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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations
WHO: Sponsored by the Office of the Federal Register.
WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** December 16, 1997 at 9:00 am.
WHERE: Office of the Federal Register
 Conference Room
 800 North Capitol Street, NW
 Washington, DC
 (3 blocks north of Union Station Metro)

RESERVATIONS: 202-523-4538



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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202-275-1538 or 275-0920.

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Rules and Regulations

Federal Register

Vol. 62, No. 235

Monday, December 8, 1997

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

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

DEPARTMENT OF AGRICULTURE

Food and Consumer Service¹

7 CFR Part 247

Commodity Supplemental Food Program—Caseload Assignment

AGENCY: Food and Consumer Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action announces that no adverse comments were received in response to the direct final rule which amends the provisions of the Commodity Supplemental Food Program regulations to provide for the allocation of a single caseload to State agencies each year, instead of the allocation of two separate caseloads, one for women, infants, and children, and one for the elderly. This rule was published in the **Federal Register** on October 23, 1997 (62 FR 55142).

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302-1594, or telephone (703) 305-2662.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject

to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Description

On October 23, 1997, the Department published a direct final rule which amends regulatory requirements in part 247 to assign participating State agencies a single caseload, instead of separate women-infants-children, and elderly, caseloads in order to streamline and simplify program management at the State and local level, and provide State agencies with greater flexibility in caseload management. The rule provided a 30-day comment period and stipulated that unless the Department received written adverse comments, or written notice of intent to submit adverse comments, the rule would become effective on December 8, 1997, which is 45 days after publication in the **Federal Register**. Since no adverse comments were received, this notice confirms the rule's effective date as December 8, 1997.

Dated: December 3, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97-32060 Filed 12-8-97; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-SW-04-AD; Amendment 39-10228; AD 97-25-05]

RIN 2120-AA64

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Robinson Helicopter Company (Robinson) Model R22 helicopters with a Lycoming 0-360-J2A engine installation. This AD requires replacing the carburetor and carburetor air temperature (CAT) gage with an improved carburetor that does not require manual leaning of the fuel/air mixture during flight, and a remarked CAT gage; and revising the Rotorcraft Flight Manual to remove the reference to leaning the engine. This amendment is prompted by a report from the Civil Aviation Authority of Great Britain that cautioned that the mixture control could inadvertently be placed in the idle cutoff position during in-flight manual leaning of the fuel/air mixture in the carburetor of the Lycoming 0-360-J2A engine. The actions specified by this AD are intended to prevent inadvertent placement of the mixture control to the idle cutoff position during in-flight leaning of the engine, which could result in an engine shutdown and subsequent loss of control of the helicopter.

DATES: Effective January 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Robinson Helicopter Company, 2901 Airport Drive, Torrance, California 90505, telephone (310) 539-0508; fax (310) 539-5198. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the

¹ The agency name of the Food and Consumer Service was changed to the Food and Nutrition Service by order of the Secretary of Agriculture on November 25, 1997.

Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.
FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712-4137, telephone (562) 627-5265; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Robinson Helicopter Company (Robinson) Model R22 helicopters with a Lycoming O-360-J2A engine installation was published in the **Federal Register** on May 19, 1997 (62 FR 27211). That action proposed to require replacing the carburetor and carburetor air temperature (CAT) gage with an improved carburetor that does not require manual leaning of the fuel/air mixture during flight, and remarking the CAT gage; and inserting revision procedures into the Rotorcraft Flight Manual that remove the reference to leaning the engine.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

The commenter requests that "or later" be inserted following the revision and date of the kit instructions to allow for possible changes. The FAA does not concur with this request. The kit instructions contain information that is most generally contained in the body of a manufacturer's service bulletin. Subsequent revisions to these instructions will be evaluated by the FAA and if a change is warranted, issuance of a subsequent AD is the proper procedure for making such a change. Additionally, the phrase "or a later FAA-approved revision" is removed from paragraph (b) of the AD. As with the kit instructions, if the FAA deems it necessary to require the insertion into the Rotorcraft Flight Manual of revised procedures, issuance of a subsequent AD is the proper procedure for making such a change.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of this AD.

The FAA estimates that 50 helicopters of U.S. registry will be affected by this

AD, that it will take approximately 5 work hours per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$3,641 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$197,050.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 97-25-05 Robinson Helicopter

Company: Amendment 39-10228.

Docket No. 97-SW-04-AD.

Applicability: Model R22 helicopters, serial number (S/N) 2571 through 2664, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 50 hours time-in-service after the effective date of this AD, unless accomplished previously.

To prevent inadvertent placement of the mixture control to the idle cutoff position during in-flight leaning of the engine, which could result in an engine shutdown and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the MA-4-5 carburetor and carburetor air temperature (CAT) gage, part number (P/N) C604-6, and replace them with an airworthy MA-4SPA carburetor and remarked CAT gage, P/N A604-2, in accordance with Robinson Helicopter Company R22 Service Bulletin SB-82, dated March 3, 1997, and Robinson Helicopter Company KI-114 O-360 Engine Carburetor Change Kit instructions, Revision A, dated March 6, 1997.

(b) Upon completion of paragraph (a) of this AD, insert the FAA-approved R22 Pilot's Operating Handbook Section 9, Supplements 7 (R22 Beta II) and 8 (R22 Mariner II), revised February 6, 1997, into the R22 Rotorcraft Flight Manual.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with Robinson Helicopter Company R22 Service Bulletin SB-82, dated March 3, 1997, and Robinson Helicopter Company KI-114 O-360 Engine Carburetor Change Kit instructions, Revision A, dated March 6, 1997. This incorporation by reference was approved by the Director of the

Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Robinson Helicopter Company, 2901 Airport Drive, Torrance, California 90505, telephone (310) 539-0508; fax (310) 539-5198. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 12, 1998.

Issued in Fort Worth, Texas, on November 25, 1997.

Eric Bries,

*Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.*

[FR Doc. 97-31677 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-ANE-21-AD; Amendment 39-10232; AD 97-25-08]

RIN 2120-AA64

Airworthiness Directives; General Electric Company CJ610 Series Turbojet and CF700 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CJ610 series turbojet and CF700 series turbofan engines. This action requires removal from service of possibly defective turbine torque rings and compressor drive shafts which may have been manufactured from contaminated material; and replacement with serviceable parts. This amendment is prompted by a report of a cooling plate removed from a GE CT58 series engine that was found to have an iron-rich inclusion that came from a contaminated heat lot. Parts on GE CJ610 series and CF700 series engines which were manufactured from the same and similar heat lots may also be contaminated. The actions specified in this AD are intended to prevent turbine torque ring or compressor drive shaft failure due to a manufacturing defect, which could result in an uncontained engine failure.

DATES: Effective January 2, 1998. The incorporation by reference of certain publications listed in the regulations is

approved by the Director of the **Federal Register** as of January 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, *Attention:* Rules Docket No. 97-ANE-21-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from GE Aircraft Engines, 1000 Western Ave., Lynn, MA 01910; telephone (781) 594-3140, fax (781) 594-4805. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7146, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration received a report that certain turbine torque rings and compressor drive shafts installed on General Electric Company (GE) CJ610 series turbojet and CF700 series turbofan engines were forged with a contaminated alloy that could reduce the life of the part. The FAA has determined that certain heat lots of A286 material were produced with iron-rich inclusions during the vendor's normal Vacuum Induction Melt (VIM) process. The manufacturer discovered a cooling plate removed from a GE CT58 series turboprop engine had been manufactured from this heat lot and was found with an inclusion. This heat lot was also used to manufacture turbine torque rings and compressor drive shafts on GE CJ610 series turbojet and CF700 series turbofan engines. This condition, if not corrected, could result in turbine torque ring or compressor drive shaft failure due to a manufacturing defect, which could result in an uncontained engine failure.

The FAA has reviewed and approved the technical contents of GE CF700 Service Bulletin (SB) No. A72-155, dated May 22, 1997, and GE CJ610 SB

No. A72-147, dated May 22, 1997, that describes procedures for removing affected turbine torque rings and compressor drive shafts from service, and replacing with serviceable parts.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent an uncontained engine failure and damage to the aircraft. This AD requires removing affected turbine torque rings and compressor drive shafts from service, and replacing with serviceable parts. The actions are required to be accomplished in accordance with the SBs described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to

Docket Number 97-ANE-21-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97-25-08 General Electric Company:
Amendment 39-10232. Docket 97-ANE-21-AD.

Applicability: General Electric Company (GE) CJ610 series turbojet and CF700 series turbofan engines, with turbine torque rings and compressor drive shafts identified in GE CF700 Service Bulletin (SB) No. A72-155, dated May 22, 1997, and GE CJ610 SB No. A72-147, dated May 22, 1997. These engines are installed on but not limited to the

following aircraft: Learjet 20 series, Israel Aircraft Industries Westwind series, Hansa Jet, Aero Commander Jet Commander, Dassault Falcon 20 series, Sabreliner 265 series.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine torque ring or compressor drive shaft failure due to a manufacturing defect, which could result in an uncontained engine failure, accomplish the following:

(a) For GE CF700 series turbofan engines, accomplish the following in accordance with GE CF700 SB No. A72-155, dated May 22, 1997:

(1) Remove from service affected turbine torque rings, listed by serial number (S/N) in paragraph 1. A.(3a) of GE CF700 SB No. A72-155, dated May 22, 1997, and replace with serviceable parts, within 50 hours time in service (TIS), or 60 days after the effective date of this AD, whichever occurs first.

(2) Remove from service affected turbine torque rings and compressor drive shafts, listed by S/N in GE paragraph 1.A.(3b) of GE CF700 SB No. A72-155, dated May 22, 1997, and replace with serviceable parts, within 300 hours TIS, or 12 months after the effective date of this AD, whichever occurs first.

(b) For GE CJ610 series turbojet engines, accomplish the following in accordance with GE CJ610 SB No. A72-147, dated May 22, 1997:

(1) Remove from service affected turbine torque rings, listed by S/N in paragraph 1.A.(3a) of GE CJ610 SB No. A72-147, dated May 22, 1997, and replace with serviceable parts, within 50 hours TIS, or 60 days after the effective date of this AD, whichever occurs first.

(2) Remove from service affected turbine torque rings and compressor drive shafts, listed by S/N in paragraph 1.A.(3b) of GE CJ610 SB No. A72-147, dated May 22, 1997, and replace with serviceable parts, within 300 hours TIS, or 12 months after the effective date of this AD, whichever occurs first.

(c) After the effective date of this AD, installation of uninstalled affected parts identified by S/N in the SBs referenced in paragraphs (a) and (b) of this AD is prohibited.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following GE service documents:

Document No.	Pages	Date
CF700 SB No. A72-155	1-9	May 22, 1997.
Total Pages: 9.		
CJ610 SB No. A72-147	1-9	May 22, 1997.
Total Pages: 9.		

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, 1000 Western Ave., Lynn, MA 01910; telephone (781) 594-3140, fax (781) 594-4805. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 2, 1998.

Issued in Burlington, Massachusetts, on November 26, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97-31862 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-ANE-04; Amendment 39-10234; AD 97-25-10]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Pratt & Whitney JT9D series turbofan engines, that currently requires initial and repetitive eddy current inspection (ECI) or fluorescent penetrant inspection (FPI) for cracks in first stage high pressure turbine (HPT) disk cooling air holes. This amendment requires initial and repetitive FPI for cracks in cooling air holes of additional first stage HPT disks, and replacement with serviceable parts. In addition, this amendment requires initial and repetitive FPI for cracks in tie bolt holes of certain other affected second stage HPT disks installed in PW JT9D series turbofan engines. This amendment is prompted by reports of a cracked cooling air hole on one first stage HPT disk, and a cracked tie bolt hole on one second stage HPT disk. The actions specified by this AD are intended to prevent turbine disk failure due to cooling air hole or tie bolt hole cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective January 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-6600, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA 01803-5299; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7130, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding airworthiness directive (AD) 91-04-10, Amendment 39-6859 (56 FR 5343, February 11, 1991), applicable to Pratt & Whitney (PW) JT9D series turbofan engines, was published in the **Federal Register** on March 19, 1997 (62 FR 12979). That action proposed to require initial and repetitive fluorescent penetrant inspections (FPI) for cracks in cooling air holes of affected first stage high pressure turbine (HPT) disks, and, if

necessary, replacement with serviceable parts. In addition, the action proposed to require initial and repetitive FPI for cracks in tie bolt holes of all affected second stage HPT disks. Finally, that action proposed to require reporting findings of cracked turbine disks.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that since the root cause of the crack which was found on the cooling hole of the improved disk, part number (P/N) 840301, was caused by improper tooling application (use of reamer instead of a carbide insert) at the specified supplier, only the suspect supplier and lots should be affected by the AD. The commenter maintains that if the FAA suspects PW's qualified carbide insert machining process, every maintenance process requiring the manufacturer's qualification should always require FAA qualification in future. The Federal Aviation Administration (FAA) does not concur. The improved disk, P/N 840301, is manufactured with the new reamer tooling method; however, a disk of this P/N was found with cooling hole cracking. The reamer method was introduced by manufacturers to preclude abusive machining that was found using the carbide insert method. Investigation has shown that both the carbide insert method and the reamer method are subject to the same abusive machining phenomenon. The FAA approves manufacturing and maintenance processes, which are updated as necessary.

The same commenter requests that the FAA and PW develop an inspection procedure that can detect not only a crack but detect whether a severely worked layer of material exists or not, so that unnecessary repetitive inspections can be minimized by removing those disks. The FAA does not concur. It is not possible to detect 100% of the possible cracking conditions in the field using current inspection methods. Therefore, repetitive inspections are necessary for disks that are in service because cracking can propagate in fatigue from a layer of severely worked material resulting from the manufacturing process.

The same commenter requests the FAA extend the initial inspection requirement for disks that have been previously inspected, noting that the AD as proposed would allow 1,500 cycles in service (CIS) before initial inspection for disks never inspected while only 250 CIS for disks that have been inspected but that have accumulated more than

3,500 CIS since last inspection. The FAA does not concur. The current AD, effective in 1991, requires repetitive inspections of disks installed in JT9D-59A, -70A, -7Q, and -7Q3 engines at intervals not to exceed 3,500 CIS. Therefore, the example cited by the commenter should not occur, as disks installed in JT9D-59A or -7Q engines should never exceed 3,500 CIS since last inspection. Only if a disk installed in a JT9D-7R4 engine had exceeded 3,500 CIS since last inspection would the requirement to inspect no later than 250 CIS after the effective date of this AD apply. This inspection requirement was considered in the risk analysis and the FAA has determined that it is necessary. The commenter does not indicate how many JT9D-7R4 engines might be affected by the 250 CIS initial inspection requirement. Individual operators can apply for an adjustment to that compliance time under paragraph (d) of the AD.

One commenter states that the mandated use of FPI does not provide all possible assurance that defective HPT disks will be removed from service. The commenter believes that eddy current inspection, or a combination of the two methods, would clearly provide a greater probability of crack detection. The FAA does not concur. The first stage turbine cooling air holes and second stage tie bolt holes have low aspect ratios. The FAA has determined that FPI of low aspect ratio holes is adequate for detecting cracks in these locations.

One commenter states that there appears to be anomalies in the requirements for disks that have been in service for over 6,000 cycles since new (CSN), as stated in paragraph (b)(1)(i) of the compliance section. The commenter maintains that as the paragraph reads in the proposed rule, this inspection will always occur later than accumulating 8,000 CSN if CSN is greater than 6,000 on the effective date of the AD. The FAA concurs and has changed this paragraph to require inspection within 2,000 CIS if a disk has over 6,000 CSN on the effective date of the AD.

The same commenter suggests that at next engine shop visit would be sufficient as an interval for cooling hole and tie bolt hole inspections. The FAA does not concur. Since the timing of engine shop visits varies widely between operators, the use of shop visits to define inspection intervals in ADs does not provide adequate objectivity on which to assess the effectiveness of the required actions in addressing the unsafe condition. The FAA has determined that a maximum of 2,000 CIS interval is required.

Subsequent to the publication of the proposed rule, two JT9D-7R4D/E operators indicated that the 6,000 CIS re-inspection interval for second stage turbine hub tie bolt hole mismachining would require them to remove engines prematurely due to their high cycle utilization rate. The FAA has determined through a review of risk analysis that the additional risk involved in extending the re-inspection interval from 6,000 CIS to 8,000 CIS is sufficiently low and has changed the re-inspection interval accordingly.

In addition, the manufacturer has recommended that Special Process Operation Procedure (SPOP) 70 be used in lieu of SPOP 84 in order to permit the inspection of the second stage turbine hub tie bolt holes when the second stage turbine rotor is removed from the HPT module assembly without necessitating the removal of the second stage turbine blades. The FAA concurs and has changed the reference to the inspection procedure accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6859 (56 FR 5343, February 11, 1991) and by adding a new airworthiness directive, Amendment 39-10234, to read as follows:

97-25-10 Pratt & Whitney: Amendment 39-10234. Docket 97-ANE-04 Supersedes airworthiness directive (AD) 91-04-10, Amendment 39-6859.

Applicability: Pratt & Whitney (PW) JT9D-59A, -70A, -7Q, -7Q3, -7R4D, -7R4D1, -7R4E, and -7R4E1 (AI-500) series turbofan engines, installed on but not limited to Airbus Industrie A300 and A310, Boeing 747 and 767, and McDonnell Douglas DC-10 series aircraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine disk failure due to cooling hole or tie bolt hole cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For first stage high pressure turbine (HPT) disks, part numbers (P/Ns) 768001, 792701, 812901, 819801, 840501, 840401, 840701, 840601, and 840301, installed in PW JT9D-59A, -70A, -7Q, and -7Q3 engines, accomplish the following:

(1) Disks that have not been fluorescent penetrant inspected or eddy current inspected since introduction into service, perform an initial fluorescent penetrant

inspection (FPI) for cracks in all 40 cooling air holes in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, Special Process Operation Procedure (SPOP) 84, as follows:

(i) Disks with 3,500 cycles since new (CSN) or more on the effective date of this AD, inspect prior to accumulating 5,000 CSN, or within 1,500 cycles in service (CIS) after the effective date of this AD, whichever occurs later.

(ii) Disks with less than 3,500 CSN on the effective date of this AD, inspect prior to accumulating 5,000 CSN.

(2) Disks that have been reoperated in accordance with PW Service Bulletin (SB) No. 5815, Revision 2, dated July 31, 1992, or prior revisions, that have not been fluorescent penetrant inspected or eddy current inspected since reoperation, perform an initial FPI for cracks in all 40 cooling air holes in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 84, as follows:

(i) Disks with 3,500 CIS or more since reoperation on the effective date of this AD, inspect prior to accumulating 5,000 CIS since reoperation, or within 1,500 CIS after the effective date of this AD, whichever occurs later.

(ii) Disks with less than 3,500 CIS since reoperation on the effective date of this AD, inspect prior to accumulating 5,000 CIS since reoperation.

(3) Disks that have been fluorescent penetrant inspected, or eddy current inspected, since introduction into service or since reoperation, in accordance with PW SB No. 5744, Revision 3, dated March 31, 1993, or prior revisions, or PW JT9D-7Q, -7Q3 Engine Manual, P/N 777210, 72-51-00, Inspection -03, or PW JT9D-59A, -70A Engine Manual, P/N 754459, 72-51-00, Heavy Maintenance Check -03, perform an FPI for cracks in all 40 cooling air holes, prior to accumulating 3,500 CIS since last FPI or ECI, or within 250 CIS after the effective date of this AD, whichever occurs later, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 84.

(4) Thereafter, perform FPI for cracks in all 40 cooling air holes at intervals not to exceed 3,500 CIS since last FPI, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 84.

(5) Prior to further flight, remove from service cracked disks, and replace with serviceable parts.

(b) For second stage HPT disks, P/N 5001802-01, installed in PW JT9D-7R4D, -7R4D1, -7R4E, and -7R4E1 (AI-500) engines, accomplish the following:

(1) Disks that **have not** been fluorescent penetrant inspected since introduction into service, perform an initial FPI for cracks in all 30 tie bolt holes in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 70, as follows:

(i) Disks with 6,000 CSN or more on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(ii) Disks with less than 6,000 CSN on the effective date of this AD, inspect prior to accumulating 8,000 CSN.

(2) Disks that have been fluorescent penetrant inspected since introduction into service, perform an FPI for cracks in all 30 tie bolt holes, prior to accumulating 8,000 CIS since last FPI, or within 250 CIS after the effective date of this AD, whichever occurs later, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 70.

(3) Thereafter, perform FPI for cracks in all 30 tie bolt holes at intervals not to exceed 8,000 CIS since last FPI, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70-33, SPOP 70.

(4) Prior to further flight, remove from service cracked disks, and replace with serviceable parts.

(c) Report findings of cracked turbine disks within 48 hours after inspection to Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7130, fax (781) 238-7199, Internet: "Tara.Goodman@faa.dot.gov". Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120-0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative method of compliance with this AD, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on January 12, 1998.

Issued in Burlington, Massachusetts, on November 28, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97-31965 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-ANE-31-AD; Amendment 39-10233; AD 97-25-09]

RIN 2120-AA64

Airworthiness Directives; Allison Engine Company Model 250-C40B Turboshift Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Allison Engine Company Model 250-C40B turboshift engines. This action requires installation of a placard requiring pilots to record torque level and time in service operating above 86% engine torque until the defective parts have been replaced, no later than December 31, 2000, or when certain maintenance actions are accomplished, or when certain operational restrictions are exceeded, whichever occurs earliest. This amendment is prompted by a report from Allison Engine Company of a manufacturing defect in certain helical power takeoff gearshaft assemblies, identified by serial numbers. The actions specified in this AD are intended to prevent fatigue failure of the helical power takeoff gearshaft assembly, which could result in a loss of engine power and inflight engine shutdown.

DATES: Effective December 23, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1997.

Comments for inclusion in the Rules Docket must be received on or before February 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-ANE-31-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Allison Engine Company, P.O. Box 420, Speed Code U-15, Indianapolis, IN 46206-

0420; telephone: (317) 230-6674. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, ACE-118C, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294-8180, fax (847) 294-7834.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received a report from Allison Engine Company of a manufacturing defect discovered in certain helical power takeoff gearshaft assemblies, part number (P/N) 23056617, installed on Model 250-C40B turboshift engines. The manufacturing defect was discovered while measuring the depth of the case hardening of the gear. The manufacturing defect was caused by excessive removal of case hardened material from the gear during manufacturing. This condition, if not corrected, could result in fatigue failure of the helical power takeoff gearshaft assembly, which could result in a loss of engine power and inflight engine shutdown.

The FAA has reviewed and approved the technical contents of Allison Alert Commercial Engine Bulletin (CEB) No. A-72-5009, dated May 21, 1997, that lists by serial number (S/N) 49 affected engines, gearboxes, and gears. This CEB also describes procedures for replacement of affected helical power takeoff gearshaft assemblies with serviceable parts.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent a loss of engine power and inflight engine shutdown. This AD requires installation of a placard requiring pilots to record torque and time in service operating above 86% engine torque until replacement of defective helical power takeoff gearshaft assemblies with serviceable parts, and then the placard can be removed. The compliance times were determined based upon an analysis of the effect of gearbox assembly torque loading on component life. The actions are required to be accomplished in accordance with the CEB described previously.

The operational limitations imposed by this AD have been coordinated with the Rotorcraft Directorate.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-ANE-31-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to

correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97-25-09 Allison Engine Company:

Amendment 39-10233. Docket 97-ANE-31-AD.

Applicability: Allison Engine Company Model 250-C40B turboshaft engines, with engines, gearboxes, and gears identified by serial number (S/N) in Allison Alert Commercial Engine Bulletin (CEB) No. A-72-5009, dated May 21, 1997. The 250-C40B engine is installed on and limited to the twin-engine Bell Helicopter Textron 430 series helicopters.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the helical power takeoff gearshaft assembly, which could result in a loss of engine power and inflight engine shutdown, accomplish the following for part number (P/N) 23056617, identified by S/N in Allison Alert CEB No. A-72-5009, dated May 21, 1997:

(a) Prior to further flight, install the following placard on the instrument panel in clear view of the pilot. "RECORD TORQUE AND TIME ABOVE 86% ENGINE TORQUE." The placard shall be manufactured of a material that cannot be easily defaced or erased, and the lettering shall be block-style and at least 1/8 inches in height. Additionally, the color and lettering must contrast with the background (color of placard material) such that it is legible.

(b) Remove from service affected helical power takeoff gearshaft assemblies, P/N 23056617, and replace with serviceable parts, in accordance with Allison Alert CEB No. A-72-5009, dated May 21, 1997, when the first of the following conditions exists:

- (1) At the time of turbine overhaul; or
- (2) During gearbox disassembly for any reason; or

(3) If any of the operational restrictions listed in paragraph (c) of this AD are exceeded; or

(4) No later than December 31, 2000.

(c) After the effective date of this AD, observe the following operational restrictions at all times, until paragraph (b) of this AD is complied with by installing serviceable helical power takeoff gearshaft assemblies:

(1) Total operational time accumulated on the suspect helical power takeoff gearshaft assemblies may not exceed 1,750 hours time in service (TIS). Engines are to be operated in the torque sharing mode only.

(2) Operation of the engine at power between 86% torque and 93% torque is limited to one hour prior to reaching 1,750 hours TIS.

(3) Operation of the engine above 93% torque will require replacement of the helical power takeoff gearshaft assemblies. Any previously recorded time (Electronic Control Unit (ECU)), Integrated Instrument Display System (IIDS) or Log Book) must be accounted for. Operators will be allowed four hours of operation at torque levels less than 86% torque to ferry the aircraft to a maintenance facility for replacement of the assembly unless any of the following have been exceeded:

(i) Operation of the engine between 93% torque and 105% torque for more than six minutes requires replacement of the assembly before further flight.

(ii) Operation of the engine between 105% torque and 110% torque for more than ninety seconds requires replacement of the assembly before further flight.

(d) Revise the limitations section of the FAA-approved Rotorcraft Flight Manual (RFM) by inserting a copy of this AD. Thereafter, except as provided in paragraph (g) of this AD, no alternative limitations may be approved for affected helical power takeoff gearshaft assemblies, P/N 23056617.

(e) After replacing parts in accordance with paragraph (b) of this AD, remove the placard

and the AD required by paragraphs (a) and (d) of this AD.

(f) For the purposes of this AD, a serviceable helical power takeoff gearshaft assembly is one not identified by S/N in Allison Alert CEB No. A-72-5009, dated May 21, 1997.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) and paragraph (c)(3) of this AD to operate the aircraft to a location where the requirements of this AD can be accomplished.

(i) The actions required by this AD shall be done in accordance with the following Allison Alert CEB:

Document No.	Pages	Date
A-72-5009	1-5	May 21, 1997.
Total pages: 5.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Allison Engine Company, P.O. Box 420, Speed Code U-15, Indianapolis, IN 46206-0420; telephone: (317) 230-6674. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 23, 1997.

Issued in Burlington, Massachusetts, on November 28, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97-31966 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-286-AD; Amendment 39-10235; AD 97-25-11]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B16 Series Airplanes Modified in Accordance With Supplemental Type Certificate (STC) SA6003NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B16 series airplanes. This action requires disabling the remote fuel/defuel panel in the cockpit. This action also provides for an optional modification of the remote fuel/defuel panel, which would terminate the requirement to disable the panel. This amendment is prompted by reports of in-flight failure of the panel that resulted when a circuit breaker on a battery bus opened due to insufficient current flow capacity. The actions specified in this AD are intended to prevent the circuit breakers from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit.

DATES: Effective December 23, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1997.

Comments for inclusion in the Rules Docket must be received on or before January 7, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-286-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Bombardier Aviation Services, 1255 East Aeropark Boulevard, Tucson, Arizona 85706. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount

Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627-5350; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports of three in-flight occurrences of loss of all engine indicating and fuel quantity systems in the cockpit on certain Bombardier Model CL-600-2B16 series airplanes. In each case, the internal fuel/defuel panel had been left in the "ON" position for an extended period of time. When the panel was switched off, all engine and fuel quantity indications were lost; subsequent attempts to cycle the panel power back on were unsuccessful. Investigation revealed an opened circuit breaker. It was determined that, if power to the remote fuel/defuel panel is left on for up to approximately one hour, the controlling circuit breaker on the battery bus will have insufficient capacity to hold the current flow and, as a result, may open during flight. This condition, if not corrected, could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin SB TUS-28-20-02-1, dated November 13, 1997, which describes procedures for disabling the remote fuel/defuel panel in the cockpit. Bombardier also has issued Service Bulletin SB TUS-28-20-02, dated November 13, 1997, which describes procedures for modifying the remote fuel/defuel panel; accomplishment of this modification eliminates the need to disable the panel. The modification involves replacing certain circuit breakers for the fuel/defuel power and fuel quantity displays with new circuit breakers, and adding three 4-pole relays to allow switching of fuel quantity when the internal fuel panel is selected.

U.S. Type Certification of the Airplane

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent loss of engine indicating and fuel quantity systems in the cockpit in the event a circuit breaker opens during flight. This AD requires disabling the remote fuel/defuel panel in the cockpit. This AD also provides for an optional modification of this panel, which would terminate the requirement to disable the panel. The actions are required to be accomplished in accordance with the service bulletins described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped

postcard on which the following statement is made: "Comments to Docket Number 97-NM-286-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97-25-11 Bombardier, Inc. (Formerly Canadair): Amendment 39-10235. Docket 97-NM-286-AD.

Applicability: Model CL-600-2B16 series airplanes that have been modified in

accordance with Supplemental Type Certificate SA6003NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the circuit breaker on the battery bus from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit, accomplish the following:

(a) Within 5 days after the effective date of this AD, disable the remote fuel/defuel panel, in accordance with Bombardier Service Bulletin SB TUS-28-20-02-1, dated November 13, 1997.

(b) Modification of the remote fuel/defuel panel in accordance with Bombardier Service Bulletin SB TUS-28-20-02, dated November 13, 1997, permits the remote fuel-defuel panel to be enabled, and constitutes terminating action for the requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Bombardier Service Bulletin SB TUS-28-20-02-1, dated November 13, 1997; or Bombardier Service Bulletin SB TUS-28-20-02, dated November 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier Aviation Services, 1255 East Aeropark Boulevard, Tucson, Arizona 85706. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960

Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 23, 1997.

Issued in Renton, Washington, on December 1, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-31968 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-AWP-17]

Establishment of VOR Federal Airway; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action delays the effective date for the establishment of Federal Airway 607 (V-607) between Mendocino, CA, and Arcata, CA, until further notice. The FAA is taking this action due to a procedural change requiring the addition of an intersection on V-607. The addition of the intersection necessitates additional flight inspection.

DATES: The effective date of 0901 UTC, January 1, 1998, is delayed until further notice.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Airspace Docket No. 97-AWP-17, published in the **Federal Register** on

October 27, 1997, (62 FR 55502), established V-607 between Mendocino, CA, and Arcata, CA. A need to establish an intersection at the dogleg of the Arcata 153° radial and the Mendocino 346° radial requires additional flight inspection and delays the effective date of V-607 until further notice.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Delay of Effective Date

The effective date of the final rule, Airspace Docket 97-AWP-17, as published in the **Federal Register** on October 27, 1997 (62 FR 55502), is hereby delayed until further notice.

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

Issued in Washington, DC, on November 26, 1997.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97-32036 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR-4232-C-03]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1998; Correction

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of Fiscal Year 1998 Fair Market Rents (FMRs); correction.

SUMMARY: This notice corrects final FY 1998 Fair Market Rents for two areas, the Duluth-Superior, Minnesota-Wisconsin MSA and the Des Moines, Iowa MSA, published in the **Federal Register** on September 26, 1997 (62 FR 50724).

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Operations Division, Office of Rental Assistance, telephone (202) 708-0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708-9426, Extension 328 (e-mail: alan_fox@hud.gov). Hearing- or speech-impaired persons may contact the Federal Information Relay Service at 1-800-877-8339 (TTY). (Other than the "800" TTY number, telephone numbers are not toll free.)

Correction

Accordingly, in FR Doc 97-25506, a document published on September 26, 1997 (62 FR 50724) is corrected as follows:

1. On page 50741, in the table under Iowa, Metropolitan FMR Areas, the entries for Des Moines are corrected to read as follows:

1998 Fair Market Rent	Number of Bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Des Moines, IA MSA	\$348	\$440	\$542	\$704	\$739

2. On page 50752, in the table under the Minnesota Metropolitan FMR Areas, the FMR for 0 bedroom units in the Minnesota part of the MSA (St. Louis County, MN) and on page 50779, under the Wisconsin Metropolitan FMR Areas, the Wisconsin part of the MSA (Douglas County, WI) the correct FMRs for both counties are as follows:

1998 Fair Market Rent	Number of Bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
Duluth-Superior MN-WI MSA: (St Louis County, MN)	\$272	\$351	\$451	\$602	\$701

1998 Fair Market Rent	Number of Bedrooms				
	0 BR	1 BR	2 BR	3 BR	4 BR
(Douglas County, WI)	\$272	\$351	\$451	\$602	\$701

Dated: November 26, 1997.
Lawrence L. Thompson,
General Deputy Assistant Secretary for Policy Development and Research.
 [FR Doc. 97-31969 Filed 12-5-97; 8:45 am]
 BILLING CODE 4210-52-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO-039-1039; FRL-5929-2]

Approval and Promulgation of Implementation Plans; State of Missouri; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notification of failure to attain; correction.

SUMMARY: This document corrects an error in the EPA's August 15, 1997, determination of the Herculaneum, Missouri, nonattainment area's failure to attain the National Ambient Air Quality Standard (NAAQS) for lead.

DATES: This action is effective on December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Aaron J. Worstell at (913) 551-7787.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA published a document in the August 15, 1997, **Federal Register** (62 FR 43647) of the determination that the

Doe Run-Herculaneum nonattainment area had failed to attain the National Ambient Air Quality Standard for lead (Pb) by June 30, 1995, as required under the provisions of the Clean Air Act and the Missouri State Implementation Plan. In section I of the document, the table entitled "Lead Ambient Air Quality Data—Vicinity Of The Doe Run Primary Smelter" incorrectly denotes the Herculaneum monitor as the Asarco monitor. The table is corrected to read as follows:

Lead Ambient Air Quality Data—Vicinity of the DOE Run Primary Smelter

CALENDAR QUARTERLY VALUES
 [Micrograms of lead per cubic meter of air (µg/m³)]

Date	Hi-vol monitor locations								
	S Dunklin 29-099-0014	H Dunklin 29-099-0005	H Golf course 29-099-0008	H North 29-099-0009	H Ursaline 29-099-0010	H Rutz 29-099-0011	H Div. manager 29-099-0013	H Broad Street 29-099-0015	
1995:									
3rd	1.4	1.2	0.3	0.3	0.2	1.0	1.2	4.1	
4th	1.9	1.7	0.4	0.8	0.1	1.6	1.3	6.3	
1996:									
1st	2.3	1.9	0.3	0.4	0.1	1.4	.8	2.3	
2nd	1.6	1.2	0.5	0.1	0.2	2.4	0.8	5.7	
3rd	0.8	0.6	0.1	0.2	0.3	0.7	0.5	4.0	
4th	1.7	1.8	0.1	0.5	0.3	1.4	0.9	1.6	

Notes:

¹ (S) = State monitor, (H) = Herculaneum monitor.

² Italicized Quarterly Air Quality Values exceed the National Ambient Air Quality Standard (NAAQS) for lead; the NAAQS for lead is 1.5 µg/m³ and is the arithmetic mean of a series of daily (24-hour) values from hi-vol monitors measuring particulate matter, within a 3-month (calendar quarter) period.

This minor correction does not alter the EPA's failure to attain determination, nor does it alter the effective date of September 15, 1997, as specified in the original document.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P. L. 104-4), or require prior

consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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 is not a "major rule" as defined by 5 U.S.C. 804(2).

Authority: 42 U.S.C. 7401-7671q.

Dated: October 29, 1997.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 97-31270 Filed 12-5-97; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 62, No. 235

Monday, December 8, 1997

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-ANE-38]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT9D-7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT9D-7R4 series turbofan engines, that would have required removal of web material at ten bosses on the diffuser case assembly, inspections, shotpeening of the area, and remarking the diffuser case assemblies with a new part number. That proposal was prompted by reports of cracks in the aft corners of the bosses. This action revises the proposed rule by adding initial and repetitive on-wing eddy current inspections (ECI) of the affected bosses for cracks, and replacement, if found cracked, with serviceable parts. In addition, this action revises the initial accomplishment time for the previously proposed actions. Finally, this action adds further etches, fluorescent penetrant inspections (FPIs), x-ray inspections, and shotpeening to the shop requirements, and provides an optional terminating action in the form of a redesigned diffuser case. The actions specified by this proposed AD are intended to prevent diffuser case assembly rupture, which could result in an uncontained engine failure, engine fire, and damage to the aircraft.

DATES: Comments must be received by February 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England

Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-ANE-38, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, Publications Department, Supervisor Technical Publications Distribution, M/S 132-30, 400 Main St., East Hartford, CT 06108; telephone (860) 565-7700, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7130, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-ANE-38." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-ANE-38, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT9D-7R4 series turbofan engines, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 23, 1995 (60 FR 43730). That NPRM would have required removing webs of material at ten bosses on the diffuser case assembly, performing a fluorescent penetrant inspection (FPI) and x-ray inspection of the reworked area, performing furnace stress relief if a local stress relief had been previously accomplished, shotpeening the reworked area, and remarking the diffuser case assemblies with a new part number. That NPRM was prompted by reports of cracks at the aft corners of bosses on the diffuser case assembly. No engine failures have resulted from these cracks. The cracks occur in webs of material at 10 diffuser case bosses that were a result of a machining operation during original manufacture. The webs of material create stress concentrations that can cause a crack to start. That condition, if not corrected, could result in diffuser case assembly rupture, which could result in an uncontained engine failure, engine fire, and damage to the aircraft.

Since the issuance of that NPRM, the FAA received three comments regarding the actions proposed by this AD.

One commenter states basic concurrence with the intent of the AD, but recommends a change in the accomplishment time, from the next shop visit, not to exceed 6,000 cycles in service (CIS) after the effective date of this AD, to the next diffuser module

disassembly after the effective date of this AD. The commenter states that the original accomplishment time causes an undue scheduling burden, and estimates that an additional \$469,608 will be incurred without the revision to the accomplishment time. The FAA concurs. The FAA has revised the accomplishment time, and has added initial and repetitive on-wing and shop eddy current inspections (ECI) of the bosses to mitigate any additional safety risk incurred by the extension of the accomplishment time.

