regulated fuel.

(3) Starting with the 2004 model year, any heavy light-duty truck which uses any regulated fuel.

28. A new § 86.115–00 is added to subpart B to read as follows:

§ 86.115–00 EPA dynamometer driving schedules.

Section 86.115–00 includes text that specifies requirements that differ from § 86.115–78. Where a paragraph in § 86.115–78 is identical and applicable to § 86.115–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.115–78.''

(a) The driving schedules for the EPA Urban Dynamometer Driving Schedule, US06, SC03, and the EPA New York City Cycles are contained in appendix I of this part. The driving schedules are defined by a smooth trace drawn through the specified speed vs. time relationships. They each consist of a distinct non-repetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates.

(b) The driver should attempt to follow the target schedule as closely as possible (refer to § 86.128–00 for additional cycle driving instructions). The speed tolerance at any given time for these schedules, or for a driver's aid chart approved by the Administrator, are as follows:

(b)(1) through (c) [Reserved]. For guidance see § 86.115–78.

29. A new § 86.118–00 is added to subpart B to read as follows:

§ 86.118–00 Dynamometer calibrations.

(a) The dynamometer shall be calibrated at least once each month or performance verified at least once each week and then calibrated as required.

(b) For large single roll electric dynamometers or equivalent dynamometer configurations, the dynamometer adjustment settings for each vehicle's emission test sequence shall be verified by comparing the force imposed during dynamometer operation with actual road load force.

30. A new § 86.127–00 is added to subpart B to read as follows:

§ 86.127–00 Test procedures; overview.

Applicability. The procedures described in this and subsequent sections are used to determine the conformity of vehicles with the standards set forth in subpart A of this part for light-duty vehicles and light-duty trucks. Except where noted, the procedures of paragraphs (a) through (b) of this section, § 86.127–96 (c) and (d), and the contents of §§ 86.135–94, 86.136–90, 86.137–96, 86.140–94, 86.142–90, and 86.144–94 are applicable for determining emission results for vehicle exhaust emission systems designed to comply with the FTP emission standards, or the FTP emission element required for determining compliance with composite SFTP standards. Paragraphs (f) and (g) of this section discuss the additional test elements of aggressive driving (US06) and air conditioning (SC03) that comprise the exhaust emission components of the SFTP. Section 86.127–96(e) discusses fuel spitback emissions and paragraphs (h) and (i) of this section are applicable to all vehicle emission test procedures. Section 86.127–00 includes text that specifies requirements that differ from § 86.127–96. Where a paragraph in § 86.127–96 is identical and applicable to § 86.127–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.127–96.''

(a) The overall test consists of prescribed sequences of fueling, parking, and operating test conditions. Vehicles are tested for any or all of the following emissions:

(1) Gaseous exhaust THC, CO, NO_x, CO_2 (for petroleum-fueled and gaseous-fueled vehicles), plus CH_3OH and HCHO for methanol-fueled vehicles, plus CH_4 (for vehicles subject to the NMHC and NMHCE standards).

(2) Particulates.

(3) Evaporative HC (for gasoline-fueled, methanol-fueled and gaseous-fueled vehicles) and CH_3OH (for methanol-fueled vehicles). The evaporative testing portion of the procedure occurs after the exhaust emission test; however, exhaust emissions need not be sampled to complete a test for evaporative emissions.

(4) Fuel spitback (this test is not required for gaseous-fueled vehicles).

(b) The FTP Otto-cycle exhaust emission test is designed to determine gaseous THC, CO, CO_2, CH_4, NO_x, and particulate mass emissions from gasoline-fueled, methanol-fueled and gaseous-fueled Otto-cycle vehicles as well as methanol and formaldehyde from methanol-fueled Otto-cycle vehicles, while simulating an average trip in an urban area of 11 miles (18 kilometers). The test consists of engine start-ups and vehicle operation on a chassis dynamometer through a specified driving schedule (see paragraph (a), EPA Urban Dynamometer Driving Schedule, of Appendix I to this part). A proportional part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

(c) through (e) ''[Reserved]. For guidance see § 86.127–96.''

(f) The element of the SFTP for exhaust emissions related to aggressive driving (US06) is designed to determine gaseous THC, NMHC, CO, CO_2, CH_4, and NO_x emissions from gasoline-fueled or diesel-fueled vehicles (see § 86.158–00 Supplemental test procedures; overview, and § 86.159–00 Exhaust emission test procedures for US06 emissions). The test cycle simulates urban driving speeds and accelerations that are not represented by the FTP Urban Dynamometer Driving Schedule simulated trips discussed in paragraph (b) of this section. The test consists of vehicle operation on a chassis dynamometer through a specified driving cycle (see paragraph (g), US06 Dynamometer Driving Schedule, of Appendix I to this part). A proportional

part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

(g)(1) The element of the SFTP related to the increased exhaust emissions caused by air conditioning operation (SC03) is designed to determine gaseous THC, NMHC, CO, CO_2, CH_4, and NO_X emissions from gasoline-fueled or diesel fueled vehicles related to air conditioning use (see § 86.158–00 Supplemental federal test procedures; overview and § 86.160–00 Exhaust emission test procedure for SC03 emissions). The test cycle simulates urban driving behavior with the air conditioner operating. The test consists of engine startups and vehicle operation on a chassis dynamometer through specified driving cycles (see paragraph (h), SC03 Dynamometer Driving Schedule, of Appendix I to this part). A proportional part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler. The testing sequence includes an approved preconditioning cycle, a 10 minute soak with the engine turned off, and the SC03 cycle with measured exhaust emissions.

(2) The SC03 air conditioning test is conducted with the air conditioner operating at specified settings and the ambient test conditions of:

(i) Air temperature of 95°F;

(ii) 100 grains of water/pound of dry air (approximately 40 percent relative humidity);

(iii) Simulated solar heat intensity of 850 W/m^2 (see § 86.161–00(d)); and

(iv) air flow directed at the vehicle that will provide representative air conditioner system condenser cooling at all vehicle speeds (see § 86.161–00(e)).

(3) Manufacturers have the option of simulating air conditioning operation during testing at other ambient test conditions provided they can demonstrate that the vehicle tail pipe exhaust emissions are representative of the emissions that would result from the SC03 cycle test procedure and the ambient conditions of paragraph (g)(2) of this section. The Administrator has approved two optional air conditioning test simulation procedures AC1 and AC2 (see § 86.162–00) for only the model years of 2000 through 2002. If a manufacturer desires to conduct simulation SC03 testing for model year 2003 and beyond, the simulation test procedure must be approved in advance by the Administrator (see §§ 86.162–00 and 86.163–00).

(h) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.090–25.

(i) Background concentrations are measured for all species for which emissions measurements are made. For exhaust testing, this requires sampling and analysis of the dilution air. For evaporative testing, this requires measuring initial concentrations. (When testing methanol-fueled vehicles, manufacturers may choose not to measure background concentrations of methanol and/or formaldehyde, and then assume that the concentrations are zero during calculations.)

31. A new § 86.128–00 is added to subpart B to read as follows:

§ 86.128–00 Transmissions.

Section 86.128–00 includes text that specifies requirements that differ from § 86.128–79. Where a paragraph in § 86.128–79 is identical and applicable to § 86.128–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.128–79.''

(a) through (c) [Reserved]. For guidance see § 86.128–79.

(d) The vehicle shall be driven with appropriate accelerator pedal movement necessary to achieve the speed versus time relationship prescribed by the driving schedule. Both smoothing of speed variations and excessive accelerator pedal perturbations are to be avoided.

(e) through (h) [Reserved]. For guidance see § 86.128–79.

32. A new § 86.129–00 is added to subpart B to read as follows:

§ 86.129–00 Road load power test weight and inertia weight class determination.

Applicability. Section 86.129–94 (a) applies to all vehicle testing. Section 86.129–80 (b) and (c) are applicable to vehicles from engine families which are not required to meet SFTP requirements, although a manufacturer may elect to use the requirements in paragraphs (e) and (f) of this section instead of § 86.129–80 (b) and (c) on any vehicle. Section 86.129–94(d) which discusses fuel temperature profile, is applicable to evaporative emission running loss testing. Paragraphs (e) and (f) of this section are applicable to vehicles from engine families required to comply with SFTP requirements. Section 86.129–00 includes text that specifies requirements that differ from § 86.129–80 or § 86.129–94. Where a paragraph in § 86.129–80 or § 86.129–94 is identical and applicable to § 86.129–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.129–80.'' or ''[Reserved]. For guidance see § 86.129–94.''

(a) [Reserved]. For guidance see § 86.129–94.

(b) through (c) [Reserved]. For guidance see § 86.129–80.

(d) [Reserved]. For guidance see § 86.129–94.

(e)(1) For each test vehicle from an engine family required to comply with SFTP requirements, the manufacturer shall supply representative road load forces for the vehicle at speeds between 15 km/hr (9.3 mph) and 115 km/hr (71.5 mph). The road load force shall represent vehicle operation on a smooth level road, during calm winds, with no precipitation, at an ambient temperature of 20 °C (68 °F), and atmospheric pressure of 98.21 kPa. Road load force for low speed may be extrapolated. Manufacturers may, at their option, use road load forces meeting the objectives of paragraph (f) of this section for any vehicle.

(2) The dynamometer's power absorption shall be set for each vehicle's emission test sequence such that the force imposed during dynamometer operation matches actual road load force at all speeds.

(3) The 10 percent adjustment in road load power for air conditioning discussed in § 86.129–80(b)(3), is not applicable when road load forces are determined for dynamometer testing using paragraphs (e)(1) and (e)(2) of this section.

(f)(1) Required test dynamometer inertia weight class selections for the test elements of FTP, US06, and SC03 are determined by the test vehicles test weight basis and corresponding equivalent weight as listed in the tabular information of § 86.129–94(a). With the exception of the fuel economy test weight information in footnote 4 to the table in § 86.129–94(a), none of the other footnotes to the tabular listing apply to emission tests utilizing an approved single roll dynamometer or equivalent dynamometer configuration. All light-duty vehicles and light light-duty trucks are to be tested at the inertia weight class corresponding to their equivalent test weight.

(i) For light-duty vehicles and light light-duty trucks, test weight basis is loaded vehicle weight, which is the vehicle weight plus 300 pounds.

(ii) For heavy light-duty trucks, the definition of test weight basis varies depending on the SFTP test element being tested.

(A) For the aggressive driving cycle (US06), the test weight basis is the vehicle curb weight plus 300 pounds.

(B) For the FTP and the air conditioning (SC03) element of the SFTP, the test weight is the average of the curb weight plus GVWR.

(2) Dynamic inertia load adjustments may be made to the test inertia weight during specific US06 acceleration events when wide open throttle operation is equal to or greater than eight (8) seconds (see § 86.108–00). The dynamic inertia weight adjustment procedure must be approved in advance of conducting official US06 testing. The Administrator will perform confirmatory US06 testing using the same dynamometer inertia adjustment procedures as the manufacturer if:

(i) The manufacturer submits a request to the Administrator; and

(ii) The manufacturer provides the dynamometer hardware and/or software necessary for these adjustments to the Administrator.

33. A new § 86.130–00 is added to subpart B to read as follows:

§ 86.130–00 Test sequence; general requirements.

Applicability. Section 86.130–96 (a) through (d) is applicable to vehicles tested for the FTP test. Paragraph (e) of this section is applicable to vehicles tested for the SFTP supplemental tests of air conditioning (SC03) and aggressive driving (US06). Paragraph (f) of this section is applicable to all emission testing. Section 86.130–00 includes text that specifies requirements that differ from § 86.130–96. Where a paragraph in § 86.130–96 is identical and applicable to § 86.130–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.130–96.''

(a) through (d) [Reserved]. For guidance see § 86.130–96.

(e) The supplemental tests for exhaust emissions related to aggressive driving (US06) and air conditioning (SC03) use are conducted as stand-alone tests as described in §§ 86.158–00, 86.159–00, and 86.160–00. These tests may be performed in any sequence that maintains the appropriate preconditioning requirements for these tests as specified in § 86.132–00.

(f) If tests are invalidated after collection of emission data from previous test segments, the test may be repeated to collect only those data points needed to complete emission measurements. Compliance with emission standards may be determined by combining emission measurements from different test runs. If any emission measurements are repeated, the new measurements supersede previous values.

34. A new § 86.131–00 is added to subpart B to read as follows:

§ 86.131–00 Vehicle preparation.

Section 86.131–00 includes text that specifies requirements that differ from § 86.131–96. Where a paragraph in § 86.131–96 is identical and applicable to § 86.131–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.131–96.''

(a) through (e) [Reserved]. For guidance see § 86.131–96.

(f) For vehicles to be tested for aggressive driving emissions (US06), provide a throttle position sensing signal that is compatible with the test dynamometer. This signal provides the input information that controls dynamometer dynamic inertia weight adjustments (see §§ 86.108–00(b)(2)(ii) and 86.129–00(f)(2)). If a manufacturer chooses not to implement dynamic inertia adjustments for a portion or all of their product line, this requirement is not applicable.

35. A new § 86.132–00 is added to subpart B to read as follows:

§ 86.132–00 Vehicle preconditioning.

Applicability. Section 86.132–96 (a) through (c)(1) and (d) through (m) and paragraph (c)(2) of this section are applicable to FTP and evaporative emission testing. Paragraphs (n) and (o) of this section are applicable to vehicles tested for the SFTP supplemental tests of aggressive driving (US06) and air conditioning (SC03). Section 86.132–00 includes text that specifies requirements that differ from § 86.132–96. Where a paragraph in § 86.132–96 is identical and applicable to § 86.132–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.132–96.''

(a) through (c)(1) [Reserved]. For guidance see § 86.132–96.

(c)(2)(i) Once a test vehicle has completed the refueling and vehicle soak steps specified in § 86.132–96 (b) and (c)(1), these steps may be omitted in subsequent testing with the same vehicle and the same fuel specifications, provided the vehicle remains under laboratory ambient temperature conditions for at least 6 hours before starting the next test. In such cases, each subsequent test shall begin with the preconditioning drive specified in § 86.132–96(c)(1). The test vehicle may not be used to set dynamometer horsepower.

(ii) The SFTP test elements of aggressive driving (US06) and air conditioning (SC03) can be run immediately or up to 72 hours after the official FTP and/or evaporative test sequence without refueling provided the vehicle has remained under laboratory ambient temperature conditions. If the time interval exceeds 72 hours or the vehicle leaves the ambient temperature conditions of the laboratory, the manufacturer must repeat the refueling operation.

(d) through (m) [Reserved]. For guidance see § 86.132–96.

(n) *Aggressive Driving Test (US06) Preconditioning.* (1) If the US06 test follows the exhaust emission FTP or evaporative testing, the refueling step may be deleted and the vehicle may be preconditioned using the fuel remaining in the tank (see paragraph (c)(2)(ii) of this section). The test vehicle may be pushed or driven onto the test dynamometer. Acceptable cycles for preconditioning are as follows:

(i) If the soak period since the last exhaust test element is less than or equal to two hours, preconditioning may consist of a 505, 866, highway, US06, or SC03 test cycles.

(ii) If the soak period since the last exhaust test element is greater than two hours, preconditioning consists of one full Urban Dynamometer Driving Cycle. Manufacturers, at their option, may elect to use the preconditioning in paragraph (n)(1)(i) of this section when the soak period exceeds two hours.

(iii) If a manufacturer has concerns about fuel effects on adaptive memory systems, a manufacturer may precondition a test vehicle on test fuel and the US06 cycle. Upon request from a manufacturer, the administrator will also perform the preconditioning with the US06 cycle.

(iv) The preconditioning cycles for the US06 test schedule are conducted at the same ambient test conditions as the certification US06 test.

(2) Following the preconditioning specified in paragraphs (n)(1)(i), (ii), and (iii) of this section, the test vehicle is returned to idle for one to two minutes before the start of the official US06 test cycle.

(o) *Air Conditioning Test (SC03) Preconditioning.* (1) If the SC03 test follows the exhaust emission FTP or evaporative testing, the refueling step may be deleted and the vehicle may be preconditioned using the fuel remaining in the tank (see paragraph (c)(2)(ii) of this section). The test vehicle may be pushed or driven onto the test dynamometer. Acceptable cycles for preconditioning are as follows:

(i) If the soak period since the last exhaust test element is less than or equal to two hours, preconditioning may consist of a 505, 866, or SC03 test cycles.

(ii) If the soak period since the last exhaust test element is greater than two hours, preconditioning consists of one full Urban Dynamometer Driving Cycle. Manufacturers, at their option, may elect to use the preconditioning in paragraph (o)(1)(i) of this section when the soak period exceeds two hours.