One commenter recommends a change to the work hours estimate in the economic analysis. The commenter states that 44 work hours of labor are necessary to perform the actions required by this AD, instead of the 20 work hours specified in the NPRM, and indicates that 44 work hours is more consistent with the maintenance environment of airlines and repair facilities. The FAA concurs, and has revised the economic analysis accordingly, but has increased the work hours estimate further in this supplemental NPRM to include the time required to accomplish the additional actions proposed in this supplemental NPRM.

In addition, since issuance of the NPRM, the FAA has determined the need to enhance the AD by adding further etches, fluorescent penetrant inspections (FPIs), x-ray inspections, and shotpeening to the shop requirements. The FAA estimates that an additional two hours of labor will be necessary to access and perform the enhanced inspection of the diffuser case. The FAA also has determined the need to clarify, based on overhaul shop concerns regarding repairable diffuser cases, that cracks under the rail are acceptable as long as total weld bead length is less than 1.5 inches. This supplemental NPRM has been revised accordingly to incorporate these changes.

Finally, this supplemental NPRM references PW Service Bulletin (SB) No. JT9D-7R4-72-527, Revision 3, dated April 16, 1997, Revision 2, dated July 12, 1996, and Revision 1, dated May 3, 1996, that describes the on-wing ECIs required by this AD, and SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996, that describes the new shop procedures required by this AD. In addition, installation of diffuser case, part number 815736, in accordance with the requirements of PW SB No. JT9D-7R4-72-533, dated August 29, 1996, constitutes terminating action for this AD.

Since these changes expand the scope of the originally proposed rule, the FAA

has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

There are approximately 690 engines of the affected design in the worldwide fleet. The FAA estimates that 137 engines would be affected by this proposed AD, that it would take approximately 46 work hours per engine to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$378,120.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 95-ANE-38.

Applicability: Pratt & Whitney (PW) JT9D-7R4 series turbofan engines, installed on but not limited to Airbus A300, A310 series, and Boeing 747, 767 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent diffuser case assembly rupture, which could result in an uncontained engine failure, engine fire, and damage to the aircraft, accomplish the following:

(a) For assembled diffuser case assembly, Part Numbers (P/Ns) 789996, 789996-002, 789996-003, 790541, 790541-002, 790541-003, 798379, 798379-003, 798379-004, 5000366-002, 5000366-021, 5000366-022, 5004770-01, 5004770-022, and 5004770-023, perform initial on-wing eddy current inspection (ECI) or initial and repetitive fluorescent penetrant inspection (FPI) or ECI shop inspections of the diffuser case bosses in accordance with PW Service Bulletin (SB) No. JT9D-7R4-72-527, Revision 3, dated April 16, 1997, or Revision 2, dated July 12, 1996, or Revision 1, dated May 3, 1996, within 250 cycles in service (CIS) after the effective date of this AD, as follows:

(1) For assembled diffuser cases in the shop, that have not been previously inspected in accordance with any one of the requirements of the SBs cited in paragraph (a) of this AD, perform an initial FPI or ECI of both rear corners of all 10 diffuser case mounting bosses and 2 case mount pads in accordance with any one of the SBs cited in paragraph (a) of this AD, or,

(i) If cracks are found, perform repairs in accordance with the applicable Engine Manual, Chapter/Section 72-41-02, Repair-28.

(ii) Thereafter, perform inspections within 650 CIS since last inspection, in accordance with any one of the SBs cited in paragraph (a) of this AD.

(2) For assembled diffuser cases that are installed on-wing, that have not been previously inspected in accordance with any one of the requirements of this AD, perform an initial ECI of both rear corners of boss six, located at the six o'clock position, in accordance with any one of the SBs cited in paragraph (a) of this AD:

(i) If a crack indication is found, borescope or FPI the area where the crack was indicated, in accordance with any one of the SBs cited in paragraph (a) of this AD. Depending on the crack size, accomplish the following:

(A) The diffuser case may continue in service provided it is inspected at intervals not to exceed 50 CIS since last borescope inspection, if the circumferential crack dimension "B", is less than 0.5 inches long, and the axial crack dimension "A" is less than 0.8 inches long, in accordance with any one of the SBs cited in paragraph (a) of this AD.

(B) The diffuser case may continue in service for a maximum of 5 CIS, if the axial crack dimension "A" is equal to or greater than 0.8 inches but less than or equal to 1.0 inch, in accordance with any one of the SBs cited in paragraph (a) of this AD.

(C) Remove from service prior to further flight the diffuser case when the axial crack dimension "A" is greater than 1.0 inch, in accordance with any one of the SBs cited in paragraph (a) of this AD.

(ii) Diffuser cases with no cracks at boss six, perform an ECI at intervals not to exceed 650 CIS since the last boss 6 inspection, in accordance with any one of the SBs cited in paragraph (a) of this AD.

(b) At the next diffuser module disassembly when all hardware is stripped off the diffuser case, but not to exceed 6,000 CIS after the effective date of this AD, inspect diffuser cases, P/Ns 790541, 798379, 789996, 5004770-01, or 5000366-02, for existence of web material at ten boss locations, in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996.

(1) Rework the diffuser case assembly in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996. This rework removes web material at 10 boss locations.

(2) Perform an etch and an ultra-high fluorescent penetrant inspection (FPI) of the reworked areas in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996, to ensure that there are no crack indications.

(3) If a crack indication is discovered, repair, and perform an ECI and an FPI in accordance with Engine Manual Section 72-41-02, Repair-28, or remove the diffuser case from service and replace with a serviceable part.

(4) Perform an x-ray inspection of the reworked areas (all 10 boss locations and 2 mount pad locations) in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996, to ensure that there are no crack indications. Additionally, the x-ray inspection is performed to assure that there are no cracks, incomplete fusion, incomplete penetration, voids, porosity, or inclusions from previous local weld repairs. If any of these defects are discovered, repair per PW JT9D-7R4 Engine Manual, Section 72-41-02, Repair-28, or remove the diffuser case from service and replace with a serviceable part.

(5) Determine if local stress relief was performed previously, and if weld repairs have been performed at any of the boss locations described in the above SB, through reviewing maintenance records. If

maintenance records cannot be located, or maintenance records indicate that a weld repair with no stress relief or a weld repair with a local stress relief that has been performed at any of the 10 boss locations or 2 mount pad locations, perform furnace stress relief and FPI of the diffuser case assemblies in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996.

(6) Shotpeen the reworked areas in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996.

(7) Remark the diffuser case assembly with a new part number in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996.

(c) At the next shop visit, but not to exceed 6,000 CIS after the effective date of this AD, for diffuser case assembly, P/Ns 790541-002, 790541-003, 798379-003, 798379-004, 789996-002, 789996-003, 5000366-021, 5000366-022, 5004770-022, and 5004770-023, that have been previously reworked to remove web material at any boss locations prior to the effective date of this AD in accordance with the original issue of PW SB No. JT9D-7R4-72-469, dated October 2, 1992, accomplish the following:

(1) Unless maintenance records indicate that x-ray inspections were performed at the last shop visit where diffuser case repairs were accomplished at the 10 boss locations, prior to the effective date of this AD, in accordance with PW JT9D-7R4 Engine Manual, Section 72-41-02, Repair-28, perform an x-ray inspection of all 10 boss locations and 2 mount pad locations in accordance with the x-ray requirements of PW JT9D-7R4 Engine Manual, Section 72-41-02, Repair-28.

(2) Determine if any previous weld repairs have been performed at any of the boss locations described in the above SB through reviewing maintenance records. If maintenance records cannot be located, or maintenance records indicate that a weld repair with no stress relief or with a local stress relief has been performed at any of the boss locations, perform furnace stress relief, FPI, and shotpeen diffuser case assemblies in accordance with PW SB No. JT9D-7R4-72-469, Revision 3, dated January 24, 1996.

(d) For the purpose of this AD, shop visit is defined as separation of diffuser case at "K" and "M" flanges.

(e) For the purpose of this AD, an assembled diffuser case in the shop is defined as a diffuser case either mounted or dismounted from the engine, but with external hardware removed to perform the inspections.

(f) Installation of diffuser case, P/N 815736, in accordance with the requirements of PW SB No. JT9D-7R4-72-533, dated August 29, 1996, constitutes terminating action for this AD.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on November 28, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97-31967 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-ASO-26]

Proposed Amendment to Class E Airspace; New Bern, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at New Bern, NC. The required weather observation information is available on a continuous basis to the air traffic control providing service to New Bern, Craven County, NC, Airport. Therefore, the Class E surface area airspace at New Bern, NC, meets the requirement for modification from part time to continuous.

DATES: Comments must be received on or before January 7, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 97-ASO-26, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5581.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97-ASO-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO-520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at New Bern, NC. The required weather observation information is available on a continuous basis to the air traffic control facility providing service to New Bern, Craven County, NC, Airport. Therefore, the Class E surface area airspace at New Bern, NC, meets the requirement for modification from part time to continuous. Class E airspace

areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO NC E2—New Bern, NC [Revised]

New Bern, Craven County Regional Airport, NC

(Lat 35°04'21" N, long. 77°02'37" W)

New Bern VOR/DME

(Lat 35°04'23" N, long 77°02'42" W)

Within a 4-mile radius of Craven County Regional Airport and within 2.4 miles each side of New Bern VOR/DME 038° and 210° radials, extending from the 4-mile radius northeast and southwest of the VOR/DME.

* * * * *

Issued in College Park, Georgia, on November 24, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97-32035 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA No. 173P]

Schedules of Controlled Substances: Proposed Placement of Sibutramine Into Schedule IV

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Acting Deputy Administrator of the DEA to place the substance, sibutramine, including its salts and optical isomers into Schedule IV of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS) that sibutramine be added to Schedule IV and on an evaluation of the relevant data by the DEA. If finalized, this action will impose the regulatory controls and criminal sanctions of Schedule IV on those who handle sibutramine and products containing sibutramine.

DATES: Comments, objections, and requests for a hearing must be received on or before January 7, 1998.

ADDRESSES: Comments, objections and requests for a hearing should be submitted in quintuplicate to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn.: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, (202) 307-7183.

SUPPLEMENTARY INFORMATION:

Sibutramine is an amphetamine analogue pharmacologically similar to other anorectic agents that produce central nervous system stimulation and amphetamine-like effects in humans and animals. Sibutramine hydrochloride will be marketed under the trade name of MERIDA as an oral anorectic for the long term management of obesity.

The Acting Deputy Administrator of the DEA received a letter dated November 12, 1997 from the Acting Assistant Secretary for Health, on behalf of the Secretary of the DHHS, recommending that the substance, sibutramine, and salts and isomers thereof, be placed into Schedule IV of the CSA (21 U.S.C. 801 *et seq.*). Enclosed with the letter from the Assistant Secretary was a document prepared by the Food and Drug Administration (FDA) entitled "Basis for the Recommendation for Control of Sibutramine and its Salts in Schedule IV of the Controlled Substances Act (CSA)." The document contained a review of the factors which the CSA requires the Secretary to consider [21 U.S.C. 811(b)] and the summarized recommendations regarding the placement of sibutramine into Schedule IV of the CSA.

The factors considered by the Assistant Secretary for Health with respect to the drug sibutramine were:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the drug or other substance.
- (4) Its history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) What, if any, risk there is to the public health.
- (7) Its psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under the CSA.

Relying on the scientific and medical evaluation and the recommendation of the Assistant Secretary of Health, the FDA New Drug Application (NDA) approval on November 22, 1997, and a DEA review, the Acting Deputy Administrator of the DEA, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Sibutramine has a low potential for abuse relative to the drugs or other substances in Schedule III.

(2) Sibutramine has a currently accepted medical use in treatment in the United States.

(3) Abuse of sibutramine may lead to limited physical dependence and psychological dependence relative to the drugs or other substances in Schedule III.

Interested persons are invited to submit their comments, objections or requests for a hearing, in writing, with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537. Attention: DEA Federal Register Representative/CCR. In the event that comments, objections or requests for a hearing raise one or more issues which the Acting Deputy Administrator finds warrants a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking on the record after opportunity for a hearing. Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, Section 3(d)(1).

The Acting Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small-business entities. Sibutramine is a new drug in the United States; recent approval of the product and its labeling by the FDA will allow it to be marked once it is placed into Schedule IV of the CSA. This proposed rule, if finalized, will allow these entities to have access to a new pharmaceutical product.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement

Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612, it is determined that this rule, if finalized, does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, drug traffic control, narcotics, prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Acting Deputy Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

§ 1308.14 [Amended]

2. Section 1308.14 is proposed to be amended by redesignating the existing paragraph (e)(10) as (e)(11) and adding a new paragraph (e)(10) to read as follows:

§ 1308.14 Schedule IV

* * * * *
 (10) Sibutramine1675
 * * * * *

Dated: December 2, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97-31951 Filed 12-5-97; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR 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)

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury ("Treasury" or "Department") is proposing for comment an amendment to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This proposed amendment includes changes necessary to make fungible stripped interest components for Treasury inflation-indexed securities, which the Department began issuing in January 1997. In addition, the proposed amendment makes certain technical clarifications and conforming changes.

DATES: Comments must be received on or before February 6, 1998.

ADDRESSES: Written comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street N.W., Room 515, Washington, D.C. 20239-0001. Comments may also be sent via the Internet to the Government Securities Regulations Staff at govsecreg@bpd.treas.gov. When sending comments via the Internet, please use an ASCII file format and provide your full name and mailing address. Comments received will be available for public inspection and downloading from the Internet and for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

This proposed amendment has also been made available for downloading from Public Debt's web site at the following address:

www.publicdebt.treas.gov.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), Chuck Andreatta or Kurt Eidemiller (Government Securities Specialists), Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff (202) 219-3632.

SUPPLEMENTARY INFORMATION:**I. Background**

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 of the Treasury 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

In January 1997, the Department began issuing a new type of marketable security, referred to as a Treasury inflation-indexed security,² whose principal value is adjusted for inflation as measured by the United States Government.³ The Department believes the issuance of these new securities will reduce interest costs to the Treasury over the long term and broaden the types of debt instruments available to investors in U.S. financial markets.

A. Inflation-Indexed STRIPS

Inflation-indexed securities are eligible for the STRIPS (Separate Trading of Registered Interest and Principal of Securities) program immediately upon their issuance by the Treasury. STRIPS is the Department's program under which eligible securities are authorized to be separated into principal and interest components (interest components are also referred to as "TINTS"). Such components are maintained in book-entry accounts, and transferred separately in the Treasury/Reserve Automated Debt Entry System ("TRADES" or the commercial book-entry system). Unlike TINTS from fixed-principal securities, interest components stripped from an inflation-indexed security are currently not fungible (i.e., they are not interchangeable) with interest components stripped from a different inflation-indexed security, even if the components have the same maturity (payment) date.⁴

Making such stripped interest components fungible (i.e., interchangeable and having the same CUSIP number) is a more complicated process than it is for fixed-principal interest components because of the way in which inflation-indexed securities adjust for inflation. Interest payments and the inflation-adjusted principal amount paid at maturity are calculated based on the amount of inflation, as

measured by changes in the CPI,⁵ that has occurred since the original issue date of the security.

Although the CPI is announced monthly, a unique "reference CPI" can be calculated for any particular date using an interpolative process described in Appendix B of the uniform offering circular.⁶ Each inflation-indexed security has a unique reference CPI value applicable to the security's original issue date.⁷ This is the starting point for measuring inflation for the period the security is outstanding. To calculate interest payments or the principal value at maturity of an inflation-indexed security, the par amount is adjusted for inflation by application of an "index ratio," which is the ratio of the reference CPI applicable to the interest payment or maturity date divided by the reference CPI applicable to the original issue date. Stripped principal and interest components with the same maturity date that are created from securities with different issue dates have different index ratios at maturity. This makes providing for fungibility of the interest components somewhat complicated.

Due to this complexity, inflation-indexed interest components were not made fungible when the securities were first offered in January 1997. As a result, while the rules currently permit inflation-indexed securities to be stripped into separate principal and interest components, interest components from the outstanding 5-year and 10-year inflation-indexed notes are not fungible even though some components would have the same maturity (payment) date. In the preamble to the final rule amendments to accommodate inflation-indexed securities, the Department stated that it would "continue to work on making interest components fungible in a manner that is operationally feasible."⁸ The Department recognizes that making stripped inflation-indexed interest components fungible is important to

⁵ CPI refers to the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor.

⁶ See 31 CFR Part 356, Appendix B, Section I, Paragraph B, for a detailed explanation of the indexing process and application of the index ratio and reference CPI.

⁷ If the security's dated date is different from the original issue date, then the reference CPI for the dated date is used. See 31 CFR 356.2 for the definition of dated date. This preamble discussion assumes that the original issue date and the dated date are the same and therefore uses only the term original issue date.

⁸ 62 FR 846, 848 (January 6, 1997).

¹ The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356.

² To date the Department has issued only inflation-indexed notes. 31 CFR Part 356 also accommodates offerings of inflation-indexed bonds, which the Department intends to begin issuing in 1998.

³ 62 FR 846 (January 6, 1997).

⁴ See 31 CFR 356.31(f).

developing a liquid market for these components.

Over the last several months, the Department has worked with market participants to develop a methodology that will enable interest components stripped from different inflation-indexed securities to be fungible. The Department requests comments from market participants on the following proposed methodology and any related aspects of this proposal. Specifically, comments are requested on any operational issues, including the time needed to make any necessary automated system changes, and the extent to which making inflation-indexed TINTS fungible would help in the continued development of a liquid market for inflation-indexed securities.

B. Proposed Methodology for Fungible Inflation-Indexed STRIPS

To make TINTS from different inflation-indexed securities fungible, the TINTS would be converted to a common reference CPI value of 100. This would be accomplished by calculating an "adjusted value" (see sections 356.2 and 356.31(c) of the proposed rule). The adjusted value of each TINT would be calculated by multiplying the par amount of the inflation-indexed security to be stripped by the security's semiannual interest rate, and then multiplying this amount by the ratio of 100 divided by the reference CPI for the security's original issue date. For example, an inflation-indexed security with a par amount of \$1 million, an interest rate of 3½%, and an issue-date reference CPI of 162.00000 would have an adjustment factor for each TINT of $\$1 \text{ million} \times (0.035)/2 \times (100/162)$, or \$10,802.47. Inflation-indexed TINTS would be maintained in accounts and transferred at their "adjusted value." This is in contrast to stripped principal components, which would be maintained and transferred at their par amount.

All inflation-indexed TINTS with the same maturity date would have the same CUSIP number, regardless of the underlying inflation-indexed security from which the interest components were stripped. Such TINTS would be considered to be the same security and would therefore be fungible. Fungibility would apply to TINTS only; stripped principal components would not be fungible. TINTS from inflation-indexed securities would not be fungible with any interest components stripped from fixed-principal securities.

By converting to adjusted values, all inflation-indexed TINTS having the same maturity date would become fungible. They would be bought and

sold on the basis of their adjusted values, regardless of the underlying security from which they were stripped. Similarly, for purposes of reconstituting an inflation-indexed security from its separate stripped unmatured interest and principal components, an investor could obtain any needed TINTS at the adjusted value required for the particular inflation-indexed security to be reconstituted. For example, to reconstitute \$1 million of an inflation-indexed security with an interest rate of 3½% and an issue-date reference CPI of 162.00000, a holder would submit to the Federal Reserve Bank of New York the principal component and all unmatured TINTS, each TINT having an adjusted value of $\$1 \text{ million} \times (0.035)/2 \times (100/162)$, or \$10,802.47.

When a TINT matures, its payment amount would be calculated by multiplying the adjusted value by the reference CPI for the maturity date, divided by 100. For example, for an adjusted value of \$10,802.47 and a maturity-date reference CPI of 167.00000, the payment amount would be $\$10,802.47 \times (167/100)$, or \$18,040.12. The end result is that a holder of an inflation-indexed TINT stripped from a security of a given par amount would receive, except for a possible slight difference due to rounding procedures, a payment amount at maturity that is the same as the interest payment received by a holder of a fully-constituted security of the same par amount.⁹

C. Payment Differences

The possible difference in payment amount between a stripped interest component and an interest payment from a fully-constituted security results primarily from rounding the index ratio. The size of the differences is a function of both the interest rate of the fully-constituted security and the level of the CPI on the payment date. These differences are quite small. For example, for an inflation-indexed security with an interest (coupon) rate of 4% or less¹⁰ and a reference CPI of 200 or less on the payment date, the maximum payment difference per \$1 million of par is \$0.11 (higher or lower). Over a range of securities offerings, these payment differences generally would be revenue neutral—they would benefit neither the Treasury nor STRIPS investors. Further, revising Treasury's rounding conventions would require market

participants and the Department to modify their automated systems to accommodate this change. Since the payment differences are *de minimis* and revenue neutral, the costs of such systems changes would outweigh their benefits. Therefore, the Department has determined not to change its current rounding conventions to eliminate these differences.

D. Minimum and Multiple Amounts for Stripping

In order to make the calculation of adjusted values and payment amounts for inflation-indexed TINTS as precise as possible, adjusted values would be calculated—and transferred and maintained—to the penny (e.g., \$10,802.47). Therefore, in effect there would be no required multiple amounts for inflation-indexed TINTS. This is in contrast to fixed-principal TINTS, which must be transferred and maintained in multiple amounts of \$1,000. Some market participants that plan to participate in the inflation-indexed STRIPS market might need to modify their automated systems to accommodate holding Treasury securities to the penny (i.e., to two decimal places).

The minimum par amount of a fully-constituted inflation-indexed security that could be submitted to the Federal Reserve Bank of New York for stripping would be \$1,000, with any larger amounts in multiples of \$1,000. Except for the requirement that they be expressed to the penny, there would be no required minimum adjusted value for the resulting TINTS. This is in contrast to minimum and multiple stripping requirements for fixed-principal securities, under which, for any given interest rate, the fully-constituted security must be submitted in a specific minimum and multiple par amount in order to produce TINTS that are themselves in minimum and multiple amounts of \$1,000.¹¹

No changes are being proposed at this time to the current STRIPS program for fixed-principal securities. However, the Department will consider at a later date the desirability of making changes to the minimum and multiple requirements for fixed-principal TINTS similar to the proposed requirements for inflation-indexed TINTS, i.e., discontinuing the \$1,000 minimum-to-hold and multiple requirement, and permitting fixed-principal TINTS to be held in amounts to the penny.

⁹In this example, a holder of \$1 million of the fully-constituted security would receive an interest payment of \$18,040.05.

¹⁰To date, the interest (coupon) rates on the two issues of Treasury inflation-indexed notes have been 3¾% and 3⅝%.

¹¹31 CFR Part 356, Exhibit C includes a table that provides, for each interest rate from ¼% to 20%, the corresponding minimum par amount of the fully-constituted security required to produce TINTS that are in multiples of \$1,000.

E. Index Contingencies

The CPI is expressed in relative terms in relation to a particular time base reference period for which the level is set at 100. The current CPI reference period is 1982–84. The Department understands that, sometime during the next two years, the Bureau of Labor Statistics (BLS) plans to rebase the CPI to a 1993–95 base period. Once this new base period goes into effect, subsequent issuances of Treasury inflation-indexed securities would be issued using the new base period. In other words, the reference CPI of the original issue date will reflect the new reference period and thus will generally be a lower number than the issue-date reference CPIs of those inflation-indexed securities issued prior to the effective date of the new base reference period.

When this new reference period goes into effect, Treasury understands that BLS will continue to publish CPI figures for the 1982–84 base period as well as publish figures for the new 1993–95 base period. Interest payments, and principal payments at maturity, for unstripped inflation-indexed securities issued while the 1982–84 base period was in effect will continue to be calculated using reference CPI numbers derived from this base period.

Allowing inflation-indexed TINTS issued during one base reference period to be fungible with those issued during other base reference periods could enhance their liquidity. Fungibility could be achieved through, for example, the use of a conversion factor that would, in effect, transform the adjusted values of all inflation-indexed TINTS with 1982–84 base-period reference CPIs to values based on the 1993–95 base period. However, such a process would likely result in additional payment differences of a similar nature and magnitude as those described previously. As was the case with those payment differences, payment differences caused by the transformation of adjusted values to a new base period would generally be revenue neutral over a range of securities offerings. Since, for each rebasing, there would be a one-time conversion for those outstanding inflation-indexed securities, Treasury would provide this conversion factor to market participants so that they could modify their systems accordingly. The CPI has been rebased approximately every 10 years so, during the maturity period of a 30-year inflation-indexed bond, rebasing could occur two or three times. The Department solicits comment from market participants on whether the benefits of increased supply, and thus additional liquidity, of specific fungible

inflation-indexed TINTS would justify the cost and inconvenience of having additional small payment discrepancies, possible automated system changes to accommodate a conversion factor, and increased complexity of the rules.

A different index contingency would occur if the Treasury were to replace the CPI with a different measure of inflation for the purpose of indexing securities because the CPI was discontinued or “fundamentally” altered as described in the preamble to the final rule amendment to accommodate inflation-indexed securities.¹² The Department is not aware of any plans to discontinue or fundamentally change the CPI, but it is important for market participants to understand the effect that such an event would have on outstanding inflation-indexed securities. The Department has determined that TINTS stripped from inflation-indexed securities issued under different indices would not be fungible.

F. Fungibility of TINTS Created Prior to Effective Date of Amendment

As of October 31, 1997, none of the currently outstanding inflation-indexed securities has been stripped. If these securities were to be stripped prior to the effective date of a final rule making inflation-indexed TINTS fungible, the resulting TINTS would be converted to fungible TINTS since it is the Department’s goal, where possible, to make all TINTS from inflation-indexed securities fungible. Specifically, if a market participant decides to strip an inflation-indexed security prior to the effective date for making STRIPS fungible, Treasury will convert any outstanding inflation-indexed TINTS by retiring them and issuing new fungible inflation-indexed TINTS. If necessary, Treasury will provide public notice informing participants of the effective conversion date. Also, detailed instructions regarding the conversion to fungible STRIPS will be provided.

G. Taxation

There are no new tax issues related to making inflation-indexed TINTS fungible. The tax treatment as noted in current 31 CFR 356.32 applies.

II. Section-by-Section Analysis

This proposed amendment, when finalized, would include the necessary revisions to make fungible the stripped interest components of marketable Treasury inflation-indexed securities. This rule would amend sections 356.2 and 356.31 and add a new section IV to

Appendix B of the uniform offering circular.

A. Section 356.2—Definitions

The term *adjusted value* has been added to the listing of definitions in § 356.2. This term refers specifically to interest components stripped from inflation-indexed securities.

B. Section 356.31—STRIPS

Changes have been made to § 356.31 to reflect the STRIPS program more completely. The section has been reorganized to distinguish more clearly the features of fixed-principal STRIPS from inflation-indexed STRIPS. Most of the significant modifications to this section have been made in paragraph (c), which only discusses inflation-indexed securities.

Specifically, new paragraph (c)(1) provides that the minimum and multiple par amount of an inflation-indexed security that may be stripped would be \$1,000. New paragraph (c)(2), except for a revised title, is essentially the same as current paragraph (e), since the treatment of principal components stripped from inflation-indexed securities does not change under this proposal. New paragraph (c)(3) describes the calculation of the adjusted value for interest components; clarifies that interest components stripped from inflation-indexed securities would be maintained and transferred at their adjusted value; describes the fungibility of these components; and explains how the payment amount would be calculated from the adjusted value. New paragraph (d), which discusses reconstitution, is essentially the same as current paragraph (g) except that the sentence stating that interest components stripped from inflation-indexed securities are not interchangeable has been deleted. New paragraph (e) is the same as current paragraph (h).

C. Appendix B to Part 356

A new Section IV has been added to Appendix B to provide the formulas and an example for calculating the adjusted value and the payment amount for inflation-indexed TINTS. The previous Section IV has been renumbered as Section V.

D. Exhibit C to Part 356

The title of Exhibit C has been revised to indicate that the exhibit, which contains minimum par amounts of securities for stripping at various interest rates, applies only to fixed-principal STRIPS.

¹² 62 FR 846, 849 (January 6, 1997).

III. Procedural Requirements

This proposed rule does not meet the criteria for a "significant regulatory action" pursuant to Executive Order 12866. Although this rule is being issued in proposed form to secure the benefit of public comment, the notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). Since 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 is no new collection of information contained in this proposed rule and, therefore, the Paperwork Reduction Act does not apply. The collections of information in 31 CFR Part 356 have been previously approved by the Office of Management and Budget under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under control number 1535-0112. Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

Dated: December 1, 1997.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set forth in the preamble, 31 CFR Chapter II, Subchapter B, Part 356, is proposed to be 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 356.2 is amended by adding in alphabetical order the definition of "Adjusted value" to read as follows:

§ 356.2 Definitions.

* * * * *

Adjusted value means, for an interest component stripped from an inflation-indexed security, an amount derived by multiplying the semiannual interest rate by the par amount and then multiplying this value by 100 divided by the Reference CPI of the original issue date (or dated date, when the dated date is different from the original issue date).

(See Appendix B, Section IV, to this part for an example of how to calculate the adjusted value for interest components stripped from an inflation-indexed security.)

* * * * *

3. Section 356.31 is revised to read as follows:

§ 356.31 STRIPS.

(a) *General.* A note or bond may be designated in the offering announcement as eligible for the STRIPS program. At the option of the holder, and generally at any time from its issue date until its call or maturity, any such security may be "stripped," i.e., divided into separate principal and interest components. A short or long first interest payment and all interest payments within a callable period are not eligible to be stripped from the principal component. The CUSIP numbers and payment dates for the principal and interest components are provided in the offering announcement if not previously announced.

(b) *Treasury fixed-principal securities—(1) Minimum par amounts required for STRIPS.* For a fixed-principal security to be stripped into the components described above, the par amount of the security must be in an amount that, based on its interest rate, will produce a semiannual interest payment in a multiple of \$1,000. Exhibit C to this part provides the minimum par amounts required to strip a fixed-principal security at various interest rates, as well as the corresponding interest payments. Amounts greater than the minimum par amount must be in multiples of that amount. The minimum par amount required to strip a particular security will be provided in the press release announcing the auction results.

(2) *Principal components.* Principal components stripped from fixed-principal securities are maintained in accounts, and transferred, at their par amount. The principal components have a CUSIP number that is different from the CUSIP number of the fully-constituted (unstripped) security.

(3) *Interest components.* Interest components stripped from fixed-principal securities are maintained in accounts, and transferred, at their original payment value, which is derived by applying the semiannual interest rate to the par amount. When an interest component is created, the interest payment date becomes the maturity date for the component. All such components with the same maturity date have the same CUSIP number, regardless of the underlying security from which the interest payments were stripped. All interest

components have CUSIP numbers that are different from the CUSIP number of any fully-constituted security and any principal component.

(c) *Treasury inflation-indexed securities.* (1) *Minimum par amounts required for STRIPS.* The minimum par amount of an inflation-indexed security that may be stripped into the components described in paragraph (a) of this section is \$1,000. Any par amount to be stripped above \$1,000 must be in a multiple of \$1,000.

(2) *Principal components.* Principal components stripped from inflation-indexed securities are maintained in accounts, and transferred, at their par amount. At maturity, the holder will receive the inflation-adjusted principal value or the par amount, whichever is greater. (See § 356.30.) The principal components have a CUSIP number that is different from the CUSIP number of the fully-constituted (unstripped) security.

(3) *Interest components.* Interest components stripped from inflation-indexed securities are maintained in accounts, and transferred, at their adjusted value, which is derived by multiplying the semiannual interest rate by the par amount and then multiplying this value by 100 divided by the Reference CPI of the original issue date (or dated date, when the dated date is different from the original issue date). See Appendix B, Section IV, to this part for an example of how to calculate an adjusted value. When an interest component is created, the interest payment date becomes the maturity date for the component. All such components with the same maturity date have the same CUSIP number, regardless of the underlying security from which the interest payments were stripped. All interest components have CUSIP numbers that are different from the CUSIP number of any fully-constituted security and any principal component. At maturity, the payment to the holder will be derived by multiplying the adjusted value of the interest component by the Reference CPI of the maturity date, divided by 100. See Appendix B, Section IV, to this part for an example of how to calculate an actual payment amount from an adjusted value.

(d) *Reconstituting a security.* Stripped interest and principal components may be reconstituted, i.e., restored to their fully-constituted form. A principal component and all related unmatured interest components, in the appropriate minimum or multiple amounts or adjusted values, must be submitted together for reconstitution. Interest components stripped from inflation-

indexed securities are different from interest components stripped from fixed-principal securities and, accordingly, are not interchangeable for reconstitution purposes.

(e) *Applicable regulations.* Unless otherwise provided in this part, notes and bonds stripped into their STRIPS components are governed by subparts A, B, and D of part 357 of this chapter.

4. Appendix B to part 356 is amended by revising the list of section headings at the beginning of the appendix to read as follows:

Appendix B to Part 356—Formulas and Tables

- I. Computation of Interest on Treasury Bonds and Notes.
- II. Formulas for Conversion of Fixed-Principal Security Yields to Equivalent Prices.
- III. Formulas for Conversion of Inflation-Indexed Security Yields to Equivalent Prices.
- IV. Computation of Adjusted Values and Payment Amounts for Stripped Inflation-Indexed Interest Components.
- V. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills.

* * * * *

5. Appendix B to Part 356 is amended by redesignating Section IV as Section V and adding a new Section IV to read as follows:

* * * * *

IV. Computation of Adjusted Values and Payment Amounts for Stripped Inflation-Indexed Interest Components

Note: Valuing an interest component stripped from an inflation-indexed security at its adjusted value enables this interest component to be interchangeable (fungible) with other interest components that have the same maturity date, regardless of the underlying inflation-indexed security from which the interest components were stripped. The adjusted value provides for fungibility of these various interest components when buying, selling, or transferring them, or when reconstituting an inflation-indexed security.

Definitions

- C=the regular annual interest rate, payable semiannually, e.g., 3.625% (the decimal equivalent of a 3-5/8% interest rate)
- Par=par amount of the security to be stripped
- Ref CPI_{Issue Date}=reference CPI for the original issue date (or dated date, when the dated date is different from the original issue date) of the underlying (unstripped) security
- Ref CPI_{Date}=reference CPI for the maturity date of the interest component
- AV=adjusted value of the interest component
- PA=payment amount at maturity by Treasury

Formulas

- AV=Par (C/2)(100/Ref CPI_{Issue Date}) (rounded to 2 decimals with no intermediate rounding)
- PA=AV (Ref CPI_{Date}/100) (rounded to 2 decimals with no intermediate rounding)

Example. A 10-year inflation-indexed note paying 3½% interest is issued on January 15, 1999, with the second interest payment on January 15, 2000. The Ref CPI on January 15, 1999 (Ref CPI_{Issue Date}) is 174.62783, and the Ref CPI on January 15, 2000 (Ref CPI_{Date}) is 179.86159. Calculate the adjusted value and the payment amount at maturity of the interest component.

Definitions

- C=3.50%
- Par=\$1,000,000
- Ref CPI_{Issue Date}=174.62783
- Ref CPI_{Date}=179.86159

Resolution

For a par amount of \$1 million, the adjusted value of each stripped interest component is \$1,000,000 (.035/2)(100/174.62783), or \$10,021.31 (no intermediate rounding).

For an interest component maturing on January 15, 2000, the payment amount is \$10,021.31×(179.86159/100), or \$18,024.49 (no intermediate rounding).

* * * * *

6. Exhibit C to Part 356 is amended by revising the heading to read as follows:

Exhibit C to Part 356—Minimum Par Amounts for Fixed-Principal STRIPS

* * * * *

[FR Doc. 97-31953 Filed 12-5-97; 8:45 am]
BILLING CODE 4810-39-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-5930-6]

RIN 2060-AG88

Preparation, Adoption, and Submittal of State Implementation Plans; Appendix M, Test Method 207

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this proposed rule is to add a validated stationary source test method for the measurement of isocyanate emissions from stationary sources to the Code of Federal Regulations. This method, validated according to EPA Method 301 criteria, would be used to reliably collect and analyze gaseous isocyanate emissions from stationary sources such as flexible foam manufacturers, automobile paint

spray booths, and the pressed board industry. Specifically, methylene diphenyl diisocyanate (MDI), methyl isocyanate (MI), hexamethylene 1,6-diisocyanate (HDI), and 2,4-toluene diisocyanate (TDI) are the gaseous pollutants in source emissions to be measured. The test method is entitled, "A Method for Measuring Isocyanates in Stationary Source Emissions," and will be added to 40 CFR Part 51, Appendix M, as Test Method 207. This method will provide a tool for state and local governments, representatives of private industry, and the U.S. Government to reliably monitor stationary sources for isocyanate emissions with a validated stationary source method. Additionally, this method will allow the U.S. Environmental Protection Agency to comply with the requirements of the Clean Air Act Amendments of 1990 for monitoring these hazardous air pollutants. Prior to the development of this method, no other "validated" method has been available to monitor these highly reactive hazardous emissions. Isocyanates are used extensively in the production of polyurethane materials such as flexible foam, enamel wire coatings, paint formulations, and in binders for the pressed board industry. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed method.

DATES: *Comments.* Comments must be received on or before February 23, 1998.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by December 29, 1997, a public hearing will be held January 22, 1998 beginning at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under **ADDRESSES** to verify that a meeting will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by December 29, 1997.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (Mail Code: 6102), Attention: Docket Number A-96-06, U.S. Environmental Protection Agency, Room M-1500, First Floor, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Center, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Frank Wilshire, Methods Branch (MD-44), Air

Measurements Research Division, National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2785.

Docket. Docket No. A-96-06, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M-1500, First Floor, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Frank Wilshire, at the address listed under *Public Hearing*, or Gary McAlister, Source Characterization Group B (MD-19), Emissions Monitoring and Analysis Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1062.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

A. Summary of Proposed Method

The U.S. Environmental Protection Agency, under the authority of Title III of the Clean Air Act Amendments of 1990, requires the development of a validated (per EPA Method 301 criteria) stationary source sampling and analysis method for the following isocyanates: methyl isocyanate, methylene diphenyl diisocyanate, hexamethylene 1,6-diisocyanate, and 2,4-toluene diisocyanate. The isocyanate sampling method developed is a modification of the EPA Method 5 sampling train (no filter and the addition of impingers), employing impingers and a derivatizing reagent [1-(2-pyridyl)piperazine in toluene] to immediately stabilize the isocyanates upon collection. Collected samples are analyzed under laboratory conditions sufficient to separate and quantify the isocyanates, using high performance liquid chromatography with ultra violet detection.

B. Comments and Responses on Draft

The proposed method is available by request. Requests should be made to: Frank Wilshire (MD-44), Methods Branch, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. To date, over thirty-five copies of the isocyanate method have been requested by representatives of the private sector, state and local governments, industry trade associations, and the Canadian Government.

On June 7, 1995 a presentation was made before members of the Analytical and Environmental Subcommittee of the International Isocyanate Institute to review the method and address the timetable and procedure for including the isocyanate method in the Code of Federal Regulations (CFR). Members of the Subcommittee were enthusiastic about the method and inquired when it might be included in the Code of Federal Regulations. To date, no technical comments have been received from other sources. Oral comments have been received by many of those requesting copies of the method, suggesting publication of the method in the CFR. This action would establish a reference method for the collection and analysis of isocyanates from stationary sources and aid in standardizing monitoring of isocyanate emissions from these sources.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rulemaking in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentation will be limited to 15 minutes each. Any member of the public may file a written statement with the EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Air Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Air Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this proposed rulemaking. The principal purposes of the docket are to: (1) Allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) serve as the record in case of judicial review except for interagency review materials [Section 307(d)(7)(A)].

C. Office of Management and Budget Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA is

required to judge whether a regulation is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order to prepare a regulatory impact analysis. 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 obligation 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 the Executive Order, this action has been determined to be "not significant."

D. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless that Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because the overall impact of these amendments is a net decrease in requirements on all entities including small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

The rule does not change any information collection requirements subject of Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

F. 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 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 significantly or uniquely impacted by the rule.

EPA has determined that the action proposed today 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, nor does this action significantly or uniquely impact small governments, because this action contains no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements

of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Hazardous air pollutants, Polyurethane production, Flexible foam manufacturing, Enamel wire coatings, Manufactured wood products, Isocyanates.

Dated: November 25, 1997.

Carol M. Browner,
Administrator.

It is proposed that 40 CFR part 51 be amended to read as follows:

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470-7479, 7501-7508, 7601, and 7602.

2. Appendix M to part 51 is amended by adding Method 207 in numerical order to read as follows:

Appendix M to Part 51—Recommended Test Methods for State Implementation Plans

* * * * *

Method 207—A Method for Measuring Isocyanates in Stationary Source Emissions.

Note: This method is not inclusive with respect to specifications (e.g., equipment and supplies) and sampling procedures essential to its performance. Some material is incorporated by reference from other EPA methods. Therefore, to obtain reliable results, persons using this method should have a thorough knowledge of at least Method 1, Method 2, Method 3, and Method 5 found in Part 60 of this title.

1.0 Scope and Application.

1.1 This method is applicable to the collection and analysis of isocyanate compounds from the emissions associated with manufacturing processes. The following is a list of the isocyanates and the manufacturing process at which the method has been evaluated:

Compound name	CAS No.	Detection limits ^a (ng/m ³)	Manufacturing process
2,4-Toluene Diisocyanate (TDI)	584-8 4-9	106	Flexible Foam Production.
1,6-Hexamethylene Diisocyanate (HDI)	822-0 6-0	396	Paint Spray Booth.
Methylene Diphenyl Diisocyanate (MDI)	101-6 8-8	112	Pressed Board Production.
Methyl Isocyanate (MI)	624-8 3-9	228	Not used in production.

^a Estimated detection limits are based on a sample volume of 1 m³ and a 10-ml sample extraction volume.

2.0 Summary of Method.

2.1 Gaseous and/or aerosol isocyanates are withdrawn from an emission source at an isokinetic sampling rate and are collected in a multicomponent sampling train. The primary components of the train include a heated probe, three impingers containing the derivatizing reagent in toluene, an empty impinger, an impinger containing charcoal and an impinger containing silica gel.

2.2 The impinger contents are concentrated to dryness under vacuum, brought to volume with acetonitrile (ACN) and analyzed with a high pressure liquid chromatograph (HPLC).

3.0 Definitions. Not Applicable.

4.0 Interferences.

4.1 The greatest potential for interference comes from an impurity in the derivatizing reagent, 1-(2-pyridyl)piperazine (1,2-PP). This compound may interfere with the resolution of MI from the peak attributed to unreacted 1,2-PP.

4.2 Other interferences that could result in positive or negative bias are: (1) alcohols that could compete with the 1,2-PP for reaction with an isocyanate; and (2) other compounds that may coelute with one or more of the derivatized isocyanates.

4.3 Method interferences may be caused by contaminants in solvents, reagents, glassware, and other sample processing

hardware. All these materials must be routinely shown to be free from interferences under conditions of the analysis by preparing and analyzing laboratory method (or reagent) blanks.

4.3.1 Glassware must be cleaned thoroughly before using. The glassware should be washed with laboratory detergent in hot water followed by rinsing with tap water and distilled water. The glassware may be cleaned by baking in a glassware oven at 400 °C for at least one hour. After the glassware has cooled, the glassware should be rinsed three times with methylene chloride and three times with acetonitrile. Volumetric glassware should not be heated to 400 °C. Instead, after washing and rinsing, volumetric glassware may be rinsed with ACN followed by methylene chloride and allowed to dry in air.

4.3.2 The use of high purity reagents and solvents helps to reduce interference problems in sample analysis.

5.0 Safety.

5.1 The toxicity of each reagent has been precisely defined. Each isocyanate can produce dangerous levels of hydrogen cyanide (HCN). The exposure to these chemicals must be reduced to the lowest possible level by whatever means available. The laboratory is responsible for maintaining a current awareness file of Occupational

Safety and Health Administration (OSHA) regulations regarding safe handling of the chemicals specified in this method. A reference file of material safety data sheets should also be made available to all personnel involved in the chemical analysis. Additional references to laboratory safety are available.

6.0 Equipment and Supplies.

6.1 Sample Collection. The following items are required for sample collection:

6.1.1 A schematic of the sampling train used in this method is shown in Figure 207-1. This sampling train configuration is adapted from EPA Method 5 procedures, and, as such, most of the required equipment is identical to that used in EPA Method 5 determinations. The only new component required is a condenser coil.

6.1.2 Construction details for the basic train components are given in APTD-0581 (see Martin, 1971, in Section 16.0, References); commercial models of this equipment are also available. Additionally, the following subsections list changes to APTD-0581 and identify allowable train configuration modifications.

6.1.3 Basic operating and maintenance procedures for the sampling train are described in APTD-0576 (see Rom, 1972, in Section 16.0, References). As correct usage is important in obtaining valid results, all users

should refer to APTD-0576 and adopt the operating and maintenance procedures outlined therein unless otherwise specified. The sampling train consists of the components detailed below.

6.1.3.1 Probe Nozzle. Glass with sharp, tapered (30° angle) leading edge. The taper shall be on the outside to preserve a constant internal diameter. The nozzle shall be buttonhook or elbow design. A range of nozzle sizes suitable for isokinetic sampling should be available in increments of 0.16 cm ($\frac{1}{16}$ in.), e.g., 0.32–1.27 cm ($\frac{1}{8}$ – $\frac{1}{2}$ in.), or larger if higher volume sampling trains are used. Each nozzle shall be calibrated according to the procedures outlined in Paragraph 10.1.

6.1.3.2 Probe liner. Borosilicate or quartz-glass tubing with a heating system capable of maintaining a probe gas temperature of 120 ± 14 °C (248 ± 25 °F) at the exit end during sampling. (The tester may opt to operate the equipment at a temperature lower than that specified.) Because the actual temperature at the outlet of the probe is not usually monitored during sampling, probes constructed according to APTD-0581 and using the calibration curves of APTD-0576 (or calibrated according to the procedure outlined in APTD-0576) are considered acceptable. Either borosilicate or quartz glass probe liners may be used for stack temperatures up to about 480 °C (900 °F). Quartz glass liners shall be used for temperatures between 480 and 900 °C (900 and 1650 °F). (The softening temperature for borosilicate is 820 °C (1508 °F), and for quartz glass 1500 °C (2732 °F).) Water-cooling of the stainless steel sheath will be necessary at temperatures approaching and exceeding 500 °C.

6.1.3.3 Pitot tube. Type S, as described in Section 2.1 of promulgated EPA Method 2 or other appropriate devices (see Vollaro, 1976 in Section 16.0, References). The pitot tube shall be attached to the probe to allow constant monitoring of the stack-gas velocity. The impact (high-pressure) opening plane of the pitot tube shall be even with or above the nozzle entry plane (see EPA Method 2, Figure 2-6b) during sampling. The Type S pitot tube assembly shall have a known coefficient, determined as outlined in Section 4.0 of promulgated EPA Method 2.

6.1.3.4 Differential Pressure Gauge. Inclined manometer or equivalent device as described in Section 2.2 of promulgated EPA Method 2. One manometer shall be used for velocity-head (ΔP) readings and the other for orifice differential pressure (ΔH) readings.

6.1.3.5 Impinger Train. Six 500 mL impingers are connected in series with leak-free ground-glass joints following immediately after the heated probe. The first impinger shall be of the Greenburg-Smith design with the standard tip. The remaining five impingers shall be of the modified Greenburg-Smith design, modified by replacing the tip with a 1.3-cm ($\frac{1}{2}$ -in.) I.D. glass tube extending about 1.3 cm ($\frac{1}{2}$ in.) from the bottom of the outer cylinder. The first, second and third impingers shall contain known quantities of the derivatizing reagent in toluene with the first impinger containing 300 mL and 200 mL in the second

and third. The fourth impinger remains empty. The fifth impinger is filled with a known amount ($\frac{2}{3}$ full) of activated charcoal and the sixth with a known amount of desiccant. A water-jacketed condenser is placed between the outlet of the first impinger and the inlet to the second impinger to reduce the evaporation of toluene from the first impinger.

6.1.3.6 Metering System. The necessary components are a vacuum gauge, leak-free pump, temperature sensors capable of measuring temperature to within 3 °C (5.4 °F), dry-gas meter capable of measuring volume to within 1%, and related equipment, as shown in Figure 207-1. At a minimum, the pump should be capable of four cubic feet per minute (cfm) free flow, and the dry-gas meter should have a recording capacity of 0–999.9 cubic feet (cu ft) with a resolution of 0.005 cu ft. Other metering systems capable of maintaining sampling rates within 10% of isokineticity and of determining sample volumes to within 2% may be used. The metering system must be used with a pitot tube to enable checks of isokinetic sampling rates. Sampling trains using metering systems designed for flow rates higher than those described in APTD-0581 and APTD-0576 may be used, if the specifications of this method are met.

6.1.3.7 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg). Often the barometric reading may be obtained from a nearby National Weather Service station, in which case the station value (which is the absolute barometric pressure) is requested and an adjustment for elevation differences between the weather station and sampling point is applied at a rate of minus 2.5 mm Hg (0.1 in. Hg) per 30-m (100 ft) elevation increase (vice versa for elevation decrease).

6.1.3.8 Gas density determination equipment. Temperature sensor and pressure gauge (as described in Sections 2.3 and 2.4 of EPA Method 2, and gas analyzer, if necessary (as described in EPA Method 3)). The temperature sensor ideally should be permanently attached to the pitot tube or sampling probe in a fixed configuration such that the tip of the sensor extends beyond the leading edge of the probe sheath and does not touch any metal. Alternatively, the sensor may be attached just before use in the field. Note, however, that if the temperature sensor is attached in the field, the sensor must be placed in an interference-free arrangement with respect to the Type S pitot tube openings (see promulgated EPA Method 2, Figure 2-7. As a second alternative, if a difference of no more than 1% in the average velocity measurement is to be introduced, the temperature sensor need not be attached to the probe or pitot tube.

6.1.3.9 Calibration/Field-Preparation Record. A permanent bound laboratory notebook, in which duplicate copies of data may be made as they are being recorded, is required for documenting and recording calibrations and preparation procedures (i.e., silica gel tare weights, quality assurance/quality control check results, dry-gas meter, and thermocouple calibrations, etc.). The duplicate copies should be detachable and

should be stored separately in the test program archives.

6.2 Sample Recovery. The following items are required for sample recovery:

6.2.1 Probe Liner. Probe and nozzle brushes; Teflon® bristle brushes with stainless steel wire or Teflon® handles are required. The probe brush shall have extensions constructed of stainless steel, Teflon®, or inert material at least as long as the probe. The brushes shall be properly sized and shaped to brush out the probe liner and the probe nozzle.

6.2.2 Wash Bottles. Three. Teflon® or glass wash bottles are recommended; polyethylene wash bottles should not be used because organic contaminants may be extracted by exposure to organic solvents used for sample recovery.

6.2.3 Glass Sample Storage Containers. Chemically resistant, borosilicate amber glass bottles, 500-mL or 1,000-mL. Bottles should be tinted to prevent the action of light on the sample. Screw-cap liners shall be either Teflon® or constructed to be leak-free and resistant to chemical attack by organic recovery solvents. Narrow-mouth glass bottles have been found to leak less frequently.

6.2.4 Graduated Cylinder and/or Balances. To measure impinger contents to the nearest 1 ml or 1 g. Graduated cylinders shall have subdivisions not >2 mL. Laboratory balances capable of weighing to ± 0.5 g or better are required.

6.2.5 Plastic Storage Containers. Screw-cap polypropylene or polyethylene containers to store silica gel and charcoal.

6.2.6 Funnel and Rubber Policeman. To aid in transfer of silica gel or charcoal to container (not necessary if silica gel is weighed in field).

6.2.7 Funnels. Glass, to aid in sample recovery.

6.3 Crushed Ice. Quantities ranging from 10–50 lb may be necessary during a sampling run, depending on ambient air temperature.

6.4 Stopcock Grease. The use of silicone grease is not permitted. Silicone grease usage is not necessary if screw-on connectors and Teflon® sleeves or ground-glass joints are used.

6.5 Sample Analysis. The following items are required for sample analysis.

6.5.1 Rotary Evaporator. Buchii Model EL-130 or equivalent.

6.5.2 1000 ml round bottom flask for use with a rotary evaporator.

6.5.3 Separatory Funnel. 500-ml or larger, with Teflon® Stopcock.

6.5.4 Glass Funnel. Short stemmed or equivalent.

6.5.5 Vials. 15-ml capacity with Teflon® lined caps.

6.5.6 Class A Volumetric Flasks. 10-ml for bringing samples to volume after concentration.

6.5.7 Filter Paper. Scientific Products Grade 370 Qualitative or equivalent.

6.5.8 Buchner Funnel. Porcelain with 100 mm ID or equivalent.

6.5.9 Erlenmeyer Flask. 500-ml with side arm and vacuum source.

6.5.10 HPLC with at least a binary pumping system capable of a programmed gradient.

6.5.11 Column. Alltech Altima C18, 250 mm × 4.6 mm ID, 5µm particle size (or equivalent).

6.5.12 Guard Column. Alltech Hypersil ODS C18, 10 mm × 4.6 mm ID, 5µm particle size (or equivalent).

6.5.13 UV detector at 254 nm.

6.5.14 Data system for measuring peak areas and retention times.

7.0 Reagents and Standards.

7.1 Sample Collection Reagents.

7.1.1 Charcoal. Activated, 6–16 mesh. Used to absorb toluene vapors and prevent them from entering the metering device. Use once with each train and discard.

7.1.2 Silica Gel. Indicating type, 6–16 mesh. If previously used, dry at 175 °C (350 °F) for 2 hours before using. New silica gel may be used as received. Alternatively, other types of desiccants (equivalent or better) may be used, subject to the approval of the Administrator.

7.1.3 Impinger Solution. The impinger solution is prepared in the laboratory by mixing a known amount of 1-(2-pyridyl) piperazine (purity 99.5+ %) in toluene (HPLC grade or equivalent). The actual concentration of 1,2-PP should be approximately four times the amount needed to ensure that the capacity of the derivatizing solution is not exceeded. This amount shall be calculated from the stoichiometric relationship between 1,2-PP and the isocyanate of interest and preliminary information about the concentration of the isocyanate in the stack emissions. A concentration of 130 µg/ml of 1,2-PP in toluene can be used as a reference point. This solution should be prepared in the laboratory, stored in a refrigerated area away from light, and used within ten days of preparation.

7.2 Sample Recovery Reagents.

7.2.1 Toluene. Distilled-in-glass grade is required for sample recovery and cleanup (see **Note** to 7.2.2 below).

7.2.2 Acetonitrile. Distilled-in-glass grade is required for sample recovery and cleanup.

Note: Organic solvents from metal containers may have a high residue blank and should not be used. Sometimes suppliers transfer solvents from metal to glass bottles; thus blanks shall be run before field use and only solvents with a low blank value (<0.001%) shall be used.

7.3 Reagent grade chemicals should be used in all tests. All reagents shall conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available.

7.3.1 Toluene, C₆H₅CH₃. HPLC Grade or equivalent.

7.3.2 Acetonitrile, CH₃CN (ACN). HPLC Grade or equivalent.

7.3.3 Methylene Chloride, CH₂Cl₂. HPLC Grade or equivalent.

7.3.4 Hexane, C₆H₁₄. Pesticide Grade or equivalent.

7.3.5 Water, H₂O. HPLC Grade or equivalent.

7.3.6 Ammonium Acetate, CH₃CO₂NH₄.

7.3.7 Acetic Acid (glacial), CH₃CO₂H.

7.3.8 1-(2-Pyridyl) piperazine, (1,2-pp). Aldrich, 99.5+% or equivalent.

7.3.9 Absorption Solution. Prepare a solution of 1-(2-pyridyl) piperazine in

toluene at a concentration of 40 mg/300 ml. This solution is used for method blanks and method spikes.

7.3.10 Ammonium Acetate Buffer Solution (AAB). Prepare a solution of ammonium acetate in water at a concentration of 0.1 M by transferring 7.705 g of ammonium acetate to a 1000 ml volumetric flask and diluting to volume with HPLC Grade water. Adjust pH to 6.2 with glacial acetic acid.

8.0 Sample Collection, Preservation, Storage and Transport.

8.1 Because of the complexity of this method, field personnel should be trained in and experienced with the test procedures in order to obtain reliable results.

8.2 Preliminary Field Determinations.

8.2.1 Select the sampling site and the minimum number of sampling points according to EPA Method 1 or as specified by the Administrator. Determine the stack pressure, temperature, and range of velocity heads using EPA Method 2. It is recommended that a leak-check of the pitot lines (see promulgated EPA Method 2, Section 3.1) be performed. Determine the stack gas moisture content using EPA Approximation Method 4 or its alternatives to establish estimates of isokinetic sampling-rate settings. Determine the stack-gas dry molecular weight, as described in promulgated EPA Method 2, Section 3.6. If integrated EPA Method 3 sampling is used for molecular weight determination, the integrated bag sample shall be taken simultaneously with, and for the same total length of time as, the sample run.

8.2.2 Select a nozzle size based on the range of velocity heads so that changing the nozzle size in order to maintain isokinetic sampling rates is not necessary. During the run, do not change the nozzle. Ensure that the proper differential pressure gauge is chosen for the range of velocity heads encountered (see Section 2.2 of promulgated EPA Method 2).

8.2.3 Select a suitable probe liner and probe length so that all traverse points can be sampled. For large stacks, to reduce the length of the probe, consider sampling from opposite sides of the stack.

8.2.4 A typical sample volume to be collected is 1 dscm (35.31 dscf). The sample volume can be adjusted as required by analytical detection limit constraints and/or estimated stack concentrations. A maximum limit should be determined to avoid exceeding the capacity of the reagent.

8.2.5 Determine the total length of sampling time needed to obtain the identified minimum volume by comparing the anticipated average sampling rate with the volume requirement. Allocate the same time to all traverse points defined by EPA Method 1. To avoid timekeeping errors, the length of time sampled at each traverse point should be an integer or an integer plus one-half min.

8.2.6 In some circumstances (e.g., batch cycles) sampling for shorter times at the traverse points may be necessary and to obtain smaller gas-sample volumes. In these cases, the Administrator's approval must first be obtained.

8.3 Preparation of Sampling Train.

8.3.1 During preparation and assembly of the sampling train, keep all openings where

contamination can occur covered with Teflon® film or aluminum foil until just before assembly or until sampling is about to begin.

8.3.2 Place 300 ml of the impinger absorbing solution in the first impinger and 200 ml each in the second and third impingers. The fourth impinger shall remain empty. The fifth and sixth impingers shall have 400 g of preweighed charcoal and 200–300 g of silica gel, respectively.

8.3.3 When glass probe liners are used, install the selected nozzle using a Viton® A O-ring when stack temperatures are <260 °C (500 °F) and a woven glass-fiber gasket when temperatures are higher. See APTD-0576 (Rom, 1972) for details. Other connecting systems using Teflon® ferrules may be used. Mark the probe with heat-resistant tape or by another method to denote the proper distance into the stack or duct for each sampling point.

8.3.4 Set up the train as shown in Figure 207-1. During assembly, do not use any silicone grease on ground-glass joints. Connect all temperature sensors to an appropriate potentiometer/display unit. Check all temperature sensors at ambient temperature.

8.3.5 Place crushed ice around the impingers.

8.3.6 Turn on the condenser coil coolant recirculating pump and begin monitoring the gas entry temperature. Ensure proper gas entry temperature before proceeding and again before any sampling is initiated. It is important that the gas entry temperature not exceed 50 °C (122 °F), thus reducing the loss of toluene from the first impinger.

8.3.7 Turn on and set the probe heating systems at the desired operating temperatures. Allow time for the temperature to stabilize.

8.4 Leak-Check Procedures.

8.4.1 Pre-test leak-check.

8.4.1.1 Because the additional connection in the train (over the EPA Method 5 Train) increases the possibility of leakage, a pre-test leak-check is required.

8.4.1.2 After the sampling train has been assembled, turn on and set the probe heating systems at the desired operating temperatures. Allow time for the temperatures to stabilize. If a Viton® A O-ring or other leak-free connection is used in assembling the probe nozzle to the probe liner, leak-check the train at the sampling site by plugging the nozzle and pulling a 381-mm Hg (15-in. Hg) vacuum. Leakage rates greater than 4% of the average sampling rate or >0.00057 m³/min (0.020 cfm), whichever is less, are unacceptable.

Note: A lower vacuum may be used, if it is not exceeded during the test.

8.4.1.3 The following leak-check instructions for the sampling train described in APTD-0576 and APTD-0581 may be helpful. Start the pump with the fine-adjust valve fully open and the coarse-adjust valve completely closed. Partially open the coarse-adjust valve and slowly close the fine-adjust valve until the desired vacuum is reached. Do *not* reverse direction of the fine-adjust valve; this will cause impinger contents to back up in the train. If the desired vacuum is exceeded, either leak-check at this higher

vacuum or end the leak-check, as shown below, and start over.

8.4.1.4 When the leak-check is completed, first slowly remove the plug from the inlet to the probe. When the vacuum drops to 127 mm (5 in.) Hg or less, immediately close the coarse-adjust valve. Switch off the pumping system and reopen the fine-adjust valve. Do not reopen the fine-adjust valve until the coarse-adjust valve has been closed. This prevents the reagent in the impingers from being forced backward into the probe and silica gel from being entrained backward into the fifth impinger.

8.4.2 Leak-Checks During Sampling Run.

8.4.2.1 If, during the sampling run, a component change becomes necessary, a leak-check shall be conducted immediately after the interruption of sampling and before the change is made. The leak-check shall be done according to the procedure outlined in Paragraph 8.4.1, except that it shall be done at a vacuum greater than or equal to the maximum value recorded up to that point in the test. If the leakage rate is no greater than 0.00057 m³/min (0.020 cfm) or 4% of the average sampling rate (whichever is less), the results are acceptable, and no correction will need to be applied to the total volume of dry gas metered. If a higher leakage rate is obtained, the tester shall void the sampling run.

Note: Any "correction" of the sample volume by calculation reduces the integrity of the pollutant concentration data generated and must be avoided.

8.4.2.2 Immediately after a component change, and before sampling is restarted, a leak-check similar to a pre-test leak-check must also be conducted.

8.4.3 Post-Test Leak-Check.

8.4.3.1 A leak-check of the sampling train is mandatory at the conclusion of each sampling run. The leak-check shall be performed with the same procedures as those with the pre-test leak-check, except that it shall be conducted at a vacuum greater than or equal to the maximum value reached during the sampling run. If the leakage rate is no greater than 0.00057 m³/min (0.020 cfm) or 4% of the average sampling rate (whichever is less), the results are acceptable, and no correction need be applied to the total volume of dry gas metered. If, however, a higher leakage rate is obtained, the tester shall either record the leakage rate, correct the sample volume (as shown in Section 6.3 of Method 5), and consider the data obtained of questionable reliability, or void the sampling run.

8.5 Sampling-Train Operation.

8.5.1 During the sampling run, maintain an isokinetic sampling rate to within 10% of true isokinetic, unless otherwise specified by the Administrator.

8.5.2 For each run, record the data required on a data sheet such as the one shown in Figure 207-2. Be sure to record the initial dry-gas meter reading. Record the dry-gas meter readings at the beginning and end of each sampling time increment, when changes in flow rates are made before and after each leak-check, and when sampling is halted. Take other readings shown by Figure 207-2 at least once at each sample point during each time increment and additional

readings when significant changes (20% variation in velocity-head readings) require additional adjustments in flow rate. Level and zero the manometer. Because the manometer level and zero may drift due to vibrations and temperature changes, make periodic checks during the traverse.

8.5.3 Clean the stack access ports before the test run to eliminate the chance of collecting deposited material. To begin sampling, verify that the probe heating system is at the specified temperature, remove the nozzle cap, and verify that the pitot tube and probe are properly positioned. Position the nozzle at the first traverse point, with the tip pointing directly into the gas stream. Immediately start the pump and adjust the flow to isokinetic conditions. Nomographs, which aid in the rapid adjustment of the isokinetic sampling rate without excessive computations, are available. These nomographs are designed for use when the Type S pitot-tube coefficient is 0.84±0.02 and the stack-gas equivalent density (dry molecular weight) is equal to 29±4. APTD-0576 details the procedure for using the nomographs. If the stack-gas molecular weight and the pitot-tube coefficient are outside the above ranges, do not use the nomographs unless appropriate steps (Shigehara, 1974, in Section 16.0, References) are taken to compensate for the deviations.

8.5.4 When the stack is under significant negative pressure (equivalent to the height of the impinger stem), take care to close the coarse-adjust valve before inserting the probe into the stack, to prevent the impinger solutions from backing into the probe. If necessary, the pump may be turned on with the coarse-adjust valve closed.

8.5.5 When the probe is in position, block off the openings around the probe and stack access port to prevent unrepresentative dilution of the gas stream.

8.5.6 Traverse the stack cross section, as required by EPA Method 1 or as specified by the Administrator, being careful not to bump the probe nozzle into the stack walls when sampling near the walls or when removing or inserting the probe through the access port, in order to reduce the chance of extracting deposited material.

8.5.7 During the test run, make periodic adjustments to keep the temperature of the condenser at the proper levels; add more ice and, if necessary, salt to maintain the temperature. Also, periodically check the level and zero of the manometer.

8.5.8 A single train shall be used for the entire sample run, except in cases where simultaneous sampling is required in two or more separate ducts or at two or more different locations within the same duct, or in cases where equipment failure requires a change of trains. In all other situations, the use of two or more trains will be subject to the approval of the Administrator.

8.5.9 At the end of the sample run, close the coarse-adjust valve, remove the probe and nozzle from the stack, turn off the pump, record the final dry-gas meter reading, and conduct a post-test leak-check. Also, leak-check the pitot lines as described in EPA Method 2. The lines must pass this leak-check in order to validate the velocity-head data.

8.5.10 Calculate percent isokineticity (see Section 6.11 of Method 5) to determine whether the run was valid or another test run should be performed.

8.6 Sample Recovery.

8.6.1 Preparation.

8.6.1.1 Proper cleanup procedure begins as soon as the probe is removed from the stack at the end of the sampling period. Allow the probe to cool. When the probe can be handled safely, wipe off all external particulate matter near the tip of the probe nozzle and place a cap over the tip to prevent losing or gaining particulate matter. Do not cap the probe tip tightly while the sampling train is cooling down because this will create a vacuum in the train.

8.6.1.2 Before moving the sample train to the cleanup site, remove the probe from the sample train and cap the open outlet, being careful not to lose any condensate that might be present. Cap the impinger inlet. Remove the umbilical cord from the last impinger and cap the impinger.

8.6.1.3 Transfer the probe and the impinger/condenser assembly to the cleanup area. This area should be clean and protected from the weather to reduce sample contamination or loss.

8.6.1.4 Save a portion of all washing solutions (toluene/acetone) used for the cleanup as a blank. Transfer 200 ml of each solution directly from the wash bottle being used and place each in a separate, pre-labeled glass sample container.

8.6.1.5 Inspect the train prior to and during disassembly and note any abnormal conditions.

8.6.2 Sample Containers.

8.6.2.1 Container No. 1. With the aid of an assistant, rinse the probe/nozzle first with toluene and then with acetonitrile by tilting and rotating the probe while squirting the solvent into the upper end of the probe so that all of the surfaces are wetted with solvent. When using these solvents insure that proper ventilation is available. Let the solvent drain into the container. If particulate is visible, use a Teflon® brush to loosen/remove the particulate and follow with a second rinse of each solvent. After weighing the contents of the first impinger, add it to container No. 1 along with the toluene and acetonitrile rinses of the impinger. (Acetonitrile will always be the final rinse.) If two liquid layers are present add both to the container. After all components have been collected in the container, seal the container, mark the liquid level on the bottle and add the proper label.

8.6.2.2 Container No. 2. After weighing the contents of the second, third and fourth impingers, add them to container No. 2 along with the toluene and acetonitrile rinses of the impingers, the condenser and all connecting glassware. After all components have been collected in the container, seal the container, mark the liquid level on the bottle and add the proper label.

8.6.3 The contents of the fifth and sixth impingers (charcoal and silica gel) can be discarded after they have been weighed.

8.6.4 Sample Preparation for Shipment. Prior to shipment, recheck all sample containers to ensure that the caps are well secured. Seal the lids with Teflon® tape. Ship

all samples upright, packed in ice, using the proper shipping materials as prescribed for hazardous materials. The samples must be stored at 4°C between the time of sampling and concentration. Each sample should be extracted and concentrated within 30 days after collection and analyzed within 30 days after extraction. The extracted sample must be stored at 4°C.

9.0 Quality Control.

9.1 Sampling. See EPA Manual 600/4-77-027b for Method 5 quality control.

9.1.1 Field Blanks. Field blanks must be submitted with the samples collected at each sampling site. The field blanks include the sample bottles containing aliquots of sample recovery solvents, and impinger solutions. At a minimum, one complete sampling train will be assembled in the field staging area, taken to the sampling area, and leak-checked at the beginning and end of the testing (or for the same total number of times as the actual test train). The probe of the blank train shall be heated during the sample test. The train will be recovered as if it were an actual test sample. No gaseous sample will be passed through the sampling train.

9.1.2 Reagent Blanks. An aliquot of toluene, acetonitrile and the impinger solution will be collected in the field as separate samples and returned to the laboratory for analysis to evaluate artifacts that may be observed in the actual samples.

9.2 Analysis.

9.2.1 The correlation coefficient for the calibration curve must be 0.995 or greater. If the correlation coefficient is less than 0.995, the HPLC system should be examined for problems, and a new calibration curve should be prepared and analyzed.

9.2.2 A solvent blank should be analyzed daily to verify that the system is not contaminated.

9.2.3 A calibration standard should be analyzed prior to any samples being analyzed, after every 10 injections and at the end of the sample set. Samples must be bracketed by calibration standards that have a response that does not vary by more than 10% of the target value. If the calibration standards are outside the limit, the samples must be reanalyzed after it is verified that the analytical system is in control.

9.2.4 A method blank should be prepared and analyzed for every 10 samples concentrated (Section 11.4).

9.2.5 A method spike should be prepared and analyzed for every 20 samples. The response for each analyte should be within 20% of the expected theoretical value of the method spike (Section 11.3).

10.0 Calibration and Standardization.

Note: Maintain a laboratory log of all calibrations.

10.1 Probe Nozzle. Probe nozzles shall be calibrated before their initial use in the field. Using a micrometer, measure the inside diameter of the nozzle to the nearest 0.025 mm (0.001 in.). Make measurements at three separate places across the diameter and obtain the average of the measurements. The difference between the high and low numbers shall not exceed 0.1 mm (0.004 in.). When nozzles become nicked, dented, or corroded, they shall be reshaped, sharpened, and recalibrated before use. Each nozzle shall be permanently and uniquely identified.

10.2 Pitot Tube Assembly. The Type S pitot tube assembly shall be calibrated according to the procedure outlined in Section 4 of promulgated EPA Method 2, or assigned a nominal coefficient of 0.84 if it is not visibly nicked, dented, or corroded and if it meets design and intercomponent spacing specifications.

10.3 Metering System.

10.3.1 Before its initial use in the field, the metering system shall be calibrated according to the procedure outlined in APTD-0576. Instead of physically adjusting the dry-gas meter dial readings to correspond to the wet-test meter readings, calibration factors may be used to correct the gas meter dial readings mathematically to the proper values. Before calibrating the metering system, it is suggested that a leak-check be conducted. For metering systems having diaphragm pumps, the normal leak-check procedure will not detect leakages within the pump. For these cases the following leak-check procedure is suggested: Make a 10-min calibration run at 0.00057 m³/min (0.020 cfm); at the end of the run, take the difference of the measured wet-test and dry-gas meter volumes and divide the difference by 10 to get the leak rate. The leak rate should not exceed 0.00057 m³/min (0.020 cfm).

10.3.2 After each field use, the calibration of the metering system shall be checked by performing three calibration runs at a single intermediate orifice setting (based on the previous field test). The vacuum shall be set at the maximum value reached during the test series. To adjust the vacuum, insert a valve between the wet-test meter and the inlet of the metering system. Calculate the average value of the calibration factor. If the calibration has changed by more than 5%, recalibrate the meter over the full range of orifice settings, as outlined in APTD-0576.

10.3.3 Leak-check of metering system. That portion of the sampling train from the pump to the orifice meter (see Figure 207-1) should be leak-checked prior to initial use and after each shipment. Leakage after the pump will result in less volume being recorded than is actually sampled. Close the main valve on the meter box. Insert a one-hole rubber stopper with rubber tubing attached into the orifice exhaust pipe. Disconnect and vent the low side of the orifice manometer. Close off the low side orifice tap. Pressurize the system to 13-18 cm (5-7 in.) water column by blowing into the rubber tubing. Pinch off the tubing and observe the manometer for 1 min. A loss of pressure on the manometer indicates a leak in the meter box. Leaks, if present, must be corrected.

Note: If the dry-gas-meter coefficient values obtained before and after a test series differ by >5%, either the test series shall be voided or calculations for test series shall be performed using whichever meter coefficient value (i.e., before or after) gives the lower value of total sample volume.

10.4 Probe Heater. The probe-heating system shall be calibrated before its initial use in the field according to the procedure outlined in APTD-0576. Probes constructed according to APTD-0581 need not be calibrated if the calibration curves in APTD-0576 are used.

10.5 Temperature Sensors. Each thermocouple must be permanently and uniquely marked on the casing; all mercury-in-glass reference thermometers must conform to ASTM E-1 63 specifications. Thermocouples should be calibrated in the laboratory with and without the use of extension leads. If extension leads are used in the field, the thermocouple readings at ambient air temperatures, with and without the extension lead, must be noted and recorded. Correction is necessary if the use of an extension lead produces a change >1.5%.

10.5.1 Dry-gas meter thermocouples. For the thermocouples used to measure the temperature of the gas leaving the impinger train three-point calibration at ice-water, room-air, and boiling-water temperatures is necessary. Accept the thermocouples only if the readings at all three temperatures agree to ±2°C (3.6°F) with those of the absolute value of the reference thermometer.

10.5.2 Probe and stack thermocouples. For the thermocouples used to indicate the probe and stack temperatures, a three-point calibration at ice-water, boiling-water, and hot-oil-bath temperatures must be performed; it is recommended that room-air temperature be added, and that the thermometer and the thermocouple agree to within 1.5% at each of the calibration points. A calibration curve (equation) may be constructed (calculated) and the data extrapolated to cover the entire temperature range suggested by the manufacturer.

10.6 Barometer. Adjust the barometer initially and prior to each test series to agree to within ±2.5 mm Hg (0.1 in. Hg) of the mercury barometer or the corrected barometric pressure value reported by a nearby National Weather Service Station (same altitude above sea level).

10.7 Balance. Calibrate the balance before each test series, using Class-S standard weights; the weights must be within ±0.5% of the standards, or the balance must be adjusted to meet these limits.

10.8 High Performance Liquid Chromatograph. Establish the retention times for each of the isocyanates of interest using the chromatographic conditions provided in Section 11.5.1. The retention times provided in Table 11.5.1-1 are provided as a guide to relative retention times. Prepare derivatized calibration standards (concentrations expressed in terms of the free isocyanate, Section 12.4) according to the procedure in Section 10.8.1. Calibrate the chromatographic system using the external standard technique (Section 10.8.2)

10.8.1 Preparation of calibration standards. Prepare a 100 µg/ml stock solution of the isocyanates of interest from the individual isocyanate-urea derivative as prepared in Sections 11.1.1 and 11.1.2. This is accomplished by dissolving 1 mg of each isocyanate-urea derivative in 10 ml of ACN. Calibration standards are prepared from this stock solution by making appropriate dilutions of aliquots of the stock into ACN. Calibrate the instrument from 1 to 20 µg/ml for HDI, TDI and MDI, and from 1 to 80 µg/ml for MI using at least six calibration points.

10.8.2 External standard calibration procedure. Analyze each derivatized

calibration standard using the chromatographic conditions listed in Section 11.5.1 and tabulate peak area against concentration injected. The working calibration curve must be verified on each working day by the measurement of one or more calibration standards. If the response for any analyte varies from the target response by more than 10%, the test must be repeated using a fresh calibration standard(s) after it is verified that the analytical system is under control. Alternatively, a new calibration curve may be prepared for that compound.

11.0 Analytical Procedure.

11.1 Preparation of isocyanate derivatives.

11.1.1 HDI, TDI, MDI.

11.1.1.1 Dissolve 500 mg of each isocyanate in individual 100 ml aliquots of MeCl₂, except MDI which requires 250 ml of MeCl₂. Transfer a 5-ml aliquot of 1,2-pp (see Section 7.3.8) to each solution, stir and allow to stand overnight at room temperature. Transfer 150 ml aliquots of hexane to each solution to precipitate the isocyanate-urea derivative. Using a Buchner funnel, vacuum filter the solid-isocyanate-urea derivative and wash with 50 ml of hexane. Dissolve the precipitate in a minimum aliquot of MeCl₂. Repeat the hexane precipitation and filtration twice. After the third filtration, dry the crystals at 50 °C and transfer to bottles for storage. The crystals are stable for at least 21 months when stored at room temperature in a closed container.