(2) Following the preconditioning specified in paragraphs (o)(1)(i) and (ii) of this section, the test vehicle is turned off, the vehicle cooling fan(s) is turned off, and the vehicle is allowed to soak for 10 minutes prior to the start of the official SC03 test cycle.

(3) The preconditioning cycles for the SC03 air conditioning test and the 10 minute soak are conducted at the same ambient test conditions as the SC03 certification air conditioning test.

36. A new § 86.135–00 is added to subpart B to read as follows:

§ 86.135–00 Dynamometer procedure.

Section 86.135–00 includes text that specifies requirements that differ from § 86.135–90 and § 86.135–94. Where a paragraph in § 86.135–90 or § 86.135–94 is identical and applicable to § 86.135–00, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.135–90.'' or ''[Reserved]. For guidance see § 86.135–94.''

(a) [Reserved]. For guidance see § 86.135–94.

(b) through (c) [Reserved]. For guidance see § 86.135–90.

(d) Practice runs over the prescribed driving schedule may be performed at test point, provided an emission sample is not taken, for the purpose of finding the appropriate throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustment. Both smoothing of speed variations and excessive accelerator pedal perturbations are to be avoided. When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls; the rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(e) through (i) [Reserved]. For guidance see § 86.135–90.

37. A new § 86.158–00 is added to subpart B to read as follows:

§ 86.158–00 Supplemental Federal Test Procedures; overview.

The procedures described in §§ 86.158–00, 86.159–00, 86.160–00, and 86.166–00 discuss the aggressive driving (US06) and air conditioning (SC03) elements of the Supplemental Federal Test Procedures (SFTP). These test procedures consist of two separable test elements: A sequence of vehicle operation that tests exhaust emissions with a driving schedule (US06) that tests exhaust emissions under high speeds and accelerations (aggressive driving); and a sequence of vehicle operation that tests exhaust emissions with a driving schedule (SC03) which includes the impacts of actual air conditioning operation. These test procedures (and the associated standards set forth in subpart A of this part) are applicable to light-duty vehicles and light-duty trucks.

(a) Vehicles are tested for the exhaust emissions of THC, CO, NO_X, CH_4, and CO_2. For diesel-cycle vehicles, THC is sampled and analyzed continuously according to the provisions of § 86.110.

(b) Each test procedure follows the vehicle preconditioning specified in § 86.132–00.

(c) *US06 Test Cycle.* The test procedure for emissions on the US06 driving schedule (see § 86.159–00) is designed to determine gaseous exhaust emissions from light-duty vehicles and light-duty trucks while simulating high speed and acceleration on a chassis dynamometer (aggressive driving). The full test consists of preconditioning the engine to a hot stabilized condition, as specified in § 86.132–00, and an engine idle period of 1 to 2 minutes, after which the vehicle is accelerated into the US06 cycle. A proportional part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

(d) *SC03 Test Cycle.* The test procedure for determining exhaust emissions with the air conditioner operating (see § 86.160–00) is designed to determine gaseous exhaust emissions from light-duty vehicles and light-duty trucks while simulating an urban trip during ambient conditions of 95 °F, 100 grains of water/pound of dry air (approximately 40 percent relative humidity), and a solar heat load intensity of 850 W/m^2. The full test consists of vehicle preconditioning (see § 86.132–00 paragraphs (o) (1) and (2)), an engine key-off 10 minute soak, an engine start, and operation over the SC03 cycle. A proportional part of the diluted exhaust is collected continuously during the engine start and the SC03 driving cycle for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

(e) The emission results from the aggressive driving test (§ 86.159–00), air conditioning test (§ 86.160–00), and a FTP test (§ 86.130–00 (a) through (d) and (f)) (conducted on a large single roll or equivalent dynamometer) are analyzed according to the calculation methodology in § 86.164–00 and compared to the applicable SFTP emission standards in subpart A of this part (§§ 86.108–00 and 86.109–00).

(f) These test procedures may be run in any sequence that maintains the applicable preconditioning elements specified in § 86.132–00.

38. A new § 86.159–00 is added to subpart B to read as follows:

§ 86.159–00 Exhaust emission test procedures for US06 emissions.

(a) *Overview.* The dynamometer operation consists of a single, 600 second test on the US06 driving schedule, as described in Appendix I, paragraph (g), of this part. The vehicle is preconditioned in accordance with § 86.132–00, to bring it to a warmed-up stabilized condition. This preconditioning is followed by a 1 to 2 minute idle period that proceeds directly into the US06 driving schedule during which continuous proportional samples of gaseous emissions are collected for analysis. If engine stalling should occur during cycle operation, follow the provisions of § 86.136–90 (engine starting and restarting). For gasoline-fueled Otto-cycle vehicles, the composite samples collected in bags are analyzed for THC, CO, CO_2, CH_4, and NO_X. For petroleum-fueled diesel-cycle vehicles, THC is sampled and analyzed continuously according to the provisions of § 86.110. Parallel bag samples of dilution air are analyzed for THC, CO, CO_2, CH_4, and NO_X.

(b) *Dynamometer activities.* (1) All official US06 tests shall be run on a large single roll electric dynamometer, or an approved equivalent dynamometer configuration, that satisfies the requirements of § 86.108–00.

(2) Position (vehicle can be driven) the test vehicle on the dynamometer and restrain.

(3) Required US06 schedule test dynamometer inertia weight class selections are determined by the test vehicles test weight basis and corresponding equivalent weight as listed in the tabular information of § 86.129–.94(a) and discussed in § 86.129–00 (e) and (f).

(4) Set the dynamometer test inertia weight and roadload horsepower

requirements for the test vehicle (see § 86.129–00 (e) and (f). The dynamometer's horsepower adjustment settings shall be set to match the force imposed during dynamometer operation with actual road load force at all speeds.

(5) The vehicle speed as measured from the dynamometer rolls shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(6) The drive wheel tires may be inflated up to a gauge pressure of 45 psi (310 kPa), or the manufacturer's recommended pressure if higher than 45 psi, in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(7) The driving distance, as measured by counting the number of dynamometer roll or shaft revolutions, shall be determined for the test.

(8) Four-wheel drive vehicles will be tested in a two-wheel drive mode of operation. Full-time four-wheel drive vehicles will have one set of drive wheels temporarily disengaged by the vehicle manufacturer. Four-wheel drive vehicles which can be manually shifted to a two-wheel mode will be tested in the normal on-highway two-wheel drive mode of operation.

(9) During dynamometer operation, a fixed speed cooling fan with a maximum discharge velocity of 15,000 cfm will be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be positioned within 24 inches (61 centimeters) of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain vehicle cooling. The Administrator may approve modified cooling configurations or additional cooling if necessary to satisfactorily perform the test. In approving requests for additional or modified cooling, the Administrator will consider such items as actual road cooling data and whether such additional cooling is needed to provide a representative test.

(c) The flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system.

(d) Practice runs over the prescribed driving schedule may be performed at test point, provided an emission sample is not taken, for the purpose of finding the appropriate throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustment.

(e) Perform the test bench sampling sequence outlined in § 86.140–94 prior to or in conjunction with each series of exhaust emission measurements.

(f) *Test activities.* (1) The US06 consists of a single test which is directly preceded by a vehicle preconditioning in accordance with § 86.132–00. Following the vehicle preconditioning, the vehicle is idled for not less than one minute and not more than two minutes. The equivalent dynamometer mileage of the test is 8.0 miles (1.29 km).

(2) The following steps shall be taken for each test:

(i) Immediately after completion of the preconditioning, idle the vehicle. The idle period is not to be less than one minute or not greater than two minutes.

(ii) With the sample selector valves in the ''standby'' position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(iii) Start the CVS (if not already on), the sample pumps, the temperature recorder, the vehicle cooling fan, and the heated THC analysis recorder (diesel-cycle only). The heat exchanger of the constant volume sampler, if used, petroleum-fueled diesel-cycle THC analyzer continuous sample line should be preheated to their respective operating temperatures before the test begins.

(iv) Adjust the sample flow rates to the desired flow rate and set the gas flow measuring devices to zero.

(A) For gaseous bag samples (except THC samples), the minimum flow rate is 0.17 cfm (0.08 liters/sec).

(B) For THC samples, the minimum FID (or HFID in the case of diesel-cycle vehicles) flow rate is 0.066 cfm (0.031 liters/sec).

(C) CFV sample flow rate is fixed by the venturi design.

(v) Attach the exhaust tube to the vehicle tailpipe(s).

(vi) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the exhaust sample bag, the dilution air sample bag, turn on the petroleum-fueled diesel-cycle THC analyzer system integrator, mark the recorder chart, and record both gas meter or flow measurement instrument readings, (if applicable).

(vii) Place vehicle in gear after starting the gas flow measuring device, but prior to the first acceleration. Begin the first acceleration 5 seconds after starting the measuring device.

(viii) Operate the vehicle according to the US06 driving schedule, as described in appendix I, paragraph (g), of this part. Manual transmission vehicles shall be shifted according to the manufacturer recommended shift schedule, subject to review and approval by the Administrator. For further guidance on transmissions see § 86.128–00.

(ix) Turn the engine off 2 seconds after the end of the last deceleration.

(x) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 1 (and the petroleum-fueled diesel hydrocarbon integrator No. 1 and mark the petroleum-fueled diesel hydrocarbon recorder chart if applicable) and position the sample selector valves to the ''standby'' position. Record the measured roll or shaft revolutions and the No. 1 gas meter reading or flow measurement instrument.

(xi) As soon as possible, transfer the exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.140–94 obtaining a stabilized reading of the bag exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(xii) Immediately after the end of the sample period, turn off the cooling fan, close the engine compartment cover, disconnect the exhaust tube from the vehicle tailpipe(s), and drive the vehicle from dynamometer.

(xiii) The CVS or CFV may be turned off, if desired.

39. A new § 86.160–00 is added to subpart B to read as follows:

§ 86.160–00 Exhaust emission test procedure for SC03 emissions.

(a) *Overview.* The dynamometer operation consists of a single, 594 second test on the SCO3 driving schedule, as described in appendix I, paragraph (h), of this part. The vehicle is preconditioned, in accordance with § 86.132–00 of this subpart, to bring the vehicle to a warmed-up stabilized condition. This preconditioning is followed by a 10 minute vehicle soak (engine off) that proceeds directly into the SC03 driving schedule, during which continuous proportional samples of gaseous emissions are collected for analysis. The entire test, including the preconditioning driving, vehicle soak, and SC03 official test cycle, is either conducted in an environmental test facility or under test conditions that simulates testing in an environmental test cell (see § 86.162–00 (a) for a discussion of simulation procedure approvals). The environmental test facility must be capable of providing the following nominal ambient test conditions of: 95 °F air temperature, 100 grains of water/pound of dry air

(approximately 40 percent relative humidity), a solar heat load intensity of 850 W/m^2, and vehicle cooling air flow proportional to vehicle speed. Section 86.161–00 discusses the minimum facility requirements and corresponding control tolerances for air conditioning ambient test conditions. The vehicle's air conditioner is operated or appropriately simulated for the duration of the test procedure (except for the vehicle 10 minute soak), including the preconditioning. For gasoline-fueled Otto-cycle vehicles, the composite samples collected in bags are analyzed for THC, CO, CO_2, CH_4, and NO_X. For petroleum-fueled diesel-cycle vehicles, THC is sampled and analyzed continuously according to the provisions of § 86.110. Parallel bag samples of dilution air are analyzed for THC, CO, CO_2, CH_4, and NO_X.

(b) *Dynamometer activities.* (1) All official air conditioning tests shall be run on a large single roll electric dynamometer or an equivalent dynamometer configuration that satisfies the requirements of § 86.108–00.

(2) Position (vehicle can be driven) the test vehicle on the dynamometer and restrain.

(3) Required SC03 schedule test dynamometer inertia weight class selections are determined by the test vehicles test weight basis and corresponding equivalent weight as listed in the tabular information of § 86.129–00(a) and discussed in § 86.129–00 (e) and (f).

(4) Set the dynamometer test inertia weight and roadload horsepower requirements for the test vehicle (see § 86.129–00 (e) and (f)). The dynamometer's horsepower adjustment settings shall be set such that the force imposed during dynamometer operation matches actual road load force at all speeds.

(5) The vehicle speed as measured from the dynamometer rolls shall be used. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied at request of the Administrator.

(6) The drive wheel tires may be inflated up to a gauge pressure of 45 psi (310 kPa), or the manufacturer's recommended pressure if higher than 45 psi, in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(7) The driving distance, as measured by counting the number of dynamometer roll or shaft revolutions, shall be determined for the test.

(8) Four-wheel drive vehicles will be tested in a two-wheel drive mode of operation. Full-time four-wheel drive vehicles will have one set of drive wheels temporarily disengaged by the vehicle manufacturer. Four-wheel drive vehicles which can be manually shifted to a two-wheel mode will be tested in the normal on-highway two-wheel drive mode of operation.

(c) *Vehicle and test activities for testing in a full environmental cell.* The SFTP air conditioning test in an environmental test cell is composed of the following sequence of activities. Alternative procedures which appropriately simulate full environmental cell testing may be approved under the provisions of §§ 86.162–00(a) and 86.163–00.

(1) Drain and fill the vehicle's fuel tank to 40 percent capacity with test fuel. If a vehicle has gone through the drain and fuel sequence less than 72 hours previously and has remained under laboratory ambient temperature conditions, this drain and fill operation can be omitted (see § 86.132–00(c)(2)(ii)).

(2)(i) Position the variable speed cooling fan in front of the test vehicle with the vehicle's hood down. This air flow should provide representative cooling at the front of the test vehicle (air conditioning condenser and engine) during the SC03 driving schedule. See § 86.161–00(e) for a discussion of cooling fan specifications.

(ii) In the case of vehicles with rear engine compartments (or if this front location provides inadequate engine cooling), an additional cooling fan shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 5300 cfm (2.50 m^3/s). If, however, it can be demonstrated that during road operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used if approved in advance by the Administrator.

(3) Close all vehicle windows.

(4) Connect the emission test sampling system to the vehicle's exhaust tail pipe(s).

(5)(i) Set the environmental test cell ambient test conditions to the conditions defined in § 86.161–00.

(ii) Turn on the solar heating system.

(iii) All vehicle test phases of preconditioning, soak, and the official SC03 test cycle are to be performed in this set of ambient test conditions.

(6) Set the air conditioning system controls as follows:

(i) A/C mode setting at Maximum.

(ii) Airflow setting at Recirculate, if so equipped.

(iii) Fan setting at Highest setting.

(iv) A/C Temperature setting at full cool (for automatic systems set at 72 °F).

(v) Air conditioning controls should be placed in the ''on'' position prior to vehicle starting so that the air conditioning system is active whenever the engine is running.

(7) Start the vehicle (with air conditioning system on) and conduct a preconditioning cycle as discussed in § 86.132–00(o)(1).

(i) If engine stalling should occur during any air conditioning test cycle operation, follow the provisions of § 86.136–90 (Engine starting and restarting).

(ii) For manual transmission vehicles, the vehicle shall be shifted according the provisions of § 86.128–00.

(8) Following the preconditioning cycle, the test vehicle (and consequently the air conditioning system) and cooling fan(s) are turned off and the vehicle is allowed to soak in the ambient conditions of paragraph (c)(5) of this section for 10 ± 1 minutes.

(9) Start engine (with air conditioning system also running). Fifteen seconds after the engine starts, place vehicle in gear.

(10) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(11) Operate the vehicle according to the SC03 driving schedule, as described in appendix I, paragraph (h), of this part.

(12) Turn the engine off 2 seconds after the end of the last deceleration.

(d) *Exhaust Emission Measurement Activities.* The following activities are performed, when applicable, in order to meet the timing of the vehicle test and environmental facility activities.

(1) Perform the test bench sampling calibration sequence outlined in § 86.140–94 prior to or in conjunction with each series of exhaust emission measurements.

(2) With the sample selector valves in the ''standby'' position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Start the CVS (if not already on), the sample pumps, the temperature recorder, the vehicle cooling fan, and the heated THC analysis recorder (diesel-cycle only). The heat exchanger of the constant volume sampler, if used, petroleum-fueled diesel-cycle THC analyzer continuous sample line should be preheated to their respective operating temperatures before the test begins.

(4) Adjust the sample flow rates to the desired flow rate and set the gas flow measuring devices to zero.

(i) For gaseous bag samples (except THC samples), the minimum flow rate is 0.17 cfm (0.08 liters/sec).

(ii) For THC samples, the minimum FID (or HFID in the case of diesel-cycle vehicles) flow rate is 0.066 cfm (0.031 1/sec).

(iii) CFV sample flow rate is fixed by the venturi design.

(5) Attach the exhaust tube to the vehicle tailpipe(s).