11.1.2 MI.

11.1.2.1 To prepare a 200 µg/ml stock solution of methyl isocyanate-urea, transfer 60 mg of 1,2-pp to a 100-ml volumetric flask containing 50 ml of MeCl₂. Carefully transfer 20 mg of methyl isocyanate to the volumetric flask and shake for 2 minutes. Dilute the

solution to volume with MeCl₂ and transfer to a bottle for storage. Methyl isocyanate does not produce a solid derivative and standards must be prepared from this stock solution.

11.2 Concentration of Samples.

11.2.1 Transfer each sample to a 1000-ml round bottom flask. Attach the flask to a rotary evaporator and gently evaporate to dryness under vacuum in a 65 °C water bath. Rinse the round bottom flask three times each with two ml of ACN and transfer the rinse to a 10-ml volumetric flask. Dilute the sample to volume with ACN and transfer to a 15-ml vial and seal with a Teflon® lined lid. Store the vial at 4 °C until analysis.

11.3 Preparation of Method Spikes.

11.3.1 Prepare a method spike for every twenty samples. Transfer 300 ml of the absorption solution to a 1000-ml round bottom flask. Transfer 1 ml of a 100 µg/ml standard containing the isocyanate-urea derivatives of interest. Follow the procedure outlined in Section 11.2.1 for sample concentration. This will result in a method spike with a theoretical concentration of 10 µg/ml.

11.4 Preparation of Method Blanks.

11.4.1 Prepare a method blank for every ten samples by transferring 300 ml of the absorption solution to a 1000-ml round bottom flask and concentrate as outlined in Section 11.2.1.

11.5 Chromatographic Analysis.

11.5.1 Chromatographic Conditions.

Column C18, 250 mm x 4.6 mm ID, 5µm particle size.
 Mobile Phase Acetonitrile/Ammonium Acetate Buffer.
 Gradient 10:90 (v/v) ACN:AAB to 60:40 (v/v) ACN:AAB over 30 minutes.

Flow Rate 2 ml/min.
 UV Detector 254 nm.
 Injection Volume 50 µl.

11.5.2 Analysis.

11.5.2.1 Analyze samples by HPLC, using conditions established in Section 11.5.1.

11.5.2.2 The width of the retention time window used to make identifications should be based upon measurements of actual retention time variations of standards over the course of a day.

Three times the standard deviation of a retention time for a compound can be used to calculate a suggested window size; however, the experience of the analyst should weigh heavily in the interpretation of the chromatograms.

11.5.2.3 If the peak area exceeds the linear range of the calibration curve, the sample should be diluted with ACN and reanalyzed.

12.0 Data Analysis and Calculations.

Same as in Method 5, Section 6, with the following additions.

12.1 Perform Calculations. Round off figures after the final calculation to the correct number of significant figures.

12.2 Nomenclature. Same as Method 5, Section 6.1 with the following additions:

- A_S = Response of the sample, area counts.
- b = Y-intercept of the linear regression line, area counts.
- C_I = Concentration of a specific isocyanate compound in the sample, µg/ml.
- M = Slope of the linear regression line, area counts-ml/µg.
- m_I = Mass of isocyanate in the total sample.
- V_F = Final volume of concentrated sample, typically 10 ml.

$$\text{Amount of the isocyanate-urea} = \text{Amount of free isocyanate} * \left(\frac{\text{Molecular weight of the isocyanate-urea}}{\text{Molecular weight of the isocyanate}} \right) \quad \text{Eq. 207-1}$$

V_{m(std)} = Volume of gas sample measured by the dry-gas meter, corrected to standard conditions, dscm (dscf).

12.3 Conversion from isocyanate to the isocyanate-urea derivative. The equation for converting the amount of free isocyanate to

the corresponding amount of isocyanate-urea derivative is as follows:

The equation for converting the amount of isocyanate-urea derivative to the corresponding amount of free isocyanate is as follows:

$$\text{Amount of the isocyanate} = \text{Amount of isocyanate-urea} * \left(\frac{\text{Molecular weight of the isocyanate}}{\text{Molecular weight of the isocyanate-urea}} \right) \quad \text{Eq. 207-2}$$

12.4 Calculate the correlation coefficient, slope, and intercepts for the calibration data using the least squares method for linear regression. Concentrations are expressed as the x-variable and response is expressed as the y-variable.

12.5 Calculate the concentration of isocyanate in the sample:

$$C_I = \frac{(A_s - b)}{M} \quad \text{Eq. 207-3}$$

12.6 Calculate the total amount collected in the sample by multiplying the

concentration (µg/ml) times the final volume of ACN (10 ml).

$$m_I = C_I V_F \quad \text{Eq. 207-4}$$

12.7 Calculate the concentration of isocyanate (µg/dscm) in the stack gas.

$$C_S = K \frac{m_I}{V_{m(std)}} \quad \text{Eq. 207-5}$$

Where:

K = 35.31 ft³/m³ if V_{m(std)} is expressed in English units.

= 1.00 m³/m³ if V_{m(std)} is expressed in metric units.

13.0 Method Performance.

13.1 Method Performance Evaluation. Evaluation of analytical procedures for a selected series of compounds must include the sample-preparation procedures and each associated analytical determination. The analytical procedures should be challenged by the test compounds spiked at appropriate levels and carried through the procedures.

13.2 Method Detection Limit. The overall method detection limits (lower and upper) must be determined on a compound-by-

compound basis because different compounds may exhibit different collection, retention, and extraction efficiencies as well as the instrumental minimum detection limit (MDL). The method detection limit must be quoted relative to a given sample volume. The upper limits for the method must be determined relative to compound retention volumes (breakthrough). Method Detection Limits may vary due to matrix effects and instrument conditions.

13.3 Method Precision and Bias. The overall method precision and bias must be determined on a compound-by-compound basis at a given concentration level. The method precision value would include a combined variability due to sampling, sample preparation, and instrumental analysis. The method bias would be dependent upon the collection, retention, and extraction efficiency of the train components. From evaluation studies to date using a dynamic spiking system, acceptable method biases (per EPA Method 301) have been determined for all four isocyanates. A precision of less than 10% relative standard deviation (RSD) has been calculated from field test data sets which resulted from a series of paired, unspiked and spiked trains.

14.0 Pollution Prevention. Not Applicable.

15.0 Waste Management. Not Applicable.

16.0 References.

1. Martin, R.M., Construction Details of Isokinetic Source-Sampling Equipment, Research Triangle Park, NC, U.S.

Environmental Protection Agency, April 1971, PB-203 060/BE, APTD-0581, 35 pp.

2. Rom, J.J., Maintenance, Calibration, and Operation of Isokinetic Source Sampling Equipment, Research Triangle Park, NC, U.S. Environmental Protection Agency, March 1972, PB-209 022/BE, APTD-0576, 39 pp.

3. Schlickerieder, L.M., Adams, J.W., and Thrun, K.E., Modified Method 5 Train and Source Assessment Sampling System: Operator's Manual, U.S. Environmental Protection Agency, EPA/600/8-85/003 (1985).

4. Shigehara, R.T., Adjustments in the EPA Nomograph for Different Pitot Tube Coefficients and Dry Molecular Weights, Stack Sampling News, 2:4-11 (October 1974).

5. U.S. Environmental Protection Agency, 40 CFR Part 60, Appendix A, Methods 1-5.

6. Vollaro, R.F., A Survey of Commercially Available Instrumentation for the Measurement of Low-Range Gas Velocities, Research Triangle Park, NC, U.S. Environmental Protection Agency, Emissions Measurement Branch, November 1976 (unpublished paper).

17.0 Tables, Diagrams, Flowcharts, and Validation Data.

TABLE 1.—MOLECULAR WEIGHT OF THE FREE ISOCYANATES AND THE ISOCYANATE-UREA DERIVATIVE

Analyte	MW (free Isocyanate)	MW (Derivative)
1,6-HDI	168	494.44
2,4-TD	174.16	500.56
MDI	250.25	576.65

TABLE 2.—MOLECULAR WEIGHT OF FREE METHYL ISOCYANATE AND METHYL ISOCYANATE-UREA DERIVATIVE

Analyte	MW (free Isocyanate)	MW (Derivative)
MI	57.1	220.32

TABLE 3.—RETENTION TIMES OF THE FOUR ISOCYANATES

Compound	Retention time (minutes)
MI	10.0
1,6-HDI	19.9
2,4-TDI	27.1
MDI	27.3

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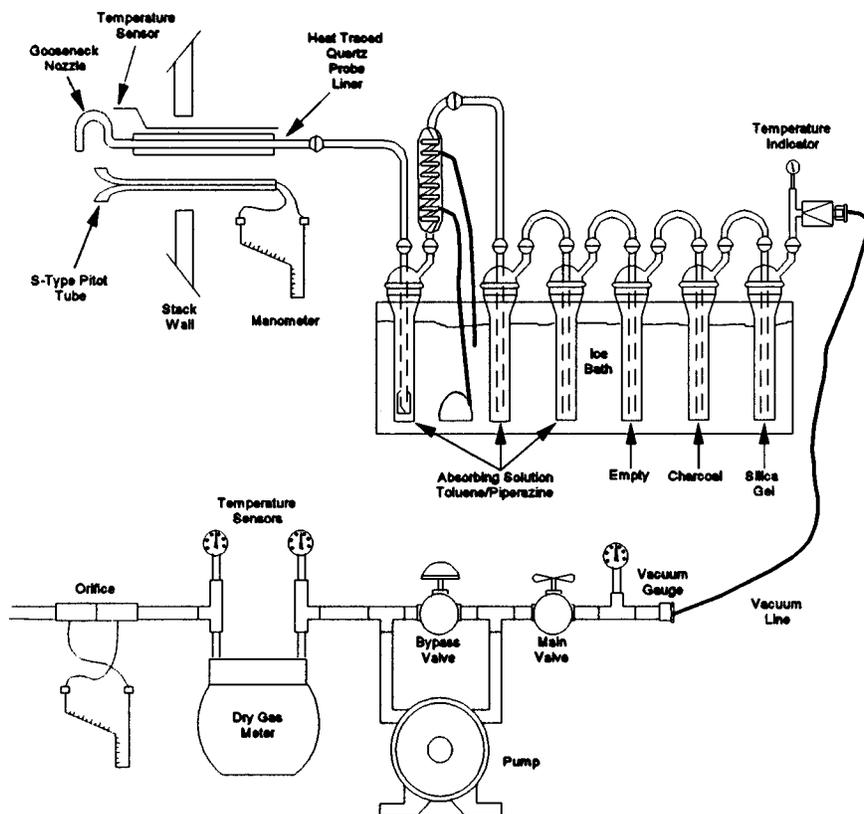


Figure 207-1-1. Sampling Train Configuration for Isocyanates

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 179-0060; FRL-5932-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from architectural coatings.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rulemaking will incorporate this rule into the federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA action on SIP submittals, EPA's general rulemaking authority, plan submissions, and enforceability guidelines.

DATES: Comments must be received on or before January 7, 1998.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Comments must be submitted to Andrew Steckel at the Region IX office listed above. Copies of the rule revisions and EPA's evaluation report of this rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 2020 "L" Street,
Sacramento, CA 95812.

Bay Area Air Quality Management
District, 939 Ellis Street, San
Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT:
Yvonne Fong, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1199.

SUPPLEMENTARY INFORMATION:**I. Applicability**

The rule being proposed for approval into the California SIP is Bay Area Air Quality Management District (BAAQMD) Rule 8-3, Architectural Coatings. This rule was submitted by the California Air Resources Board to EPA on July 23, 1996.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or preamended Act), that included the San Francisco Bay Area. 43 FR 8964; 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.

On November 12, 1993, BAAQMD submitted a request for redesignation to attainment of the ozone standard. Subsequently, EPA evaluated and approved BAAQMD's request and the San Francisco Bay Area was reclassified as an attainment area.¹

The State of California submitted many rules for incorporation into its SIP on July 23, 1996, including the rule being acted on in this document. This document addresses EPA's proposed action for Bay Area Air Quality Management District Rule 8-3, Architectural Coatings. The Bay Area Air Quality Management District adopted Rule 8-3 on December 20, 1995. This submitted rule was found to be complete on October 30, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V² and is being proposed for approval into the SIP.

The Bay Area Air Quality Management District Rule 8-3 controls volatile organic compound (VOC) emissions from architectural coatings. VOCs contribute to the production of

¹ The San Francisco Bay Area was redesignated to attainment and was classified by operation of law pursuant to Sections 107(d) upon the date of enactment of the CAA. See 60 FR 98 (May 22, 1995). The EPA is proposing to redesignate the San Francisco Bay Area back to nonattainment for ozone based on a number of violations of the National Ambient Air Quality Standards (NAAQS).

² EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

ground-level ozone and smog. This rule was originally adopted as part of the district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 110(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for this rule.

III. EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

In addition, this rule was evaluated against the SIP enforceability guidelines found in "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations—Clarification to Appendix D of November 24, 1987 **Federal Register**" (EPA's "Blue Book") and the EPA Region IX—California Air Resources Board document entitled "Guidance Document for Correcting VOC Rule Deficiencies" (April 1991). In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On January 24, 1985, EPA approved into the SIP a version of Rule 8-3, Architectural Coatings that had been adopted by the BAAQMD on May 18, 1983. The BAAQMD Rule 8-3 submitted on July 23, 1996 includes the following significant changes from the current SIP:

- Section 8-3-112, 8-3-227, 8-3-305, 8-3-402, and 8-3-403 remove the small business exemption, definition, and all references to it;
- Sections 8-3-212 and 8-3-213 consolidate the industrial maintenance finishes (topcoats) and industrial maintenance primers definitions;
- Section 8-3-233 revises the varnish definition;
- Section 8-3-236 through 8-3-245 define volatile organic compounds (VOCs) and nine subcategories of industrial maintenance coatings;
- Section 8-3-304 changes the effective date of VOC limits from September 1, 1989 to September 1, 1987;
- Section 8-3-306 provides that the most restrictive VOC limit shall apply; and
- Section 8-3-403 removes labeling requirements for coatings subject to interim VOC limits which have now expired.

The BAAQMD staff report for Rule 8-3 states that the rule amendments will not change any existing VOC limits. EPA has evaluated the submitted rule and has determined that it is enforceable and strengthens the applicable SIP. Therefore, Bay Area Air Quality Management District Rule 8-3, Architectural Coatings is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and pursuant to EPA's authority under section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP.

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.

IV. Administrative Requirements

A. Executive Order 12866

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 301 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 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 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 23, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97-32043 Filed 12-5-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090-AA63

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action extends the comment period an additional 60 days

on the Department of the Interior's Office of Hearings and Appeals' proposal to amend its rules to provide that, except as otherwise provided by law or other regulation, a decision will be stayed, if it is appealed, until there is a dispositive decision on the appeal.

DATES: Comments are due to the agency on or before February 6, 1998.

ADDRESSES: Send written comments to Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Comments received will be available for public inspection during regular business hours (9 a.m. to 5 p.m.) in the Office of the Director, Office of Hearings and Appeals, 11th Floor, 4015 Wilson Boulevard, Arlington, VA. Persons wishing to inspect comments are requested to call in advance at (703) 235-3810 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Bruce Harris, Deputy Chief Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Telephone: (703) 235-3750.

SUPPLEMENTARY INFORMATION: On August 19, 1997, the Department of the Interior proposed to amend the regulation contained at 43 CFR 4.21 (August 28, 1997, 62 FR 45606). Comments to this proposed rule were to be received on or before September 29, 1997.

On October 3, 1997, the Department of the Interior extended the comment period an additional 60 days until December 2, 1997, in response to requests received from the National Mining Association and the Rocky Mountain Oil and Gas Association (RMOGA). (62 FR 51822).

The Director of the Office of Hearings and Appeals (OHA) received several letters requesting an additional extension of the comment period beyond December 2, 1997. In a letter dated November 21, 1997, RMOGA requested an additional 45-day extension of the comment period, to allow for receipt of data requested in a Freedom of Information Act (FOIA) request, and full analysis of the data and preparation of a thoughtful response to the proposed change. In addition, by letter dated November 19, 1997, ARCO Permian, a member of RMOGA, requested additional time to respond after review of the response to the RMOGA's FOIA request. By letter dated November 25, 1997, the Natural Gas Supply Association, the Mid-Continent Oil and Gas Association, the Domestic Petroleum Council, the National Ocean

Industries Association, the Independent Petroleum Association of America, and the American Petroleum Institute requested a 60-day extension of the comment period to allow time for a complete and extensive analysis of the impact of adoption of this proposal on normal and planned activities by the oil and gas industry onshore and offshore, particularly in light of the Bureau of Land Management's (BLM's) proposed rulemaking published in the **Federal Register** on October 17, 1996. Finally, by letter dated November 24, 1997, Senator Frank H. Murkowski, Senator Larry E. Craig, and Senator Craig Thomas of the United States Senate Committee on Energy and Natural Resources, strongly urged the Director of OHA to extend the comment period for an additional 60 days, to allow the Committee to host a meeting with constituents to discuss the proposed change to 43 CFR 4.21 and the material requested by RMOGA under the Freedom of Information Act, as well as BLM's proposed rule to modify its appeal regulation.

The OHA has determined that an extension of time to obtain additional comments on the proposed rule is warranted and, therefore, the requested extension is granted. This notice announces that 60-day extension to the comment period.

Dated: December 2, 1997.

Barry E. Hill,

Director.

[FR Doc. 97-31963 Filed 12-5-97; 8:45 am]

BILLING CODE 4310-RK-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1843 and 1852

Equitable Adjustments Under Contracts for Construction, Dismantling, Demolishing, or Removing Improvements

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a proposed rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to set forth a clause that may be used for equitable adjustments under contracts for construction, and dismantling, demolishing, or removing improvements that are contemplated to be fixed-price and exceed the simplified acquisition threshold.

DATES: Comments must be received on or before February 6, 1998.

ADDRESSES: Submit comments to Mr. Joseph Le Cren, NASA Headquarters, Code HK, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Telephone: (202) 358-0444.

SUPPLEMENTARY INFORMATION:

Background

Some NASA field installations have used clauses containing ceilings on indirect costs and profit as a means for handling equitable adjustments under construction contracts. Instead of each installation using its own clause, there is a consensus that it would be in both NASA's and the contractors' interests to have a standard clause to establish greater consistency throughout the agency. The proposed clause also would reduce the administrative burden associated with the development of an equitable adjustment clause on an installation-by-installation or contract-by-contract basis.

Neither the use of the proposed clause nor the language contained in it would be mandatory. This flexibility is being provided so that the clause is used only when it is considered appropriate and to allow for differences, such as in terminology, that exist in the construction industry in different parts of the United States. The ceiling indirect cost and profit rates contained in the clause, although not mandatory, are benchmarks as to what is generally considered reasonable. The rates are considered reasonable based on NASA's experience with equitable adjustments for construction. In addition, the ceiling rates contained in the proposed clause are the same as those that have been used for many years by both the General Services Administration and the Department of Veterans Affairs. The rates used by these agencies have significance since they have much larger construction budgets than NASA.

Impact

NASA certifies that this proposed regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1843 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1843 and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1843 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1843—CONTRACT MODIFICATIONS

1843.205-70 [Amended]

2. In section 1843.205-70, the designated paragraphs (a), (b), and (c) are redesignated as paragraphs (a)(1), (2) and (3), and a new paragraph (b) is added to read as follows:

1843.205-70 NASA contract clause.

* * * * *

(b) the contracting officer may insert a clause substantially as stated at 1852.243-72, Equitable Adjustments, in solicitations and contracts for—

(1) Dismantling, demolishing, or removing improvements; or

(2) Construction, when the contract amount is expected to exceed the simplified acquisition threshold and a fixed-price contract is contemplated.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.243-72 [Added]

3. Section 1852.243-72 is added to read as follows:

1852.243-72 Equitable Adjustments.

As prescribed in 1843.205-70(b), insert the following clause.

Equitable Adjustments

(a) The provisions of all other clauses contained in this contract which provide for an equitable adjustment, including those clauses incorporated by reference with the exception of the "Suspension of Work" clause (FAR 52.242-14), are supplemented as follows:

Upon written request, the Contractor shall submit a proposal for review by the Government. The proposal shall be submitted to the contracting officer within the time limit indicated in the request or any extension thereto subsequently granted. The proposal shall provide an itemized breakdown of all increases and decreases in the contract for the Contractor and each subcontractor in at least the following detail: material quantities and costs; direct labor hours and rates for each trade; the associated FICA, FUTA, SUTA, and Workmen's Compensation Insurance; and equipment hours and rates.

(b) The overhead percentage cited below shall be considered to include all indirect costs including, but not limited to, field and office supervisors and assistants, incidental

job burdens, small tools, and general overhead allocations. "Commission" is defined as profit on work performed by others. The percentages for overhead, profit,

and commission are negotiable according to the nature, extent, and complexity of the work involved, but in no case shall they exceed the following ceilings:

	Overhead (percent)	Profit (percent)	Commission (percent)
To Contractor on work performed by other than its own forces .....	.....	.....	10
To first tier subcontractor on work performed by its subcontractors .....	.....	.....	10
To Contractor and/or subcontractors on work performed with their own forces	10	10	.....

(c) Not more than four percentages for overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers.

(d) The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors.

(e) Equitable adjustments for deleted work shall include credits, limited to the same percentages for overhead, profit, and commission in paragraph (b) of this clause.

(f) On proposals covering both increases and decreases in the amount of the contract, the application of the overhead, profit, and commission shall be on the net change in direct costs for the Contractor or the subcontractor performing the work.

(g) After receipt of the Contractor's proposal, the contracting officer shall act within a reasonable period, provided that when the necessity to proceed with a change does not permit time to properly check the proposal, or in the event of a failure to reach an agreement on a proposal, the contracting officer may order the Contractor to proceed on the basis of the price being determined at the earliest practicable date. In such a case, the price shall not be more than the increase or less than the decrease proposed.

(End of clause)

[FR Doc. 97-31935 Filed 12-5-97; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA-97-3144]

RIN 2127-AG74

Side Impact Anthropomorphic Test Dummy

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes specifications and qualification requirements for a newly-developed anthropomorphic test dummy. The dummy would be used in compliance testing under an earlier companion proposal to amend the standard on head impact protection. The earlier proposal would facilitate the introduction of

dynamic side impact protection devices by permitting vehicle manufacturers to comply with alternative performance requirements. To demonstrate compliance with those requirements, that proposal specifies a dynamic crash test which uses the new dummy.

DATES: Comment closing date:

Comments on this notice must be received by NHTSA no later than January 22 1998.

ADDRESSES: Any comments should refer to the docket and notice number of this notice and be submitted (preferably in 10 copies) to: U.S. Department of Transportation, Docket Management Room PL-401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590:

For non-legal issues: Stan Backaitis, Office of Crashworthiness Standards, NPS-11, telephone (202) 366-4912, facsimile (202) 366-4329, electronic mail "sbackaitis@nhtsa.dot.gov".

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC-20, telephone (202) 366-5253, facsimile (202) 366-3820, electronic mail "omatheke@nhtsa.dot.gov".

SUPPLEMENTARY INFORMATION:

I. Background

This proposal supplements an earlier proposal previously published in the **Federal Register** that would amend Federal Motor Vehicle Safety Standard (FMVSS) No. 201, Head Impact Protection. [62 FR 45202] The earlier companion proposal would facilitate the introduction of dynamic side impact protection devices by permitting vehicle manufacturers to comply with alternative performance requirements. To demonstrate compliance with those requirements, that proposal specifies a dynamic crash test. In the test, a vehicle would be propelled sideways at a speed of 29 km/h (18 mph) into a 254 mm (10 inch) rigid pole. An anthropomorphic test dummy would be in the outboard front seat on the struck side of the

vehicle. This notice proposes the specifications and calibration requirements for that test dummy.

The dummy proposed in this notice is based on two existing dummies, the part 572, subpart F anthropomorphic test device (Side Impact Dummy or SID) that is used in testing under FMVSS 214, Side Impact Protection, and the part 572, subpart E anthropomorphic test device (Hybrid III or HIII) that is used in testing under FMVSS 208, Occupant Crash Protection. The proposed dummy would combine the head and neck of the Hybrid III (HIII) with the torso and extremities of the Side Impact Dummy (SID) through the use of a redesigned neck bracket. The agency tentatively concludes that the resulting SID/HIII dummy would be operational and adequate for use in the proposed rule.

II. Agency Proposal

The specifications for the proposed side impact dummy would consist of (1) a drawing package containing all of the technical details of the neck bracket used for mating the SID torso with the HIII head and neck assembly, (2) a parts list, and (3) a SID/HIII user manual containing instructions for inspection, assembly, disassembly, use, and adjustments of dummy components. These drawings and specifications would ensure that the dummies would be the same in their construction. The performance calibration tests proposed in this NPRM would serve to assure that the SID/HIII responses are within the established biomechanical corridors and further assure the uniformity of dummy assembly, structural integrity, and adequacy of instrumentation. As a result, the repeatability of the dummy's performance in dynamic testing would be ensured.

The dummy would be instrumented with an accelerometer array for measurement of accelerations in the head during impacts. The rule would specify the manner and location of installation of sensors to reduce variability in their measurements that might otherwise result from differences in location and mounting.

Drawings and specifications for the SID/HIII are available for examination in the NHTSA Docket Section. Copies of those materials and the user manual may also be obtained from Reprographic Technologies, 9000 Virginia Manor Road, Beltsville, Md. 20705, tel. (301) 210-5600. In addition, an engineering drawing for the neck bracket and the neck brackets themselves are available on a short term loan basis from the NHTSA Vehicle Research and Test Center, East Liberty, Ohio 43319, tel. (937) 666-4511.

A. Description

On August 26, 1997, NHTSA published a notice of proposed rulemaking [62 FR 45202] containing amendments to Standard No. 201. The proposed amendments, offered in an effort to provide maximum flexibility to manufacturers in developing dynamic head protection systems, include an optional test procedure incorporating a full scale side impact test with a 29 km/h (18 mph) side impact into a 254 mm (10 inch) rigid pole. In this test, the subject vehicle would be propelled into the pole so that the pole would impact at the center of gravity of the head of a seated dummy positioned on the designated front outboard seating position of the struck side.

Since the free motion headform (FMH) used in Standard 201 testing cannot be used for evaluating HIC in such an impact and the Hybrid III head and neck assembly appears to be the most biofidelic test device currently available for evaluating head injury in side impacts, the agency is proposing that the Hybrid III head and neck be used with the existing SID dummy for this test. The Hybrid III head and neck currently provides the best means for evaluating head injury in this test while the use of the SID torso affords an opportunity to collect meaningful data relating to thoracic injuries.

The SID (part 572; subpart F) body and lower extremities would be combined with the Hybrid III (part 572; subpart E) head and neck assembly to form a new dummy test device called SID/HIII (part 572; subpart M). The SID/HIII at 170 lbs is approximately 1.2 lbs heavier than the SID, due to the incremental weight increase of the Hybrid III neck component and the new neck bracket. However, the SID/HIII is approximately 2.0 lbs lighter than the Hybrid III 50th percentile dummy (172 lbs +/- 2.4 lbs). Therefore, the weight of the SID/HIII dummy would be within the limits of the existing SID and Hybrid III dummies. The new neck bracket is designed so that the seating height of the SID and the SID/HIII would be

nearly identical. To accommodate the new neck bracket, the design of the existing upper and middle shoulder foam pads were revised from one piece to two piece right and left mirror image designs without altering either the padding's peripheral shape and its thickness or its attachment to the torso. Relative to the SID, the head center of gravity (head CG) of the SID/HIII is, however, 0.75 inch higher and 0.25 inch more forward when the Hybrid III head/neck assembly is mounted to the SID torso using the new neck bracket. This change also more correctly reflects the head and neck orientation of a seated occupant. As discussed in the Preliminary Regulatory Evaluation (PRE) for the earlier companion proposal to amend Standard 201, agency test data established that this minor discrepancy of the head CG location would not have any significant effect on the HIC, TTI and Pelvis-G responses. Detailed descriptions of the SID/HIII dummy test device are given in the proposed part 572, subpart M, S572.110 through S572.116.

B. Biofidelity of the SID/HIII Dummy in Lateral Impact

The agency has tentatively concluded that the Hybrid III head and neck is the most biofidelic configuration now available for assessing injuries to the head and neck in side impacts. That conclusion was based on testing of the three side impact dummies; BioSid,¹ EuroSid and SID. The testing was performed in 1990 by two GM researchers (Mertz and Irwin) using the latest biofidelity test conditions and requirements agreed to by Working Group 5 of ISO/T22/SC12 at that time. A total of 4 sets of tests were performed. Because BioSid uses the Hybrid III head and neck assembly, the test data generated to verify the lateral impact response characteristics of the BioSid head/neck system are believed by NHTSA to be useful in predicting the performance of the SID/HIII dummy.

The agency's review of these tests, which is discussed in greater detail in the PRE prepared for the August 26, 1997 NPRM proposing changes to Standard 201, indicates that the Hybrid III head-neck assembly has sufficient biofidelity for assessing side impact protection. Using the ISO/SC12/WG5 methodology and biofidelity rating system for the assessment of the various

body segments, NHTSA rates the SID/HIII dummy "Fair" for side impact application purposes. In comparison, the BioSid received a "Fair" rating while the SID and the EuroSid were both deemed to be "Marginal." None of the dummies evaluated received a rating greater than "Fair"—which exceeds the ISO/SC12/WG5 recommended acceptable level for a dummy test device. Although a better side impact dummy may be developed in the future, based on the above analysis, NHTSA tentatively concludes that, for the immediate future, the SID/HIII is a sufficient and an acceptable test device to evaluate the risk of injury to the head in case of a side impact.

C. Test Results of the SID/HIII Dummy

(1) Repeatability and Reproducibility Tests

In 1990, NHTSA issued a final rule amending FMVSS No. 214 to require full scale side crash tests to evaluate side impact protection of passenger vehicles. The rule specified the use of the SID dummy as a human surrogate to assess the risk of injury in side crashes. Two alternative dummy development efforts, the EuroSid-1 and the BioSid, were in progress at that time. The BioSid uses the Hybrid III head/neck system. NHTSA evaluated the BioSid in 1988 and compared its performance to the SID. A series of lateral impact calibration tests were performed in 1990 using two BioSid dummies. It was concluded that the calibration responses of the BioSid are both repeatable and reproducible to within the response boundaries generally accepted for anthropomorphic test dummies. The results of the lateral head drop tests and lateral neck pendulum tests of those two BioSid dummies are listed in Table IV-8 of the PRE prepared for the August 26, 1997 NPRM proposing amendments to Standard 201. The agency also conducted two additional lateral head drop tests and five neck pendulum tests using the head/neck components of a third dummy. The test results also are listed in Table IV-8 of the PRE.

Based on those test data, the repeatability of the dummy head/neck certification response was found to be exceptionally good. The coefficient of variation for each dummy component is extremely small, ranging from 0.97 percent to 2.6 percent. The reproducibility of the head/neck system response of the two BioSid dummies that were manufactured by one manufacturer at the same period of time is also excellent because the coefficient of variation is within the 5 percent norm. When the test data of the third dummy is added for the reproducibility

¹The BioSid dummy was developed in response to concerns regarding the SID and EuroSid dummies. It was developed by a Side Impact Dummy Task Force created under the sponsorship of the Society of Automotive Engineers Human Biomechanics and Simulation Standards Committee (SAE-HBSSC).

evaluation, the coefficient of variation of the neck rotation angle in lateral bending motion increases to approximately 5.5 percent which is just slightly outside the range of the "excellent" reproducibility rating. It is within the "good" reproducibility rating that is generally defined by a coefficient of variation ranging between 5 percent and 10 percent. Although as a result of the additional dummy test the deviations of the head acceleration and the neck moment responses also increase, they are still within the "excellent" reproducibility rating range.

(2) Durability Tests

BMW recently conducted a series of side-to-pole impact tests to assess the effectiveness of its inflatable tubular structure (ITS) system in side impact protection. On April 19, 1996, BMW submitted its confidential test data to NHTSA as part of the BMW comments on the ANPRM announcing the proposed amendments to Standard 201. [61 FR 9136] The dummy test device used in the BMW ITS evaluation tests is a SID dummy with the Hybrid III head/neck system whose seated height is approximately 0.75 inches higher than that of the SID. However, it was also noted that the head CG of the BMW dummy was about 1.5 inches higher than that of the SID dummy.

It is possible that a taller seated dummy, particularly whose head CG is substantially higher, may exhibit modified head/neck kinematics and/or dynamic responses in a lateral impact, which could lead to the design of different head protection systems. The agency tentatively concludes that it is reasonable to modify the existing neck bracket in order to maintain the dummy's seated height within the range of heights of 50th percentile male dummies. For this reason, the NHTSA modified neck bracket provides a means to approximate the original SID seated height and the head/neck posture while minimizing the increase in the height of the head CG of the SID/HIII dummy by approximately 0.75 inch. Inasmuch as the above changes minimize the dimensional and mass distribution deviations from the currently specified SID, the new neck bracket is included in the construction of the SID/HIII dummy.

A total of nine sled lateral impact tests were conducted by NHTSA to assess the durability of the new neck bracket and its potential effects on dummy responses. The sled buck consisted of a bench seat with low friction surfaces and two rigid loading plates on the impacted side at the lateral end of the seat. The lower plate was up

to the dummy's shoulder height and was covered with 4 inch thick cushion (Ethafoam LC 220). The non-padded upper plate was at the head height level.

In each test, the SID/HIII was seated on the bench with the torso in an upright position. The sled buck was oriented at a right angle to the direction of sled travel and accelerated to a speed of 18 mph. The direction of motion of the dummy was horizontal, parallel to the seating surface and perpendicular to and toward the loading plates. The test matrix consisted of three tests each for the Part 572 Subpart F SID dummy, the SID with the Hybrid III head/neck using the Subpart F neck bracket, and the SID/HIII dummy with the new neck bracket.

The test results, contained in Table IV-10 of the PRE prepared for the August 26, 1997 NPRM proposing amendments to Standard 201, indicate that the proposed new neck bracket is structurally sufficient and durable for the intended purpose. There was no sign of bracket damage in head impacts producing a HIC value as high as approximately 5,000. This impact severity is beyond the norm of the head-to-upper interior impact test responses. Most important, the new neck bracket would bring the head height down to the normal range of the 50th percentile male seated dummy and does not have significant effects on the HIC, TTI and pelvis-g responses.

D. Proposed Calibration Tests

The agency proposes that the following calibration test specifications and procedures, which make use of the existing dummy test fixtures and equipment, be adopted for the SID/HIII:

1. Head Drop Test Specifications

The head is dropped from 200 mm onto a flat, steel plate such that its midsagittal plane makes a 35 degree angle with respect to the impact surface and its anterior-posterior axis is horizontal. When the dummy head is dropped in accordance with the above test procedure, the following specifications are to be met:

- a. The resultant acceleration of the center of gravity of the head shall be between 120 and 150 G.
- b. The resultant acceleration-time curve shall be unimodal such that no oscillation after the main acceleration peak shall exceed 15 percent of the peak resultant head acceleration.
- c. The longitudinal acceleration component shall not exceed 15 G.

2. Neck Pendulum Test Specifications

The proposed test procedure is similar to the Hybrid III neck test, except the entire head/neck assembly is

rotated 90 degrees when attached to the neck pendulum. The pendulum is identical to that used in the Hybrid III neck calibration tests and the impact velocity is between 6.89 and 7.13 m/s. When the neck is tested in accordance with the proposed test procedure, the following specifications are to be met:

- a. The pendulum deceleration pulse is to be characterized in terms of its change (decrease) in velocity as obtained by integrating the pendulum accelerometer output.

Time (ms)	Pendulum Delta-V (m/s)
10	1.96 to 2.55.
20	4.12 to 5.10.
30	5.73 to 7.01.
40 to 70	6.27 to 7.64.

- b. The maximum rotation of the midsagittal plane of the head shall be 64 to 78 degrees with respect to the pendulum. The decaying head rotation vs. time curve shall cross the zero angle between 50 to 70 ms after reaching its peak value.

- c. The moment about the x-axis which lies in the midsagittal plane of the head at the level of the occipital condyles shall have a maximum value between 88 and 108 Nm. The decaying moment vs. time curve shall first cross zero moment between 40 and 60 ms after reaching its peak value.

The following formula is to be used to calculate the moment about the occipital condyles when using the six-axis neck transducer:

$$M = M_x + 0.01778 F_y$$

Where M_x and F_y are the moment and force measured by the transducer and expressed in terms of Nm and N, respectively.

- d. The maximum rotation of the head with respect to the pendulum shall occur between 0 and 20 ms after peak moment.

3. Temperature Sensitivity and Time Between Tests

The calibration test specifications for the Hybrid III head and neck components apply. The lateral head drop tests would be conducted at 18.9-25.6 degrees C at a relative humidity from 10-70 percent. The lateral neck pendulum tests would be conducted at 20.6-22.2 degrees C at a relative humidity from 10-70 percent.

The head and neck components would be soaked at these conditions for at least four hours before testing. A waiting period of two hours would be required between two consecutive tests using the same head component. A waiting period of at least thirty (30)

minutes would be required between successive tests on the same neck.

III. Rulemaking Analyses and Notices

A. Executive Order 12291 (Federal Regulation) and DOT Regulatory Polices and Procedures

This notice was not reviewed pursuant to E.O. 12866, "Regulatory Planning and Review." NHTSA has considered the impacts of this rulemaking action and determined that it is not significant within the meaning of the Department of Transportation's regulatory policies and procedures.

The proposed amendments would not require any vehicle design changes but would instead only specify the construction of a new neck bracket to join existing components to create the test dummies used to evaluate a vehicle's compliance with Standard No. 201 under one of three test options. The agency believes that the cost of the new neck bracket is approximately \$200 to \$300. The neck bracket is the only new hardware that would be required for those already employing the SID and HIII dummies for compliance testing to standards other than Standard 201. Costs associated with the use of the proposed SID/HIII in the optional side impact test proposed in the August 26, 1997 NPRM are estimated to be \$1,750 for calibration tests for the head, neck, lumbar spine, thorax and pelvis. Therefore, the impacts of the proposed amendments would be so minimal that a full regulatory evaluation is not required.