(6) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the exhaust sample bag, the dilution air sample bag, turn on the petroleum-fueled diesel-cycle THC analyzer system integrator, mark the recorder chart, and record both gas meter or flow measurement instrument readings, if applicable.

(7) Start the engine (with air conditioning system also running). Fifteen seconds after the engine starts, place vehicle in gear.

(8) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(9) Operate the vehicle according to the SC03 driving schedule.

(10) Turn the engine off 2 seconds after the end of the last deceleration.

(11) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 1 (and the petroleum-fueled diesel hydrocarbon integrator No. 1 and mark the petroleum-fueled diesel hydrocarbon recorder chart if applicable) and position the sample selector valves to the ''standby'' position. Record the measured roll or shaft revolutions and the No. 1 gas meter reading or flow measurement instrument).

(12) As soon as possible, transfer the exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the bag exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(13) Immediately after the end of the sample period, turn off the cooling fan, close the engine compartment cover, disconnect the exhaust tube from the vehicle tailpipe(s), and drive the vehicle from dynamometer.

(14) The CVS or CFV may be turned off, if desired.

(e) *NO_X humidity correction.* Calculated NO_X exhaust emissions from air conditioning tests conducted in an environmental test cell at a nominal 100 grains of water/pound of dry air are to be corrected for humidity to 100 grains of water/pound of dry air (see the relationship of § 86.164–00(d)).

40. A new § 86.161–00 is added to subpart B to read as follows:

§ 86.161–00 Air conditioning environmental test facility ambient requirements.

The goal of an air conditioning test facility is to simulate the impact of an ambient heat load on the power requirements of the vehicle's air conditioning compressor while operating on a specific driving cycle. The environmental facility control elements that are discussed are ambient air temperature and humidity, minimum test cell size, solar heating, and vehicle frontal air flow.

(a) *Ambient air temperature.* (1) Ambient air temperature is controlled, within the test cell, during all phases of the air conditioning test sequence to 95 ± 2 °F on average and 95 ± 5 °F as an instantaneous measurement.

(2) Air temperature is recorded continuously at a minimum of 30 second intervals. Records of cell air temperatures and values of average test temperatures are maintained by the manufacturer for all certification related programs.

(b) *Ambient humidity.* (1) Ambient humidity is controlled, within the test cell, during all phases of the air conditioning test sequence to an average of 100 ± grains of water/pound of dry air.

(2) Humidity is recorded continuously at a minimum of 30 second intervals. Records of cell humidity and values of average test humidity are maintained by the manufacturer for all certification related programs.

(c) *Minimum test cell size.* (1) The recommended minimum environmental exhaust emission test cell size is width 20 feet, length 40 feet, and height 10 feet.

(2) Test cells with smaller size dimensions may be approved by the Administrator if it can be shown that all of the ambient test condition performance requirements are satisfied.

(d) *Solar heat loading.* (1)(i) Acceptable types of radiant energy emitters that may be used for simulating solar heat load are:

(A) Metal halide;

(B) Quartz halogen with dichroic mirrors; and

(C) Sodium iodide.

(ii) The Administrator will approve other types of radiant energy emitters if the manufacturer can show they satisfy the requirements of this section.

(2) The height of the minimal cell size will dictate the type of radiant energy source that will satisfy the spectral distribution and uniformity definitions of this section.

(3) Radiant energy specifications. (i) Simulated solar radiant energy intensity is determined as an average of the two points measured at:

(A) Centerline of the test vehicle at the base of the windshield.

(B) Centerline of the vehicle at the base of the rear window (truck and van location defined as bottom of vertical window or where an optional window would be located).

(ii) The radiant energy intensity set point is 850 ±45 watts/square meter.

(iii) The definition of an acceptable spectral distribution is contained in the following table:

DEFINITION OF THE SPECTRAL DISTRIBUTION

Band width (nanometers)	Percent of total spectrum	
	Lower limit (percent)	Upper limit (percent)
<320	0	0
320–400	0	7
400–780	45	55
>780	35	53

Note: Filter the UV region between 280 and 320 wave lengths.

(iv) The angle of incidence of radiant energy is defined as 90 degrees from the test cell floor.

(v) The requirements for measuring the uniformity of radiant energy are:

(A) The radiant energy uniformity tolerance is ±15 percent of the radiant energy intensity set point of 850 watts/square meter.

(B) The uniformity of radiant energy intensity is measured at each point of a 0.5 meter grid over the entire footprint of the test vehicle at the elevation of one meter including the footprint edges.

(C) Radiant energy uniformity must be checked at least every 500 hours of emitter usage or every six months depending on which covers the shorter time period; and every time major changes in the solar simulation hardware occur.

(vi) The radiant energy intensity measurement instrument specifications (minimum) are:

(A) Sensitivity of 9 microvolts per watt/square meter;

(B) Response time of 1 second;

(C) Linearity of ±0.5 percent; and

(D) Cosine of ±1 percent from normalization 0–70 degree zenith angle.

(e) *Vehicle frontal air flow.* The Administrator will approve frontal air flow based on ''blower in box'' technology as an acceptable simulation of environmental air flow cooling for the air conditioning compressor and engine, provided the following requirements are satisfied.

(1) The minimum air flow nozzle discharge area must be equal or exceed the vehicle frontal inlet area. Optimum discharge area is 18 square feet (4.25 x 4.25), however, other sizes can be used.

(2) Air flow volumes must be proportional to vehicle speed. With the above optimum discharge size, the fan volume would vary from 0 cubic feet/minute (cfm) at 0 mph to approximately 95,000 cfm at 60 mph. If this fan is also the only source of cell air circulation or if fan operational mechanics make the 0 mph air flow requirement impractical, air flow of 2 mph or less will be allowed at 0 mph vehicle speed.

(3) The fan air flow velocity vector perpendicular to the axial flow velocity vector shall be less than 10 percent of the mean velocity measured at fan speeds corresponding to vehicle speeds of 20 and 40 mph.

(4)(i) Fan axial air flow velocity is measured two feet from nozzle outlet at each point of a one foot grid over the entire discharge area.

(ii) The uniformity of axial flow tolerance is 20 percent of the fan speeds corresponding to vehicle speeds of 20 and 40 mph.

(5) The instrument used to verify the air velocity must have an accuracy of 2 percent of the measured air flow speed.

(6) The fan discharge nozzle must be located 2 to 3 feet from the vehicle and 0 to 6 inches above the test cell floor during air conditioning testing. This applies to non-wind tunnel environmental test cells only.

(7) The design specifications discussed in paragraphs (e)(1) through (e)(5) of this section must be verified by the manufacturer prior to conducting certification air conditioning tests.

41. A new § 86.162–00 is added to subpart B to read as follows:

§ 86.162–00 Approval of alternative air conditioning test simulations and descriptions of AC1 and AC2.

The alternative air conditioning test procedures AC1 and AC2 are approved by the Administrator for all light-duty vehicles and light-duty trucks only for the model years of 2000, 2001, and 2002. To obtain Administrator approval of other simulation test procedures a manufacturer must satisfy the requirements of paragraph (a) of this section and meet the requirements of § 86.163–00. Air conditioning tests AC1 and AC2 are simulations of the environmental test cell air conditioning test discussed in § 86.160–00. AC1 simulates, in standard test cell ambient conditions and with the air conditioning off, the exhaust emission results of air conditioning operation in an environmental test cell by adding additional power requirements to roadload dynamometer requirements. AC2 simulates, in standard test cell ambient conditions and with the air conditioning controls in the heat position, the exhaust emission results of air conditioning operation in an environmental test cell by adding a heat load to the passenger compartment. The only differences between the test activities described in § 86.160–00 and those for AC1 and AC2 occur as the result of how the effect of the environmental cell ambient test conditions, defined in § 86.160–00(c)(5)(i), are simulated in a standard test cell nominal ambient conditions of 76 °F and 50 grains of water/pound of dry air. Paragraph (a) of this section discusses the procedure by which a manufacturer can obtain Administrator approval of other air conditioning test simulation procedures. Paragraph (b) of this section describes the AC1 test procedure and paragraph (c) of this section describes the AC2 test procedure.

(a) Upon petition from a manufacturer or upon the Agency's own initiative, the Administrator will approve a simulation of the environmental cell for air conditioning test (SC03) described in § 86.160–00 providing that the procedure can be run by the Administrator for SEA and in-use enforcement testing and providing that the criteria of paragraphs (a)(1)(2), and (3) of this section are satisfied.

(1) In deciding whether approvals will be granted, the Administrator may consider data showing how well the simulation matches environmental cell test data for the range of vehicles to be covered by the simulation including items such as the tailpipe emissions, air conditioning compressor load, and fuel economy.

(2) The Administrator has approved test procedures AC1 and AC2 for only the model years of 2000, 2001, and 2002.

(3) Excluding the AC1 and AC2 procedures described in paragraphs (b) and (c) of this section for model years 2000, 2001, and 2002, for any simulation approved under paragraph (a) of this section, the manufacturer must agree to be subject to an ongoing yearly correlation spot check as described in § 86.163–00.

(4) Once a simulation is approved and used by a manufacturer for testing for a given vehicle, EPA agrees to use the simulation test procedure for all official testing conducted on that vehicle by the Agency for certification, SEA, and recall purposes, excluding spot check testing and vehicles which fail the spot check criteria as described in § 86.163–00.

(5) EPA will moniter the aggregate results of spot check testing and full environmental test cells. If EPA determines, based on such aggregate results, that any simulation (other than the AC1 and AC2 procedures described in paragraphs (b) and (c) of this section for the 2000, 2001, and 2002 model years) is producing test results consistantly below those from a full environmental test cell, EPA may review its approval of the simulation.

(b) *AC1 test procedure.* (1) Section 86.160–00(a) is applicable to the AC1 test procedure except for the discussion of the environmental test requirements. The AC1 test procedure simulates the effect of air conditioning operation in the environmental cell test conditions by adding the measured horsepower of the air conditioning system compressor, converted to an equivalent roadload component, to the normal dynamometer roadload horsepower.

(2) Section 86.160–00(b) is applicable to the AC1 test procedure except that the dynamometer horsepower settings procedure of § 86.160–00(b)(4) is expanded to include a horsepower increase adjustment.

(i) The following describes one acceptable method of obtaining the required compressor horsepower and the corresponding roadload equivalent horsepower adjustment. Air compressor horsepower is measured during a SC03 air conditioning test cycle while operating in an environmental test cell as described in § 86.160–00.

(A) Install an air conditioning (A/C) compressor with a strain-gauged input shaft that measures shaft torque in foot pounds. Other measurement techniques that produce data that can be shown will estimate A/C compressor horsepower are also acceptable.

(B) Obtain the engine crankshaft to A/C compressor pulley diameter (D) ratio (ACPR) as:

ACPR=D(crankshaft pulley)/D(A/C pulley)

(C) Record the following parameters, as a function of accumulated time (t), at least once per second from second 0 to second 600 while driving the SC03 cycle with the air conditioning system operating.

(*1*) Engine revolutions/minute ($ERPM_t$).

(*2*) Compressor input torque in foot pounds (CT_t).

(D) For each second of data recorded from paragraph (b)(2)(i)(C) of this section, calculate compressor horsepower (CHP_t) as:

$$CHP_t=(CT_t)(ERPM_t)(ACPR)/5252$$

(E) For each second of accumulated time and the data of paragraph (b)(2)(i)

(B) and (D) of this section, determine a value of air conditioning compressor roadload force ($ACRF_t$) that is equivalent to the air conditioning compressor force on the engine as:

$ACRF_t=(CHP_t)(375)/V_t$.

where:

V_t equals vehicle SC03 cycle speed in miles per hour for each accumulated second of time, and 375 is a units constant to convert ($ACRF_t$) to foot pounds of force.

(F) Values of ($ACRF_t$) at each second of time are added to the corresponding roadload dynamometer force requirements of § 86.129–00(e) to obtain an approximation of the force generated by the vehicle engine during a SC03 test in an environmental test cell.

(ii) The method by which the values of ($ACRF_t$) additional dynamometer load is applied by the dynamometer to the vehicle tire surface will vary with dynamometer design and its force simulation capabilities. If the dynamometer has grade simulation capabilities, increasing load by simulating varying grades is one acceptable method of applying ($ACRF_t$) values.

(iii) For those calculated values of ($ACRF_t$) which exceed the force capacity of the dynamometer being used for simulation test, replace the calculated values with the maximum road force capacity of the dynamometer. The Administrator would normally not expect ($ACRF_t$) values to exceed dynamometer capability for time periods of more than a second.

(iv) Values of ($ACRF_t$) for application to AC1 testing should be an average of at least two runs unless the manufacturer can demonstrate to the Administrator that one run repeatability is acceptable.

(v) Values of ($ACRF_t$) for application to AC1 testing are to be obtained for each vehicle and engine family combination. If only one vehicle configuration is selected to represent an engine family, the selected configuration is the vehicle expected to produce the highest air conditioning load requirements. A manufacturer may petition the Administrator to reduce the number of ($ACRF_t$) test vehicles for their product line, if they can show that the highest air conditioning loads are covered with a lesser number than one per family.

(vi) Test results, calculations, and dynamometer setting values associated with making these roadload determinations are to be retained by the manufacturer as part of their certification records.

(3) Perform the SC03 air conditioning test sequence as described in § 86.160–00(c) with the following exceptions:

(i) The variable speed cooling fan of § 86.160–00(c)(2)(ii) is replaced with the fixed speed cooling fan requirements of § 86.159–00(b).

(ii) The position of vehicle windows is optional.

(iii) The nominal ambient air test conditions of § 86.160–00(b)(5)(i) (A) and (B) are replaced with 76 °F and 50 grains of water/pound of dry air and the solar heat load of § 86.160–00(b)(5)(i)(C) is omitted.

(iv) The air conditioning system is not operated during the SC03 test cycle. Operation of the air conditioning during preconditioning test cycles is optional.

(4) Section 86.160–00(d) is applicable to the AC1 test procedure.

(5) *NO_X humidity correction.* Calculated NO_X exhaust emissions from air conditioning tests conducted in a standard test cell at a nominal 50 grains of water/pound of dry air are corrected for humidity to 75 grains of water/pound of dry air (see the relationship of § 86.144–94(c)(7)(iv)(B)).

(c) *AC2 test procedure.* (1) section 86.160–00(a) is applicable the AC2 test procedure except for the discussion of the environmental test requirements. The AC2 test procedure simulates the effect of air conditioning operation in the environmental cell test conditions by adding heat from the vehicle's heating system to the interior of the passenger compartment.

(2) Section 86.160–00(b) is applicable to the AC2 test procedure.

(3) Section 86.160–00(c) is applicable except for the following:

(i) Section 86.160–00(c)(3) is applicable except the drivers side front window is left open and all the others are closed.

(ii) The nominal ambient air test conditions of § 86.160–00(b)(5)(i) (A) and (B) are replaced with 76 °F and 50 grains of water/pound of dry air and the solar heat load of § 86.160–00(b)(5)(i)(C) is omitted.

(iii) The control position instruction of § 86.160–00(c)(6)(iv) is replaced with set the A/C temperature control to the highest warm position (maximum for automatic systems).

(4) Section 86.160–00(d) is applicable to the AC2 test procedure.

(5) *NO_X humidity correction.* Calculated NO_X exhaust emissions from air conditioning tests conducted in a standard test cell at a nominal 50 grains of water/pound of dry air are corrected for humidity to 75 grains of water/pound of dry air (see the relationship of § 86.144–94(c)(7)(iv)(B)).

42. A new § 86.162–03 is added to subpart B to read as follows:

§ 86.162–03 Approval of alternative air conditioning test simulations.

(a) Upon petition from a manufacturer or upon the Agency's own initiative, the Administrator will approve a simulation of the environmental cell for air conditioning test (SC03) described in § 86.160–00 providing that the procedure can be run by the Administrator for SEA and in-use enforcement testing and providing that the following criteria are met:

(1) In deciding whether approvals will be granted, the Administrator will consider data showing how well the simulation matches environmental cell test data for the range of vehicles to be covered by the simulation including items such as the tailpipe emissions, air conditioning compressor load, and fuel economy.

(2) For any simulation approved under paragraph (a) of this section, the manufacturer must agree to be subject to an ongoing yearly correlation spot check as described in § 86.163–00.

(3) Once a simulation is approved and used by a manufacturer for testing for a given vehicle, EPA agrees to use the simulation test procedure for all official testing conducted on that vehicle by the Agency for certification, SEA, and recall purposes, excluding spot check testing and vehicles which fail the spot check criteria as described in § 86.163–00.

(4) EPA will moniter the aggregate results of spot check testing and full environmental test cells. If EPA determines, based on such aggregate results, that any simulation is producing test results consistantly below those from a full environmental test cell, EPA may review its approval of the simulation.

43. A new § 86.163–00 is added to subpart B to read as follows:

§ 86.163–00 Spot check correlation procedures for vehicles tested using a simulation of the environmental test cell for air conditioning emission testing.

This section is applicable for vehicles which are tested using a simulation of the environmental test cell approved under the provisions of § 86.162–00(a).

(a) The Administrator may select up to five emission data vehicles (one emission data vehicle for small volume manufacturers), including vehicles submitted for running change approval, each model year for any manufacturer undergoing the spot checking procedures of this section.

(b) Testing conducted under this section (including testing performed in an environmental test cell) will be

considered as official data as described in § 86.091–29 and used in determining compliance with the standards. Such testing must comply with all applicable emission standards of subpart A of this part. Retests for the purpose of emission compliance will be allowed using the procedures described in § 86.091–29.

(c) *Spot check procedures.* (1) Subject to the limitations of paragraphs (a) and (d)(2)(iii) of this section, the Administrator may require that one or more of the test vehicles which use a simulation rather than actual testing in an environmental test cell for air conditioning emission testing be submitted at a place the Administrator will designate for air conditioning emission testing in an environmental test cell as described in § 86.160–00. The Administrator may order this testing to be conducted at a manufacturer facility. All manufacturers which use a simulation instead of environmental cell testing must have access to an environment test cell meeting the requirements of § 86.161–00 to perform this testing.

(2) An air conditioning emission test will be performed as described in § 86.162–00 in a full environmental test cell.

(i) The results of the original simulation test and the full environmental test cell required in paragraph (c)(1) of this section are compared. In order to pass the spot check, the test results must pass both the following two criteria:

(A) The NO_X emission results of the simulation test must be at least 85% of the NO_X emission results of the environmental chamber test.

(B) The fuel consumption of the simulation test must be at least 95% of the fuel consumption of the environmental chamber test.

(ii) If either of two criteria of paragraph (c)(2)(i) of this section were not met, a retest is allowed. The manufacturer may elect to conduct either a retest of the simulation procedure or the environmental chamber testing. In order to pass the spot check, the test results must pass both the following two criteria using the retest test result.

(A) The NO_X emission results of the simulation test must be at least 85% of the NO_X emission results of the environmental chamber test.

(B) The fuel consumption of the simulation test must be at least 95% of the fuel consumption of the environmental chamber test.

(iii) If either of the two criteria of paragraph (c)(2)(ii) of this section were not met, a second retest is allowed. The procedure not selected for the first retest must be used for the second retest, yielding two test results for each procedure. In order to pass the spot check, the test results must pass both the following two criteria using the average test result for each procedure:

(A) The NO_X emission results of the simulation test must be at least 85% of the NO_X emission results of the environmental chamber test.

(B) The fuel consumption of the simulation test must be at least 95% of the fuel consumption of the environmental chamber test.

(iv) If the spot check criteria have not passed after any of the initial test, the first retest, or the second retest the spot check is considered failed.

(d) *Consequences of failing a spot check.* (1) If the emission results of the testing using the environmental test chamber passes all the applicable standards, those test results may be used to obtain a certificate of conformity.

(2) The Administrator will allow up to 60 days for the manufacturer to supply additional data addressing the correlation of the simulation with a full environmental test cell.

(i) If that data prove to the satisfaction of the Administrator that the simulation produces results that correlate sufficiently with the environmental test chamber, the Administrator may allow the continued use of the simulation.

(ii) Otherwise, the Administrator will determine that the simulation fails to meet adequate correlation levels with full environmental testing. As a consequence of this finding, all future air conditioning emission testing on the population of vehicles represented by the failing-spot-check test vehicle (which may include past model year configurations) will be conducted using an environment chamber or a different (or corrected) approved simulation procedure.

(iii) For each vehicle that fails a spot check, the Administrator may select up to two additional vehicles to test for the spot check that do not count against the five vehicle limit of paragraph (a) of this section.

(e) EPA will monitor the aggregate results of spot check testing and full environmental test cells. If EPA determines, based on such aggregate results, that any simulation (other than the AC1 and AC2 procedures described in paragraphs (b) and (c) of this section for the 2000, 2001, and 2002 model years) is producing test results consistently below those from a full environmental test cell, EPA may review its approval of the simulation.

44. A new § 86.164–00 is added to subpart B to read as follows:

§ 86.164–00 Supplemental federal test procedure calculations.

(a) The provisions of § 86.144–94 (b) and (c) are applicable to this section except that the NO_X humidity correction factor of § 86.144–94(c)(7)(iv) must be modified when adjusting SC03 environmental test cell NO_X results to 100 grains of water (see paragraph (d) of this section). These provisions provide the procedures for calculating mass emission results of each regulated exhaust pollutant for the test schedules of FTP, US06, and SC03.

(b) The provisions of § 86.144–94(a) are applicable to this section. These provisions provide the procedures for determining the weighted mass emissions for the FTP test schedule (Y_{wm}).

(c)(1) When the test vehicle is equipped with air conditioning, the final reported test results for the SFTP composite ($NMHC+NO_X$) and optional composite CO standards shall be computed by the following formulas.

(i) $Y_{WSFTP}=0.35(Y_{FTP})+0.37(Y_{SC03})$ $0.28(Y_{US06})$

Where:

(A) Y_{WSFTP}=Mass emissions per mile for a particular pollutant weighted in terms of the contributions from the FTP, SC03, and US06 schedules. Values of Y_{WSFTP} are obtained for each of the exhaust emissions of NMHC, NO_X, and CO.

(B) Y_{FTP}=Weighted mass emissions per mile (Ywm) based on the measured driving distance of the FTP test schedule.

(C) Y_{SC03}=Calculated mass emissions per mile based on the measured driving distance of the SC03 test schedule.

(D) Y_{US06}=Calculated mass emissions per mile based on the measured driving distance of the US06 test schedule.

(ii) Composite $(NMHC+NO_X)=Y_{WSFTP}(NMHC)$ $+Y_{WSFTP}(NO_X)$

Where:

(A) $Y_{WSFTP}(NMHC)$=results of paragraph (c)(1)(i) of this section for NMHC.

(B) $Y_{WSFTP}(NO_X)$=results of paragraph (c)(1)(i) of this section for NO_X.

(2) When the test vehicle is not equipped with air conditioning, the relationship of paragraph (c)(1)(i) of this section is:

(i) $Y_{WSFTP}=0.72(Y_{FTP})+0.28(Y_{US06})$

Where:

(A) Y_{WSFTP}=Mass emissions per mile for a particular pollutant weighted in terms of the contributions from the FTP and US06 schedules. Values of Y_{WSFTP} are obtained for each of the exhaust emissions of NMHC, NO_X, and CO.

(B) Y_{FTP}=Weighted mass emissions per mile (Ywm) based on the measured driving distance of the FTP test schedule.

(C) Y_{US06}=Calculated mass emissions per mile based on the measured driving distance of the US06 test schedule.

(ii) Composite $(NMHC+NO_X)=Y_{WSFTP}(NMHC)+Y_{WSFTP}(NO_X)$

Where:

(A) $Y_{WSFTP}(NMHC)$=results of paragraph (c)(2)(i) of this section for NMHC.

(B) $Y_{WSFTP}(NO_X)$=results of paragraph (c)(2)(i) of this section for NO_X.

(d) The NO_X humidity correction factor for adjusting NO_X test results to the environmental test cell air conditioning ambient condition of 100 grains of water/pound of dry air is:

$K_H (100)=0.8825/[1–0.0047(H–75)]$

Where:

H=measured test humidity in grains of water/pound of dry air.

45. Appendix I to Part 86 is amended by adding paragraphs (g) and (h), to read as follows:

Appendix I to Part 86—Urban Dynamometer Schedules

* * * * *

(g) EPA US06 Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks.

EPA US06 Driving Schedule

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
0	0.0
1	0.0
2	0.0
3	0.0
4	0.0
5	0.0
6	0.2
7	0.7
8	1.1
9	1.7
10	6.0
11	13.9
12	20.5
13	25.7
14	25.0
15	28.4
16	32.3
17	34.6
18	36.5
19	38.4
20	39.9
21	42.2
22	43.8
23	44.2
24	43.4
25	42.6
26	40.3
27	39.2
28	38.4
29	38.4
30	39.2
31	38.8
32	38.8
33	36.5
34	32.3
35	27.6
36	22.3
37	17.3
38	11.5

EPA US06 Driving Schedule—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
39	5.8
40	1.2
41	0.0
42	0.0
43	0.0
44	0.0
45	0.0
46	0.0
47	0.0
48	0.0
49	0.8
50	9.2
51	14.9
52	18.2
53	22.2
54	27.2
55	31.4
56	33.8
57	37.2
58	40.8
59	44.0
60	46.3
61	47.6
62	49.5
63	51.2
64	53.0
65	54.4
66	55.6
67	56.4
68	56.1
69	56.2
70	55.8
71	55.1
72	54.4
73	54.2
74	54.4
75	54.2
76	53.5
77	52.3
78	52.0
79	51.9
80	51.8
81	51.9
82	52.0
83	52.5
84	53.4
85	54.9
86	56.8
87	58.8
88	60.6
89	62.3
90	64.2
91	66.2
92	67.8
93	69.4
94	70.4
95	70.6
96	70.7
97	70.3
98	68.2
99	66.5
100	64.9
101	63.7
102	62.5
103	61.0
104	59.3
105	57.7
106	56.0
107	54.5

EPA US06 Driving Schedule—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
108	52.8
109	51.2
110	49.5
111	48.0
112	46.3
113	44.0
114	41.1
115	38.8
116	37.7
117	36.6
118	35.3
119	30.0
120	24.4
121	19.8
122	15.5
123	10.8
124	6.3
125	3.2
126	2.1
127	1.2
128	0.0
129	0.0
130	0.0
131	0.0
132	0.0
133	0.0
134	0.0
135	0.0
136	2.7
137	9.2
138	16.1
139	22.7
140	29.2
141	34.2
142	38.8
143	43.0
144	45.3
145	46.8
146	48.0
147	49.5
148	50.3
149	51.5
150	52.2
151	52.6
152	53.0
153	53.8
154	53.8
155	53.8
156	54.6
157	56.3
158	56.9
159	58.1
160	58.4
161	59.6
162	59.9
163	60.2
164	60.5
165	59.7
166	58.3
167	58.1
168	57.8
169	57.3
170	57.5
171	56.6
172	57.0
173	56.6
174	56.5
175	56.2
176	56.4

EPA US06 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
177	56.6
178	56.4
179	56.1
180	56.0
181	55.9
182	54.8
183	54.2
184	54.6
185	52.2
186	54.7
187	55.7
188	57.0
189	58.0
190	58.1
191	59.4
192	59.9
193	61.0
194	61.4
195	61.9
196	62.5
197	62.5
198	62.7
199	62.2
200	62.5
201	63.1
202	62.7
203	62.8
204	63.0
205	64.1
206	63.9
207	64.1
208	64.3
209	64.5
210	64.9
211	65.3
212	66.0
213	66.0
214	66.4
215	64.1
216	63.6
217	63.9
218	64.1
219	63.7
220	64.3
221	64.2
222	63.9
223	64.2
224	63.4
225	64.0
226	63.9
227	64.0
228	63.8
229	64.0
230	63.3
231	63.4
232	63.9
233	64.0
234	64.3
235	64.8
236	65.1
237	64.0
238	64.2
239	63.1
240	63.7
241	63.1
242	63.7
243	63.5
244	63.0
245	63.1

EPA US06 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
246	63.0
247	63.3
248	63.4
249	63.3
250	62.5
251	62.5
252	62.9
253	62.8
254	62.2
255	62.4
256	62.3
257	62.3
258	62.4
259	62.1
260	62.5
261	62.8
262	62.3
263	62.3
264	62.4
265	61.9
266	62.8
267	62.8
268	62.3
269	62.8
270	62.4
271	62.1
272	61.9
273	61.8
274	62.1
275	62.1
276	62.1
277	62.0
278	62.4
279	62.2
280	62.2
281	62.4
282	62.7
283	62.6
284	63.7
285	64.3
286	64.8
287	65.1
288	65.9
289	66.1
290	67.0
291	67.2
292	67.5
293	68.3
294	68.3
295	68.8
296	69.1
297	69.4
298	71.7
299	72.1
300	74.9
301	72.6
302	72.2
303	72.2
304	72.0
305	72.5
306	72.8
307	72.7
308	71.8
309	71.4
310	71.1
311	71.1
312	70.9
313	71.0
314	71.0

EPA US06 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
315	71.2
316	72.1
317	72.6
318	73.6
319	74.8
320	75.7
321	77.3
322	78.4
323	79.3
324	78.2
325	76.0
326	75.6
327	76.4
328	77.6
329	78.0
330	79.1
331	79.5
332	79.9
333	79.9
334	80.3
335	80.3
336	79.5
337	79.5
338	79.1
339	78.7
340	77.6
341	76.5
342	74.3
343	72.6
344	70.8
345	67.6
346	66.4
347	66.7
348	66.1
349	65.9
350	66.2
351	66.1
352	67.1
353	67.4
354	68.3
355	68.3
356	68.7
357	68.2
358	68.1
359	68.0
360	67.1
361	66.4
362	66.1
363	65.7
364	66.0
365	66.4
366	66.0
367	66.3
368	67.0
369	67.5
370	67.9
371	68.1
372	68.5
373	68.9
374	68.6
375	69.4
376	69.4
377	69.4
378	70.0
379	70.4
380	70.6
381	70.9
382	70.3
383	70.6

EPA US06 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
384	70.3
385	69.7
386	69.9
387	70.1
388	69.6
389	69.3
390	69.9
391	69.7
392	69.5
393	69.9
394	70.2
395	70.2
396	70.2
397	71.0
398	70.8
399	70.9
400	70.7
401	70.9
402	71.2
403	71.3
404	70.8
405	71.2
406	71.7
407	71.9
408	72.6
409	72.3
410	72.3
411	72.1
412	72.0
413	71.9
414	72.6
415	72.8
416	73.2
417	72.1
418	71.5
419	70.9
420	70.4
421	70.5
422	70.9
423	70.2
424	71.0
425	70.2
426	70.3
427	69.1
428	68.8
429	68.2
430	68.3
431	68.2
432	67.7
433	67.3
434	67.5
435	67.6
436	67.6
437	67.2
438	67.0
439	66.3
440	66.6
441	66.2
442	66.4
443	65.9
444	66.1
445	65.5
446	62.2
447	62.2
448	61.4
449	61.1
450	61.4
451	61.1
452	61.4
453	61.4
454	61.8
455	61.8
456	61.8
457	61.8
458	62.2
459	61.8
460	62.2
461	62.6
462	62.2
463	62.6
464	62.2
465	62.6
466	62.6
467	63.0
468	62.6
469	62.2
470	61.1
471	59.5
472	58.8
473	56.8
474	55.7
475	54.1
476	51.5
477	49.2
478	48.8
479	47.6
480	44.9
481	41.5
482	37.2
483	34.6
484	33.0
485	29.2
486	22.3
487	17.7
488	17.3
489	14.0
490	10.0
491	6.0
492	2.0
493	0.0
494	0.0
495	0.0
496	0.0
497	0.0
498	0.0
499	0.0
500	0.0
501	0.2
502	4.4
503	10.1
504	15.6
505	20.8
506	25.1
507	27.7
508	28.2
509	26.8
510	24.8
511	22.4
512	17.1
513	11.3
514	6.9
515	7.5
516	11.1
517	15.4
518	19.9
519	24.2
520	27.1
521	28.5
522	28.2
523	25.6
524	21.7
525	17.3
526	12.1
527	7.5
528	5.8
529	2.4
530	1.2
531	1.9
532	6.7
533	11.8
534	16.8
535	21.7
536	25.9
537	27.7
538	28.0
539	27.1
540	24.4
541	20.2
542	15.2
543	9.3
544	5.0
545	2.9
546	2.4
547	8.4
548	13.5
549	17.8
550	22.2
551	26.2
552	30.0
553	29.8
554	26.0
555	21.3
556	16.2
557	11.4
558	6.6
559	2.6
560	0.0
561	0.0
562	0.0
563	0.0
564	0.0
565	0.0
566	0.0
567	0.0
568	0.3
569	6.4
570	12.7
571	19.2
572	23.8
573	28.2
574	34.9
575	37.5
576	40.3
577	45.0
578	49.9
579	51.6
580	51.2
581	50.6
582	49.9
583	47.8
584	44.6
585	41.2
586	37.8
587	33.4
588	28.0
589	23.7
590	18.8

EPA US06 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
591	12.9
592	6.2
593	2.2
594	0.0
595	0.0
596	0.0
597	0.0
598	0.0
599	0.0
600	0.0

(h) EPA SC03 Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks.