The agency has prepared a Preliminary Regulatory Evaluation describing the economic and other effects of the rulemaking action proposing amendments to Standard No. 201 requiring the use of this proposed test dummy. Summary discussions of many of those effects are provided above. For persons wishing to examine the full analysis, a copy is being placed in the docket.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Public Law 96-354) requires each agency to evaluate the potential effects of a proposed rule on small businesses. Modifications to dummy designs affect motor vehicle manufacturers, few of which are small entities. The Small Business Administration (SBA) has set size standards for determining if a business within a specific industrial classification is a small business. The Standard Industrial Classification code used by the SBA for Motor Vehicles and Passenger Car Bodies (3711) defines a

small manufacturer as one having 1,000 employees or less.

Very few single stage manufacturers of motor vehicles within the United States have 1,000 or fewer employees. Those that do are not likely to perform testing that would require use of the SID/HIII test device and would be much more likely to contract with a larger manufacturer or a test facility to perform such testing. For this reason, NHTSA believes that this proposal would not have a significant impact on any small business.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Public Law 96-511), there are no requirements for information collection associated with this proposed rule.

D. National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism) and Unfunded Mandates Act

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

In issuing this proposal for specifications to create a new test dummy by joining components of two existing dummies with a new neck bracket, the agency notes, for the purposes of the Unfunded Mandates Act, that it is pursuing the least cost alternative. Also, as noted above, this test device will be used if a manufacturer chooses one of three options to test for compliance with Standard 201. As the selection of that option would not be required by this proposal or by the earlier companion proposal, and as this rulemaking does not require use of this new test dummy, this rulemaking does not impose new costs. While manufacturers choosing to test for compliance under the optional tests requiring use of the proposed test dummy would incur additional costs, these costs would be negligible.

F. Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect

of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon

receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, it is proposed that 49 CFR part 572 be amended as follows:

PART 572—[AMENDED]

1. The authority citation for Part 572 of Title 49 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. A new Subpart M, consisting of sections 572.110 through 572.116 would be added to read as follows:

Subpart M—Side Impact Hybrid Dummy 50th Percentile Male

Sec.

572.110 Incorporated materials.

572.111 General description.

572.112 Head assembly.

572.113 Neck assembly.

572.114 Thorax.

572.115 Lumbar spine and pelvis.

572.116 Instrumentation and test conditions.

Subpart M—Side Impact Hybrid Dummy 50th Percentile Male

§ 572.110 Incorporated materials.

(a) The drawings, specifications, and manual referred to in this subpart that are not set forth in full are hereby incorporated in this part by reference. These materials are thereby made part of this subpart.

(b) The materials incorporated in this part by reference are available for examination in the general reference section of Docket No. 88-07, Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC.

§ 572.111 General description.

(a) The dummy consists of component parts and component assemblies defined in drawing SA-SIDH3-M001, dated 4/19/1997, which are described in

approximately 200 drawings and specifications that are set forth in §§ 572.32, 572.33 and 572.41(a)(3), (4), (5) and (6), and in the drawing of the Adaptor Bracket 96-SIDH3-001.

(1) The head assembly consists of the assembly specified in subpart E (§ 572.32) and conforms to each of the drawings subtended under drawing 78051-61X rev. C.

(2) The neck assembly consists of the assembly specified in subpart E (§ 572.33) and conforms to each of the drawings subtended under drawing 78051-90 rev. A.

(3) The thorax assembly consists of the assembly shown as number SID 053 and conforms to each applicable drawing subtended by number SA-SID M030 rev. A.

(4) The lumbar spine consists of the assembly specified in subpart B (§ 572.9(a)) and conforms to drawing SA 150 M050 and drawings subtended by SA-SID M050 rev. A.

(5) The abdomen and pelvis consist of the assembly specified in subpart B (§ 572.9) and conform to the drawings subtended by SA 150 M060, the drawings subtended by SA 150 M060 rev. A and the drawings subtended by SA-SID-087 sheet 1 rev. H, and SA-SID-87 sheet 2 rev. H.

(6) The lower limbs consist of the assemblies specified in subpart B (§ 572.10) shown as SA 150 M080 and SA 150 M081 in Figure 1 and SA-SID-M080 and SA-SID-M081 and conform to the drawings subtended by those numbers.

(7) The neck mounting adaptor bracket conforms to drawing 96-SIDH3-001.

(8) Upper and middle shoulder foams conform to drawing 96-SIDH3-006.

(b) The structural properties of the dummy are such that the dummy conforms to the specifications of this Subpart in every respect both before and after being used in vehicle tests specified in Standard No. 201.

(c) Disassembly, inspection and assembly procedures, external dimensions, weight and drawing list are set forth in the SIDH3 User's Manual, dated May 1997.

(d) Sign convention for signal outputs is given in the reference document SAE J1733 of 1994-12, "Sign Convention for Vehicle Crash Testing", SAE, Warrendale, Pa.

§ 572.112 Head assembly.

The head assembly consists of the head (drawing 78051-61X, rev. C) with the neck transducer structural replacement (drawing 78051-383X, rev. P) and three (3) accelerometers that are mounted in conformance to S572.36(c).

(a) *Test Procedure.* (1) Soak the head assembly in a test environment at any temperature between 18.9 to 25.6 degrees C. (66 to 78 degrees F.) and at a relative humidity from 10 percent to 70 percent for a period of at least four (4) hours prior to its application in a test.

(2) Clean the impact surface of the head skin and impact plate surface with 1,1,1 trichloroethane or equivalent prior to the test.

(3) Suspend the head, as shown in Figure 51, so that the midsagittal plane makes an angle of 35 +/- 1 degrees with the impact surface and its anterior-posterior axis is horizontal +/- 1 degree.

(4) Drop the head from a height of 200 +/- 0.25 mm (7.87 +/- 0.01 inches), measured from the lowest point on the head, by a means that ensures a smooth, clean release into a rigidly supported flat horizontal steel plate, which is 50 +/- 2 mm thick and 610 +/- 10 mm square. The plate shall have a clear, dry surface and has any microfinish of 8 to 80 microinch/inch rms.

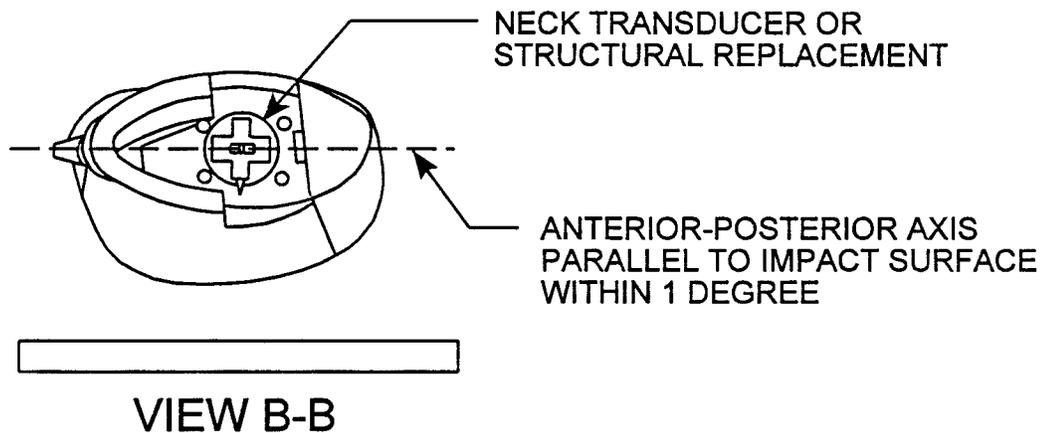
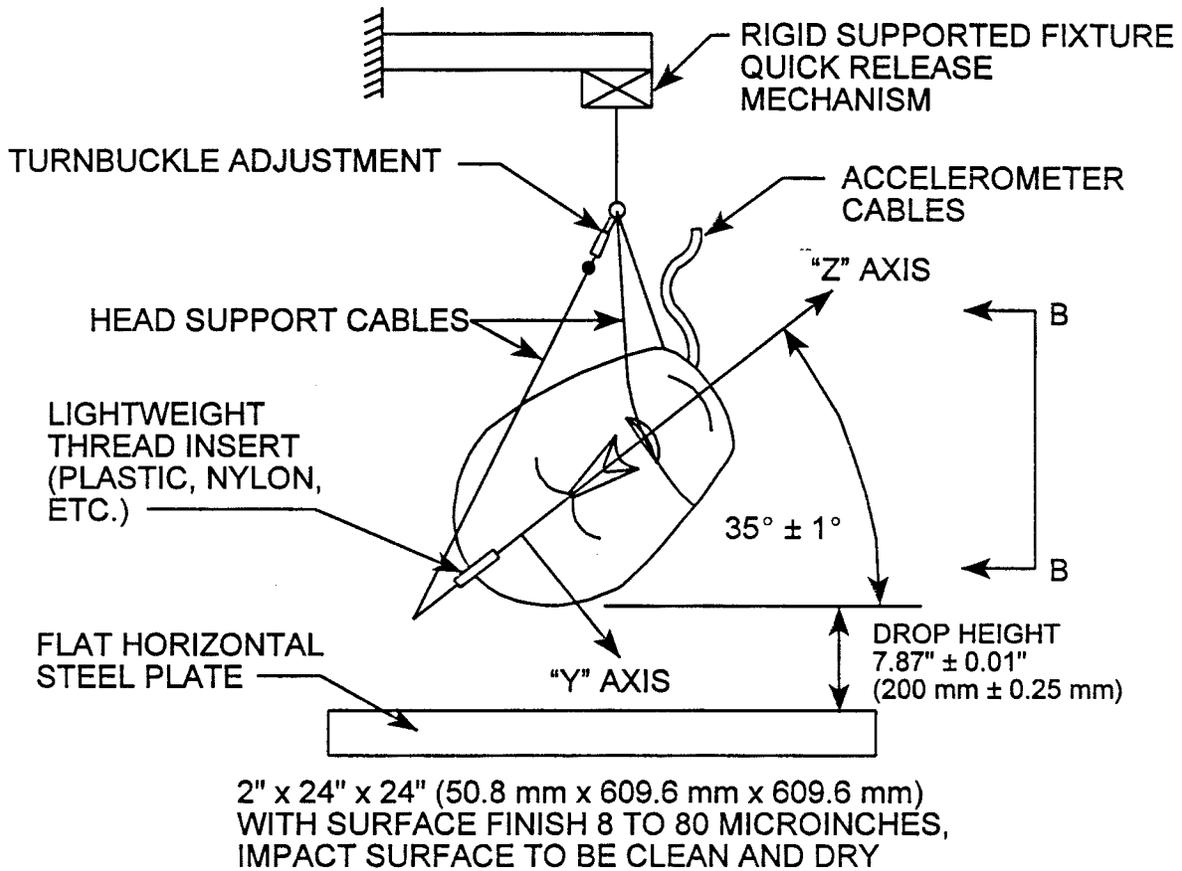
(5) Allow at least two (2) hours between successive tests on the same head.

(b) *Performance Criteria.* (1) When the head assembly is dropped in accordance with S572.112(a), the measured peak resultant acceleration shall be between 120 and 150 G's.

(2) The resultant acceleration-time curve shall be unimodal to the extent that oscillations occurring after the main acceleration pulse shall not exceed 15 percent (zero to peak) of the main pulse. The longitudinal acceleration vector shall not exceed 15 G's.

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Figure 51
HEAD DROP TEST



§ 572.113 Neck assembly.

The head/neck assembly (consisting of the parts 78051-61X, rev. C; -84; -90, rev. A; -94; -98; -104, revision F; -303, rev. E; -305; -306; -307, rev. X) which has a six axis neck transducer (drawing C-1709, revision D) installed in conformance with S572.36(d).

(a) *Test Procedure.* (1) Soak the head and neck assembly in a test environment at any temperature between 20.6 to 22.2 degrees C. (69 to 72 degrees F.) and at a relative humidity from 10 percent to 70 percent for a period of at least four (4) hours prior to its application in a test.

(2) Torque the jamnut (78051-64) on the neck cable (78051-301, rev. E) to 1.35+/-0.27 Nm (1.0 +/-0.2 ft-lb) before each test.

(3) Using neck brackets 78051-303 and -307, mount the head/neck assembly to the part 572 pendulum test fixture (see S572.33, Figure 22) so that the midsagittal plane of the head is vertical and perpendicular to the plane of motion of the pendulum's longitudinal centerline (see S572.33, Figure 20, except that the direction of the head/neck assembly is rotated around the superior-inferior axis by an angle of 90 degrees). Install suitable transducers or other devices necessary for measuring the "D" plane (horizontal surface at the base of the skull) rotation

with respect to the pendulum's longitudinal centerline. The rotation can be measured by placing a transducer at the occipital condyles and another at the intersection of the centerline of the neck and the line extending from the base of the neck as shown in Figure 52.

(4) Allow the neck to flex without the head or neck contacting any object.

(5) Release the pendulum and allow it to fall freely from a height to achieve an impact velocity of 6.89 to 7.13 m/s (22.6 to 23.4 ft/sec) measured at the center of the pendulum accelerometer.

(6) Time zero is defined as the time of initial contact between the striker plate and the pendulum deceleration medium.

(7) Allow a period of at least thirty (30) minutes between successive tests on the same neck assembly.

(b) *Performance Criteria.* (1) The pendulum deceleration pulse is to be characterized in terms of decrease in velocity as obtained by integrating the pendulum acceleration output.

Time (ms)	Pendulum Delta-V (m/s)
10	1.96 to 2.55.
20	4.12 to 5.10.
30	5.73 to 7.01.
40 to 70	6.27 to 7.64.

(2) The maximum rotation of the midsagittal plane of the head shall be 64 to 78 degrees with respect to the pendulum's longitudinal centerline. The decaying head rotation vs. time curve shall cross the zero angle between 50 to 70 ms after reaching its peak value.

(3) The moment about the x-axis which coincides with the midsagittal plane of the head at the level of the occipital condyles shall have a maximum value between 88 and 108 Nm. The decaying moment vs. time curve shall first cross zero moment between 40 and 60 ms after reaching its peak value. The following formula is to be used to calculate the moment about the occipital condyles when using the six-axis neck transducer:

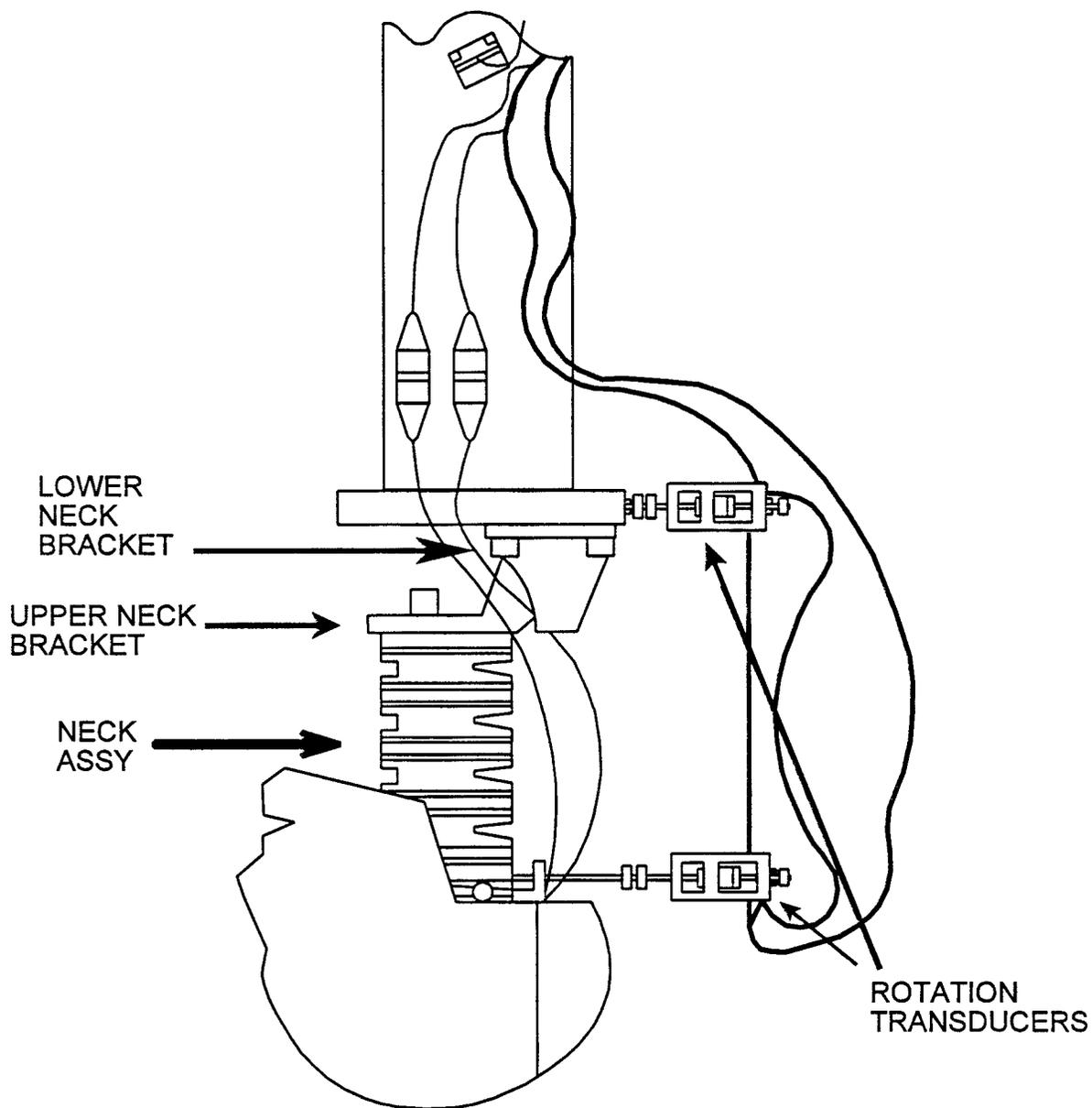
$$M = M_x + 0.01778 F_y$$

Where M_x and F_y are the moment and force measured by the transducer and expressed in terms of Nm and N, respectively.

(4) The maximum rotation of the head with respect to the pendulum's longitudinal centerline shall occur between 0 and 20 ms after peak moment.

BILLING CODE 4910-59-P

Figure 52
NECK PENDULUM TEST



§ 572.114 Thorax.

The specifications and test procedure for the thorax are identical to those set forth in § 572.42.

§ 572.115 Lumbar spine and pelvis.

The specifications and test procedure for the lumbar spine and pelvis are identical to those set forth in § 572.43.

§ 572.116 Instrumentation and test conditions.

(a) The test probe for lateral thoracic and pelvis impact tests are the same as those specified in S572.44(a).

(b) Accelerometer mounting in thorax is the same as specified in S572.44(b).

(c) Accelerometer mounting in pelvis is the same as specified in S572.44(c).

(d) Head Accelerometer mounting is the same as specified in S572.36(c).

(e) Neck transducer mounting is the same as specified in S752.36(d).

(f) Instrumentation and sensors used must conform to the Recommended Practice SAE J-211 (Mar 1995)—Instrumentation for Impact Test.

(g) The mountings for the spine, rib and pelvis accelerometers shall have no resonance frequency within a range of 3 times the frequency range of the applicable channel class.

(h) Limb joints of the test dummy are set at the force between 1 to 2 g's, which just supports the limb's weight when the limbs are extended horizontally forward. The force required to move a limb segment does not exceed 2 g's

throughout the range of the limb motion.

(i) Performance tests are conducted at any temperature from 20.6 to 22.2 degrees C. (69 to 72 degrees F.) and at any relative humidity from 10 percent to 70 percent after exposure of the dummy to those conditions for a period of at least four (4) hours.

(j) For the performance of tests specified in S572.42 and S572.43, the dummy is positioned the same as specified in S572.44(h).

Issued on November 26, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97-31611 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-59-P

Notices

Federal Register

Vol. 62, No. 235

Monday, December 8, 1997

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

Submission for OMB Review; Comment Request

December 5, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

• Natural Resources Conservation Service

Title: Application for Payment.

OMB Control Number: 0578-0018.

Summary of Collection: Respondents submit an application for payment when a conservation practice as prescribed by their contract is completed.

Need And Use Of The Information:

The information is used to provide cost-share payments to program participants.

Description of Respondents: Farms; Individuals or households.

Number of Respondents: 21,500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8,062.

Emergency Processing of This Submission Has Been Requested by December 17, 1997.

• Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements under Regulations (Other than Rules of Practice) under the Perishable Agricultural Commodities Act, 1930.

OMB Control Number: 0581-0031.

Summary Of Collection: The Perishable Agricultural Commodities Act establishes a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables. It protects growers, shippers, and distributors by prohibiting unfair practices.

Need And Use Of The Information:

The Perishable Agricultural Commodities Act requires nearly all commission merchants, dealers, and brokers buying or selling fruits and/or vegetables in interstate or foreign commerce to be licensed. The information collected is used to administer licensing provisions under the Act.

Description Of Respondents: Business or other for-profit; Individuals or households; Farms.

Number Of Respondents: 25,550.

Frequency Of Responses:

Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 118,806.

• Food and Consumer Service

Title: Food Distribution Forms.

OMB Control Number: 0584-0293.

Summary of Collection: Information collected includes agreements and

contracts with recipient agencies and storage facilities, inventory reports and audits.

Need and Use of the Information: The information is used to ensure the efficient and effective administration of Food Distribution Programs at Federal, State, and local levels.

Description of Respondents: State, Local or Tribal Government; Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government.

Number of Respondents: 396,893.

Frequency of Responses:

Recordkeeping; Reporting: On occasion; Monthly; Quarterly; Semi-annually; Annually.

Total Burden Hours: 1,157,508.

• Food and Consumer Service

Title: Annual Report NET Program, 7 CFR Part 3016.40.

OMB Control Number: 0584-0062.

Summary of Collection: State agencies submit an annual performance report of the Nutrition and Education Training Program.

Need and Use of the Information: The information is used to monitor accomplishments.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 56.

Frequency of Responses:

Recordkeeping; Reporting: Annually.

Total Burden Hours: 896.

• Agricultural Marketing Service

Title: Fresh Bartlett Pears Grown in Oregon and Washington, M.O. 931.

OMB Control Number: 0581-0092.

Summary of Collection: Information is collected from handlers and growers for appointing committee members, conducting referendums, and reporting on shipments and disposition of product.

Need and Use of the Information: The information is used to administer Marketing Order 931.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,565.

Frequency of Responses:

Recordkeeping; Reporting: On occasion; Weekly; Biennially; Semi-Monthly.

Total Burden Hours: 1,176.

• Agricultural Marketing Service

Title: Apricots Grown in Designated Counties in Washington, M.O. No. 922.

OMB Control Number: 0581-0095.

Summary of Collection: Information is collected from respondents for appointing committee members, conducting referendums, and requesting waivers for inspection.

Need and Use of the Information: The information is used to administer Marketing Order 922.

Description of Respondents: Business or other for-profit.

Number of Respondents: 430.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Biennially.

Total Burden Hours: 39.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97-32032 Filed 12-5-97; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

RIN 0584-AC58

Food Stamp Program: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Consumer Service, USDA.

ACTION: General notice.

SUMMARY: By this notice, the Department of Agriculture is updating for Fiscal Year 1998 the maximum food stamp allotments for participating households in Alaska, Hawaii, Guam, and the Virgin Islands. These annual adjustments, required by law, take into account changes in the cost of food and statutory adjustments since the amounts were last calculated.

EFFECTIVE DATE: This notice is effective December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Margaret Werts Batko, Assistant Branch Chief, Certification Policy Branch, Program Development Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302, or telephone at (703) 305-2516. The e-mail address is Margaret_Batko@FCS.USDA.GOV.

SUPPLEMENTARY INFORMATION:

Implementation

As required by Section 3(o) of the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2012 (o), State agencies should have implemented this action on October 1, 1997, based on advance notice of the new amounts. As required by regulations published at 47 FR 46485 (October 19, 1982), annual statutory adjustments to the maximum allotment levels and income eligibility standards

are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule and related notice to 7 CFR part 3015, subpart V (48 FR 29916, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

The Under Secretary for Food, Nutrition, and Consumer Services has certified that this action will not have a significant economic impact and will not have an impact on a substantial number of small entities. The action will increase the amount of money spent on food through increases in food stamp benefits. However, this money will be distributed among all eligible food stamp vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or record keeping requirements subject to review by OMB pursuant to the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Unfunded Mandate Reform Act of 1995 (UMRA)

Title II of UMRA 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, FCS 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, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This notice contains no Federal mandates (under the regulatory

provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Background

Thrifty Food Plan (TFP) and Allotments

As provided for in Section 3(o) of the Act, the TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan provides for a diet required to feed a family of four persons consisting of a man and woman aged 20 to 50, a child 6 to 8 and a child 9 to 11. The cost of the TFP is adjusted monthly to reflect changes in the costs of the food groups.

The TFPs for Alaska and Hawaii are based on an adjusted average for the six-month period that ends with June 1997. Since the Bureau of Labor Statistics (the source of food price data) no longer publishes monthly information to compute Alaska and Hawaii TFPs, the adjusted average provides a proxy for actual June 1997 TFP costs. The adjusted average is equal to January-June 1997 TFP costs for Alaska and Hawaii increased by the average percentage difference between the cost of the TFP in Alaska and Hawaii in June and the January-June average in 1986 (a 1.53 percent increase over January-June costs in Alaska and 1.82 percent increase in Hawaii).

For the period January through June 1997, the average cost of the TFP was \$502.90 in Alaska, and \$645.50 in Hawaii. The proxy in Alaska for actual June 1997 TFP costs was \$510.59. This proxy is multiplied by three separate adjustment factors to create three TFPs for Urban Alaska, Rural I Alaska, and Rural II Alaska. The proxy in Hawaii for actual June 1997 TFP costs was \$657.24. The June 1997 cost of the TFP was \$602.20 in Guam and \$525.30 in the Virgin Islands.

The maximum food stamp allotment is paid to households that have no net income. For households with some type of income, their allotments are determined by reducing the maximum allotment for their household size by 30 percent of the household's net income in accordance with Section 8 (a) of the Act, 7 U.S.C. 2017 (a). To obtain the maximum food stamp allotment for each household size, the TFP costs are divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result rounded down to the nearest dollar.

Pursuant to Section 3 (o) (3) of the Act, maximum food stamp benefits for Guam and the Virgin Islands cannot

exceed those in the 50 States and the District of Columbia, so they are based upon either the lower of their respective

TFPs or the TFP for rural II Alaska.

MAXIMUM ALLOTMENT AMOUNTS ¹—OCTOBER 1997, AS ADJUSTED

Household Size	Urban Alaska	Rural I Alaska	Rural II Alaska	Hawaii	Guam ²	Virgin Islands ²
1	\$154	\$196	\$239	\$197	\$180	\$157
2	283	360	439	361	331	288
3	405	516	628	517	474	413
4	514	656	798	657	602	525
5	611	779	948	780	715	623
6	733	935	1,138	936	858	748
7	810	1,033	1,257	1,035	948	827
8	926	1,181	1,437	1,183	1,083	945
Each Additional Member	+116	+148	+180	+148	+135	+118

¹ Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, and 1.00 percent of the TFP and rounding.

² Adjusted to reflect changes in the cost of food in the 48 States and D.C., which correlate with price changes in these areas. Maximum allotments in these areas cannot exceed those in Rural II Alaska.

Dated: November 17, 1997.

Yvette S. Jackson,

Administrator, Food and Consumer Services.

[FR Doc. 97-31973 Filed 12-5-97; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Food And Consumer Service

RIN 0584-AC57

Food Stamp Program: Maximum Allotments for the 48 States and the District of Columbia, and Income Eligibility Standards for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Consumer Service, USDA.

ACTION: General notice.

SUMMARY: The purpose of this notice is to update for Fiscal Year 1998 the maximum allotment levels, which are the basis for determining the amount of food stamps which participating households receive and the gross and net income limits for food stamp eligibility. These adjustments, required by law, take into account changes in the cost of living and statutory adjustments since the amounts were last calculated.

DATES: This notice is effective December 8, 1997.

FOR FURTHER INFORMATION CONTACT:

Margaret Werts Batko, Assistant Chief, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2516. The e-mail address is Margaret_Batko@FCS.USDA.GOV.

SUPPLEMENTARY INFORMATION:

Implementation

As required by Section 3(o) of the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2012(o), State agencies should have implemented the adjustments to the maximum food stamp allotments reflected in this notice on October 1, 1997, based on advance notice of the new amounts. In accordance with regulations published at 47 FR 46485-46487 (October 19, 1982), annual statutory adjustments to the maximum allotment levels and income eligibility standards are issued by general notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29116, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

The Under Secretary for Food, Nutrition and Consumer Services has certified that this action will not have a significant economic impact and will not have an impact on a substantial number of small entities. The action

will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by OMB pursuant to the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Unfunded Mandate Reform Act of 1995 (UMRA)

Title II of UMRA 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, FCS 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, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires FCS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This notice contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

Income Eligibility Standards

The eligibility of households for the Food Stamp Program, except those in which, in accordance with Section 5(a) of the Act, 7 U.S.C. 2014(a), all members are receiving "benefits under a State program funded under part A of title IV of the Social Security Act [], supplemental security income [SSI] benefits under title XVI of the Social Security Act [], or aid to the aged, blind, or disabled under title I, X, XIV, or XV of the Social Security Act. * * *", is determined by comparing their incomes to the appropriate income eligibility standards (limits). Pursuant to Section 5(c)(2) of the Act, households containing an elderly or disabled member are required to have qualifying net incomes, while households which do not contain an elderly or disabled member must have qualifying net incomes *and* qualifying gross incomes. Households in which all members are receiving Social Security Act title IV benefits or SSI are "categorically eligible;" under 7 CFR 273.2(j)(2) their incomes do not have to be below the income limits.

As provided in Section 5(c)(1) of the Act, the net and gross income limits applicable to food stamp eligibility are derived from the Federal income poverty guidelines established under Section 673(2) of the Community Services Block Grant Act, 42 U.S.C. 9902(2). The net income limit is 100 percent of the poverty line. The gross income limit is 130 percent of the poverty line. The guidelines are updated annually. Based on that update, the Food Stamp Program's income eligibility standards are updated each October 1. Instructions for implementation of the required adjustments for October 1, 1997, were issued by the Deputy Administrator of the Food and Consumer Service, Food Stamp Program, in a July 29, 1997, memorandum to all State Food Stamp Program Directors. The revised income eligibility standards for the 48 States (including the District of Columbia, Guam and the Virgin Islands), Alaska and Hawaii are as follows:

FOOD STAMP PROGRAM—OCTOBER 1, 1997—SEPTEMBER 30, 1998

Household size	48 States ¹	Alaska	Hawaii
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Net Monthly Income Eligibility Standards (100 Percent of Poverty Level)			
1	\$658	\$823	\$ 756
2	885	1,106	1,017
3	1,111	1,390	1,278

FOOD STAMP PROGRAM—OCTOBER 1, 1997—SEPTEMBER 30, 1998—Continued

Household size	48 States ¹	Alaska	Hawaii
4	1,338	1,673	1,539
5	1,565	1,956	1,800
6	1,791	2,240	2,060
7	2,018	2,523	2,321
8	2,245	2,806	2,582
Each add. member	+227	+284	+261

Gross Monthly Income Eligibility Standards (130 Percent of Poverty Level)

1	\$855	\$1,070	\$983
2	1,150	1,438	1,322
3	1,445	1,806	1,661
4	1,739	2,175	2,000
5	2,034	2,543	2,339
6	2,329	2,911	2,678
7	2,623	3,280	3,018
8	2,918	3,648	3,357
Each add. Member	+295	+369	+340

Gross Monthly Income Eligibility Standards For Households Where Elderly Disabled Are A Separate Household (165 Percent of Poverty Level)

1	\$1,085	\$1,358	\$1,248
2	1,459	1,825	1,678
3	1,833	2,293	2,108
4	2,207	2,760	2,539
5	2,581	3,228	2,969
6	2,955	3,695	3,399
7	3,329	4,163	3,830
8	3,703	4,630	4,260
Each add. Member	+374	+468	+431

¹ Includes District of Columbia, Guam, and the Virgin Islands.

Thrifty Food Plan (TFP) and Allotments

As provided for in Section 3(o) of the Act, the TFP is a plan for the consumption of foods of different types (food groups) that a household might use to provide nutritious meals and snacks for household members. The plan reflects a diet required to feed a family of four persons consisting of a man and a woman aged 20 to 50, a child 6 to 8 and a child 9 to 11. The cost of the TFP is adjusted monthly to reflect changes in the costs of the food groups.

The TFP is also the basis for establishing food stamp allotments. "Allotment" is defined in Section 3(a) of the Act as "the total value of coupons a household is authorized to receive during each month." Food stamp allotments are adjusted periodically to reflect the changes in food cost levels indicated in the changing amounts of the TFP. Prior to the amendment of Section 3(o) of the Act by Section 804 of Pub. L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, allotment

amounts were established on each October 1 at 103% of the cost of the TFP in the previous June. Amended Section 3(o)(4) of the Act now provides that the TFP will be adjusted each October 1 to reflect the exact cost, or 100%, of the TFP for the previous June, rounding the results to the nearest lower dollar increment for each household size, except that on October 1, 1996, the TFP was not to have been reduced below the amounts in effect on September 30, 1996.

To obtain the maximum food stamp allotment for each household size for the period October 1, 1997, to September 30, 1998, June 1997 TFP costs for the above described four-person household were divided by four, multiplied by the appropriate household size and economy of scale factor, in accordance with Section 3(o)(1) of the Act, and the final result was rounded down to the nearest dollar. The maximum benefit, or allotment, is paid to households with no net income. For a household with income, the household's allotment is determined by reducing the maximum allotment for the household's size by 30 percent of the individual household's net income in accordance with Section 8(a) of the Act, 7 U.S.C. 2017(a). The following table shows the current allotments for the 48 States and the District of Columbia.

FOOD STAMP PROGRAM—OCTOBER 1, 1997—SEPTEMBER 30, 1998
[Maximum Food Stamp Allotments]

Household size	48 States ¹
1	\$122
2	224
3	321
4	408
5	485
6	582
7	643
8	735
Each Additional Person	+92

¹ 48 States and the District of Columbia.

Dated: November 25, 1997.

Yvette S. Jackson,
Administrator, Food and Consumer Service.
[FR Doc. 97-31972 Filed 12-5-97; 8:45 am]
BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Kodiak Electric Association, Inc.; Finding of no Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and RUS Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Kodiak Electric Association, Inc. (KEA), of Kodiak, Alaska. The proposed project consists of constructing a 5.0 to 7.5 megawatt (MW) combustion turbine cogeneration power plant, a substation, a fuel storage tank, and an approximately four mile-long 69 kV transmission line. The purpose of the project is to increase KEA's generation capacity to meet future power demand, to produce steam for the U.S. Coast Guard for space heating, and to increase reliability of electric power service to KEA customers including the U.S. Coast Guard. The need for this project was established in KEA's 1994 Power Requirements Study, 1994 Power Generation Study, and 1996 Power Generation Study Supplement.

RUS has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

FOR FURTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Engineering and Environmental Staff, Rural Utilities Service, 1400 Independence Avenue, SW, Stop 1571, Washington, DC 20250-1571, telephone (202) 720-1784, e-mail: nislam@rus.usda.gov.

SUPPLEMENTARY INFORMATION: RUS, in accordance with its environmental policies and procedures, required that KEA prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from federal, state, and local agencies, has been reviewed and adopted as RUS's Environmental Assessment for the project in accordance with 7 CFR 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. Based on coordination with appropriate federal and state agencies, potential impacts to water quality, air quality, wetlands, federally listed threatened or endangered species, cultural resources, noise levels, and visibility can either be

avoided through project design or mitigated to less than significant levels. The project should have no impact on floodplains, important farmland, prime forest land, or formally classified areas and would be consistent with the policies of the Alaska Coastal Management Program.

Alternatives to the project as proposed were considered, including alternative power generation sites, alternative transmission line routes, alternative fuel delivery and storage facilities, various alternative energy sources, power demand and load management alternatives, and the no-action alternative. RUS has considered these alternatives and has concluded that the project, as proposed, will allow KEA to provide adequate and reliable electric service to its customers on Kodiak Island, including the U.S. Coast Guard, with minimum adverse impacts.

Copies of the BER and FONSI are available for review at RUS at the aforementioned address or may be reviewed at or obtained from the offices of KEA, P.O. Box 787, Kodiak, Alaska, 99615, Telephone (907) 486-7700. Copies are also available for public review at the Kodiak City Library and the U.S. Coast Guard Integrated Support Command Administration Building, Second Deck.

Dated: December 2, 1997.

Adam M. Golodner,
Deputy Administrator, Program Operations.
[FR Doc. 97-32030 Filed 12-5-97; 8:45 am]
BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review of circular welded non-alloy steel pipe from the Republic of Korea.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea. The period of review is November 1, 1995 through October 31, 1996. This review covers imports of pipe from four producers/exporters.

We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service to assess antidumping duties based on the difference between the U.S. price and normal value.

Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, Marian Wells, or Rosa Jeong, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4087, 482-6309, and 482-1278 respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, 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 (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations, codified at 19 CFR part 353, April 1997.

Background

Since the publication of *Notice of Extension of Time Limit for Preliminary Results, Partial Termination of Antidumping Duty Administrative Review and Initiation of Changed Circumstances Review*, on July 15, 1997 (62 FR 37865), the following has occurred.

On July 25, 1997, the Department issued a supplemental questionnaire to Korea Iron and Steel Co., Ltd. (KISCO) and Union Steel Manufacturing Co., Ltd. (Union) asking about issues of affiliation. The companies responded to the affiliation questions on August 6, 1997. We notified Union and KISCO in an October 22, 1997, letter that their responses should be consolidated into one response (see "Collapsing Union and KISCO" in this notice). The Department received a consolidated response from these companies on November 17, 1997.

On October 30, 1997, we requested respondents to resubmit their data using purchase order/contract date, as opposed to invoice date, as date of sale for U.S. transactions. We received partially updated sales databases with

the new date of sale from SeAH Steel Corporation (SeAH) and Shinho Steel Co., Ltd. (Shinho) on November 17, 1997. (In the case of Hyundai Pipe Co. Ltd. (Hyundai), this information had been previously requested and supplied to the Department.) Union/KISCO's collapsed submission received on November 17, 1997 did not include the change in the date of sale.

Supplemental questionnaires were sent to respondents in November 1997. Responses to our supplemental questionnaires regarding level of trade (LOT) were received by November 13, 1997. Additional supplemental questionnaires responses from all respondents are due December 3, 1997.

We intend to issue the final results of this review not later than 120 days after publication of these preliminary results.

Scope of Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order.

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of this review except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. In accordance with the Department's *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela* (61 FR 11608, March 21, 1996), pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A-53 standard-pipe specifications, which falls within the physical parameters as

outlined above, and entered as line pipe of a kind used for oil and gas pipelines is outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Collapsing KISCO and Union

On May 22 and June 30, 1997, the petitioners, Allied Tube and Conduit Corporation, Sawhill Tubular Division-Armco, Inc. and Wheatland Tube Company, argued that because of the strong possibility of manipulation of prices and production, the Department should treat Union and KISCO as a single, collapsed entity and calculate a single combined antidumping duty rate for both companies. In determining whether companies should be collapsed, the Department makes three inquiries. First, the Department examines whether the companies in question are "affiliated" within the meaning of section 771(33) of the Act. Second, the Department examines whether the companies in question have similar production facilities, such that retooling would not be required to shift production from one company to another. Third, the Department examines whether there exists other evidence indicating a significant potential for the manipulation of prices or production. The types of factors the Department considers in determining whether there is a significant potential for the manipulation of prices or production include: (1) The level of common ownership; (2) the existence of interlocking officers or directors (e.g., whether managerial employees or board members of one company sit on the board of directors of the other affiliated parties); and (3) the existence of intertwined operations. See *Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 60 FR 65284 (December 19, 1995) (Korean Steel).

In the first administrative review of this order, the petitioners also argued that Union and KISCO should be collapsed, and the Department agreed. See *Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea*, 62 FR 55574 (October 27, 1997) (*Pipe First Review*). In the present proceeding, we

again closely analyzed the relevant factors in light of the information on record of the present review. We determined that the factors that led to the collapsing decision in the first review continue to exist in the present review. Therefore, we have collapsed Union and KISCO and calculated a single antidumping duty rate for the collapsed entity.

Date of Sale

When determining which sales fall within the period of review (POR), respondents used either invoice date, tax invoice date, or shipment date (collectively referred to hereafter as "invoice date") as the date of sale. Most respondents claimed that the invoice date is what is maintained in their corporate records and that use of invoice date is in accordance with the Department's stated practice (see Memorandum from Susan G. Esserman "Date of Sale Methodology Under New Regulations," March 29, 1996).

Based on our review of the responses, we determined invoice date should not be used as the date of sale for U.S. transactions. (For home market transactions, we find that invoice date reasonably approximates the date on which the material terms of sale are made and have used this as our date of sale.) While each company has a slightly different U.S. sales process, consistent throughout the responses is the notion that price and quantity are established, then the factory produces the subject merchandise, and finally, after a significant period of time, the product is shipped and an invoice is issued. Based on this understanding of the companies' U.S. sales process, we instructed respondents to report as the date of sale the date that will reasonably approximate the time at which the material terms of sale are set (see, Memorandum for Richard W. Moreland, dated October 30, 1997).

The above-mentioned change in the U.S. date of sale necessitated changes to the U.S. sales listings of respondents to correct the date of sale. As a consequence of the change in the U.S. date of sale, home market sales listings also have to be revised to include sales of identical and similar merchandise that are contemporaneous with U.S. sales. Due to the late date on which we informed respondents of the need to change the U.S. date of sale, all respondents were not able to modify fully their U.S. and home market sales listings in time for these preliminary results of review. Therefore, we have used the most current sales listings available to the Department. Hyundai, SeAH, and Shinho partially revised

their U.S. sales listings by changing the date of sale for previously reported transactions. Union/KISCO was unable to provide a collapsed sales listing reflecting the change in the U.S. date of sale in time for these preliminary results. As a result, we are using invoice date as the date of Union/KISCO's U.S. sales. Furthermore, for all respondents, we have made comparisons to constructed value (CV) for U.S. sales that do not have contemporaneous home market sales matches.

Resales of Subject Merchandise

Some companies purchase subject merchandise from unaffiliated manufacturers and then further manufacture it into products also within the scope of this review. For purposes of these preliminary results, we have included sales of all such further-manufactured subject merchandise in our analysis.

SeAH

During the POR, SeAH purchased a small quantity of subject merchandise from an unaffiliated producer, and subsequently resold the merchandise in the United States. According to SeAH, the unaffiliated producer was aware of the ultimate destination of the merchandise at the time of sale to SeAH (see SeAH response of March 24, 1997, p. 33).

In their June 24, 1997 submission, petitioners argue that products purchased from the unaffiliated producer and resold by SeAH should be included in SeAH's U.S. and home market sales listings. To support this argument, petitioners cite to *Gray Portland Cement and Clinker from Japan*, 61 FR 67308 (December 20, 1997) (*Cement and Clinker*).

Regarding U.S. sales, the Department examines the first party in the distribution chain selling with the knowledge that the merchandise is destined for the U.S. See 19 CFR 353.41(b), *Certain Pasta from Italy: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postpone of Final Determination*, 60 FR 1344, 1348-1349 (January 19, 1996) (*Pasta from Italy*). In SeAH's case, the unaffiliated producer knew at the time of the sale to SeAH that the merchandise was destined for the United States. Therefore, the appropriate export price for that merchandise would be the price between the unaffiliated producer and SeAH (see *Pasta from Italy*). Moreover, the unaffiliated producer would be the appropriate party to be reviewed with respect to these resales.

The case cited by petitioners dealt with home market sales. Contrary to petitioners' assertions, the Department excluded all resales of merchandise purchased from an unaffiliated producer from its foreign market value (FMV) calculation in *Cement and Clinker* to the extent that they were separately identifiable. It was only in those cases where resales were inextricably commingled with the respondent's own product sales and where the inclusion of these resales did not distort the FMV calculation that the Department allowed them to be included among the respondent's home market sales. Therefore, this precedent does not provide a basis for including resales of this merchandise in the home market in our calculation of normal value (NV). Consequently, products purchased from this unaffiliated producer and resold into the U.S. market have not been included among SeAH's U.S. or home market sales listings.

Product Comparisons

We calculated monthly, weighted-average, NVs. Where possible, we compared U.S. sales to sales of identical merchandise in Korea. When identical merchandise was not sold during the relevant contemporaneous period, we compared U.S. sales to sales of the most similar foreign like product (see section 771(16)(B) and (C) of the Act).

Export Price and Constructed Export Price

For sales to the United States, we used export price (EP) or constructed export price (CEP) as defined in sections 772(a) and 772(b) of the Act, as appropriate.

In accordance with sections 772(a) and (c) of the Act, we calculated an EP where the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. In accordance with sections 772(b), (c) and (d) of the Act, we calculated a CEP for sales made by affiliated U.S. resellers that took place after importation into the United States. EP and CEP were based on the packed C&F, delivered, CIF duty paid, or ex-dock duty paid price to unaffiliated purchasers in, or for exportation to, the United States. As appropriate, we made deductions for discounts and rebates, including early payment discounts. We added to U.S. price amounts for duty drawback, pursuant to section 772 (c)(1)(B) of the Act, to the extent that such rebates were not excessive (see *Pipe First Review*). We also made deductions for movement expenses in accordance with section

772(c)(2)(A) of the Act; these included foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs brokerage, U.S. customs duties, harbor maintenance fees, merchandise processing fees, and U.S. inland freight expenses (freight from port to warehouse and freight from warehouse to the customer).

In accordance with section 772(d)(1) of the Act, we deducted from CEP those selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses (credit costs, introduction allowances, and warranty expenses), inventory carrying costs, and indirect selling expenses, where applicable. Credit expenses were offset by interest revenues, where applicable. We also deducted from CEP an amount for profit in accordance with section 772(d)(3) of the Act.

Normal Value

We compared the aggregate quantity of home market and U.S. sales and determined that the quantity of each company's sales in its home market was more than five percent of the quantity of its sales to the U.S. market. Consequently, pursuant to section 773(a)(1)(B) of the Act, we based NV on home market sales.

Certain respondents reported sales in the home market of "overrun" merchandise (i.e., sales of a greater quantity of pipe than the customer ordered due to overproduction). Respondents claimed that we should disregard "overrun" sales in the home market as outside the ordinary course of trade.

Section 773(a)(1)(B) of the Act provides that normal value shall be based on the price at which the foreign like product is sold in the usual commercial quantities and in the ordinary course of trade. Ordinary course of trade is defined in section 771(15) of the Act. We analyzed the following criteria to determine whether "overrun" sales differ from other sales of commercial pipe: (1) ratio of overrun sales to total home market sales; (2) number of overrun customers compared to total number of home market customers; (3) average price of an overrun sale compared to average price of a commercial sale; (4) profitability of overrun sales compared to profitability of commercial sales; and (5) average quantity of an overrun sale compared to the average quantity of a commercial sale. Based on our analysis of these criteria and on an analysis of the terms of sale, we found certain overrun sales to be outside the ordinary course of trade. This analysis is consistent with

the analysis sustained by the Court of International Trade in *Laclede Steel Co. v. United States*, Slip. Op. 94-114 (1995).

Hyundai and SeAH had sales in the home market to affiliated customers. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct and indirect selling expenses, discounts and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length and included those sales in our calculation of NV pursuant to 19 CFR 353.45(a).

We made adjustments for differences in packing in accordance with section 773(a)(6)(A) and B(i) of the Act. We also made adjustments for movement expenses, consistent with section 773(a)(6)(B) of the Act, for inland freight. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR. 353.56. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales (credit expenses as offset by interest revenue) and adding U.S. direct selling expenses (credit costs, introduction allowances, and warranty expenses). For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on home market sales. Since no respondent had U.S. direct selling expenses other than those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act, we made no additions to normal value in making COS adjustments. We also made adjustments, where applicable, for indirect selling expenses incurred on home market sales to offset commissions in EP calculations; specifically, we deducted from normal value the lesser of (1) the amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the home market sales for a particular product, including inventory carrying costs in accordance with 19 CFR 353.56.

Level of Trade/CEP Offset

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the URAA at 829-831, to

the extent practicable, the Department will calculate NV based on sales at the same LOT as the EP or CEP. When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market.

We determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. See *Certain Welded Carbon Steel Standard Pipes and Tubes from India; Preliminary Results of New Shipper Antidumping Duty Administrative Review*, 62 FR 23760, 23761 (May 1, 1997). See, also, 19 CFR 351.412 (62 FR 27296, 27414-27415 (May 19, 1997)) for a concise description of this practice.

In implementing these principles in this review, we obtained information from each respondent regarding the marketing stage involved in the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. (For further information on the LOT analysis for each company, see the Memorandum from the team to S. Kuhbach of December 1, 1997.) Pursuant to section 773(a)(1)(B)(i) of the Act and the SAA at 827, in identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting prices before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

When CEP sales have been made in the United States, in SeAH's case, section 773(a)(7)(B) of the Act establishes that a CEP "offset" may be made provided that two conditions exist: (1) NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP; and (2) the data available do not permit a determination that there is a pattern of consistent price differences between sales at different levels of trade in the comparison market.

Shinho, Hyundai, and KISCO/Union

Based on an analysis of the selling functions, class of customers, and level of selling expenses, we found that sales made by Shinho, Hyundai and KISCO/Union were at a single stage in the marketing process in both the home market and the United States (*i.e.*, one LOT exists in home market and one LOT exists in the United States with respect to each company). Moreover, because the stages of marketing in the two markets were not substantially dissimilar, we have preliminarily found that sales in both markets are at the same LOT and consequently no LOT adjustment is warranted.

SeAH

With respect to SeAH's EP sales, we found that sales were made at a single stage in the marketing process in both the home market and the United States, and that these stages of marketing were not substantially dissimilar. Therefore, we have preliminarily found that SeAH's EP and home market sales are at the same LOT and that no LOT adjustment is needed.

SeAH asserts that its home market sales are at a more advanced LOT than its CEP sales because the CEP LOT does not include inventory maintenance or expenses associated with arranging for freight. We have preliminarily determined that these differences in selling activities are not substantial and, therefore, that SeAH's home market and CEP sales are made at the same marketing stages. Consequently, we preliminarily determine that SeAH's home market and U.S. sales are at the same LOT and no CEP offset is warranted.

Cost of Production Analysis

Based on timely allegations filed by the petitioners, the Department initiated a cost of production (COP) investigation of Union/KISCO to determine whether sales were made at prices below the COP. See Memoranda from Craig Matney to Office Director Susan Kuhbach, dated June 24 and June 25, 1997.

Because we disregarded sales below the COP in the less-than-fair-value (LTFV) investigation for Hyundai, SeAH, and Shinho (see *Circular Welded Non-Alloy Steel Pipe from Korea: Notice of Final Court Decision and Amended Final Determination*, 60 FR 55833, November 3, 1995 (Pipe LTFV)), we had reasonable grounds to believe or suspect that sales of the foreign product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by

section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of these companies' home market.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials, fabrication and general expenses, and packing costs.

B. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were made at prices below the COP, we disregarded the below-cost sales because such sales were found to be made within an extended period of time in "substantial quantities" in accordance with sections 773(b)(2)(B) and (C) of the Act. Moreover, based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Where all contemporaneous sales of a specific product were made at prices below the COP, we calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

We found that all respondents made home market sales at below COP prices within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit for the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

Constructed Value

Where NV could not be based on home market sales either because (1) there were no contemporaneous sales of a comparable product or (2) all contemporaneous sales of the comparison product failed the COP test, we compared U.S. prices to CV. In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the cost of materials of the product sold in the United States, plus amounts for general expenses, home market

profit and U.S. packing costs. We calculated each respondent's CV based on the methodology described in the "Calculation of COP" section of this notice, above. In accordance with section 773(e)(2)(A), we used the actual amounts incurred and realized by respondents in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country to calculate general expenses and home market profit.

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for COS differences. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on home market sales. We also made adjustments, where applicable, for indirect selling expenses incurred on home market sales to offset U.S. commissions in EP comparisons; specifically, we deducted from normal value the lesser of: (1) The amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the home market sales for a particular product.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act. Currency conversions were made at the rates certified by the Federal Reserve Bank. Section 773A(a) directs the Department to use a daily exchange rate to convert foreign currencies into U.S. dollars unless the daily rate involves a "fluctuation." It is our practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. See *Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 61 FR 35188, 35192 (July 5, 1996). The benchmark rate is defined as the rolling average of the rates for the past 40 business days.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period November 1, 1995, through October 31, 1996:

Manufacturer/exporter	Margin (percent)
Hyundai	4.10
Union/KISCO	2.36
Shinho	3.34

Manufacturer/exporter	Margin (percent)
SeAH	7.71

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Interested parties may also request a hearing within ten days of publication. If requested, a hearing will be held March 2, 1998. Interested parties may submit case briefs pertaining to non-verification issues by January 12, 1998. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than January 20, 1998. Briefs pertaining to verification issues must be submitted by February 26, 1998, with rebuttal briefs not later than March 5, 1998. The Department will issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with the methodology in *Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea* (62 FR 55574, October 27, 1997), we calculated exporter/importer-specific assessment values by dividing the total dumping duties due for each importer by the number of tons used to determine the duties due. We will direct Customs to assess the resulting per-ton dollar amount against each ton of the merchandise entered by these importers' during the review period.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of steel wire rope from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates established in the final results of this administrative review (except no cash deposit will be required for those companies whose weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or

final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 4.80 percent, the "all others" rate established in the less-than-fair-value investigation. See *Pipe LTFV*.

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 administrative review and notice are in accordance with sections 751(a)(1) and 751(d) of the Act (19 U.S.C. 1675(a)(1)), 19 CFR 353.22.

Dated: December 1, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-32063 Filed 12-5-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-805]

Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review and partial termination of review.

SUMMARY: In response to requests from two respondents, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. This review covers two manufacturers and exporters of the subject merchandise. The period of review ("POR") is November 1, 1995, through October 31, 1996.

With respect to Tuberia Nacional, S.A. de C.V. ("TUNA"), this review has now been terminated as a result of the withdrawal request for administrative review by TUNA, the interested party that requested review of TUNA. We preliminarily determine the dumping margin for Hylsa S.A. de C.V. ("Hylsa") to be 7.90 percent during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding should also submit with their arguments (1) A statement of the issues, and (2) a brief summary of the arguments.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT:

Ilissa Kabak or Linda Ludwig, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 7866, Washington, D.C. 20230; telephone (202) 482-0182 (Kabak), or (202) 482-3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 C.F.R. Part 353 (April 1, 1997). Where appropriate, we have cited the Department's new regulations, codified at 19 C.F.R. Part 351 (62 Fed. Reg. 27296, May 19, 1997). While not binding on this review, the new regulations serve as a restatement of the Department's policies.

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1995/96 review period on November 4, 1996 (61 FR 56663). On November 27, 1996, respondents Hylsa and TUNA requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. We initiated this review on December 16, 1996. See 61 FR 66017 (December 16, 1996). On February 4, 1997, TUNA requested a withdrawal from the proceeding.

Pursuant to 19 CFR 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review. TUNA's request for withdrawal was timely and there were no requests for review from other interested parties. Therefore, the Department is terminating this review with respect to TUNA. This notice is in accordance with section 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for issuing a preliminary determination in an administrative review if it determines that it is not practicable to complete the preliminary review within the statutory time limit of 245 days. On June 16, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case to December 2, 1997. See *Extension of Time Limit for Antidumping Duty Administrative Reviews*, 62 FR 36488 (July 8, 1997).

The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing,

mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in these orders.

Imports of the products covered by these orders are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

The POR is November 1, 1995 through October 31, 1996. This review covers sales of circular welded non-alloy steel pipe and tube by Hylsa.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturing facilities of Hylsa, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports, the public versions of which are available at the Department of Commerce, in the Central Records Unit (CRU), Room B099.

Product Comparisons

In accordance with section 771(16) of the Act, we considered each circular welded non-alloy steel pipe and tube product produced by the respondents, covered by the descriptions in the "Scope of the Review" section of this notice, *supra*, and sold in the home market during the POR, to be a foreign like product for purposes of determining appropriate product comparisons to U.S. sales of circular welded non-alloy steel pipe and tube. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix VI of the Department's December 23, 1996, antidumping questionnaire. In making the product comparisons, we matched each foreign like product based on the physical characteristics reported by the respondent and verified by the Department.

The Department's practice is to use a methodology which avoids distortions

due to high inflation in instances where high inflation existed during the period of review. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review, Certain Welded Carbon Steel Pipe and Tube from Turkey* 62 Fed. Reg. 61629 (October 2, 1997). In this case, consistent with our prior practice, we determined that high inflation existed during the period of review. See Letter to Shearman & Sterling from the Department (May 7, 1997). In order to take into account the rate of inflation in Mexico during the POR, we compared each U.S. sale to sales of the foreign like product in the same month. Where there were no sales of identical merchandise in the home market to compare to U.S. sales within the same month, we compared U.S. sales to the next most similar foreign like product which was sold in the same month. See *Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Preliminary Results of Antidumping Duty Administrative Review* 61 FR 68708 (December 30, 1996). See also *Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review* 62 FR 32014 (July 10, 1997) (in which the Department continued to compare foreign like products and subject merchandise in this manner).

Fair-Value Comparisons

To determine whether sales of circular welded non-alloy steel pipe by Hylsa to the United States were made at less than fair value, we compared the EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A (d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Date of Sale

Hylsa reported the date of the invoice as the date of sale for all home market and U.S. sales. For the home market co-export rebate sales with two reported invoice dates (original invoice issue date and revised invoice issue date), Hylsa reported the revised invoice date as the date of sale.

Export Price

We used EP as defined in section 772(a) of the Act. We calculated EP based on prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling and U.S. customs duties.

Section 776 (a) (2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c) (1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782 (i), the administering authority * * * shall, subject to section 782 (d), use the facts otherwise available in reaching the applicable determination under this title."

In addition, section 776 (b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

In this case, the Department has applied partial facts available for various expenses and adjustments. Based on our verification of Hylsa's sales responses, we rejected as unverifiable additional foreign inland freight, additional foreign brokerage fees and additional U.S. brokerage fees. Although information was provided to the Department, and the Department attempted to verify this information at the verification of Hylsa (see Sales Verification Report), the information could not be verified as provided in section 782(i) of the Act. By not providing verifiable information for foreign inland freight, foreign brokerage and U.S. brokerage expenses when such information was available to Hylsa, we have determined that Hylsa failed to cooperate by not acting to the best of its ability to comply with a request for information. Consequently, the use of adverse partial facts available under section 776(b) of the Act is warranted. We deducted the reported foreign inland freight, which was paid by the customer and included in the reported gross unit price. Rather than use reported additional foreign inland freight, as facts available we further deducted the highest calculated differential between reported and actual foreign inland freight charges incurred for five sales reviewed at verification, (see Analysis Memo). We deducted the reported foreign and U.S. brokerage charges, which were paid by the

customer and included in the reported gross unit price. Rather than use reported additional foreign and U.S. brokerage charges, as facts available we further deducted the highest calculated differential between reported and actual foreign and U.S. brokerage charges incurred for five sales reviewed at verification (see Analysis Memo).

Hylsa acts as importer of record on its U.S. sales and thereby pays all antidumping duty deposits. During the course of this proceeding, petitioners requested that the Department examine the issue of reimbursement where the producer/exporter is the importer of record. Section 353.26 of the Department's regulations states that "[i]n calculating the United States price, the Secretary will deduct the amount of any antidumping duty which the producer or reseller: (i) [p]aid directly on behalf of the importer; or (ii) [r]eimbursed to the importer." 19 CFR 353.26(a)(1). It has been our practice that separate corporate entities must exist as producer/reseller and importer in order to invoke the regulation. In the present case, the U.S. importer of record, Hylsa, is also the same corporate entity that produces and exports the subject merchandise. In such a case, there is no separate company or separate U.S. subsidiary, wholly owned or otherwise, that acts as the importer of record. Rather, the importer and exporter are one and the same corporate entity. In this case, there can be no payment made to, or on behalf of, the importer within the meaning of the regulation. In accordance with our practice, the Department interprets its reimbursement regulation as inapplicable in this case. However, we will consider this issue further for the final results, and we invite comments on this issue.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, including sales that benefitted from co-export rebates and short-length discounts.

Sales to affiliated customers in the home market which were determined not to be at arm's-length were excluded

from our analysis. To test whether these sales were made at arm's-length, we compared the starting prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Pursuant to 19 CFR 353.45(a) and in accordance with our practice, where the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were not at arm's-length. See *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan* 62 FR 60472 (November 10, 1997). We included those sales that passed the arm's length test in our analysis (see 19 CFR 353.45(a)).

Where appropriate, in accordance with 773(a)(6)(A) of the Act, we deducted credit expenses, warranties, advertising, insurance, packing, and certain discounts, and we added interest revenue. The Department discovered certain discrepancies and inconsistencies with Hylsa's freight data which rendered the data unverifiable or unreliable within the meaning of section 782(e) of the Act. At verification, the Department examined additional inland freight reported by Hylsa. Despite the Department's efforts, the data provided by Hylsa could not be verified. In accordance with section 782(e) of the Act, we rejected as unverifiable additional inland freight (see Sales Verification Report). Therefore, we denied adjustment for reported additional inland freight. Furthermore, due to discrepancies found as a result of verification and in accordance with section 782(e) of the Act, we disallowed deduction of inland freight expenses reported for co-export rebate sales made during 1996. The Department also found inconsistencies concerning the allocation of both early payment discounts and interest revenue for late payments (see Sales Verification Report). Therefore, consistent with section 782(e) of the Act, we denied deductions from the reported price for early payment discounts allocated to sales to which interest revenue was also allocated.

We increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act and decreased NV by home market packing costs in accordance with section 773(a)(6)(B) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In its questionnaire responses, Hylsa stated that there were no differences in its selling activities by customer categories within each market. In order to confirm independently the absence of separate levels of trade within or between the U.S. and home markets, we examined Hylsa's questionnaire responses for indications that Hylsa's functions as a seller differed qualitatively or quantitatively among customer categories. Where possible, we further examined whether each selling function was performed on a substantial portion of sales.

Hylsa sold to end-users in the U.S. market. In the home market, Hylsa sold to local distributors and end-users. Hylsa performed essentially the same selling functions for sales to all its home-market customers, as well as to U.S. customers. Thus, our analysis of the questionnaire response leads us to

conclude that sales within or between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade.

Therefore, we have not made a level of trade adjustment because all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is not appropriate.

Cost-of-Production Analysis

Petitioners alleged, on April 4, 1997, that Hylsa sold circular welded non-alloy steel pipes and tubes in the home market at prices below COP. Based on these allegations, in accordance with 773(b) of the Act, the Department determined, on May 6, 1997, that it had reasonable grounds to believe or suspect that Hylsa had sold the subject merchandise in the home market at prices below the COP. See *Letter to Shearman and Sterling* (May 7, 1997) and *Decision Memorandum* (May 6, 1997). We therefore initiated a cost investigation with regard to Hylsa in order to determine whether the respondent made home-market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act. Before making any fair-value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Hylsa's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling, general, and administrative expenses ("SG&A"), and packing costs in accordance with section 773(b)(3) of the Act. Based on our verification of the cost response submitted by Hylsa, we adjusted the reported COP to reflect certain adjustments to the cost of manufacturing and general and administrative expenses (see Analysis Memo).

B. Test of Home-Market Prices

We used the respondent's weighted-average COP, as adjusted (see above), for the period August 1, 1995, through November 30, 1996. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-

specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

In accordance with section 773(b)(2)(C), where less than 20 percent of Hylsa's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a Hylsa's sales during the POR were at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded such below-cost sales of Hylsa. Where all contemporaneous sales of a comparison product were disregarded, we calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Hylsa's cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses as reported in the U.S. sales database and profit. As noted above, we recalculated Hylsa's COM and general and administrative expenses based on our verification results. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. Where we compared CV to EP, we added the lesser of home market commissions or U.S. indirect selling expenses to CV.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists

when the daily exchange rate differs from a benchmark by 2.25 percent. See *Cut-to-Length Steel Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 48213 (citing *Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 8915 (March 6, 1996)). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

<i>Circular welded non-alloy steel pipes and tubes</i>	
Producer/Manufacturer/Exporter	Hylsa
Weighted-Average Margin	7.90%

Parties to this proceeding may request disclosure within five days of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of the administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

The following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of circular welded non-alloy steel pipe from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation or the most recent previous review; (3) if the exporter is not a firm covered in this review, a previous review, or the

original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 36.62 percent, the "All Others" rate in the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

We will calculate importer-specific duty assessment rates as a per ton unit value for EP sales. To calculate the per ton unit value for assessment, we summed the margins on U.S. sales with positive margins, and then divided this sum by the total entered tonnage of all U.S. sales.

This notice serves as a preliminary 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 administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: December 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-32064 Filed 12-5-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-412-811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United

Kingdom. The period covered by this administrative review is January 1, 1996 through December 31, 1996. For information on the net subsidy for each reviewed company, as well for all non-reviewed companies, please see the "Preliminary Results of Review" section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated in the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT:

Christopher Cassel, Suzanne King, or Dana Mermelstein, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 15327) the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom. On March 7, 1997, the Department published a notice of "Opportunity to Request an Administrative Review" (62 FR 10521) of this countervailing duty order. We received a timely request for review from Inland Steel Bar Co., an interested party to this proceeding. We initiated the review, covering the period January 1, 1996, through December 31, 1996, on April 24, 1997 (62 FR 19988).

In accordance with 19 CFR 355.22(a), this review covers only those producers or exporters for which a review was specifically requested. Accordingly, this review covers British Steel Engineering Steels Holdings, British Steel Engineering Steels Limited, and British Steel plc.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or

other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and for Customs purposes, our written description of the scope of this proceeding is dispositive.

Change in Ownership

(I) Background

On March 21, 1995, British Steel plc (BS plc) acquired all of Guest, Keen & Nettlefolds' (GKN) shares in United Engineering Steels (UES), the company which produced and exported the subject merchandise to the United States during the original investigation. Thus, UES became a wholly-owned subsidiary of BS plc and was renamed British Steel Engineering Steels (BSES).

Prior to this change in ownership, UES was a joint venture company formed in 1986 by British Steel Corporation (BSC), a government-owned company, and GKN. In return for shares in UES, BSC contributed a major portion of its Special Steels Business, the productive unit which produced the subject merchandise. GKN contributed its Brymbo Steel Works and its forging business to the joint venture. BSC was privatized in 1988 and now bears the name BS plc.

In the investigation of this case, the Department found that BSC had received a number of nonrecurring subsidies prior to the 1986 transfer of its Special Steels Business to UES. See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom*, 58 FR 6237, 6243 (January 27, 1993) (*Lead Bar*).

Further, the Department determined that the sale to UES did not alter these previously bestowed subsidies, and thus the portion of BSC's pre-1986 subsidies attributable to its Special Steels Business transferred to UES. *Lead Bar* at 6240.

In the 1993 certain steel products investigations, the Department modified the allocation methodology developed for *Lead Bar*. Specifically, the Department stated that it would no longer assume that all subsidies allocated to a productive unit follow it when it is sold. Rather, when a productive unit is spun-off or acquired, a portion of the sales price of the productive unit represents the reallocation of prior subsidies. See the General Issues Appendix (*GIA*), appended to the *Final Countervailing Duty Determination; Certain Steel Products From Austria*, 58 FR 37217, 37269 (July 9, 1993) (*Certain Steel*). In a subsequent Remand Determination, the Department aligned *Lead Bar* with the methodology set forth in the "Privatization" and "Restructuring" sections of the *GIA*. *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Remand Determination* (October 12, 1993) (*Remand*).

(II) Analysis of BS plc's Acquisition of UES

On March 21, 1995, BS plc acquired 100 percent of UES. In determining how this change in ownership affects our attribution of subsidies to the subject merchandise, we relied on Section 771(5)(F) of the Act, which states that a change in ownership does not require a determination that past subsidies received by an enterprise are no longer countervailable, even if the transaction is accomplished at arm's length. The Statement of Administrative Action, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (SAA), explains that the aim of this provision is to prevent the extreme interpretation that the arm's length sale of a firm automatically, and in all cases, extinguishes any prior subsidies conferred. While the SAA indicates that the Department retains the discretion to determine whether and to what extent a change in ownership eliminates past subsidies, it also indicates that this discretion must be exercised carefully by considering the facts of each case. SAA at 928.

In accordance with the Act and the SAA, we examined the facts of BS plc's acquisition of GKN's shares of UES, and we determined that the change in ownership does not render previously bestowed subsidies attributable to UES no longer countervailable. However, we

also determined that a portion of the purchase price paid for UES is attributable to its prior subsidies. Therefore, we reduced the amount of the subsidies that "traveled" with UES to BS plc, taking into account the allocation of subsidies to GKN, the former joint-owner of UES. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 62 FR 53306 (October 14, 1997) (*Lead Bar 95 Final Results*) and *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results of Countervailing Duty Administrative Review*, 62 FR 16555 (April 7, 1997) (*Lead Bar 95 Preliminary Results*). To calculate the amount of UES's subsidies that passed through to BS plc as a result of the acquisition, we applied the methodology described in the "Restructuring" section of the *GIA*. See *GIA*, 58 FR at 37268-37269. This determination is in accordance with our changes in ownership finding in *Final Affirmative Countervailing Duty Determination; Pasta From Italy*, 61 FR 30288, 30289-30290 (June 14, 1996), and our finding in the 1994 administrative review of this case, in which we determined that "[t]he URAA is not inconsistent with and does not overturn the Department's *General Issues Appendix* methodology or its findings in the *Lead Bar Remand Determination*." *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 61 FR 58377, 58379 (November 14, 1996).

With the acquisition of UES, we also had to determine whether BS plc's remaining subsidies are attributable to the subject merchandise. Where the Department finds that a company has received untied countervailable subsidies, to determine the countervailing duty rate, the Department attributes those subsidies to that company's total sales of domestically produced merchandise, including the sales of 100-percent-owned domestic subsidiaries. If the subject merchandise is produced by a subsidiary company, and the only subsidies in question are the untied subsidies received by the parent company, the countervailing duty rate calculation for the subject merchandise is the same as described above. Similarly, if such a company purchases another company, as was the case with BS plc's purchase of UES, then the current benefit from the parent

company's allocable untied subsidies is attributed to total sales, including the sales of the newly acquired company. See, e.g., *GIA*, 58 FR at 3762 ("the Department often treats the parent entity and its subsidiaries as one when determining who ultimately benefits from a subsidy"); *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Germany*, 58 FR 37315 (July 9, 1993). Accordingly, in the *Lead Bar 95 Final Results*, we determined that it is appropriate to collapse BSES with BS plc for purposes of calculating the countervailing duty for the subject merchandise. BSES, as a wholly-owned subsidiary of BS plc, continues to benefit from the remaining benefit stream of BS plc's untied subsidies.

In collapsing UES with BS plc, we also determined that UES's untied subsidies "rejoined" BS plc's pool of subsidies with the company's 1995 acquisition. All of these subsidies were untied subsidies originally bestowed upon BSC (BS plc). After the formation of UES in 1986, the subsidies that "traveled" with the Special Steels Business were also untied, and were found to benefit UES as a whole. See *Lead Bar 95 Final Results; Lead Bar 95 Preliminary Results*.

(III) Calculation of Benefit

To calculate the countervailing duty rate for the subject merchandise in 1996, we first determined BS plc's benefits in 1996, taking into account all spin-offs of productive units (including the Special Steel Business) and BSC's full privatization in 1988. See *Final Affirmative Countervailing Duty Determination; Certain Steel Products from the United Kingdom*, 58 FR 37393 (July 9, 1993) (*UK Certain Steel*). We then calculated the amount of UES's subsidies that "rejoined" BS plc after the 1995 acquisition, taking into account the reallocation of subsidies to GKN. See *Lead Bar 95 Final Results; Lead Bar 95 Preliminary Results*. As indicated above, in determining both these amounts, we followed the methodology outlined in the *GIA*. After adding BS plc's and UES's benefits for each program, we then divided that amount by BS plc's total sales of merchandise produced in the United Kingdom in 1996.

Allocation Methodology

In *British Steel plc v. United States*, 879 F. Supp. 1254 (CIT 1995), the U.S. Court of International Trade ruled against the Department's allocation methodology, which relied on U.S. Internal Revenue Service information on the industry specific average useful life

of assets for determining the allocation period for non-recurring subsidies. In accordance with the Court's remand order, the Department calculated a company-specific allocation period based on the AUL of non-renewable physical assets for BS plc. This allocation period was 18 years. This remand determination was affirmed by the Court on June 4, 1996. *British Steel plc v. United States*, 929 F. Supp. 426, 439 (CIT 1996).

The Department's acquiescence to the CIT's decision in the *Certain Steel* cases resulted in different allocation periods between the *UK Certain Steel* and *Lead Bar* proceedings (18 years vs. 15 years). Different allocation periods for the same subsidies in two proceedings involving the same company generate significant inconsistencies. Moreover, UES became a wholly-owned subsidiary of BS plc in 1995. In the 1995 review of *Lead Bar*, in order to maintain a consistent allocation period across the *UK Certain Steel* and *Lead Bar* proceedings, as well as in the different segments of *Lead Bar*, we altered the allocation methodology previously used to determine the allocation period for non-recurring subsidies previously bestowed on BSC and attributed to UES. In the 1995 review, we applied the company-specific 18-year allocation period to all non-recurring subsidies. See *Lead Bar 95 Final Results*. Based on our decision in the 1995 administrative review of this order, we preliminarily determine that it is appropriate in this review to continue to allocate all of BSC's non-recurring subsidies over BS plc's company-specific average useful life of renewable physical assets (*i.e.*, 18 years).

Analysis of Programs

I. Programs Conferring Subsidies

(A) Equity Infusions

In each year from 1978/79 through 1985/86, BSC/BS plc received equity capital from the Secretary of State for Trade and Industry pursuant to section 18(1) of the Iron and Steel Acts 1975, 1981, and 1982. According to section 18(1), the Secretary of State for the Department of Trade and Industry may "pay to the Corporation (BSC) such funds as he sees fit." The Government of the United Kingdom's equity investments in BSC/BS plc were made pursuant to an agreed external financing limit which was based upon medium-term financial projections. BSC's performance was monitored by the Government of the United Kingdom on an ongoing basis and requests for capital were examined on a case-by-case basis. The UK government did not receive any additional ownership, such as stock or

additional rights, in return for the capital provided to BSC/BS plc under section 18(1) since it already owned 100 percent of the company.

In *Lead Bar* (58 FR at 6241), the Department found BSC/BS plc to be unequityworthy from 78/79 through 1985/86, and thus determined that the Government of the United Kingdom's equity infusions were inconsistent with commercial considerations. Although, prior to the formation of UES, BSC's section 18(1) equity capital was written off in two stages (£3,000 million in 1981 and £1,000 million in 1982) as part of a capital reconstruction of BSC, the Department determined that BSC/BS plc benefitted from these equity infusions, notwithstanding the subsequent write-off of equity capital. Therefore, the Department countervailed the equity investments as grants given in the years the equity capital was received. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

Because the Department determined in *Lead Bar* that the infusions are non-recurring, we have allocated the benefits over BS plc's company-specific average useful life of renewable physical assets (18 years).

Although uncreditworthiness was not specifically alleged or investigated during the investigation on *lead bar*, in *UK Certain Steel* the Department found that BSC/BS plc was uncreditworthy from 1977/78 through 1985/86. 58 FR at 37395. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding. Therefore, we have used a discount rate which includes a risk premium to calculate the benefit from the grants. See, *e.g.*, *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Mexico*, 58 FR 37352, 37354 (July 9, 1993) (*Mexican Steel*).

To calculate the benefit to the subject merchandise from this program, we first summed the benefit to BS plc from all infusions allocated to 1996. Then, we determined the portion of that benefit still remaining with BS plc after accounting for privatization and spin-offs. To that we added the portion of UES's subsidies under this program that "rejoined" BS plc with the acquisition. See the "Change in Ownership" section of the notice. We then divided the result by BS plc's total sales of merchandise produced in the United Kingdom in 1996. On this basis, we preliminarily determine the net subsidy for this program to be 4.69 percent *ad valorem* in 1996.