EPA SC03 DRIVING SCHEDULE

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
0	0.0
1	0.0
2	0.0
3	0.0
4	0.0
5	0.0
6	0.0
7	0.0
8	0.0
9	0.0
10	0.0
11	0.0
12	0.0
13	0.0
14	0.0
15	0.0
16	0.0
17	0.0
18	0.0
19	0.9
20	3.0
21	2.9
22	3.3
23	3.5
24	2.2
25	1.4
26	0.0
27	0.0
28	0.0
29	0.0
30	0.0
31	0.0
32	0.0
33	0.4
34	3.3
35	6.0
36	8.0
37	8.7
38	10.0
39	12.4
40	13.8
41	14.7
42	14.8
43	16.6
44	18.3
45	19.0
46	19.2
47	19.3

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
48	19.7
49	20.5
50	21.0
51	21.2
52	21.6
53	22.2
54	23.8
55	24.6
56	24.3
57	23.3
58	22.7
59	21.4
60	20.4
61	19.5
62	17.9
63	15.6
64	11.7
65	7.8
66	7.2
67	9.3
68	12.9
69	15.8
70	16.2
71	16.9
72	18.3
73	20.3
74	21.6
75	22.4
76	23.0
77	22.8
78	22.1
79	21.2
80	19.5
81	17.1
82	14.1
83	10.5
84	7.6
85	7.5
86	10.0
87	13.1
88	14.1
89	16.4
90	19.6
91	22.4
92	24.7
93	26.1
94	25.8
95	26.6
96	27.8
97	28.5
98	28.9
99	29.3
100	29.5
101	29.4
102	29.4
103	29.8
104	30.3
105	30.6
106	30.5
107	30.5
108	30.1
109	29.3
110	28.4
111	27.6
112	26.8
113	25.5
114	23.7
115	21.7
116	19.3

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
117	16.7
118	14.4
119	11.5
120	7.9
121	6.6
122	9.4
123	12.4
124	14.8
125	16.1
126	19.3
127	22.6
128	25.5
129	26.4
130	26.7
131	27.8
132	29.4
133	31.1
134	32.5
135	33.6
136	34.6
137	35.4
138	36.1
139	37.0
140	37.7
141	38.1
142	38.3
143	38.1
144	37.8
145	36.6
146	34.8
147	33.2
148	32.4
149	32.3
150	32.3
151	32.4
152	32.4
153	32.4
154	32.5
155	33.3
156	34.4
157	35.5
158	36.6
159	37.4
160	38.0
161	38.4
162	38.5
163	38.6
164	38.4
165	38.2
166	37.5
167	36.9
168	36.3
169	34.8
170	33.0
171	31.4
172	30.7
173	30.3
174	30.0
175	29.3
176	27.4
177	25.1
178	21.8
179	17.2
180	12.5
181	8.1
182	4.5
183	2.0
184	1.0
185	0.6

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
186	0.0
187	0.0
188	0.0
189	0.0
190	0.0
191	0.0
192	0.0
193	0.0
194	0.0
195	0.0
196	0.0
197	0.0
198	0.0
199	0.0
200	0.0
201	0.0
202	0.0
203	0.0
204	0.0
205	1.0
206	0.5
207	2.6
208	7.7
209	12.3
210	15.8
211	17.3
212	19.4
213	23.3
214	27.2
215	31.0
216	33.6
217	34.2
218	35.8
219	37.3
220	38.3
221	39.2
222	40.1
223	40.9
224	41.0
225	40.4
226	39.7
227	39.1
228	38.1
229	36.7
230	35.9
231	35.9
232	35.7
233	34.9
234	33.9
235	32.6
236	31.9
237	31.1
238	30.6
239	30.3
240	30.1
241	29.9
242	29.8
243	29.8
244	29.8
245	29.8
246	29.7
247	29.7
248	29.6
249	28.4
250	25.8
251	22.8
252	19.0
253	14.0
254	8.6

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
255	4.1
256	1.3
257	0.0
258	0.0
259	0.0
260	0.0
261	0.0
262	0.0
263	0.0
264	0.0
265	0.0
266	0.0
267	0.0
268	0.0
269	0.0
270	0.0
271	0.0
272	0.0
273	0.0
274	0.0
275	0.0
276	0.0
277	0.0
278	0.0
279	0.0
280	0.0
281	0.1
282	4.5
283	9.1
284	13.6
285	18.2
286	22.6
287	26.2
288	29.3
289	32.1
290	34.5
291	36.8
292	38.4
293	40.0
294	41.2
295	41.9
296	42.2
297	42.7
298	43.0
299	43.3
300	43.5
301	43.7
302	44.3
303	45.4
304	45.9
305	46.8
306	47.6
307	48.2
308	48.6
309	48.7
310	48.6
311	49.0
312	49.8
313	50.5
314	51.2
315	52.1
316	52.7
317	53.4
318	52.4
319	54.5
320	54.8
321	54.8
322	54.7
323	54.3

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
324	54.0
325	53.8
326	53.5
327	53.3
328	52.9
329	52.6
330	52.0
331	51.6
332	51.0
333	50.3
334	49.3
335	48.1
336	46.5
337	43.6
338	40.7
339	37.2
340	34.4
341	31.4
342	28.6
343	24.2
344	18.1
345	12.3
346	8.1
347	4.8
348	2.6
349	2.1
350	0.0
351	0.0
352	0.0
353	0.0
354	0.0
355	0.0
356	0.0
357	0.0
358	0.0
359	0.0
360	0.0
361	0.0
362	0.0
363	0.0
364	0.0
365	0.0
366	0.0
367	0.0
368	0.0
369	0.0
370	0.0
371	4.3
372	9.1
373	13.2
374	16.3
375	19.1
376	20.9
377	22.7
378	24.8
379	26.9
380	28.8
381	30.0
382	30.4
383	30.6
384	30.9
385	31.1
386	30.8
387	31.1
388	31.5
389	32.4
390	33.1
391	33.3
392	33.4

EPA SC03 DRIVING SCHEDULE—Continued

[Speed versus Time Sequence]

Time (sec)	Speed (mph)
393	33.7
394	34.1
395	34.7
396	35.0
397	35.4
398	35.8
399	36.0
400	36.2
401	36.3
402	36.4
403	36.5
404	36.9
405	37.2
406	37.3
407	37.8
408	38.2
409	38.6
410	38.8
411	38.6
412	38.9
413	39.0
414	38.8
415	38.6
416	38.1
417	37.6
418	37.6
419	37.3
420	37.0
421	36.6
422	36.2
423	36.0
424	36.0
425	35.5
426	34.5
427	33.0
428	31.0
429	27.5
430	22.6
431	20.0
432	19.0
433	19.4
434	19.2
435	20.6
436	22.9
437	24.6
438	25.5
439	26.9
440	27.3
441	28.2
442	29.6
443	30.2
444	30.7
445	31.3
446	31.7
447	32.2
448	32.5
449	33.0
450	33.2
451	33.3
452	33.1
453	32.7
454	32.3
455	31.9
456	31.5
457	31.2
458	30.8
459	30.5
460	30.2
461	29.9
462	30.2
463	30.6
464	30.9
465	31.2
466	31.8
467	32.4
468	32.5
469	32.3
470	32.3
471	32.8
472	32.9
473	32.8
474	32.8
475	33.3
476	33.4
477	32.9
478	32.9
479	32.8
480	32.9
481	32.8
482	32.8
483	32.4
484	31.6
485	30.6
486	30.3
487	30.3
488	29.8
489	29.3
490	28.9
491	28.8
492	29.3
493	30.0
494	30.2
495	30.4
496	30.7
497	30.8
498	29.8
499	28.7
500	28.9
501	29.2
502	29.4
503	28.6
504	27.0
505	27.2
506	26.6
507	23.2
508	21.2
509	21.2
510	20.8
511	17.9
512	13.2
513	9.5
514	6.4
515	4.1
516	2.5
517	0.0
518	0.0
519	0.0
520	0.0
521	0.0
522	0.0
523	0.0
524	0.0
525	0.0
526	0.0
527	0.0
528	0.0
529	0.0
530	0.0
531	0.0
532	0.0
533	0.0
534	0.0
535	0.0
536	0.0
537	0.6
538	3.3
539	5.9
540	8.9
541	10.2
542	10.4
543	9.9
544	9.9
545	10.5
546	11.3
547	12.4
548	12.8
549	14.0
550	14.6
551	15.5
552	17.0
553	17.5
554	18.1
555	18.4
556	18.5
557	18.2
558	18.5
559	18.3
560	18.2
561	17.9
562	17.7
563	17.7
564	17.3
565	17.4
566	16.8
567	17.5
568	17.7
569	17.5
570	17.6
571	17.3
572	17.4
573	17.6
574	17.6
575	17.9
576	18.0
577	17.8
578	17.7
579	17.5
580	17.7
581	17.7
582	18.1
583	18.4
584	19.2
585	18.9
586	18.0
587	15.6
588	13.3
589	10.0
590	7.7
591	5.8
592	3.7
593	2.4
594	0.0

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October 22, 1996

Part III

Department of the Treasury

Fiscal Service

31 CFR Parts 356 and 370

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 356 and 370

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') is issuing in final form an amendment to 31 CFR Part 370 (Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities) to permit purchasers of United States securities, where authorized by the appropriate offering circular, to pay for their securities by means of a debit entry to their deposit account by the Automated Clearing House (ACH) method. The amendment will offer investors an additional means of payment for the purchase of their securities.

Also, this final rule amends 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). The amendment will authorize bidders in Treasury security auctions to make payment for awarded Treasury securities by approved electronic means.

EFFECTIVE DATE: October 22, 1996. For purchasers of securities to be held in the TREASURY DIRECT system, debit ACH will be implemented with a phased-in approach.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–7761 or Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–5192.

SUPPLEMENTARY INFORMATION:

I. Background

The title of Part 370 is being changed to Regulations Governing the Transfer of Funds by Electronic Means on Account of United States Securities, to indicate that the part is intended to provide regulatory coverage for various methods of payment by electronic means. It is anticipated that the ACH method will, in the future, be one of several electronic payment mechanisms for United States securities. Subparts have been added to part 370 to separate the already-existing credit ACH regulations, governing payments from the Department to the owner of the security, from the debit ACH regulations, which will govern the payment to the Department by the owner for the settlement amount of the security. The debit ACH regulations provide an additional payment method, that of a debit entry to the owner's deposit account, using the ACH method, if authorized by the appropriate offering circular. The TREASURY DIRECT system will offer debit ACH as an additional method of payment for the purchase of marketable Treasury securities, as authorized in the offering circular at 31 CFR Part 356. An authorization signed by the investor for the debit transaction will be required. The debit ACH payment option is only available for TREASURY DIRECT accounts established at least two weeks prior to the scheduled debit ACH entry.

Although investors may continue to pay for the purchase of their securities by non-electronic means, the additional method of payment will benefit investors by permitting them the use of their money until the debit entry takes place on the settlement date of the Treasury securities.

31 CFR Part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department to the public of marketable Treasury bills, notes, and bonds. The uniform offering circular, in conjunction with offering announcements, represents a comprehensive statement of those terms and conditions.[1]

The Department believes that the future expansion of payment methods for securities in Treasury auctions to accommodate payment through electronic means will be beneficial to investors in Treasury securities and will enhance the efficiency of the Treasury securities market. Accordingly, § 356.17 of the uniform offering circular has been amended to allow payment for marketable Treasury securities to be made by those electronic means approved by the Department (see 31 CFR Part 370). Also, § 356.25 has been amended to provide that, where payment is made by authorized electronic means, such payment will be made on the issue date of the Treasury security by charging the settlement amount to the account specified by the bidder or the submitter on behalf of the bidder.

Debit ACH is one such means of electronic payment that the Department is approving as an option for bidders whose awarded securities will be held in TREASURY DIRECT. To utilize the debit ACH payment option for securities to be held in TREASURY DIRECT, a bidder, or a submitter on behalf of a bidder, will be required to meet the necessary conditions, and to complete any required authorizations, as described in part 370.

Conforming changes are being made to § 356.17 to allow for the possibility of various means of electronic payment in the future by bidders whose awarded securities are held in the commercial book-entry system.[2]

II. Section by Section Summary

31 CFR Part 356

(1.) Section 356.17 has been amended by adding new paragraphs (a)(2) and (b)(2) to add payment by authorized electronic means as a payment option available to bidders in Treasury security auctions. If the awarded securities are to be held in TREASURY DIRECT, the bidder must meet certain conditions, and complete any required authorizations, as provided in 31 CFR part 370. Conforming changes are also made to paragraphs (a) and (b), and the newly redesignated paragraphs (a)(3) and (b)(3) of this section.

(2.) Section 356.25 has been amended by adding a new paragraph (b) which provides that when the method of payment is by authorized electronic means, the settlement amount will be charged to the specified account on the issue date of the particular Treasury bill, note or bond. Conforming changes are also made to paragraph (a) and the newly redesignated paragraph (c) of this section.

31 CFR Part 370

(1.) The title of this part has been changed from Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities, to Regulations Governing the Transfer of Funds by Electronic Means on Account of United States Securities. This change will permit the part to be used in the future for methods of payment for United States securities by other electronic means in addition to the ACH method.

(2.) Section 370.0 has been amended to indicate that the regulations in this

[1] The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). Amendments to the circular were published on June 3, 1994 (59 FR 28773), March 15, 1995 (60 FR 13906), July 16, 1996 (61 FR 37007) and August 23, 1996 (61 FR 43626).

[2] When the final rule (61 FR 43626) becomes effective, the commercial book-entry system will be known as the Treasury/Reserve Automated Debt Entry System (TRADES).

part apply to the electronic transfer of funds where employed by the Bureau of the Public Debt (Public Debt) in connection with United States securities, except where otherwise provided. Previously, the section indicated that the part applies to the ACH method of payment where employed by Public Debt in connection with United States securities. The amendment indicates the potential for the future expansion of the part should Public Debt choose to use other electronic means in connection with United States securities.

(3.) Subparts have been added to separate the credit and debit ACH sections. Subpart A contains general information which will apply to the entire part.

(4.) Section 370.1 has been amended to redefine several terms used in the section and to add appropriate definitions. The definition of deposit account has been expanded from the account maintained at a financial institution specified by a recipient into which ACH payments under this part are to be made, to the account into which either payments or debit entries under this part are to be made.

Entry has been defined as an order or request for the deposit of money to the deposit account of an owner (a credit entry) or for the payment of money from the deposit account of an owner (a debit entry).

A definition of payment has been added to clarify that where used in this part, payment means the transfer of funds from the Department to the deposit account of the owner. A definition of settlement date has been added.

(5.) Subpart B has been added to the regulations to indicate that this subpart contains provisions applicable to payments under the ACH method, and applies to payments from the Department on account of United States securities. Sections have been renumbered to fit the new structure of the part, and to provide space for the addition of future sections, if necessary.

(6.) Former § 370.2 through and including § 370.11 have been renumbered as § 370.5 through § 370.14.

(7.) The title of former § 370.12, Other payments, has been changed to indicate that this section refers to other payments by the ACH method, and renumbered as § 370.15.

(8.) The former § 370.13, Waiver of regulations, has been moved to subpart D, and will be renumbered as § 370.30.

(9.) The former § 370.14, Liability of Department and Federal Reserve Banks, has been renumbered as § 370.16.

(10.) Subpart C has been added to provide a structure to contain the regulations covering debit entries by the ACH method.

(11.) Section 370.20, Designation of a financial institution to receive debit ACH entries, provides that an owner of a security shall designate the financial institution and the deposit account within that institution which will receive the debit ACH entries. For securities that will be held in the TREASURY DIRECT system, the designation will be made using the ACH information provided in the TREASURY DIRECT tender for the direct deposit of payments for that account. In the TREASURY DIRECT system, the purchaser must receive the debit entries in the same deposit account which has been designated to receive payments of principal and interest from the TREASURY DIRECT system by credit entries. This means that the purchaser may not designate one account to receive payments by the ACH method and another account to pay for securities, but must use the same account for both transactions. The TREASURY DIRECT account must have been established at least two weeks prior to the scheduled debit ACH entry. Written authorization for the debit must be provided by the purchaser.

(12.) Section 370.21, Agreement of the financial institution, provides that the acceptance and handling by a financial institution of a debit entry constitutes its agreement to this subpart.

(13.) Section 370.22, Prenotification, provides the procedures for prenotification messages for debit ACH, if a prenotification message is sent.

(14.) Section 370.23, Responsibility of financial institution, sets forth the responsibilities of the financial institution designated to receive a debit entry.

(15.) Section 370.24, Handling of debit entries by Federal Reserve Banks, provides that the Federal Reserve Banks, as the fiscal agents of the United States, shall initiate a debit to the owner's account in accordance with the instructions of the owner.

(16.) Section 370.25, Liability of Department and Federal Reserve Banks, provides that the Department, which includes the Capital Area Servicing Center, and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information furnished by the owner as to the debit entry.

(17.) Subpart D has been added to accommodate those provisions which apply equally to all subparts contained in this part.

(18.) Section 370.30, Waiver of regulations, is the former § 370.13, which has been moved and renumbered.

(19.) The former § 370.15 Supplements, amendments or revisions, has been redesignated § 370.31. The phrase payments made by ACH has been changed to the transfer of funds by electronic means.

Procedural Requirements

It has been determined that this final rule does not meet the criteria for a ''significant regulatory action,'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This rule relates to matters of public contract and procedures for U.S. securities. Accordingly, pursuant to 5 U.S.C. 553(a)(2), the notice, public comment and delayed effective date provisions of the Administrative Procedure Act do not apply. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There are no new collections of information contained in this Final Rule, and, therefore, the Paperwork Reduction Act (44 U.S.C. 3504(h)) does not apply.

List of Subjects in 31 CFR Parts 356 and 370

Bonds, Federal Reserve System, Government securities, Securities, Electronic funds transfer.

Dated: October 8, 1996.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set out in the preamble, 31 CFR parts 356 and 370 are amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

2. Section 356.17 is amended by revising the introductory text of paragraphs (a) and (b), redesignating paragraphs (a)(2) and (b)(2) as paragraphs (a)(3) and (b)(3), adding new paragraphs (a)(2) and (b)(2), and revising redesignated paragraph (a)(3) and the introductory text of paragraph (b)(3) to read as follows:

§ 356.17 Responsibility for payment.

* * * * *

(a) *TREASURY DIRECT.* For securities to be held in TREASURY DIRECT, payment of the par amount and announced accrued interest, if any, must be submitted with the tender unless other provisions have been made, such as payment by an authorized electronic means providing for immediately available funds or payment by charge to the funds account of a depository institution.

* * * * *

(2) Payment by authorized electronic means. Payment may be made by electronic means approved by the Department, provided the bidder, or the submitter on behalf of the bidder, has met the necessary conditions and has satisfactorily completed any required authorizations for such means of payment, in accordance with 31 CFR part 370.

(3) Authorized charge to a funds account. If a depository institution or dealer submits a tender for a TREASURY DIRECT bidder and payment is not submitted with the tender or made by an authorized electronic means, an authorization from a depository institution to charge the institution's funds account at a Federal Reserve Bank must be on file with the Bank to which the tender was submitted.

(b) Commercial book-entry system. For securities to be held in the commercial book-entry system, payment of the par amount and announced accrued interest, if any, must be submitted with the tender unless other provisions have been made, such as by payment by an authorized electronic means providing for immediately available funds or by charge to the funds account of a depository institution.

* * * * *

(2) Payment by authorized electronic means. Payment may be made by electronic means approved by the Department, provided the bidder, or the submitter on behalf of the bidder, has met the necessary conditions, and has satisfactorily completed any required authorizations, for such means of payment.

(3) Authorized charge to a funds account. Where payment is not submitted with the tender or made by an authorized electronic means, an authorization to charge the funds account of a depository institution must be provided as follows.

* * * * *

3. Section 356.25 is amended by redesignating paragraph (b) as paragraph (c), adding a new paragraph (b), and revising the introductory text of paragraphs (a) and (c), to read as follows:

§ 356.25 Payment for awarded securities.

* * * * *

(a) Payment with tender. When payment is made with the tender as provided for in § 356.17 (a)(1) and (b)(1), settlement is accomplished as follows:

* * * * *

(b) Payment by authorized electronic means. Where the method of payment is by an authorized electronic means as provided for in § 356.17 (a)(2) or (b)(2), the settlement amount will be charged to the specified account on the issue date.

(c) Payment by authorized charge to a funds account. Where the submitter's method of payment is an authorized charge to the funds account of a depository institution as provided for in §§ 356.17 (a)(3) or (b)(3), the settlement amount will be charged to the specified funds account on the issue date.

* * * * *

PART 370—REGULATIONS GOVERNING THE TRANSFER OF FUNDS BY ELECTRONIC MEANS ON ACCOUNT OF UNITED STATES SECURITIES

1. The authority citation for part 370 continues to read as follows:

Authority: 31 U.S.C. Chapter 31.

2. The heading of Part 370 is revised to read as set forth above.

3. Section 370.0 is revised to read as follows:

§ 370.0 Applicability.

The regulations in this part apply to the transfer of funds by electronic means where employed by the Bureau of the Public Debt in connection with United States securities, except as otherwise provided.

4. Sections 370.1 through 370.4 are designated as Subpart A and a heading for subpart A is added to read as follows:

Subpart A—General Information

5. Section 370.1 is amended by revising the definitions for deposit account, financial institution, and owner, and adding definitions for entry, payment, and settlement date to read as follows:

§ 370.1 Definitions.

* * * * *

Deposit account means the account maintained at a financial institution specified by a recipient into which ACH credit or debit entries under this part are to be made.

Entry means an order or request for the deposit of money to the deposit account of an owner (a credit entry) or for the payment of money from the deposit account of an owner (a debit entry).

Financial institution means, for purposes of this part, an institution which processes the transfer of funds by authorized electronic means.

Owner means the individual(s) or entity in whose name(s) a security is registered and who is authorized under the appropriate subparts of this title to request that the security be transferred, reissued, reinvested, exchanged or paid.

Payment means, for the purpose of this part, the deposit of money from the Department to the deposit account of the owner.

* * * * *

Settlement Date means the date an exchange of funds with respect to an entry is reflected on the books of the Federal Reserve Bank(s). The settlement date will in most cases be the same as the issue date of a security held in the TREASURY DIRECT system.

* * * * *

§§ 370.13 and 370.15 [Redesignated]

6. Sections 370.13 and 370.15 are redesignated as §§ 370.30 and 370.31.

§§ 370.2–370.12 and 370.14 [Redesignated]

7. Section 370.14 is redesignated as section 370.16; sections 370.2 through 370.12 are redesignated as sections 370.5 through 370.15 respectively.

8. The heading of the newly redesignated section 370.15 is revised as set forth below:

§ 370.15 Other payments by the ACH method.

* * * * *

9. Newly redesignated sections 370.5 through 370.16 are designated as Subpart B and a heading for subpart B is added to read as follows:

Subpart B—Credit ACH Entries

10. Subpart C is added to read as follows:

Subpart C—Debit ACH Entries

Sec.

§ 370.20 Designation of a financial institution to receive debit ACH entries.

The purchaser of a security shall designate a financial institution to receive debit ACH entries and shall identify the deposit account to which the debit entries are to be received, by written authorization, or by an authorization similarly authenticated by the purchaser, in a manner approved by the Department. The purchaser of a security to be held in TREASURY DIRECT must receive debit ACH entries in the same deposit account designated to receive TREASURY DIRECT payments by the ACH method. Such TREASURY DIRECT account must have been established at least two weeks prior to the scheduled debit ACH entry and must be an account which is capable of receiving debit entries. The authorization of the purchaser shall not be recurring, that is, it shall be effective for one debit transaction only.

§ 370.21 Agreement of the financial institution.

A financial institution's acceptance and handling of a debit entry made with respect to a security covered by this subpart shall constitute its agreement to the provisions of this subpart.

§ 370.22 Prenotification.

(a) General. The Department may send a prenotification message to the financial institution designated to receive debit ACH entries to confirm the accuracy of the account information furnished by an owner, or other person or entity entitled to make the designation, and to advise the financial institution that such account has been so designated. Prenotification messages may be sent at any time prior to the first debit ACH entry. The prenotification message shall contain the ABA routing/transit number of the financial institution designated to receive the debit entry, as well as a depositor name reference, deposit account number, and type or classification of account at such institution.

(b) Response to prenotification. The financial institution must respond to the prenotification message within eight calendar days after the date of receipt, if the information as to the account number and/or the type of account contained in the message does not agree with the records of the financial institution, or if the financial institution for any other reason has questions about the forthcoming debit entry, including its ability to debit the account in accordance with this subpart. Upon receipt of a response to the prenotification message, the Department or the Federal Reserve Bank, as appropriate, will correct the debit instructions and send another prenotification message, or contact the owner for further instructions.

(c) Effect of failure to reject. If a financial institution does not reject or otherwise respond to a prenotification message within the specified time period, the financial institution shall be deemed to have accepted the prenotification and to have warranted to the Department or the Federal Reserve Bank that the information as to the deposit account number and/or the type of account contained in the message is accurate as of the time of such prenotification.

§ 370.23 Responsibility of financial institution.

A financial institution which receives a debit entry on behalf of its customer must:

(a) Debit the customer's account on the settlement date. If the financial institution is unable to debit the designated account, it shall return the entry by no later than the next business day after receipt, with an electronic message or other response explaining the reason for the return.

(b) Promptly notify the appropriate Federal Reserve Bank or the Capital Area Servicing Center when the designated account has been closed, or when it is on notice of the death or legal incapacity (as determined under applicable State law) of any individual named on such account, or when it is on notice of the dissolution of a corporation in whose name the deposit account is held.

§ 370.24 Handling of debit entries by Federal Reserve Banks.

Each Federal Reserve Bank, as fiscal agent of the United States, shall initiate the debit entry in accordance with the information furnished by the owner.

§ 370.25 Liability of Department and Federal Reserve Banks.

The Department and the Federal Reserve Banks will rely on the information provided by the owner, or other person or entity entitled to make the designation, concerning the financial institution or deposit account designated to receive the debit entry, and are not required to verify this information. The Department and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information so furnished.

11. Newly redesignated section 370.31 is revised to read as follows:

§ 370.31 Supplements, amendments or revisions.

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to the transfer of funds by electronic means.

12. Newly redesignated sections 370.30 and 370.31 are designated as Subpart D and a heading for Subpart D is added to read as follows:

Subpart D—Additional Provisions

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Tuesday
October 22, 1996

Part IV

Department of Housing and Urban Development

24 CFR Parts 91 and 570

Community Development Block Grant Program for States; Community Revitalization Strategy Requirements and Miscellaneous Technical Amendments; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 91 and 570

[Docket No. FR–4081–I–01]

RIN 2502–AB83

Community Development Block Grant Program for States; Community Revitalization Strategy Requirements and Miscellaneous Technical Amendments; Interim Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule contains changes to the regulations for the State Community Development Block Grant (CDBG) program and the Consolidated Plan. These revisions fall into three categories: implementation of the community revitalization strategies concept into the State program; technical amendments to correct inaccurate or obsolete regulatory citations and to reinstate language that was inadvertently deleted by the publication of the Consolidated Plan regulations on January 5, 1995; and technical amendments to implement statutory changes or clarify existing regulatory language affecting eligibility and compliance with national objectives for certain activities.

DATES: *Effective date:* November 21, 1996. The information collection requirements in § 91.315(e)(2) of this interim rule, however, will not be effective until the Office of Management and Budget (OMB) has approved them under the Paperwork Reduction Act of 1995 and assigned them a control number. Publication of the control numbers notifies the public that OMB has approved these information collection requirements. A document announcing the effective date of § 91.315(e)(2) will be published in the Federal Register at a later date.

Deadline for comments on the interim rule: February 16, 1997.

Deadline for comments on the proposed information collection requirements: December 23, 1996.

ADDRESSES: HUD invites interested persons to submit comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

HUD also invites interested persons to submit comments on the proposed information collection requirements in this interim rule. Comments should refer to the above docket number and title, and should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steve Johnson, Assistant Director, State & Small Cities Division, Room 7184, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone number (202) 708–1322. FAX inquiries (but not comments on the interim rule) may be sent to Mr. Johnson at (202) 708–2575. (These numbers are not toll-free.) Hearing- or speech-impaired persons may access that number via TTY by calling the Federal Information Relay Service toll free at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule revises the regulations for the State Community Development Block Grant (CDBG) program (24 CFR part 570) and for the Consolidated Submissions for Community Planning and Development Programs (24 CFR part 91) to provide additional flexibility to States in implementing their programs, to correct several inaccurate regulatory citations, and to correct several other errors that resulted from previous regulation changes. Specifically, this interim rule contains: (1) Changes to the consolidated plan action plan regarding the standard of review; (2) Changes to the consolidated plan action plan to allow for community revitalization strategies; (3) Changes to the low and moderate income benefit national objective criteria and public benefit standards regarding community revitalization strategies; (4) Additional changes to the low and moderate income benefit national objective criteria regarding limited clientele activities, removal of architectural barriers, and housing services; (5) A change regarding HUD approval of States' grants; and (6) Various technical and conforming changes to the State CDBG regulations, in association with the above changes or to correct inaccurate regulatory citations. The preamble of this interim rule describes each of these changes.

II. Community Revitalization Strategies

In the final rule for the Consolidated Submission for Community Planning and Development Programs, published in the Federal Register on January 5, 1995 (60 FR 1878), HUD gave Entitlement communities the option of developing a strategy for revitalizing particular neighborhoods. A community that elected to follow this approach, and whose strategy was approved, would be allowed greater flexibility in meeting certain national objectives and public benefit requirements. HUD noted in the preamble to the concurrent CDBG Program Economic Development Guidelines final rule (January 5, 1995; 60 FR 1922) that HUD was not incorporating the concept into the State CDBG program at that time because significant issues remained unresolved regarding how to apply the concept in non-Entitlement communities (60 FR 1929).

Following additional study of the concept and consultation with States, this interim rule introduces the community revitalization strategy concept into the State CDBG program. In the CDBG Entitlement program, revitalization strategies are called ''neighborhood revitalization strategies.'' The State CDBG program uses the more generic term ''community revitalization strategies.'' The essential concept is very similar for both programs, but the nature of the area covered may be quite different. HUD has consciously avoided referring to ''neighborhood'' strategies in the State CDBG program; the concept of a ''neighborhood'' is not meaningful or definable in many small communities and rural areas.

This interim rule amends § 91.315 of the Consolidated Plan regulations by adding a new paragraph (e)(2), which provides that States may (at their option) allow units of general local government to develop and implement community revitalization strategies. The State CDBG regulations allow such communities additional flexibility in meeting certain national objectives and public benefit requirements. Responsibility for approving individual revitalization strategies from units of local government lies with the State. States wishing to take advantage of this approach will need to ensure that the Method of Distribution in their consolidated plan action plans reflect the States' processes and criteria for approving local revitalization strategies. The normal CDBG requirement that States consult with units of local government in developing their method of distribution also applies to States'

development of their community revitalization strategy implementation approaches.

HUD has crafted this approach to give States maximum flexibility in implementing the revitalization strategy concept (including the choice of whether or not to implement it). Before implementing its approach to revitalization strategies, a State must submit for HUD approval a description of its implementation approach; approval of a consolidated plan action plan will not constitute automatic approval of the State's approach to revitalization strategies. HUD intends that approval of States' submissions will occur at the field office level. HUD will establish the parameters within which States may design approaches that best meet their communities' needs. HUD will not establish the overall design parameters and strategy approval process by regulation; instead HUD will distribute this guidance to both States and HUD field office staff in the form of a notice.

The extent to which a State will need to alter its method of distribution depends on how the State intends to implement the revitalization strategy concept and on the nature of its present method of distribution. A State may choose to establish a separate funding category for revitalization strategy projects; alternatively, a State might retain its existing funding categories and award bonus points to an applicant whose application was developed pursuant to a strategy. In such cases, a State would need to describe explicitly in the method of distribution its criteria and process for approving local strategies. In contrast, a State may decide that its existing funding process can incorporate the revitalization strategy concept without altering the method of distribution.

HUD believes that an essential component of the revitalization strategy concept is the provision of economic opportunities to residents of revitalization strategy areas. Revitalization strategies are a means for holistically addressing the identified needs of a targeted area. A number of States presently have funding categories such that localities may apply for a combination of activities to be carried out in a defined target area. States' methods of distribution often refer to these as ''comprehensive'' applications. HUD cautions States, however, that the community revitalization strategy concept, as HUD envisions it, may be more geographically focused and encompass a wider variety of activities (particularly concerning economic empowerment) than is presently provided for in typical ''comprehensive'' funding categories.

Several corresponding changes to the CDBG eligibility and national objectives requirements (discussed below) further implement the revitalization concept.

A. Public Services

This interim rule expands the list of activities that may be excluded from the limitations on public services. Section 570.482(d) currently excludes those public service activities specifically designed to increase economic opportunities by supporting the development of permanent jobs. This interim rule amends § 570.482 by adding a new paragraph (d)(3), which excludes services of any type carried out pursuant to a community revitalization strategy approved by a State.