(B) Regional Development Grant Program

Regional development grants were paid to BSC/BS plc under the Industry Act of 1972 and the Industrial Development Act of 1982. In order to qualify for assistance under these two Acts, an applicant had to be engaged in manufacturing and located in an assisted area. Assisted areas are older, industrial regions identified as having deep-seated, long-term problems such as high levels of unemployment, migration, slow economic growth, derelict land, and obsolete factory buildings. Regional development grants were given for the purchase of specific assets. According to the Government of the United Kingdom, the program involved one-time grants, sometimes disbursed over several years.

BSC/BS plc received regional development grants during the period between fiscal years 1978/79 and 1985/86. The Department found this program countervailable in *Lead Bar* (58 FR at 6242), because it is limited to specific regions. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

In *Lead Bar*, we determined that, because each grant required a separate application, these grants are non-recurring. Accordingly, we have calculated the benefits from this program by allocating the benefits over BS plc's company-specific average useful life of renewable physical assets (18 years). Since BSC/BS plc was uncreditworthy from 1978/79 through 1985/86 (as discussed under the "Equity Infusions" section, above), we have used a discount rate which includes a risk premium (see *Mexican Steel*, 58 FR at 37354) to calculate the benefits from these grants.

To calculate the benefit from this program, we followed the methodology described above in the section on "Equity Infusions". On this basis, we preliminarily determine the net subsidy for this program to be 0.15 percent *ad valorem* in 1996.

(C) National Loan Funds Loan Cancellation

In conjunction with the 1981/1982 capital reconstruction of BSC, section 3(1) of the Iron and Steel Act of 1981 extinguished certain National Loans Fund (NLF) loans, as well as the interest accrued thereon, at the end of BSC's 1980/81 fiscal year. Because this loan cancellation was provided specifically to BSC, the Department determined in *Lead Bar* (58 FR at 6242) that it provided a countervailable benefit. No

new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

We calculated the benefit for this review using our standard methodology for non-recurring grants. We allocated the benefits from this loan cancellation over BS plc's company-specific average useful life of renewable physical assets (18 years). Because BSC/BS plc was found to be uncreditworthy in 1981/82 (as discussed under "Equity Infusions" section, above), we have used a discount rate which includes a risk premium. See *Mexican Steel*, 58 FR at 37354.

To calculate the benefit from this program, we followed the methodology described above in the section on "Equity Infusions". On this basis, we preliminarily determine the net subsidy for this program to be 0.44 percent *ad valorem* in 1996.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily find that the producers and/or exporters of the subject merchandise subject to this review did not apply for or receive benefits under these programs during the POR:

- (A) New Community Instrument Loans
- (B) ECSC Article 54 Loan Guarantees
- (C) NLF Loans
- (D) ECSC Conversion Loans
- (E) European Regional Development Fund Aid
- (F) Article 56 Rebates
- (G) Regional Selective Assistance
- (H) ECSC Article 56(b)(2) Redeployment Aid
- (I) Inner Urban Areas Act of 1978
- (J) LINK Initiative
- (K) European Coal and Steel Community (ECSC) Article 54 Loans/Interest Rebates

III. Program Previously Determined To Be Terminated

Transportation Assistance

The Department found this program to be terminated in the 1995 administrative review of this countervailing duty order. See *Lead Bar 1995 Final Results*.

IV. Other Programs Examined

We also examined the following programs:

BRITE/EuRAM and Standards Measurement and Testing Program

BS plc received assistance under these two European Union programs to fund research and development. The European Union claimed that assistance

provided under both of these programs is non-countervailable in accordance with Article 8.2(a) of the WTO Agreement on Subsidies and Countervailing Measures and section 771(5B)(B) of the Act (which provide that certain research and development subsidies are not countervailable). We preliminarily determine that it is not necessary to determine whether BRITE/EuRAM and the Standards Measurement and Testing Program qualify for non-countervailable treatment because combined, the assistance provided under both of these programs would result in a rate of less than 0.005 percent *ad valorem*, and thus would have no impact on the overall countervailing duty rate calculated for this POR. For this same reason we have not conducted a specificity analysis of these programs. See, e.g., *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany*, 62 FR 54990, 54995-54996 (October 22, 1997); *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997) and *Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review*, 61 FR 64062, 64065 (December 3, 1996); *Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring ("LHF") From Canada*, 62 FR 5201 (February 4, 1997); *Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review*, 61 FR 53351 (October 11, 1996) and *Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review*, 61 FR 28845 (June 6, 1996).

Preliminary Results of Review

In accordance with 19 CFR 355.22(c)(4)(ii), we have calculated an individual subsidy rate for each producer/exporter subject to this administrative review. As discussed in the "Change in Ownership" section of the notice, above, we are treating British Steel plc and British Steel Engineering Steels as one company for purposes of this proceeding. For the period January 1, 1996 through December 31, 1996, we preliminarily determine the net subsidy for British Steel plc/British Steel Engineering Steels (BS plc/BSES) to be 5.28 percent *ad valorem*. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties for BS plc/BSES at 5.28 percent *ad valorem*. The Department also intends to instruct the

U.S. Customs Service to collect a cash deposit of 5.28 percent of the f.o.b. invoice price on all shipments of the subject merchandise from BS plc/BSES/UES, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See 19 CFR 355.22(a). Pursuant to 19 CFR 355.22(g), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 60 FR 54841 (October 26, 1995). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by

this order are the cash deposit rates in effect at the time of entry.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology; interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38, are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: December 1, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-32062 Filed 12-5-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904, NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On November 21, 1997, Ispat Sidbec Inc. filed a First Request for Panel Review with the United States

Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. A second request was also filed on November 21, 1997 on behalf of the Gouvernement du Quebec. Panel review was requested of the final countervailing duty determination made by the International Trade Administration, respecting Steel Wire Rod From Canada. This determination was published in 62 **Federal Register** 54972, on October 22, 1997. The NAFTA Secretariat has assigned Case Number USA-97-1904-08 to this request.

FOR FURTHER INFORMATION CONTACT:

James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 21, 1997, requesting panel review of the final countervailing duty determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 22, 1997);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in

the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is January 5, 1998); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: December 2, 1997.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 97-31952 Filed 12-5-97; 8:45 am]

BILLING CODE 3510-GT-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120197B]

Marine Mammals; Scientific Research Permit No.782-1399

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, Alaska Fisheries Science Center, 7600 Sand Point Way NE, Bin C15700, Seattle, Washington 98115-0070, has been issued a permit to import and export marine mammal specimens for scientific purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment. (see **SUPPLEMENTARY INFORMATION**)

SUPPLEMENTARY INFORMATION: On August 7, 1997, notice was published in the **Federal Register** (62 FR 442511) that a request for a scientific research permit to import and export marine mammal specimen materials had been submitted by the above-named institution. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (ESA, 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing and exporting of endangered fish and wildlife (50 CFR 222.23), and the Fur Seal Act of 1966 (16 U.S.C. 1151 *et seq.*).

Issuance of this permit as required by the ESA is based on a finding that such permit: (1) Was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which are the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA. Documents are available in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2289 (508/281-9250);

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/570-5301);

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213 (310/980-4001);

Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg., 1, Seattle, WA 98115-0070 (206/526-6150); and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668 (907-586-7221).

Dated: December 2, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97-32071 Filed 12-5-97; 8:45 am]

BILLING CODE 3510-22-F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Tuesday, December 16, 1997, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bunk Beds

The staff will brief the Commission on options for Commission action to address entrapment hazards associated with bunk beds.

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: December 4, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97-32209 Filed 12-4-97; 2:30 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, December 18, 1997 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Upholstered Furniture

The staff will brief the Commission on options for Commission action to address the risk of fires caused by small open flame ignition of upholstered furniture and the staff's evaluation of the cigarette ignition resistance of upholstered furniture. These issues were initially raised in a petition (FP 93-1) submitted by the National Association of State Fire Marshals (NASFM).

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: December 4, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97-32210 Filed 12-4-97; 2:30 pm]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Legislative Environmental Impact Statement (LEIS) for Nellis Air Force Range Renewal (NAFR)—Cooperating Agencies

SUMMARY: The Air Force is currently preparing a Legislative Environmental Impact Statement (LEIS) to assess the potential environmental impacts of the proposed renewal of the Nellis Air Force Range (NAFR) Nevada. The current land withdrawal and reservation of the NAFR was established by the Military Lands Withdrawal Act of 1986 (Pub. L. 99-606) for the period ending November 6, 2001. This notice identifies

the following federal agencies as cooperating agencies for the NAFR Range Renewal LEIS: The U.S. Department of Energy, U.S. Fish and Wildlife Service, and the Bureau of Land Management. Notice of Intent was published in the **Federal Register** on May 31, 1996.

DATES: See summary section for related date.

ADDRESSES: HQ ACC/CEVP, 129 Andrews Street, Suite 102, Langley Air Force Base, VA 23665.

FOR FURTHER INFORMATION CONTACT: Ms. Sheryl K. Parker, (804) 764-9334.

Authority Citation: 42 U.S.C. 4321-4347; 40 CFR parts 1500-1508; Pub. L. 99-606.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97-32057 Filed 12-5-97; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF EDUCATION

Historically Black Colleges and Universities Capital Financing Advisory Board; Meeting

AGENCY: Historically Black Colleges and Universities Capital Financing Advisory Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: December 19, 1997, 9:00 a.m.-4:00 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza S.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carl S. Person, Executive Director, Historically Black Colleges and Universities Capital Financing Advisory Board, U.S. Department of Education, Washington, DC 20202-5139, telephone (202) 708-8328.

SUPPLEMENTARY INFORMATION: The Historically Black Colleges and Universities Capital Financing Advisory Board is established under section 727 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. 1132c-6). The Board is established to provide advice and counsel to the Secretary of Education and the designated bonding authority for the Historically Black Colleges and Universities Capital

Financing Program as to the most effective and efficient means of implementing construction financing on historically Black college and university campuses and to advise Congress regarding the progress made in implementing the program.

The meeting of the Board is open to the public. The agenda includes a briefing by members of the designated bonding authority on the status of loan activities, an overall assessment of the program, and reauthorization issues.

Records are kept of all Committee proceedings, and are available for public inspection at the office of the Historically Black Colleges and Universities Capital Financing Advisory Board, U.S. Department of Education, Washington, DC 20202-5139, from the hours of 9:00 a.m. to 4:00 p.m.

Dated: December 2, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97-31974 Filed 12-5-97; 8:45 am]

BILLING CODE 4401-01-M

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities; Meeting

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Department of Education.

ACTION: Change in meeting time.

SUMMARY: On Wednesday, November 26, 1997, on page 63138 in column 1, the Department of Education published a notice for the President's Board of Advisors on Historically Black Colleges and Universities meeting. The time of the meeting has been changed to 11:00 a.m.-5:00 p.m. all other information printed is correct.

DATE AND TIME: December 18, 1997 from 11:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Sheraton City Centre Hotel located at 1143 New Hampshire Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sterling Henry, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 600 Independence Avenue, SW, the Portals Building, Suite 605, Washington, DC 20202-5120. Telephone: (202) 708-8667.

Dated: December 1, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97-32003 Filed 12-5-97; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy (DOE or Department) is forecasting the representative average unit costs of five residential energy sources for the year 1998. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene. The representative unit costs of these energy sources are used in the Energy Conservation Program for Consumer Products established by the Energy Policy and Conservation Act, Pub. L. No. 94-163, 89 Stat. 871, as amended, (EPCA).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective January 7, 1998 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Dr. Barry P. Berlin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-72, 1000 Independence Avenue, SW, Washington, DC 20585-0103, (202) 586-9507.

SUPPLEMENTARY INFORMATION: Section 323 of the EPCA (Act)¹ requires that DOE prescribe test procedures for the determination of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act.

¹References to the "Act" refer to the Energy Policy and Conservation Act, as amended. 42 U.S.C. §§ 6291-6309.

These test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating costs of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission appliance labeling program established by Section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by Section 323(c) of the Act.

The Department last published representative average unit costs of residential energy for use in the Conservation Program for Consumer Products on November 18, 1996. (61 FR 58679). Effective January 7, 1998, the cost figures published on November 18, 1996, will be superseded by the cost figures set forth in this notice.

The Department's Energy Information Administration (EIA) has developed the 1998 representative average unit after-tax costs of electricity, natural gas, No. 2 heating oil, and propane and kerosene prices found in this notice. The cost projections for heating oil, electricity, and natural gas are found in the fourth quarter, 1997, EIA *Short-Term Energy Outlook*, DOE/EIA-0226 (97/4Q) and reflect the mid-price scenario. Projections for residential propane and kerosene prices are derived from their relative prices to that of heating oil, based on 1996 averages for these three fuels. The sources for these price data are the preliminary *Petroleum Marketing Annual 1996* and the September 1997 *Monthly Energy Review* (DOE/EIA-0035(97/09)). The *Short-Term Energy Outlook* and the *Monthly Energy Review* are available at the National Energy Information Center, Forrestal Building, Room 1F-048, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8800. The preliminary *Petroleum Marketing Annual 1996* is available at the following Internet address: http://www.eia.doe.gov/oil_gas/pmm/12pmmframe.html. Persons who are without access to the Internet, and who want copies of the applicable tables of the preliminary *Petroleum Marketing Annual 1996*, can obtain them from the Department's Office of Codes and Standards (phone: (202) 586-9127).

The 1998 representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(4) of the Act and will become effective January 7,

1998. They will remain in effect until further notice.

Issued in Washington, DC, on November 28, 1997.

Joseph Romm,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1998)

Type of energy	Per million Btu ¹	In commonly used terms	As required by test procedure
Electricity	\$24.68	8.42¢/kWh ^{2, 3}	\$.0842/kWh.
Natural gas	6.19	61.9¢/therm ⁴ or \$6.36/MCF ^{5, 16} .	.00000619/Btu.
No. 2 Heating Oil	6.85	95¢/gallon ⁷ .....	.00000685/Btu.
Propane	10.39	95¢/gallon ⁸ .....	.00001039/Btu.
Kerosene	7.48	\$1.01/gallon ⁹ .....	.00000748/Btu.

¹ Btu stands for British thermal units.

² kWh stands for kilowatt hour.

³ 1 kWh = 3,412 Btu.

⁴ 1 therm = 100,000 Btu. Natural gas prices include taxes.

⁵ MCF stands for 1,000 cubic feet.

⁶ For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,027 Btu.

⁷ For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

⁸ For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.

⁹ For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 97-32046 Filed 12-5-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-99-000]

Algonquin Gas Transmission Company; Notice of Application

December 2, 1997.

Take notice that on November 24, 1997, Algonquin Gas Transmission Company (Algonquin), 5400 Westheimer Court, Houston, Texas 77252-1642, filed in Docket No. CP98-99-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct, own, operate and maintain certain facilities to provide up to 33,000 dekatherms per day of firm transportation service to Dighton Power Associates Limited Partnership (DLP) at a proposed gas-fired electric generation plant to be constructed in Dighton, Massachusetts, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin states that in order to implement the proposed firm transportation service, Algonquin will install, construct, own, operate and maintain new facilities consisting of dual taps, a meter station and appurtenant facilities on Algonquins' existing 12-inch G-1 Line and 20-inch G-1 Loop Line in Dighton,

Massachusetts, 1.5 mile of 12-inch loop extension on Algonquin's existing E-1 system in New London County, Connecticut, and uprate two of the compressor units at Algonquin's existing Southeast, New York compressor station from 4,250 horsepower to 4,700 horsepower, and uprate two of the compressor units at Algonquin's existing Burrillville, Rhode Island, compressor station from 5,500 horsepower to 5,700 horsepower.

Algonquin estimates the construction cost of the proposed facilities to be \$4,662,000, which will be financed through revolving credit arrangements and short-term loans, and from funds on hand.

Algonquin requests a Preliminary Determination on non-environmental issues by June 1, 1998, with final approval by August 1, 1998, so that the proposed facilities can be placed in service on or about January 1, 1999 for the purpose of providing any necessary interruptible transportation service for start-up and testing at the gas-fired electric generation plant. Algonquin states that the Rate Schedule AFT-1 firm transportation service will commence on or about March 1, 1999 for a term of 20 years.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before December 23, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process.

Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31977 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-68-000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 26, 1997, ANR Pipeline Company [ANR] tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective December 1, 1997:

Twenty-ninth Revised Sheet No. 8
Twenty-ninth Revised Sheet No. 9
Twenty-eighth Revised Sheet No. 13
Thirty-third Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately \$1.6 million of above-market costs that are associated with its obligations to Dakota

Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS-2, so as to recover the remaining ten percent (10%). ANR also advises that the proposed changes would decrease current quarterly Above-Market Dakota Cost recoveries from \$2.5 million to \$1.6 million, based primarily upon a one-time refund from Northern Border Pipeline Company.

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 Sections 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 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 Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31995 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-102-000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

December 2, 1997.

Take notice that on November 25, 1997, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP98-102-000 a request pursuant to Sections 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) seeking NGA certification under Part 157 blanket construction procedures for an existing point of delivery originally authorized under NGPA Section 311 to Ohio Cumberland Gas Company in Holmes County, Ohio, under the blanket

certificate issued in Docket No. CP83-76-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that it seeks NGA certification in order that it may be used to provide both Part 284 Subpart B and G transportation. Columbia's proposed quantities to be delivered at the existing point of delivery are 400 Dth/day and 146,000 Dth/Annually. Columbia states that the end use of gas is for Industrial purposes to serve a new Asphalt Plant. Columbia states that the quantities of natural gas to be provided through the new point of delivery will be within its authorized level of service. Columbia contends that there is no impact on its existing design day and annual obligations to its customers as a result of the NGA certification of the existing point of delivery for transportation service. Additionally, Columbia notes that it installed interconnecting facilities which included a 2-inch tap and 15 feet of small diameter pipe. Columbia states that the facilities were placed in-service on September 8, 1997.

Columbia asserts that it obtained the appropriate environmental clearances from the Ohio State Historic Preservation Office and the United States Department of Interior, Fish and Wildlife Service for its proposed construction. Columbia contends that the cost to construct the new point of delivery was \$15,000. Columbia notes that the transportation service to be provided through the new point of delivery will be from service provided under Columbia's Rate Schedule, Storage Service Transportation.

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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31979 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket Nos. RP98-59-000 and RP96-140-007]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 25, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 1, 1998:

Original Sheet No. 990

Original Sheet No. 99P

Pursuant to the prior agreements of the parties following Columbia's first filing to recover Accrued-But-Not-Paid Gas Costs, this filing should be sub-docketed under the RP96-140 docket number.

Columbia states that the instant filing is being submitted pursuant to Article VII, Section C, Accrued-But-Not-Paid Gas Costs, of the "Customer Settlement" in Docket No. GP94-02, et al., approved by the Commission on June 15, 1995 (71 FERC 61,337 (1995)). The Customer Settlement became effective on November 28, 1995, when the Bankruptcy Court's November 1, 1995 order approving Columbia's Plan of Reorganization became final. Under the terms of Article VII, Section C, Columbia is entitled to recover amounts for Accrued-But-Not-Paid Gas Costs. As directed by Article VII, Section C, the tariff sheets contained herein are being filed in accordance with Section 39 of the General Terms and Conditions of the Tariff, to direct bill the Accrued-But-Not-Paid Gas Costs that have been paid subsequent to November 28, 1995.

Columbia states that the instant filing reflects Accrued-But-Not-Paid Gas Costs in the amount of \$9,636.40 plus applicable FERC interest of \$180.13. This is Columbia's seventh filing pursuant to Article VII, Section C, and Columbia reserves the right to make the appropriate additional filings pursuant to that provision. The allocation factors on Appendix F of the Customer Settlement were used as prescribed by Article VII, Section C.

Columbia states that copies of its filing have been mailed to all parties on the Commission's service list in Docket No. RP96-140 and RP-140-002, and to each of Columbia's firm customers, interruptible customers, and affected state commissions. Columbia also agrees

to make available for this filing the data that it was required to provide in its June 13, 1996 compliance filing in Docket No. RP96-140-002 pursuant to a protective agreement.

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, NE, Washington, DC 20426, in accordance with Sections 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 the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 97-31989 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP98-60-000]

Columbia Gas Transmission Corporation; Notice of Filing

December 2, 1997.

Take notice that on November 25, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing Attachment A to the filing, which details, by customer, the historical load factors calculated using total firm entitlements for the 12-month period ended October 31, 1997.

Columbia states that this filing is being submitted pursuant to the Commission's November 12, 1997 Order in Docket Nos. RP97-149-002 and RP97-391-000, in which the Commission approved GRI's 1998 funding formula continuing the 1997 funding formula with allocated RD&D program costs to its members. Since the approved charges for 1998 are the same as the GRI charges approved for 1997, no revision is required in Columbia's presently effective Sheet Nos. 25 through 28, but the charges to certain of Columbia's firm customers will change based upon the revised historical load factor calculations.

Columbia states that this filing is to reflect Columbia's changes to its firm customers' load factors reflected in the calculations on Attachment A. As stated above, any new customer added after

January 1, 1998 will be billed GRI each month based on the actual throughput for each prior month of service until a 12-month history is established. Nevertheless, Columbia is filing Attachment A to the filing so as to insure that the load factors resulting from the calculations are a matter of public record.

Columbia states that copies of its filing have been mailed to all parties on the Commission's service list in Docket No. RP96-140 and RP96-140-002, and to each of Columbia's firm customers, interruptible customers, and affected state commissions. Columbia also agrees to make available for this filing the data that it was required to provide in its June 13, 1996 compliance filing in Docket No. RP96-140-002 pursuant to a protective agreement.

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, NE, Washington, DC 20426, in accordance with Sections 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 the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 97-31990 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP97-287-009]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 26, 1997, El Paso Natural Gas Company (El Paso) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheets to become effective December 1, 1997:

Tenth Revised Sheet No. 30

Fifth Revised Sheet No. 31

Fourth Revised Sheet No. 32

El Paso states that the above tariff sheets are being filed to implement

negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95-6-000 and RM96-7-000.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests should 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31985 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-64-000]

El Paso Natural Gas Company; Notice of Tariff Filing

December 2, 1997.

Take notice that on November 26, 1997, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1-A, to become effective January 1, 1998:

Fourth Revised Sheet No. 256
Fourth Revised Sheet No. 257

El Paso states that the tendered tariff sheets update the identification of low and high load factor shippers for purposes of assessing the Gas Research Institute's (GRI) surcharges.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31993 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98-19-000]

Entergy Arkansas, Inc.; Notice of Filing

December 2, 1997.

Take notice that on November 26, 1997, Entergy Arkansas, Inc., filed additional information in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 17, 1997. 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31976 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-61-000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 25, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its

FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective January 1, 1998:
Seventh Revised Sheet No. 5200

Koch states that the above referenced tariff sheet is being filed to revise its imbalance trading form to be consistent with Section 20.1(A)(1) of the General Terms and Conditions. Koch states that this Section of its tariff provides that each month's imbalance will be traded with imbalances incurred for the same month.

Koch also states that it has served copies of the instant filing upon each affected customer, state commissions, and other interested parties.

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 Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed as provided by Section 154.210 of the Commission's rules and 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31991 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-19-008]

Mojave Pipeline Company; Notice of Compliance Filing

December 2, 1997.

Take notice that on November 26, 1997, Mojave Pipeline Company (Mojave) tendered a letter for acceptance by the Federal Energy Regulatory Commission (Commission), in compliance with the Commission's order dated August 6, 1997 at Docket No. RP97-19-006.

Mojave states that the August 6 order required it to file revised tariff sheets no later than December 1, 1997 submitting its own pro forma trading partner agreement (TPA) or adopting the GISB model TPA. Mojave states that it will

continue to use its pro forma TPA accepted by the August 6 order and that no tariff revisions are required at this time.

Mojave states that copies of the filing were served upon all parties of record in this proceeding, in accordance with the requirements of Section 385.2010 of the Commission's Rules of Practice and Procedure.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests should 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31984 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-200-028]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 26, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective December 1, 1997:

Second Revised Sheet No. 7M

NGT states that the purpose of this filing is to report a modification to an existing negotiated rate term.

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 § 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 protestant parties to

the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31982 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-528-001]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 2, 1997.

Take notice that on November 26, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective November 1, 1997:

Substitute Second Revised Sheet No. 196A

NGT states that this tariff sheet is filed herewith to comply with the order issued in this docket on October 30, 1997.

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 Section 385.211 of the Commission's Rules of Practice and Procedure. 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 protestant 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31988 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98-2-86-000]

Pacific Gas Transmission Company; Notice of Compliance Filing

December 2, 1997.

Take notice that on November 26, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as

part of its FERC Gas Tariff, First Revised Volume No. 1-A: Eighteenth Revised Sheet No. 5; and as part of its FERC Gas Tariff, Second Revised Volume No. 1: Fifteenth Revised Sheet No. 7. PGT requests that the above-referenced tariff sheets become effective January 1, 1998.

PGT asserts that the purpose of this filing is to comply with Paragraphs 37 and 23 of the terms and conditions of First Revised Volume No. 1-A and Second Revised Volume No. 1, respectively, of its FERC Gas Tariff, "Adjustment for Fuel, Line Loss and Other Unaccounted For Gas Percentages." These tariff changes reflect that PGT's fuel and line loss surcharge percentage will remain at 0.0007% per Dth per pipeline-mile for the six-month period beginning January 1, 1998. Also included, as required by Paragraphs 37 and 23, are workpapers showing the derivation of the current fuel and line loss percentage in effect for each month the fuel tracking mechanism has been in effect.

PGT further states that a copy of this filing has been served on PGT's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31999 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-306-004]

Paiute Pipeline Company; Notice of Compliance Filing

December 2, 1997.

Take notice that on November 26, 1997, Paiute Pipeline Company (Paiute)

tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheets:

Substitute Fifth Revised Sheet No. 10
 Substitute Sixth Revised Sheet No. 10
 Substitute Seventh Revised Sheet No. 10
 Second Revised Sheet No. 21
 First Revised Sheet No. 25A
 First Revised Sheet No. 25B
 Original Sheet No. 25C
 First Revised Sheet No. 28

Paiute indicates that the purpose of its filing is to comply with the Commission's order issued October 21, 1997 in Docket No. RP96-306-002, by which the Commission approved an offer of settlement filed by Paiute on July 1, 1997. Paiute requests that the proposed tariff sheets be permitted to become effective consistent with the effective dates prescribed in the settlement.

Any person desiring to protest this 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 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31983 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-101-000]

Panhandle Eastern Pipe Line Company; Notice of Application for Abandonment

December 2, 1997.

Take notice that on November 25, 1997, Panhandle Eastern Pipe Line Company (Panhandle), 5400 Westheimer Court, Houston, TX 77251-1642, filed, in Docket No. CP98-101-000, an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment by sale to Citizens Gas Fuel Company (Citizens), the Adrian lateral and appurtenant facilities located in Lenawee County, Michigan, as more

fully set forth in the application, which is on file with the Commission and open for public inspection.

Panhandle is seeking authorization to abandon the Adrian Lateral facilities which include: 8.1 miles of 4-inch pipeline and 8.1 miles of 6-inch pipeline and appurtenant facilities, the existing metering facility and appurtenant equipment, with the exception of the electronic gas measurement equipment, all located in Lenawee County, Michigan. Panhandle indicates that its use of these facilities has been limited to delivering natural gas to Citizens in order to serve its various local distribution customers. Panhandle says that upon abandonment and transfer of the lateral, Citizens will include the facilities as part of its local distribution system and will continue to provide service to its customers. Panhandle states the facilities to be transferred are fully depreciated. Panhandle proposes to sell the facilities to Citizens for the sum of Ten Dollars (\$10.00).

Panhandle states that its total system capacity will not be affected by this abandonment; that no customers presently served by Panhandle will have service terminated; nor will there be any changes to Panhandle's existing tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If

a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31978 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-411-005]

Sea Robin Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

December 2, 1997.

Take notice that on November 25, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised Tariff sheet pursuant to Section 154.203 of the Commission's Regulations and Section 4 of the Natural Gas Act to become effective November 3, 1997:

Second Revised Sheet No. 7a

On July 1, 1997, Sea Robin submitted a filing with the Commission in the above-captioned docket to create a new rate schedule on Sea Robin's system to provide a new, flexible firm service for any eligible shipper. Such new, firm service, Rate Schedule FTS-2, provided firm transportation at a volumetric rate provided that shippers maintain a throughput level of 80% of Maximum Daily Quantity (MDQ). In the Commission's "Order Accepting and Suspending Tariff Sheets Subject to Conditions" dated July 31, 1997, the Commission accepted Sea Robin's filing subject to certain conditions. Sea Robin made a compliance filings with the Commission on August 15, 1997, and October 14, 1997, to place the tariff sheets into effect on August 4, 1997.

The July 31 Order recognized that acceptance of the filing was subject to the outcome of Sea Robin's rehearing petition in Docket No. RP95-167. On December 31, 1996, Sea Robin filed a Stipulation and Agreement (Stipulation) in Docket No. RP95-167 under which it intended to resolve all of the issues in the proceeding and to implement revised rates effective January 1, 1997. The Stipulation Lowered Sea Robin's interruptible transportation (IT) rate to

\$0.0800/Dth and lowered its firm transportation (FT) demand rate to \$2.26/Dth and FT commodity rate to \$0.0040/Dth (Settlement Rates).

On April 22, 1997, the Commission issued its Order on Settlement Establishing Just and Reasonable Rates (April 22 Order), which required Sea Robin to reduce both its existing rates and Settlement Rates under Section 5(a) of the Natural Gas Act, 15 U.S.C. 717d(a)(1996) to \$0.074/dth for IT service and \$2.12/dth demand and \$0.003/dth commodity for FT service. On rehearing of the April 22 Order, however, the Commission issued an order dated November 3, 1997, which accepted the settlement rates as just and reasonable. When Sea Robin filed its flex-firm rate schedule on July 1, 1997, with the rates contained in the April 22 Order, Sea Robin specifically stated that "any rates proposed to be charged hereunder will be subject to the outcome of Sea Robin's rehearing request." Accordingly, consistent with the Commission's November 3 Order, Sea Robin has filed the revised tariff sheet to implement the Settlement Rates for service under Rate Schedule FTS-2 as approved by the November 3 Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with the Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR Section 385.211). All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31987 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98-3-000]

Southeastern Natural Gas Company; Notice of Petition for Rate Approval

December 2, 1997.

Take notice that on November 24, 1997, Southeastern Natural Gas

Company (Southeastern) filed pursuant to Section 284.123(b)(2) of the Commission's regulations, a petition for approval of transportation rates for firm and interruptible service provided pursuant to the blanket certificate issued to Southeastern under Section 284.224 of the Commission's regulations.

Southeastern's existing rates were established by a settlement approved by the Commission in an order issued March 28, 1996. The March 28 order requires Southeastern to file a petition for rate approval on or before November 23, 1997, to justify its existing rates or to establish new rates. Since the November 23 deadline fell on a Sunday, Southeastern made its filing on the next succeeding business day.

Southeastern states that copies of its November 24 filing have been served upon its existing blanket certificate transportation customers.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 17, 1997. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31981 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-63-000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

December 2, 1997.

Take notice that on November 26, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of December 1, 1997.

Tariff Sheets Applicable to Contesting Parties

Thirty Fifth Revised Sheet No. 14
Fifth Sixth Revised Sheet No. 15
Thirty Fifth Revised Sheet No. 16
Fifty Sixth Revised Sheet No. 17
Thirty Eight Revised Sheet No. 29

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT-NN GSR Surcharge, due to an increase in GSR billing units effective December 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should 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 Southern's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31992 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP98-69-000]

Southern Natural Gas Company; Notice of Settlement Compliance Filing

December 2, 1997.

Take notice that on November 28, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective January 1, 1998:

Twentieth Revised Sheet No. 14A
Twenty-Sixth Revised Sheet No. 15A
Twentieth Revised Sheet No. 16A
Twenty-Sixth Revised Sheet No. 17A
Eleventh Revised Sheet No. 18A

Southern asserts that the purpose of this filing is to comply with the Commission's Order issued on September 29, 1995, which approved the Stipulation and Agreement (Settlement) filed by Southern on March 15, 1995 in Docket Nos. RP89-224-012, et al. In accordance with Article VII of the Settlement, Southern has made this filing to recover a GSR volumetric surcharge based on an estimate of its unrecovered GSR costs as of December 31, 1997 and its projected 1998 costs.

Paragraph 17 of Article VII of the Settlement provides for Southern to file by December 1 of each year to collect unrecovered gas supply realignment (GSR) costs through its GSR volumetric surcharge, to be effective for the parties supporting the Settlement beginning January 1 of the following year. The proposed GSR volumetric surcharge of \$.002/Dth reflects a reduction from the \$.0084/Dth surcharge currently in effect.

Southern states that copies of the filing were served upon Southern's customers, intervening parties and interested state 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 Section 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 Southern's filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31996 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP98-70-000]

Southern Natural Gas Company; Notice of Revised Tariff Sheets

December 2, 1997.

Take notice that on November 28, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1998:

Thirty-Seventh Revised Sheet No. 14
Twenty-First Revised Sheet No. 14a
Fifty-Eighth Revised Sheet No. 15
Twenty-Seventh Revised Sheet No. 15a
Thirty-Seventh Revised Sheet No. 16
Twenty-First Revised Sheet No. 16a
Fifty-Eighth Revised Sheet No. 17
Twenty-Seventh Revised Sheet No. 17a
Thirty-Second Revised Sheet No. 18
Twelfth Revised Sheet No. 18a

Section 14.2 of Southern's Tariff provides for an annual reconciliation of Southern's storage costs to reflect differences between the cost to Southern of its storage gas inventory and the amount Southern receives for such gas arising out of (i) the purchase and sale of such gas in order to resolve shipper imbalances; and (ii) the purchase and sale of gas as necessary to maintain an appropriate level of storage gas inventory for system management purposes. In the instant filing, Southern submits the rate surcharge to the transportation component of its rates under Rate Schedules FT, FT-NN, and IT resulting from the fixed and realized losses it has incurred from the purchase and sale of its storage gas inventory.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should 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 Southern's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31997 Filed 12-5-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP98-71-000]

Southern Natural Gas Company; Notice of GSR Cost Recovery Filing

December 2, 1997.

Take notice that on November 28, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of January 1, 1998.

Tariff Sheets Applicable to Contesting Parties

Thirty-Sixth Revised Sheet No. 14
Fifty-Seventh Revised Sheet No. 15
Thirty-Sixth Revised Sheet No. 16
Fifty-Seventh Revised Sheet No. 17
Thirty-First Revised Sheet No. 18
Thirty-Ninth Revised Sheet No. 29

Tariff Sheets Applicable to Supporting Parties

Nineteenth Revised Sheet No. 14a
Twenty-Fifth Revised Sheet No. 15a
Nineteenth Revised Sheet No. 16a
Twenty-Fifth Revised Sheet No. 17a

Southern sets forth in the filing its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differential costs under unaligned gas supply contracts as well as sales function costs during the period August 1, 1997 through October 31, 1997. These GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888

First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should 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 Southern's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31998 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-67-000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

December 2, 1997.

Take notice that on November 26, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A to the filing. Such tariff sheets are proposed to be effective January 1, 1998.

Transco states that the purpose of the instant filing is to reflect, for purposes of assessing Transco's GRI surcharge, the reclassification of: (1) Baltimore Gas & Electric Company from the low load factor category to the high load factor category; (2) Delmarva Power & Light Company, City of Laurens, South Carolina, New Jersey Natural Gas Company and Penn Fuel Gas, Inc. from the high load factor category to the low load factor category; and (3) Commonwealth Gas Services, City of Richmond, Virginia, TEMCO (Hopewell), Virginia Natural Gas and Mid Louisiana Gas Company eliminated as GRI eligible delivery customers. In that regard, Transco has calculated the firm transportation service load factors for the 12 month period October 1996 through September 1997.

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, NE., Washington, DC 20426, in accordance with Sections 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31994 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97-58-000]

USGen Power Services, L.P.; Notice of Filing

December 2, 1997.

Take notice that USGen Power Services, L.P., on November 13, 1997, tendered for filing a correction to the September 19, 1997 filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 10, 1997. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31975 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-375-003]

Wyoming Interstate Company, Ltd.; Notice of Filing of Tariff Sheets

December 2, 1997.

Take notice that, on November 26, 1997, Wyoming Interstate Company, Ltd. (WIC) tendered for filing, via its "Motion to Place Suspended Rates in Effect," the following revised tariff sheets:

First Revised Volume No. 1

Substitute Seventh Revised Sheet No. 5
Substitute Third Revised Sheet No. 5A

Second Revised Volume No. 2

Substitute Seventh Revised Sheet No. 4

According to WIC, this filing reflects the elimination, from the costs underlying the Docket No. RP97-375 rates, of costs associated with facilities not placed in service by November 30, 1997. This elimination was required by the Commission's "Order Accepting and Suspending Filing, Subject to Refund and Conditions, and Establishing Hearing" in Docket No. RP97-375-000, *Wyoming Interstate Company, Ltd.*, 79 FERC (CCH) ¶ 61,399 (1997) (Ordering Paragraph (B)).

WIC states that a full copy of its filing is being served on each jurisdictional customer, interested state commission, and each party that has requested service as well as upon each party appearing on the Commission's official service list for Docket No. RP97-375.

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 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. Copies of this filing are on file with the Commission and are available for public inspections in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-31986 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1933-011 & 2198-007]

Southern California Edison Company; Notice of Availability of Final Environmental Assessment

December 2, 1997.

A final environmental assessment (EA) is available for public review. The final EA analyzes the environmental impacts of an application by Southern California Edison Company (licensee) to relocate project facilities. The licensee proposes constructing a new penstock to replace part of the existing flowline for the Santa Ana River (SAR) 1 and 2 Hydroelectric Project No. 1933-011 and all of the flowline for the SAR 3 Hydroelectric Project No. 2198-007. The licensee proposes to construct a new powerhouse to replace both the SAR 2 and SAR 3 powerhouses. The U.S. Army Corps of Engineers is building a new flood control dam in the Santa Ana River Canyon below the SAR 1 and 2 Project. The Seven Oaks Dam will inundate and destroy the SAR 2 powerhouse and the SAR 3 flowline rendering both projects inoperable. The licensee's proposed construction would allow it to continue to operate the projects. Both projects are on the Santa Ana River and its tributaries in San Bernardino County, California.