B. Public Benefit Standards

This interim rule amends § 570.482(f)(3)(v) by adding two additional types of activities to the list of ''important national interest'' activities for which the public benefit standards allow extra flexibility. Certain economic development activities that provide services to residents of a revitalization strategy area, or that create or retain jobs in such an area, may now be excluded from the aggregate public benefit standards for economic development activities in § 570.482(f)(2).

C. Low and Moderate Income Benefit National Objective

The State CDBG regulations prior to this interim rule provided additional flexibility to certain job creation/retention and housing activities undertaken by Community Development Financial Institutions. In certain circumstances, jobs created or retained and housing units assisted may be aggregated to demonstrate compliance with the national objectives, as required under 104(b)(3) of the Housing and Community Development Act of 1974, as amended (the Act), and as provided in § 570.483 of the regulations. This interim rule provides similar flexibility to activities carried out pursuant to an approved revitalization strategy. Job creation or retention activities undertaken in an area pursuant to an approved revitalization strategy may be treated as meeting the national objective of benefiting a low and moderate income area. Provision or improvement of multiple housing units pursuant to an approved revitalization strategy may be treated as one structure in demonstrating low and moderate income benefit.

To ensure targeting of CDBG resources through community revitalization strategy areas to the most needy areas, the area benefit presumption is limited to areas that meet certain need indicators. Therefore, this interim rule provides in § 570.483(b)(1)(v) that strategy areas must be in one of the following areas:

(1) A Federally-designated Empowerment Zone or Enterprise Community; or

(2) A primarily residential area that contains at least 70 percent low and moderate income residents; or

(3) A primarily residential area where all the census tracts (or block numbering areas) have poverty rates of at least 20 percent and at least 90 percent of all the census tracts/block numbering areas have poverty rates of at least 25 percent.

The 70 percent low and moderate income threshold applies to the entire area. The 20 and 25 percent poverty rates thresholds are adopted from the Empowerment Zone/Enterprise Community legislation (section 13301 of the Omnibus Budget Reconciliation Act of 1993, 26 U.S.C. 1392(a)(4)). Consistent with that program, the poverty criteria are applied on a census-tract-by-census-tract basis. This does not mean that the boundaries of the community revitalization strategy areas must coincide with census tract/block numbering area boundaries. If only part of a census tract/block numbering area will be included in a strategy area, the poverty rate for those block groups within the strategy area should be calculated and used instead of the poverty rate for the entire census tract/block numbering area.

For individual strategy areas, a State may request an exception to either the 70 percent low and moderate income threshold or the 25 percent poverty threshold. In no case, however, will HUD approve a revitalization strategy for an area that has neither a 20 percent poverty rate for all census tracts nor 51 percent of its residents qualifying as low and moderate income. HUD field offices will review and approve exceptions on a case-by-case basis only. HUD envisions that it will grant exceptions only for unusual circumstances, in which strong targeting of benefits to low and moderate income purposes can still be shown. HUD will not entertain requests for ''blanket'' exceptions covering all proposed strategy areas in a State.

III. Technical Amendments to State CDBG and Consolidated Plan Regulations

A. State CDBG Waiver Provisions

On February 9, 1996 (61 FR 5198), HUD published a final rule entitled ''General HUD Program Requirements; Cross-Cutting Requirements,'' which created a new 24 CFR part 5. This final rule consolidates in part 5 various definitions and cross-cutting requirements that are common to many HUD programs. Consolidating these requirements eliminated the redundancy of repeating requirements or definitions that apply to more than one program. Section 5.110 contains HUD's provision for granting waivers of regulations. The February 9, 1996 final rule, however, inadvertently failed to revise the existing State CDBG Program waiver provision at § 570.480(b). This interim rule revises § 570.480(b) to refer to HUD's waiver authority in part 5 and HUD's statutory authority (under section 122 of the Act) to suspend requirements in Presidentially-declared disaster areas.

B. Low and Moderate Income National Objective Criteria

This interim rule changes several of the criteria for demonstrating compliance with the national objective of benefitting low and moderate income persons. HUD made similar changes to the CDBG Entitlement regulations in a final rule published on November 9, 1995 (60 FR 56892). Making similar changes to the State CDBG regulations will provide States the same flexibility and maintain consistency between the requirements of the State program and the Entitlement program.

1. *Limited clientele activities.* This interim rule changes the list of clientele groups in § 570.483(b)(2)(ii)(A) that HUD presumes to be principally of low and moderate income. This interim rule adds the term ''persons living with AIDS'' to the list of ''presumed'' low/moderate income groups. Reliable national data from the Center for Disease Control in Atlanta, Georgia supports a reasonable presumption that at least 51 percent of such persons in a given geographic area are low and moderate income.

This interim rule also replaces the term ''handicapped'' with terms compatible with available income data on persons with a disability provided by the Bureau of the Census' Current Population Reports. The data, issued in 1993 from the Survey of Income and Program Participation, justify a national presumption that adults meeting the Census criteria for ''severe disability'' meet the low and moderate income national objective under the CDBG program. The Census definition of ''severe disability'' only applies in the CDBG program for purposes of making presumptions about income levels for groups of disabled persons; it does not apply for purposes of meeting responsibilities under section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, or the Architectural Barriers Act. Therefore, HUD is changing the terminology in this interim rule to clarify the distinction between the income presumption provision and the civil rights requirements.

2. *Architectural Barriers Removal.* This change clarifies provisions under which the use of CDBG funds is authorized for the removal of barriers to accessibility for elderly and disabled persons. Section 105(a)(5) of the Act (42 U.S.C. 5305(a)(5)) makes eligible the use of program funds for special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly and handicapped persons. Under current law and regulation, this provision has very limited usefulness and has caused confusion. It is important that the regulations clearly state how CDBG funds may be used for barrier removal. The real questions arise with respect to compliance with the national objectives. Virtually all public facilities and improvements serve an area generally and are thus subject to the limitations imposed by section 105(c)(2) of the Act. Section 105(c)(2) states that activities that serve an area generally may be considered to address the national objective of benefit to low and moderate income persons only if the percentage of residents in the service area who are of such income meets certain minimum levels. The present regulations implement this limitation in § 570.483(b)(1). Where accessibility barriers exist in a facility or improvement that serves an area that does not meet this requirement, the use of CDBG funds to remove such barriers can be problematic. This interim rule revises § 570.483(b)(2)(iii) to clarify the circumstances in which the limited clientele presumption may be applied to such activities.

3. *Housing activities.* This interim rule makes two amendments to § 570.483(b)(3). First, this interim rule amendment clarifies the housing activities that may qualify as benefitting low and moderate income persons. The present regulations include ''the acquisition or rehabilitation of property.'' This interim rule expands the list to indicate that such acquisition or rehabilitation may be undertaken by units of general local government, subrecipients, developers, homeowners or homebuyers, and nonprofit entities qualifying under section 105(a)(15) of the Act.

Second, this interim rule reflects two statutory changes to eligible activities, and it further clarifies HUD's policy regarding these changes. Section 105(a)(25) of the Act makes downpayment assistance to homebuyers an eligible activity. Section 105(a)(15) of the Act makes nonprofit organizations serving the community development needs of non-Entitlement communities eligible to receive assistance to carry out neighborhood revitalization, community economic development and energy conservation projects.

This interim rule also responds to another statutory change. Section 207 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233; approved April 11, 1994) amended section 105(a)(21) of the Housing and Community Development Act of 1974. Section 105(a)(21) now authorizes housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under the HOME Program (title II of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990) (NAHA)), energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in housing activities assisted under title II of the NAHA. Any costs of delivering the housing services made eligible under the amended section 105(a)(21) are also eligible.

HUD reminds States and localities using HOME and CDBG funds together that the eligibility and benefit requirements of the two programs differ; the HOME term ''project'' and the CDBG term ''activity'' are not synonymous, and States and localities should exercise care in managing and documenting jointly-funded activities. To simplify this process, this interim rule creates a new § 570.483(b)(3)(iii), stating that when CDBG funds are used for housing services eligible under section 105(a)(21) of the Act, such funds shall be considered to benefit low and moderate income persons when the housing for which the services are provided is to be occupied by low and moderate income households. Documentation demonstrating that the

HOME project (or projects) supported by the CDBG housing services activity meets the HOME income targeting criteria at 24 CFR 92.252 and 92.254 are sufficient to demonstrate compliance with this provision.

C. Program Income Requirements

This interim rule corrects the program income requirements contained in § 570.489. The final rule for CDBG Program Economic Development Guidelines (January 5, 1995; 60 FR 1922) renumbered paragraph (e)(2) of this section as paragraph (e)(3). Within that section, however, the final rule did not similarly renumber a reference to paragraph (e)(2)(ii) as paragraph (e)(3)(ii). This interim rule makes the correction. HUD will soon issue a proposed rule that would substantially revise all of paragraph (e). HUD will finalize the technical change described above when it finalizes those new program income requirements.

D. HUD Actions in Approving Plans and Making Grants

The CDBG Entitlement program final rule that HUD published on November 9, 1995 (60 FR 56892) restored language in the Entitlement program regulations that was inadvertently deleted by the Consolidated Plan final rule (January 5, 1995; 60 FR 1878). That final rule clarified that HUD retains the authority to require additional assurances from grantees when substantial evidence exists that a certification of future performance is not valid. This authority is in addition to the current Consolidated Plan regulations (based on the Comprehensive Housing Affordability Strategy statutory language), which simply provide for certifications to be wholly accepted or wholly rejected. Requiring additional assurances and potentially delaying or limiting the grantee's access to funds may trigger CDBG due process hearing requirements. Therefore, HUD will coordinate such actions between HUD field offices and Headquarters.

The Consolidated Plan final rule inadvertently deleted a similar provision in § 570.485(c) of the State CDBG regulations. This interim rule restores this language, which is similar to that found in § 570.485(b), except that § 570.485(c) includes references to the Consolidated Plan regulations in part 91. This interim rule also makes a conforming change to § 91.500(b) of the Consolidated Plan regulations by adding a cross-reference to the restored § 570.485(c).

This interim rule makes another technical correction also resulting from the Consolidated Plan final rule. Section 570.486(a) requires units of general local government to follow the citizen participation requirements imposed by the State. The associated requirement for State citizen participation processes originally appeared at § 570.485(c)(1)(i). The Consolidated Plan final rule moved those requirements to § 91.115(e). This interim rule replaces the old regulatory citation with the correct one.

E. Other Applicable Laws

This interim rule applies the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) (the ABA) to the State CDBG program. The ABA requires certain Federal and Federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, persons with physical disabilities. HUD's original CDBG regulations required compliance with accessibility standards issued pursuant to the ABA (see former 24 CFR 570.606, as issued on November 13, 1974 (39 FR 40148); and amended on June 28, 1977 (42 FR 33020)). In 1983, HUD eliminated the requirement that the Entitlement and HUD-Administered Small Cities programs comply with the ABA accessibility standards. HUD did not apply the ABA to the State CDBG program when it became operational in 1982 (47 FR 15290; April 8, 1982). HUD stated that the CDBG program was not statutorily subject to the accessibility standards of the ABA, because the CDBG statute does not provide authority for imposing design, construction, or alteration standards on CDBG-funded facilities, as required by section 4151(3) of the ABA. HUD further stated that it had imposed the ABA standards on the CDBG Entitlement and Small Cities programs as a regulatory requirement (47 FR 43909). HUD noted, however, that some facilities constructed or altered with CDBG assistance would remain subject to accessibility standards through section 504 of the Rehabilitation Act of 1973.

Since HUD's decision in 1983 not to require compliance with the ABA in the CDBG program, two significant events have caused HUD to reconsider this decision. The first event was the passage of the Fair Housing Amendments Act of 1988 (Pub. L. 100–430; approved September 13, 1988) (the Amendments Act), which amended title VIII of the Civil Rights Act of 1968 to prohibit discrimination in housing on the basis of handicap and familial status. The Amendments Act also makes it unlawful to design and construct certain multifamily dwellings for first occupancy after March 13, 1991 in a manner that makes them inaccessible to persons with disabilities. Further, the Amendments Act makes it unlawful to refuse to permit, at the expense of the person with a disability, reasonable modifications to existing premises occupied or to be occupied by such person if such modifications are necessary to afford such person full enjoyment of the premises.

The second event was the passage of the Americans with Disabilities Act (Pub. L. 101–336; approved July 26, 1990) (the ADA), which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. The ADA provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993 that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature from existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense. (See the final rule implementing the ADA published by the Department of Justice on July 26, 1991 (56 FR 35544, 35568).)

The Amendments Act and the ADA indicate a clear policy that housing, commercial facilities, and public accommodations should be ''readily accessible and usable by'' individuals with disabilities. In light of these developments and to foster consistency in the administration of HUD's programs, this interim rule requires compliance with the ABA in the State CDBG program. (HUD has already required such compliance in the Entitlement program in the November 9, 1995 final rule (60 FR 56892).) Assisted facilities would have to meet the requirements of the Uniform Federal Accessibility Standards for alterations if the alterations are financed in whole or in part by CDBG funds made available after the effective date of a final rule. Although alterations made without the use of Federal funds would not have to comply with the accessibility requirements of the ABA, alterations made to these facilities, in most instances, would have to comply with the accessibility requirements of the public accommodations provisions of the ADA. This interim rule establishes this requirement in a new § 570.487(e).

F. HUD's Reviews and Audits

To clarify the relationship between HUD's review procedures and HUD's expectations for States regarding recordkeeping, this interim rule amends § 570.493(b) by adding an additional sentence. The additional sentence provides that a State's failure to maintain records may result in a finding of noncompliance with the requirement to which the record pertains. This provision does not represent a change in HUD's overall policy (a comparable provision already exists in the Entitlement program); it is just a clearer expression of this relationship. This interim rule also updates § 570.493(a) by replacing the reference to a ''final statement'' with a reference to the consolidated plan action plan.

Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with it's regulations on rulemaking in 24 CFR part 10. Part 10 provides exceptions, however, if HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this interim rule for effect without first soliciting public comment, since prior public procedure would be unnecessary.

HUD has already implemented the community revitalization strategy approach in the Entitlement CDBG program through the Consolidated Plan final rule published on January 5, 1995 (60 FR 1878). HUD has decided that it is unnecessary to solicit comments prior to implementing this flexible initiative in the State CDBG program for the following reasons: (1) States have been generally aware of the community revitalization strategy concept since the publication of the CDBG Economic Development Guidelines final rule for the Entitlement program on January 5, 1995 (60 FR 1922, 1929), in which HUD solicited comments on the development of the concept for States; (2) HUD has consulted with a representational cross section of States on the specific content of this interim rule; (3) A number of States have asked HUD to institute the revitalization strategy concept in the State program as quickly as possible, so that they may take advantage of this flexible new approach; and (4) Adoption of the concept is optional for States, and so imposes no involuntary burden on them.

This interim rule allows States to implement the revitalization concept promptly, while still providing for public comment on the regulations before they are finalized. HUD is providing an extended comment period (120 days rather than 60 days) so that respondents may base their comments on their actual experience in implementing the revitalization strategy concept. During the extended comment period, HUD also plans to publish a notice in the Federal Register describing the parameters within which States may design their approach and explaining HUD's process for approval of States' process descriptions.

HUD has also determined that it is unnecessary to solicit prior comment before implementing the other changes in this interim rule. The changes to the national objectives criteria concerning architectural barriers removal, housing activities, and ''presumed benefit'' groups provide increased flexibility to States and State grantees. HUD has previously adopted the changes in the Entitlement program after soliciting and considering comments. The changes regarding housing activities merely provide clarification in light of statutory changes. HUD has also solicited and considered public comments before clarifying HUD's policy regarding reviews and audits in the Entitlement program.

It is also unnecessary to solicit prior public comment regarding the application of the Architectural Barriers Act (ABA) to the State CDBG program, because this application is necessitated by other statutory changes. In adding this requirement to § 570.487, HUD does not provide further regulatory interpretation of the ABA, but refers to other applicable Federal regulations. HUD issued those regulations through previous rulemaking actions. HUD also recently solicited and considered public comments before applying the ABA to the Entitlement CDBG program.

This interim rule also corrects regulatory citations and reinstates unintentionally-deleted language. It is unnecessary to solicit prior public comment on these minor technical corrections and clarifications, because they do not represent substantive changes to the regulations.

The interim rulemaking process allows interested parties an opportunity to comment on all of the changes included in this interim rule. HUD will consider all comments received in developing a final rule concerning these changes.

Findings and Certifications

Paperwork Reduction Act of 1995

The information collection requirements contained in § 91.315(e)(2) of this interim rule have been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

As required under 5 CFR 1320.8(d)(1), HUD and OMB are seeking comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Interested persons are invited to submit comments according to the instructions in the ''Dates'' and ''Addresses'' sections in the preamble of this interim rule.

This document also provides the following information:

Title of Proposal: Community Revitalization Strategies: submission of implementation process description statement by States; submission of Community Revitalization Strategy by units of general local government to States.

OMB Control Number: OMB has previously approved the information collection requirements for the State CDBG Program under control number 2506–0117. This proposed information collection would be in addition to the information collection requirements presently covered under control number 2506–0117.

Description of the Need for the Information and Proposed Use: This interim rule will, among other changes, allow States the option of implementing a community revitalization strategy approach to community development.

States that wish to adopt this approach will develop a process for implementing community revitalization strategies in their State CDBG program, including the specific process and criteria to be used in approving local strategies. This process description, which will be part of the State's consolidated plan action plan, must be submitted to and approved by HUD. Units of local government applying for or receiving State CDBG funds may then prepare a community revitalization strategy and submit it to the State for approval. If the strategy is approved, the locality will be allowed greater flexibility in meeting certain national objectives and public benefit criteria.

Form Numbers: Not applicable. Process descriptions will be submitted by States to HUD in narrative format; no forms will be required. States will determine the format for submission of community revitalization strategies by units of general local government.

Members of Affected Public: States, units of general local government. Units of local government will be expected to consult with citizens and involve citizens in the development of community revitalization strategies.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection including Number of Respondents, Frequency of Response, and Hours of Response: Both State and local governments, as well as HUD staff, will expend time in implementing the community revitalization strategy approach. States' time will be spent in designing their process and in reviewing and approving local governments' strategies; local governments' time will be spent in developing strategies and in reporting to states on the progress and outcomes of strategy implementation. HUD's time will be spent in reviewing States' implementation process descriptions.

The exact number of hours needed to prepare the information collection cannot be estimated with great certainty. The actual time spent may vary greatly, depending on a number of variable factors:

- Whether or not a particular State chooses to adopt the community revitalization strategy approach in its program;
- The number of communities in which a particular State chooses to authorize the community revitalization strategy approach;
- The scope and nature of States' existing application and funding distribution processes for units of local government;
- The design of a particular State's approach to implement community revitalization strategies;
- The process a State uses to develop its implementation approach;
- The process a unit of local government uses to develop its revitalization strategy.

The Department anticipates that under some States' processes, the preparation of a community revitalization strategy will entail additional work by a local government beyond that normally required to prepare an application for funding. Some States may only slightly alter their existing application requirements to incorporate the revitalization strategy concept; under those programs, the incorporation of a community revitalization strategy may involve little or no additional preparation time. Some communities may have, for their own purposes, previously prepared a document that meets their State's requirements for a community revitalization strategy; no additional work may be necessary in those cases.

The burden of any additional work entailed in development of a strategy will be offset by a reduced documentation burden for certain activities undertaken pursuant to an approved strategy. For example, certain economic development activities may be shown to meet the low- and moderate-income benefit national objective on the basis of serving a principally low- and moderate-income area rather than on the basis of creating (or retaining) jobs for persons of low and moderate incomes. In such cases, communities would not need to collect information on the household income of each employee hired or retained; this would substantially reduce the amount of time spent by communities in demonstrating compliance with program requirements.

The following figures represent estimates of the additional information collection burden resulting from implementation of community revitalization strategies. These figures represent additional increments of time beyond those normally involved in the State CDBG program. In developing these estimates of time and cost, the Department has melded its own estimations with averaged figures provided by several States that have expressed interest in implementing community revitalization strategies. To the extent that States minimize or streamline the process for submission of strategies, the actual burden per unit of local government may be less than these estimates. The amount of time for States to review communities' strategies is anticipated to be minimal; it is anticipated that, in many States, the format for submitting a strategy will subsume much of the documentation that States presently request in applications.

Burden of collection	Frequency	Number of respondents	Total hours per response	Total hours
State process description:				
State	1	25	120	3,000
Federal	1	25	2	50
Community revitalization strategy:				
Local	1	300	120	36,000
State	1	300	1	300
Federal	0	0	0	0
Local recordkeeping on approved strategies:				
Local	Ongoing	300	−80	−24,000
State	0	0	0	0
Federal	0	0	0	0
Local reporting to State on approved strategies:				
Local	Ongoing	300	8	2,400
State	0	0	0	0
Federal	0	0	0	0

Burden of collection	Frequency	Number of respondents	Total hours per response	Total hours
Total		325		17,750

Status of the Proposed Information Collection: New collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this interim rule before publication and by approving it certifies that this interim rule does not have a significant economic impact on a substantial number of small entities. Specifically, this interim rule makes technical amendments and provides States and communities the same flexibility of the community revitalization strategies concept that HUD previously provided for recipients in the Entitlement program.

Environmental Impact

At the time of the development of the regulations in part 570, and when the regulations were substantively amended by the rules described in this preamble, HUD made Findings of No Significant Impact with respect to the environment in accordance with the regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). This interim rule does not make significant changes to those regulations in terms of environmental impact. Accordingly, those findings remain applicable to this interim rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this interim rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim rule will benefit States and communities by providing them with additional flexibility in meeting certain national objectives and public benefit requirements of the CDBG program. As a result, the interim rule is not subject to review under the order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this interim rule does not have potential for significant impact on family formation, maintenance, and general well-being, and thus is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this interim rule, as those policies and programs relate to family concerns.

List of Subjects

24 CFR Part 91

Aged, Grant programs—housing and community development, Homeless, Individuals with disabilities, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, for the reasons described in this preamble, 24 CFR parts 91 and 570 are amended, as follows:

PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS

1. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

2. Section 91.315 is amended by redesignating the text of paragraph (e) as paragraph (e)(1), and by adding a new paragraph (e)(2), to read as follows:

§ 91.315 Strategic plan.

* * * * *

(e) * * *

(2) A State may elect to allow units of general local government to carry out a community revitalization strategy that includes the economic empowerment of low income residents, in order to obtain the additional flexibility available as provided in 24 CFR part 570, subpart I. A State must approve a local government's revitalization strategy before it may be implemented. If a State elects to allow revitalization strategies in its program, the method of distribution contained in a State's action plan pursuant to § 91.320(g)(1) must reflect the State's process and criteria for approving local governments' revitalization strategies. The State's process and criteria are subject to HUD approval.

* * * * *

3. In § 91.320, paragraph (g)(1) is amended by adding a new sentence after the third sentence and before the parenthetical sentence at the end of the paragraph, to read as follows:

§ 91.320 Action plan.

* * * * *

(g) * * *

(1) * * * If a State elects to allow units of general local government to carry out community revitalization strategies, the method of distribution shall reflect the State's process and criteria for approving local governments' revitalization strategies. * * *

* * * * *

4. Section 91.500 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 91.500 HUD approval action.

* * * * *

(b) *Standard of review.* HUD may disapprove a plan or a portion of a plan if it is inconsistent with the purposes of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12703), if it is substantially incomplete, or, in the case of certifications applicable to the CDBG program under §§ 91.225 (a) and (b) or 91.325 (a) and (b), if it is not satisfactory to the Secretary in accordance with

§§ 570.304, 570.429(g), or 570.485(c) of this title, as applicable. The following are examples of consolidated plans that are substantially incomplete:

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

5. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

6. Section 570.480 is amended by revising paragraph (b) to read as follows:

§ 570.480 General.

* * * * *

(b) HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.

* * * * *

7. Section 570.482 is amended by:

a. Amending paragraph (d)(1) by removing the word ''and'' at the end of the paragraph;

b. Amending paragraph (d)(2) by removing the period at the end of the paragraph and adding in it's place the phrase ''; and'';

c. Adding a new paragraph (d)(3); and

d. Amending paragraph (f)(3)(v) by adding new paragraphs (f)(3)(v)(L) and (f)(3)(v)(M), to read as follows:

§ 570.482 Eligible activities.

* * * * *

(d) * * *

(3) Services of any type carried out under the provisions of section 105(a)(15) of the Act, pursuant to a strategy approved by a State under the provisions of § 91.315(e)(2) of this title.

* * * * *

(f) * * *

(3) * * *

(v) * * *

(L) Provides services to the residents of an area pursuant to a strategy approved by the State under the provisions of § 91.315(e)(2) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by the State under the provisions of § 91.315(e)(2) of this title.

* * * * *

8. Section 570.483 is amended by:

a. Revising paragraph (b)(1)(iv);

b. Adding a new paragraph (b)(1)(v);

c. Revising the second sentence of paragraph (b)(2)(ii)(A);

d. Revising paragraph (b)(2)(iii);

e. Revising the introductory text of paragraph (b)(3);

f. Adding a new paragraph (b)(3)(iii);

g. Amending the last sentence of paragraph (b)(4)(vi)(D) by removing the reference to ''paragraph (e)(5)'' and by adding in its place a reference to ''paragraph (e)(6)'';

h. Amending the last sentence of paragraph (b)(4)(vi)(E) by removing the reference to ''paragraph (e)(5)'' and by adding in its place a reference to ''paragraph (e)(6)'';

i. Amending paragraph (b)(4)(vi)(F)(*2*) by removing the citation ''§ 570.482(e)'' and by adding in its place the citation ''§ 570.482(f)'';

j. Redesignating paragraph (e)(5) as (e)(6), and by revising the first sentence of newly redesignated paragraph (e)(6); and

k. Adding a new paragraph (e)(5); to read as follows:

§ 570.483 Criteria for national objectives.

* * * * *

(b) * * *

(1) * * *

(iv) Activities meeting the requirements of paragraph (e)(4)(i) of this section may be considered to qualify under paragraph (b)(1) of this section.

(v) HUD will consider activities meeting the requirements of paragraph (e)(5)(i) of this section to qualify under paragraph (b)(1) of this section, provided that the area covered by the strategy meets one of the following criteria:

(A) The area is in a Federally-designated Empowerment Zone or Enterprise Community;

(B) The area is primarily residential and contains a percentage of low and moderate income residents that is no less than 70 percent;

(C) All of the census tracts (or block numbering areas) in the area have poverty rates of at least 20 percent, at least 90 percent of the census tracts (or block numbering areas) in the area have poverty rates of at least 25 percent, and the area is primarily residential. (If only part of a census tract or block numbering area is included in a strategy area, the poverty rate shall be computed for those block groups (or any part thereof) which are included in the strategy area.)

(D) Upon request by the State, HUD may grant exceptions to the 70 percent low and moderate income or 25 percent poverty minimum thresholds on a case-by-case basis. In no case, however, may a strategy area have both a percentage of low and moderate income residents less than 51 percent and a poverty rate less than 20 percent.

(2) * * *

(ii) * * *

(A) * * * Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low and moderate income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of ''severely disabled,'' homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

* * * * *

(iii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of ''severely disabled'' will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under § 570.483(b)(1);

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under § 570.483(b) (1) or (4); or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under § 570.483(b)(3).

* * * * *

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low and moderate income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the unit of general local government, a subrecipient, an entity eligible to receive assistance under section 105(a)(15) of the Act, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. If two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. If housing activities being assisted meet the requirements of paragraph (e)(4)(ii) or (e)(5)(ii) of this

section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining ''affordable rents'' for this purpose. The following shall also qualify under this criterion:

* * * * *

(iii) When CDBG funds are used for housing services eligible under section 105(a)(21) of the Act, such funds shall be considered to benefit low and moderate income persons if the housing units for which the services are provided are HOME-assisted and the requirements of § 92.252 or § 92.254 of this title are met.

* * * * *

(e) * * *

(5) If the unit of general local government has elected to prepare a community revitalization strategy pursuant to the authority of § 91.315(e)(2) of this title, and the State has approved the strategy, the unit of general local government may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of paragraph (b) of this section under the criteria at § 570.483(b)(1)(v) instead of the criteria at § 570.483(b)(4); and

(ii) All housing activities in the area undertaken pursuant to the strategy may be considered to be a single structure for purposes of applying the criteria at paragraph (b)(3) of this section.

(6) If an activity meeting the criteria in § 570.482(f)(3)(v) also meets the requirements of either paragraph (e)(4)(i) or (e)(5)(i) of this section, the unit of general local government may elect to qualify the activity either under the area benefit criteria at paragraph (b)(1) (iv) or (v) of this section or under the job aggregation criteria at paragraph (b)(4)(vi)(D) of this section, but not under both. * * *

* * * * *

9. Section 570.485 is amended by revising the section heading, and by adding a new paragraph (c), to read as follows:

§ 570.485 Making of grants.

* * * * *

(c) *Approval of grant.* HUD will approve a grant if the State's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to § 570.493 that the State has not complied with the requirements of this subpart, or has determined that there is evidence, not directly involving the State's past performance under this program, that tends to challenge in a substantial manner the State's certification of future performance. If the Secretary makes any such determination, however, the State may be required to submit further assurances as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.

§ 570.486 [Amended]

10. In § 570.486, paragraph (a) introductory text is amended by removing the reference to ''§ 570.485(c)(1)(i)'', and by adding in its place a reference to ''§ 91.115(e) of this title''.

11. Section 570.487 is amended by adding a new paragraph (e) to read as follows:

§ 570.487 Other applicable laws and related program requirements.

* * * * *

(e) *Architectural Barriers Act and the Americans with Disabilities Act.* The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) requires certain Federal and Federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this subpart after November 21, 1996 and that meets the definition of *residential structure* as defined in 24 CFR 40.2, or the definition of *building* as defined in 41 CFR 101–19.602(a), is subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards. For general type buildings, these standards are in Appendix A to 41 CFR part 101–19.6. For residential structures, these standards are available from the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability Rights Division, Room 5240, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2333 (voice) or (203) 708–1734 (TTY) (these are not toll-free numbers).

§ 570.489 [Amended]

12. Section 570.489 is amended by:

a. Amending the first sentence of the introductory text of paragraph (e)(3) by removing the phrase ''paragraph (e)(2)(ii)'', and by adding in its place the phrase ''paragraph (e)(3)(ii)'';

b. Removing paragraph (k)(2); and

c. Redesignating paragraph (k)(1) as paragraph (l).

13. Section 570.493 is amended by:

a. Amending paragraph (a)(1) by removing the phrase ''final Statement'', and by adding in its place the phrase ''action plan under part 91 of this title''; and

b. Amending paragraph (b) by adding a sentence at the end to read as follows:

§ 570.493 HUD's reviews and audits.

* * * * *

(b) * * * A State's failure to maintain records in accordance with § 570.490 may result in a finding that the State has failed to meet the applicable requirement to which the record pertains.

Dated: August 28, 1996.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

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Federal Register

Tuesday
October 22, 1996

Part V

The President

Proclamation 6943—Honoring the Filipino Veterans of World War II

Federal Register
Vol. 61, No. 205
Tuesday, October 22, 1996

Presidential Documents

Title 3—

The President

Proclamation 6943 of October 17, 1996

Honoring the Filipino Veterans of World War II

By the President of the United States of America

A Proclamation

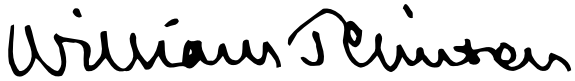
During the dark days of World War II, nearly 100,000 soldiers of the Philippine Commonwealth Army provided a ray of hope in the Pacific as they fought alongside United States and Allied forces for 4 long years to defend and reclaim the Philippine Islands from Japanese aggression. Thousands more Filipinos joined U.S. Armed Forces immediately after the war and served in occupational duty throughout the Pacific Theater. For their extraordinary sacrifices in defense of democracy and liberty, we owe them our undying gratitude.

Valiant Filipino soldiers fought, died, and suffered in some of the bloodiest battles of World War II, defending beleaguered Bataan and Corregidor, and thousands of Filipino prisoners of war endured the infamous Bataan Death March and years of captivity. Their many guerrilla actions slowed the Japanese takeover of the Western Pacific region and allowed U.S. forces the time to build and prepare for the allied counterattack on Japan. Filipino troops fought side-by-side with U.S. forces to secure their island nation as the strategic base from which the final effort to defeat Japan was launched.

This month, as we mark the anniversary of General MacArthur's return to the Philippines, we acknowledge the important role Filipino soldiers played in turning back aggression, defending liberty, and preserving democracy, and we extend to them our abiding thanks.

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 October 20, 1996, as a day Honoring the Filipino Veterans of World War II. I urge all Americans to recall the courage, sacrifice, and loyalty of Filipino veterans of World War II and honor them for their contributions to our freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of October, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.



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Cable television systems--

Local market definition for purposes of must-carry rules; comments due by 10-31-96; published 6-10-96

FEDERAL RESERVE SYSTEM

Bank holding companies and change in bank control (Regulation Y):

Miscellaneous amendments; comments due by 10-31-96; published 9-6-96

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):