The final EA finds that the application to relocate project facilities would not constitute a major federal action significantly affecting the quality of the human environment. The final EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission in cooperation with the U.S. Department of Agriculture—Forest Service, San Bernardino National Forest, Big Bear Ranger District. Copies of the final EA can be obtained by calling the Commission's Public Reference room at (202) 208-1371.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-31980 Filed 12-5-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of May 19 Through May 23, 1997

During the week of May 19 through May 23, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: November 26, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 34, Week of May 19 Through May 23, 1997

Appeal

Bonita L. Haynes, 5/23/97, VFA-0290

The DOE granted in part a Freedom of Information Act (FOIA) Appeal filed by Bonita L. Haynes. Haynes sought the release of two names withheld from a memo released to her by the DOE's Office of the Inspector General (IG). In its decision, the DOE found that the IG's withholding of one of the names was appropriate under FOIA Exemptions 6 and 7(C). However, the DOE also found that the IG's withholding of the other name was not appropriate under the justification furnished by the IG. Accordingly, the matter was remanded to the IG.

Requests for Exception

Greenville Automatic Gas Co., 5/22/97, VEE-0043

Greenville Automatic Gas Company filed an Application for Exception from

the Energy Information Administration requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering Greenville's request, the DOE found that the firm was not experiencing any type of hardship or gross inequity. Accordingly, exception relief was denied.

Hampton Gas Company, Inc. 5/22/97, VEE-0041

Hampton Gas Company, Inc., filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering Hampton's request, the DOE found that the firm was not experiencing any type of hardship or gross inequity. Accordingly, exception relief was denied.

Western Star Propane, Inc., 5/22/97, VEE-0040

Western Star Propane, Inc., filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering Western's request, the DOE found that the firm was not experiencing any type of hardship or gross inequity. Accordingly, exception relief was denied.

Refund Application

Department of the Interior/Bureau of Indian Affairs, 5/19/97, RF272-74747

The DOE approved an Application for Refund filed by the Department of the Interior/Bureau of Indian Affairs in the Subpart V crude oil refund proceeding. The DOE determined that the claimed volumes were not purchased through the Defense Logistics Agency (DLA) and, therefore, not covered by the refund granted DLA in a separate case.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Averitt Express	RG272-00105	5/22/97
B.F. Walker, Inc. et al	RF272-98728	5/22/97
Crude Oil Supplemental Refund Dist	RB272-00110	5/22/97
L.C. Kruse & Sons, Inc	RG272-00845	5/23/97

Name	Case No.	Date
Hart Well Drilling Co	RG272-00876	.....
P.Q. Corporation	RG272-00941	.....
Mrs. Annabelle Bressler et al	RK272-01328	5/19/97
Nortar, Inc. (F/K/A/ American Tar Co)	RC272-00364	5/23/97
Nortar, Inc	RK272-03941	.....
Pioneer Talc Co./Zemex	RK272-04426	5/23/97
Schaeffer Trucking, Inc	RG272-93	5/20/97
Township of Montclair et al	RF272-86026	5/19/97
Yvonne Van Pembroke et al	RK272-01753	5/19/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Empire Drilling Company	RD272-65942
Emulsion Products	RD272-67919
Gardner Industries	RD272-67920
Honeywell, Inc	RD272-67216
Lock Joint Tube, Inc	RK272-4341
Morgan County, Missouri	RF272-86015
Nox-Crete, Inc	RR272-00101

[FR Doc. 97-32048 Filed 12-5-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 25 Through August 29, 1997

During the week of August 25 through August 29, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: November 26, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 48

Week of August 25 through August 29, 1997

Appeal

Burlin Mckinney, 8/28/97, VFA-0322

The DOE granted in part and denied in part an appeal of withholding of documents at DOE's Y-12 plant in Oak Ridge, Tennessee that relate to beryllium. The DOE found that the determination of DOE's Oak Ridge Operations Office, that it could not justify the high costs and burdensome effort to review the records, was inadequate in light of the requirements of the Freedom of Information Act and the DOE regulations. The DOE therefore remanded the case to the Oak Ridge Operations Office for a new determination releasing the documents or explaining the basis for withholding information with specific reference to one or more FOIA exemptions.

Personnel Security Hearing

Personnel Security Hearing, 8/29/97, VSO-0147

An Office of Hearings and Appeals Hearing Officer issued an opinion against restoring the security clearance of an individual whose clearance had been suspended because the Department of Energy had obtained derogatory

information that fell within 10 CFR 710.8(k)(1). In reaching his conclusion, the Hearing Officer found that the individual had used methamphetamine and had not shown reformation. In addition, the Hearing Officer found that current inconsistencies in the individual's testimony support the charge that the individual is not being honest, reliable and trustworthy within the meaning of 10 CFR 710.8(1).

Refund Application

Vessels Gas Processing Co./Farmland Industries, Inc., 8/27/97, RF354-00009

The DOE issued a Decision and Order concerning an Application for Refund filed by Farmland Industries, Inc. (Farmland), an agricultural cooperative. Farmland sought a portion of the settlement fund obtained by the DOE through a Consent Order settlement with Vessels Gas Processing Co. The DOE granted Farmland a total refund of \$338,343 (\$217,221 principal plus \$121,122 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Cape Ann Tool Co. et al	RF272-94520	8/28/97
City of Orlando et al	RF272-76387	8/25/97
Farmer's Oil Co. of Outlook et al	RF272-94783	8/29/97
M.R. Paving & Excavating	RK272-04016	8/25/97
United Cooperative Assoc. et al	RK272-01507	8/29/97
Vessels Gas Processing Co./Williams Energy	RF354-00010	8/29/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Farmers Elevator Co-op. Assn	RF272-98982
Five Star Moving & Storage	RK272-4503

[FR Doc. 97-32049 Filed 12-5-97; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 18 Through August 22, 1997

During the week of August 18 through August 22, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: November 26, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 47, Week of August 18 Through August 22, 1997

Appeals

Curry Contracting Co., Inc., 8/18/97
VFA-0321

Curry Contracting Co., Inc., appealed a determination issued to it by the Oak Ridge Operations Office. In its Appeal, Curry asserted that Oak Ridge failed to

conduct an adequate search for OSHA reports, award and incentive fee contracts at the Office of Scientific and Technical Information Building, and reports pertaining to itself that it requested pursuant to the FOIA. The DOE determined that Oak Ridge had performed an adequate search. Consequently, Curry's Appeal was denied.

Information Focus on Energy, 8/19/97
VFA-0310

Information Focus on Energy, Inc. (IFE) appealed a determination by the Albuquerque Operations Office that partially denied IFE's request for information. In considering the Appeal, the DOE ordered the Director to either release names withheld pursuant to Exemption 6 or provide a detailed explanation for withholding any such information. Thus, the DOE granted IFE's Appeal.

Los Alamos Study Group, 8/18/97 VFA-0316

The Los Alamos Study Group appealed a determination by the Albuquerque Operations Office (AO) that denied a request for information made under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE confirmed that the AO correctly determined that the records the LASG sought are neither "agency records" within the meaning of the FOIA nor subject to release under the DOE regulations. Accordingly, the DOE denied the Appeal.

William H. Payne, 8/18/97, VFA-0315

The Department of Energy granted in part a Privacy Act Appeal that was filed by William H. Payne. The Director of the Freedom of Information and Privacy Acts Division (the Director) had denied a request for amendment that Mr. Payne filed pursuant to the Privacy Act because the document that Mr. Payne wished to amend is the property of a DOE contractor. In the Decision, the

DOE concluded that if the document were located in a "Privacy Act system of records" pursuant to the contractor's agreement with the DOE, the document would be subject to the Act, and a decision on the merits of Mr. Payne's Appeal should be issued. The OHA, therefore, remanded the matter to the Director for a search of the Privacy Act systems of records.

Refund Application

Enron Corporation/, Amerigas Propane, Inc., RF340-23; Field & McGrady Special, RF340-177; Larry's Bottled Gas Co., 8/21/97, RF340-71

The DOE granted an Application for refund filed on behalf of Field & McGrady Special in the Enron Corporation special refund proceeding. The DOE found that Field & McGrady was the proper recipient of a refund based on petroleum purchases made by Val-Cap, Inc., a dissolved corporation. The partners in Field & McGrady are the same people who were the shareholders of Val-Cap at the time of Val-Cap's dissolution.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Northeast Cooperatiave et al.	RK272-01486	8/21/97
Prince Bros., Inc. et al.	RK272-02259	8/21/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Consolidated Gas Supply Corp.	RF340-198
Dallas Gas & Electric, Inc. ..	RF340-200
Four Winds Marine Service, Inc.	RF272-86058
Goodwill Industries of W. N.Y. Inc.	RK272-3405
Gulf Chartering & Marine Services, Ltd.	RF272-74834
Personnel Security Hearing Public Service Company of NC, Inc.	VSO-0158 RF340-199

[FR Doc. 97-32050 Filed 12-5-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of July 14 Through July 18, 1997**

During the week of July 14 through July 18, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: November 26, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 42, Week of July 14 Through July 18, 1997**Appeal**

Tri-State Drilling, Inc., 7/18/97, VFA-0304

The DOE's Office of Hearings and Appeals granted in part a Freedom of Information Act Appeal filed by Tri-State Drilling, Inc. Tri-State sought the release of unsuccessful bids for a specific contract that the Bonneville Power Administration (BPA) withheld in their entirety. The DOE found that BPA's withholding was not sufficiently

explained and justified in its determination letter. Accordingly, the Appeal was remanded to BPA and denied in all other aspects.

Personnel Security Hearings*Personnel Security Hearing, 7/14/97, VSO-0128*

A Hearing Officer recommended that access authorization be restored when it was uncontested that the individual used an illegal drug on one occasion. The individual's statements that she had only used illegal drugs on one occasion were corroborated by independent evidence. This evidence included the results of twenty-one random drug tests administered over a long period of time. The Hearing Officer also found that it was unlikely that the individual would use illegal drugs again.

Personnel Security Hearing, 7/16/97, VSO-0141

A Hearing Officer found that an individual had successfully mitigated security concerns arising from an allegation that the individual had molested his former foster child. Accordingly, the Hearing Officer recommended that the individual's access authorization be restored.

Petition for Special Redress*Philip P. Kalodner, 7/16/97, VSG-0001*

Philip P. Kalodner requested a "class fee" for his participation in the agency's enforcement proceeding against Occidental Petroleum Corporation. The DOE denied the request on the ground that the purported class, Subpart V claimants, had no cause of action or right of intervention with respect to an agency enforcement proceeding. The DOE rejected Mr. Kalodner's contention that provisions in subparts O and V of the DOE procedural regulations authorized the requested fee. Finally, the DOE rejected Mr. Kalodner's arguments based upon fairness.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Crude Oil Supply Refund.	RB272-00114 ..	7/18/97
Enron Corporation/XCEL Products Co., Inc.,..	RF340-203	7/16/97
Jim's Electrical Service et al.	RK272-04455 ..	7/18/97

Name	Case No.	Date
Lee FS Inc.	RG272-00178 ..	7/15/97
Naknek Electric Assoc., Inc..	RJ272-45	7/16/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Bethlehem Steel Corp.	RG272-00088
VA Medical Center	RF272-90205

[FR Doc. 97-32051 Filed 12-5-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of September 1 Through September 5, 1997**

During the week of September 1 through September 5, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: November 26, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 49, Week of September 1 Through September 5, 1997**Appeal**

Hanford Advisory Board, 9/2/97, VFA-0323

The Hanford Advisory Board filed an Appeal of a Determination issued to it in response to a request under the Freedom of Information Act (FOIA). The Appellant had asked for portions of a proposal made by Fluor Daniel Hanford (FDH). In its Determination, the

Richland Operations Office (ROO) denied the request pursuant to Exemption 3 of the FOIA and the National Defense Authorization Act of 1997 (NDAA), which generally prohibits the release of proposals. The DOE found that the NDAA applied to a proposal that was issued prior to the effective date of the statute. The DOE also found that the requested proposal did not meet the requirements of the NDAA's exception to non-disclosure for proposals set forth or incorporated by reference into the final contract. However, because it appeared that the DOE had released information from the proposal in news conferences and press releases, the agency had waived Exemption 3 protection as to that information. Accordingly, the Appeal was granted and the case was remanded to the ROO for further action.

Refund Application

Pillsbury Company, RC272-97810; Seneca Foods Corporation, 9/5/97, RK272-4055

The DOE rescinded a refund to one company and denied a Supplemental Refund to a another company in the crude oil refund proceeding. Pillsbury Company (Pillsbury) had received a crude oil refund based on the purchases by its affiliate, the Green Giant Co. (Green Giant). Later, the DOE found that another affiliate of Pillsbury, Burger King Corporation (BK), had received a refund from the Surface Transporters Escrow in the Stripper Well refund proceedings. By filing the Stripper Well proceeding, BK waived Pillsbury's right to receive any refund in the crude oil refund proceeding. Accordingly, Pillsbury's crude oil refund was rescinded. The DOE rejected Pillsbury's argument that because Seneca Foods Corporation had assumed the liabilities of Green Giant when it purchased its assets, Seneca should be required to repay the refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Rollings Farms et al.	RK272-02995	9/5/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Buesing Corporation	RK272-03411
Towle Manufacturing Company.	RK272-4144

[FR Doc. 97-32052 Filed 12-5-97; 8:45 am]
BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5932-8]

Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites; OSWER Directive 9200.4-17; Interim Final

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This Directive clarifies the U.S. Environmental Protection Agency's (EPA) policy regarding the use of Monitored Natural Attenuation for the remediation of contaminated soil and groundwater at sites regulated under Office of Solid Waste and Emergency Response (OSWER) programs. These include programs administered under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"), the Resource Conservation and Recovery Act (RCRA), the Office of Underground Storage Tanks (OUST), and the Federal Facilities Restoration and Reuse Office (FFRRO). The Directive is intended to promote consistency in how monitored natural attenuation remedies are proposed, evaluated, and approved. As a policy document, it does not provide technical guidance on evaluating Monitored Natural Attenuation remedies. This Directive is being issued as Interim Final and may be used immediately. It provides guidance to EPA staff, to the public, and to the regulated community on how EPA intends to exercise its discretion in implementing national policy on the use of Monitored Natural Attenuation. The document does not, however, substitute for EPA's statutes or regulations, nor is it a regulation itself and, thus, it does not impose legally-binding requirements on EPA, States, or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA may change this guidance in the future, as appropriate.

ADDRESSES:

Electronic Access. This document can be accessed in electronic form through the Internet (at <http://www.epa.gov/swerust1/directiv/d9200417.htm>).

Order Copies. To order paper copies of this report, please call the U.S. Environmental Protection Agency's (EPA) RCRA, Superfund, OUST & EPCRA Hotline at (800) 424-9346 or DC Area Local (703) 412-9810 or TDD (800) 553-7672 or TDD DC Area Local (703) 412-3323 Monday through Friday between 9 a.m. and 6 p.m. EST.

Docket. This document is available at three OSWER dockets:

(1) The UST Docket is open to the general public by appointment only between the hours of 9 a.m. and 4 p.m. EST Monday through Friday. No security clearance is necessary. Visitors may make photocopies of documents. The street address is: Office of Underground Storage Tanks Docket, 1235 Jefferson Davis Highway, 13th Floor, Arlington, VA 22202. Telephone numbers are (703) 603-9231 (voice mail) and (703) 603-9163 (fax).

(2) The RCRA Docket is located in the RCRA Information Center (RIC). The RIC is open to the public from 9 a.m. to 4 p.m., Monday through Friday, however, it is recommended that visitors call ahead to make an appointment so that the material they wish to view is ready when they arrive. Patrons may call for assistance at (703) 603-9230, send a fax to (703) 603-9234, or send an E-mail to rcra-docket@epamail.epa.gov. Patrons may write to: RCRA Information Center (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The RIC is located at 1235 Jefferson Davis Highway, Ground Level, Arlington, VA 22202.

(3) The Superfund Docket is open to the general public by appointment only between the hours of 9 a.m. to 4 p.m. Monday through Friday. No clearance is necessary and requestors of documents must make their own photocopies. There is no photocopying charge for documents less than 266 pages in length. The street address of the Superfund Docket/Document Information Center is 1235 Jefferson Davis Highway, Ground Level, Arlington, VA 22202. The telephone numbers are (703) 603-9232 and (703) 603-9240 (fax). The E-mail address is: superfund.docket@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the OSWER Monitored Natural Attenuation Directive Workgroup and the Interim Final Directive, contact Hal White, via E-mail at white.hal@epamail.epa.gov, telephone at (703) 603-7177, fax at (703) 603-9163, or via U.S. Mail to US EPA (5403G), 401 M Street, SW, Washington DC 20460.

SUPPLEMENTARY INFORMATION: EPA will review and evaluate additional comments received on this Interim Final Directive prior to its release as "Final" guidance.

Dated: November 17, 1997.

Anna Hopkins Virbick,

Director, Office of Underground Storage Tanks.

[FR Doc. 97-32044 Filed 12-5-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 22, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *John Ryburn Stipe*, Forrest City, Arkansas; to acquire additional voting shares of Forrest City Financial Corporation, Forrest City, Arkansas, and thereby indirectly acquire Forrest City Bank, N.A., Forrest City, Arkansas.

Board of Governors of the Federal Reserve System, December 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97-31949 Filed 12-5-97; 8:45 am]

BILLING CODE 6210-01-F

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. The application also will 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. 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 December 31, 1997.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to merge with United Bankshares, Inc., Miami, Florida, and thereby indirectly acquire United National Bank, Miami, Florida.

Board of Governors of the Federal Reserve System, December 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97-31947 Filed 12-5-97; 8:45 am]

BILLING CODE 6210-01-F

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. The application also will 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. 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 January 2, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *First Empire State Corporation, and Olympia Financial Corp.*, both of Buffalo, New York; to acquire up to 19.9 percent of the voting shares of OnBancorp, Inc., Syracuse, New York, and thereby indirectly acquire OnBank & Trust Co., Syracuse, New York. Olympia Financial Corp., also has applied to become a bank holding company and to acquire Manufactures and Traders Trust Company, Buffalo, New York.

In connection with these applications, Applicants also have applied to acquire Franklyn First Savings Bank, Wilkes-Barre, Pennsylvania, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Firstrust Corporation*, New Orleans, Louisiana; to acquire 86.39 percent of the voting shares of Peoples Bank of Louisiana, Amite, Louisiana.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Gifford Bancorp, Inc. Employee Stock Ownership Plan*, Gifford, Illinois; to acquire 48.8 percent of the voting shares of Gifford Bancorp, Inc., Gifford, Illinois, and thereby indirectly acquire Gifford State Bank, Gifford, Illinois.

D. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer

Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *First Security Corporation*, Salt Lake City, Utah; to merge with Rio Grande Bancshares, Inc., Las Cruces, New Mexico, and thereby indirectly acquire First National Bank of Dona Ana County, Las Cruces, New Mexico, and First National Bank of Chaves County, Roswell, New Mexico.

Board of Governors of the Federal Reserve System, December 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-32055 Filed 12-5-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 31, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Bank of the Ozarks*, Little Rock, Arkansas; to acquire Heritage Banc Holding, Inc., Little Rock, Arkansas, and thereby indirectly acquire HEARTLAND Community Bank, F.S.B., Little Rock, Arkansas, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97-31948 Filed 12-5-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 971-0105]

The Dow Chemical Company; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 6, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. & Pennsylvania Ave., N.W., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

William Baer, Federal Trade Commission, 6th & Pennsylvania Ave., N.W., H-374, Washington, DC 20580. (202) 326-2932, or Howard Morse, Federal Trade Commission, 6th & Pennsylvania Ave., N.W., S-3627, Washington, DC 20580. (202) 326-2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for November 28, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-

130, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Agreement") from The Dow Chemical Company.

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Dow Chemical Company, a Midland, Michigan based company and producer of chemicals, plastics, and agricultural and consumer products, announced on August 5, 1997, a cash tender offer to acquire all of the share of Sentrachem Limited, a South African chemical company that operates in the U.S. through its wholly-owned subsidiary, Hampshire Chemical Company, Hampshire and Dow, through its Chemical Division, produce aminopolycarboxylic chelating agents, also known as chelants. Hampshire produces chelants in Nashua, New Hampshire and Deer Park, Texas, and chelant intermediates in Lima, Ohio. Dow produces chelants in Freeport, Texas.

The proposed administrative complaint alleges that the proposed acquisition may substantially lessen competition in the research, development, manufacture, and sale of chelants, which are chemicals used in cleaners, pulp and paper, water treatment, photography, agriculture, and food and pharmaceutical applications to neutralize and inactivate metal ions. The proposed complaint alleges that the United States is the relevant geographic market for evaluating the acquisition's effect on chelants because the shipping costs of chelants, which are sold mostly in a liquid solution, are high and there are too many uncertainties and delays inherent in long distance shipping.

The proposed complaint alleges that Hampshire and Dow are the two leading

of only three producers of chelants in the United States, with a combined market share of over 70 percent. With only one competitor, the acquisition would likely lead to an unilateral price increase, 1992 Horizontal Merger Guidelines § 2.22.

Entry into the chelant market would not be timely, likely, or sufficient to deter or offset the adverse effects of the acquisition on competition because a new entrant would have to build both a chelant production plant and a plant to produce hydrogen cyanide ("HCN"), a key input in the production of chelants, which would take over two years and entail large fixed, and mostly sunk, costs. In order to recoup its investment, a new entrant would need to obtain a market share at least as large as that held by any of the current domestic producers, which would be difficult because of the significant amount of chelant sales that are subject to long term supply agreements.

The proposed Order would remedy the alleged violation by preserving the competition that would otherwise be lost as a result of Dow's acquisition. The proposed Order requires Dow, simultaneously with its acquisition of Sentrachem, to divest Hampshire's Chelant Business to Akzo Nobel N.V., a Dutch chemical company that is a leading European producer of chelants with strong chelant technology. Dow must divest, among other things, all rights of Hampshire relating to the research, development and manufacture of chelants in the United States and the distribution and sale of chelants in North America, including Hampshire's Lima, Ohio facility and its contract for the supply of HCN at Lima. Once it acquires the Hampshire Chelant Business, Akzo will build additional chelant capacity at the Lima, Ohio facility, which will curtail the need for inefficient, hazardous HCN shipments from the site.

The proposed Order sets certain Milestones that must be met to accomplish the construction of the additional chelant capacity at Lima. The Milestones include the submission of complete permits for the additional capacity within one year after the Order becomes final, and the installation of the structural steel within one year after the additional capacity is permitted. In the event any of the Milestones has not been achieved, Dow must reacquire the Hampshire Chelant Business from Akzo. The proposed Order further requires that upon its reacquisition of the business, Dow or a trustee will divest the Hampshire Business Unit, which, in

addition to the Hampshire Chelant Business, includes other Hampshire businesses and Hampshire facilities at Nashua, New Hampshire and Deer Park, Texas. The proposed Order requires Dow to maintain the viability and marketability of the Hampshire Business Unit in the interim. This crown jewel provision provides an incentive for realizing the additional chelant capacity at the Lima, Ohio facility in a timely manner. The crown jewel also ensures that the Order will result in effective relief by requiring a divestiture of all of Hampshire in the event that any Milestone is not achieved.

The proposed Order requires Dow to toll manufacture chelants for Akzo from Hampshire's Nashua and Deer Park facilities while Akzo builds additional chelant capacity at Lima. The proposed Order also contains a firewall provision that requires Dow to maintain the confidentiality of the Hampshire Chelant Business form Dow's Competing Chelant Business.

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

Donald S. Clark,

Secretary.

[FR Doc. 97-32033 Filed 12-5-97; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: 45 CFR Part 303.72—Request for collection of past-due support by Federal tax refund offset and administrative offset.

OMB No.: 0970-0161.

Description: The Office of Child Support Enforcement (OCSE) operates the Tax refund offset TROP. The TROP was enacted by Congress on August 13, 1981 (Pub. L. 97-35, section 2331). This is a computerized system operated by the Office of Child Support Enforcement (OCSE) within the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS) and State child support agencies. The TROP was established to recover delinquent AFDC child support

debts with ongoing cooperation of states and local child support agencies.

The Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) signed by the President in November 1990, expanded the Program to include a provision for non-AFDC cases.

In 1996 the Debt Collection Improvement Act (Pub. L. 104-134) further expanded the program to increase the collection of nontax debts owed to the Federal Government and to assist families in collecting past-due child support. It required the development and implementation of procedures necessary to collect past-due support by administrative offset by agencies. As a result, this program is now known as the Tax Refund and Administrative Offset Program (TROP/ADOP).

Purpose: Pursuant to Public Laws 97-35 enacted by Congress on August 13, 1981, Pub. L. 101-508 signed by the President in November 1990 and Pub. L. 104-134 enacted into law on April 26, 1996, the Debt Collection Improvement Act of 1996, and pursuant to the Executive Order 13019 dated September 28, 1996, the OCSE will match the tax refund records against Federal payment certification records and Federal financial assistance records. The purpose is to facilitate the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance. State child support agencies submit cases of delinquent child support claims to the OCSE for submission to the Financial Management Service (FMS). These cases are sent by on-line dial-up access via personal computer, tape and cartridge via mail, Mitron tape, file transfer, or electronic data transmission. The Office of Child Support Enforcement serves as a conduit between state child support enforcement agencies and the FMS by processing weekly updates of collection data and distributing the information back to the appropriate State child support agency. The information will be disclosed by OCSE to state child support agencies for use in the collection of child support debts, through locate action wage withholding or other enforcement actions.

Respondents: State, District of Columbia, Guam, Puerto Rico, and Virgin Islands Governments.

Respondents: State and local governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response (minutes)	Total burden hours
Sub/test tape & Data Spec	1,744	52	5	7,557.3
Sub/test tape & Data Spec	54	52	5	234
Withdrawal notice	1,744	5	2	291
Pre-offset notice	54	87,075	2	15,673.5
Case Cert	54	52	3	140.4
Payment Infor	26	1	10	4.3
Local office contact phone address	1,744	1	30	872
Request for update	54	52	5	234
Federal Tax Offset contact	54	1	2	1.8
Update Spec	54	1	2	1.8
Issuance of pre-offset notice	54	1	2	1.8
Contact point for OCSE Pre-offset notice	30	1	1	0.9
Non-TANF Tax Refund Offset Information	1,744	40,735	10	6,789.2
Offset notice address/phone number change	54	1	10	9.0
Personal computer data	54	1	5	4.5
Notice of intention	25	1	2	0.8

Estimated Total Annual Burden Hours: 31,816.3.

Additional Information: Copies of the proposed collection may be obtained 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.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**.

Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: December 1, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97-32054 Filed 12-5-97; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration on Children, Youth and Families; Statement of Organization, Function, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions

and Delegations of Authority of the Department of Health and Human Services, Administration for Children and Families (ACF) as follows: Chapter KB, Administration on Children, Youth and Families (ACYF) (61 FR 50028), as last amended September 24, 1996. This Notice consolidates the child abuse and neglect functions within the Children's Bureau.

I. Amend Chapter KB as follows: KB.10 Organization. Delete in its entirety and replace with the following:

KB.10 Organization. The Administration on Children, Youth and Families is headed by a Commissioner who reports directly to the Assistant Secretary for Children and Families and consists of:

- Office of the Commissioner (KBA)
- Division of Program Evaluation (KBB)
- Head Start Bureau (KBC)
- Program Operations Division (KBC1)
- Program Support Division (KBC2)
- Children's Bureau (KBD)
- Office of Child Abuse and Neglect (KBD1)
- Division of Policy (KBD2)
- Division of Program Implementation (KBD3)
- Division of Data, Research and Innovation (KBD4)
- Division of Child Welfare Capacity Building (KBD5)
- Family and Youth Services Bureau (KBE)
- Child Care Bureau (KBG)
- Program Operations Division (KBG1)
- Policy Division (KBG2)

II. Delete paragraph D in its entirety and replace with the following:

D. The Children's bureau is headed by an Associate Commissioner who advises the Commissioner, Administration on Children, Youth and Families, on

matters related to child welfare, including child abuse and neglect, child protective services, family preservation and support, adoption, foster care and independent living. It recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research and demonstration activities. It represent ACYF in initiating and implementing interagency activities and projects affecting children and families, and provides leadership and coordination for the programs, activities, and subordinate components of the Bureau.

1. Office on Child Abuse and Neglect provides leadership and direction on the issues of child maltreatment and the prevention of abuse and neglect under the Child Abuse Prevention and Treatment Act (CAPTA). It is the focal point for interagency collaborative efforts, national conferences and special initiatives related to child abuse and neglect, and for coordinating activities related to the prevention of abuse and neglect and the protection of children at-risk. It supports activities to build networks of community-based, prevention-focused family resource and support programs through the Community-Based Family Resource and Support Program. It supports improvement in the systems which handle child abuse and neglect cases, particularly child sexual abuse and exploitation and maltreatment related fatalities, and improvement in the investigation and prosecution of these cases through the Children's Justice Act.

2. Division of Policy provides leadership and direction in policy development and interpretation under titles IV-B and IV-E of the Social

Security Act, and the Basic State Grant under the Child Abuse Prevention and Treatment Act. It writes regulations and interprets policy for the Bureau's formula and entitlement grant programs, and responds to requests for policy clarification from ACF Regional Offices and a variety of other sources.

3. Division of Program Implementation provides leadership and direction in the operation and review of programs under titles IV-B and IV-E of the Social Security Act, and the Basic State Grant under the Child Abuse Prevention and Treatment Act. It develops program instructions, information memoranda, and annual reports. It analyzes State Plans and develops State profiles and other reports; participates in monitoring and reviewing State information systems to ensure the accuracy and relevancy of the data. It is responsible for the Monitoring Team, which schedules and coordinates the monitoring of State reviews and ensures effective corrective action if necessary. It works with appropriate other agencies and organizations on the implementation and oversight of relevant sections of the Indian Child Welfare Act. It is the focal point for financial issues, including disallowances, appeals, and the decisions of the Departmental Appeals Board (DAB). It responds to client and constituent correspondence received electronically and from a variety of sources.

4. Division of Data, Research and Innovation provides leadership and direction in program development, innovation, research and in the management of the Bureau's information systems under titles IV-B and IV-E of the Social Security Act, and under the Child Abuse Prevention and Treatment Act. It defines critical issues for investigation and makes recommendations regarding subject areas for research, demonstration and evaluation. It administers the Bureau's discretionary grant programs, and awards project grants to State and local agencies and organizations nationwide. It provides direction to the Crisis Nurseries and Abandoned Infants Resource Centers. It is responsible for the Data and Technology Team which analyzes and disseminates program data from the Adoption and Foster Care Analysis and Reporting System (AFCARS), and the National Child Abuse and Neglect Data System (NCANDS); develops systematic methods of measuring the impact and effectiveness of various child welfare programs; performs statistical sampling functions; provides comprehensive guidance to States, local agencies and

others on data collection issues, and performance and outcome measures; and is the focal point for technology development within the Bureau.

5. Division of Child Welfare Capacity Building provides leadership and direction in the areas of training, technical assistance and information dissemination under titles IV-B and IV-E of the Social Security Act, and under the Child Abuse Prevention and Treatment Act. Either directly or through the Resource Centers, it provides training and technical assistance to assist service providers, State and local governments and tribes, and strengthen headquarters and regional office staff. It manages section 426 discretionary training grants and title IV-E training. It directs the operations and activities of the National Center on Child Abuse and Neglect Information Clearinghouse and the National Adoption Information Clearinghouse. It identifies best practices for treating troubled families and preventing abuse and neglect. It participates in the development of grant announcements, and manages certain discretionary grant projects. It develops and issues a periodic newsletter, and is the focal point for conference and meeting planning activities for the Bureau.

III. Delete Paragraph F in its entirety.

Dated: November 25, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97-31964 Filed 12-5-97; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Mammography Quality; States as Certifiers Demonstration Project, Informational Conference; Availability of the "Application Package for Participation in the States as Certifiers Demonstration Project;" Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing the following meeting: "Mammography Quality, States as Certifiers Demonstration Project, Informational Conference." FDA is also announcing the availability of the "Application Package for Participation in the States as Certifiers Demonstration Project." FDA is planning to implement a 1-year demonstration project on State

certification of mammography facilities, which is scheduled to begin on July 1, 1998. Participation in the program is voluntary, and will be limited to a few qualified States to be selected by FDA.

Date and Time: The meeting will be held on December 15, 1997, 11:30 a.m. to 4 p.m. Completed "Application Packages for Participation in the States as Certifiers Demonstration Project" must be submitted to FDA by February 16, 1998.

Location: The meeting will be held at 16071 Industrial Dr., Gaithersburg, MD 20877.

Contact Person: Miguel R. Kamat, Center for Devices and Radiological Health (HFZ-240), 1350 Piccard Dr., Rockville, MD 20850, 301-827-2968.

Registration: Registration for this meeting is not required.

Electronic Access: Persons interested in obtaining a copy of the application package may do so by using the World Wide Web (WWW). The Center for Devices and Radiological Health (CDRH) maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a PC with access to the WWW. Updated on a regular basis, the CDRH home page includes the "Application Package for Participation in the States as Certifiers Demonstration Project."

The CDRH home page may be accessed at <http://www.fda.gov/cdrh>. The "Application Package for Participation in the States as Certifiers Demonstration Project" will be available at <http://www.fda.gov/cdrh/dmqr.html>.

Dated: November 28, 1997.

D. B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 97-32082 Filed 12-5-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N-0329]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Changes to an Approved Application" has been approved by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 24, 1997 (62 FR 39890 to 39903), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910-0315. The approval expires on September 30, 2000.

Dated: December 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-32024 Filed 12-5-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0321]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Advisory Opinions" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 14, 1997 (62 FR 43534), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910-0193. The approval expires on September 30, 2000.

Dated: December 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-32079 Filed 12-5-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0323]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Notice of Participation" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 7, 1997 (62 FR 42561), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910-0191. The approval expires on September 30, 2000.

Dated: December 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-32080 Filed 12-5-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0265]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Investigational Device Exemptions Reports and Records—21 CFR 812" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 16, 1997 (62 FR 38097), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910-0078. The approval expires on September 30, 2000.

Dated: December 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-32081 Filed 12-5-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-3776-N-04]

Notice of Public Meeting and Request for Comments on Fair Housing Initiatives Program

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

ACTION: Notice of public meeting and request for comments on Fair Housing Initiatives Program (FHIP).

SUMMARY: This Notice invites interested parties to attend a public meeting and/or to submit written comments on the Department's administration of FHIP funding, including criteria and/or incentives to be included in the FY 1998 FHIP Notice of Funding Availability (NOFA) for activities that assist the Department in its efforts to double enforcement actions under the Fair Housing Act.

DATES: The public meeting will be held on December 15, 1997 at 2:00 p.m. The written comment Due Date is December 19, 1997.

ADDRESSES: Persons interested in attending the public meeting are invited to attend in Room 10233, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Persons interested in submitting written comments are invited to submit comments regarding this Notice to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410-2000; telephone number (202) 708-0800 (this is not a toll free number). Persons who use a text telephone (TTY) may call 1-800-290-1617.

SUPPLEMENTARY INFORMATION: The Fair Housing Initiatives Program is an essential component in the enforcement of the Fair Housing Act and in the Department's commitment to doubling its enforcement actions. In anticipation of the next round of funding under the FHIP, the Department desires to provide an opportunity for comment from prior grantees and applicants, potential applicants and any other interested parties, on the administration of FHIP funding, application procedures for funding in general, and on the content of FHIP NOFAs in particular. The Department is also interested in suggestions regarding criteria and/or incentives to include in the FY 1998 FHIP Notice of Funding Availability (NOFA) to assist the Department in its efforts to double enforcement actions under the Fair Housing Act. In addition to suggestions, the Department welcomes comments on the merits of: bonus points for activities that result in enforcement actions by HUD;

requirements that specific types of cases be filed with HUD; and incentives for other cooperative activities that further the Department's enforcement program. Enforcement actions are defined as issuance of a charge by HUD or referral by HUD to the Department of Justice for enforcement. The Department will consider the comments received in response to this Notice when formulating plans for the disposition of funds appropriated for Fiscal Year 1998.

Dated: December 3, 1997.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 97-32151 Filed 12-4-97; 11:12 am]

BILLING CODE 4210-28-P

DEPARTMENT OF THE INTERIOR

Environmental Statements; Availability, etc.: National Bison Range Complex, MT: Comprehensive Conservation Plan

AGENCY: Fish and Wildlife Service.

ACTION: Notice of intent to prepare a comprehensive conservation plan.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental document for the National Bison Range Complex in northwestern Montana. The Service is furnishing this notice in compliance with Service CCP policy to advise other agencies and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by January 7, 1998.

ADDRESSES: Comments and requests for more information to Project Leader, Attention Planning Team, National Bison Range Complex, 132 Bison Range Road, Moiese, Montana 59824.

FOR FURTHER INFORMATION CONTACT: Dave Wiseman, Refuge Manager 406-644-2211.

SUPPLEMENTARY INFORMATION: The Service has initiated Comprehensive Conservation Planning for the National Bison Range Complex. The Complex includes the National Bison Range; Ninepipe, Pablo, and Swan River National Wildlife Refuges; and the Northwest Montana Wetland Management District. Each National Wildlife Refuge has purposes for which it was established. Those purposes are used to develop and prioritize management goals and objectives within

the National Wildlife Refuge System mission, and to guide which public uses occur on the refuge. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each national wildlife refuge's establishing purposes.

In 1908, the first purchase of land for the exclusive protection of wildlife occurred when Congress appropriated money for the establishment of the National Bison Range "for a permanent national bison range for the herd of bison." (45 Stat. 267-8) and subsequently in 1921 "as refuges and breeding grounds for birds," (Executive Order 3596). Ninepipe and Pablo National Wildlife Refuges were established as easement refuges in 1921 "as a refuge and breeding ground for native birds," (Executive Order 3503-Ninepipe, Executive Order 3504-Pablo). The Tribes have the right to use these for all purposes consistent with the permanent refuge easements. Swan River National Wildlife Refuge was established in 1973 "for use as an inviolate sanctuary, or for any other management purpose, for migratory birds," (Migratory Bird Conservation Act, 16 U.S.C. 715-715r). Finally, the Northwest Montana Wetland Management District are lands acquired "as Waterfowl Production Areas" subject to "all of the provisions of such Act (Migratory Bird Conservation Act) * * * except the inviolate sanctuary provisions," (Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718).

The National Bison Range Complex is an integral part of the community in northwestern Montana. The National Bison Range, Ninepipe and Pablo National Wildlife Refuges, and that portion of the Wetland Management District in Lake County, Montana lie within the exterior boundaries of the Flathead Indian Reservation of the Confederated Salish and Kootenai Tribes. The units of the Complex that are not within the reservation include the Swan River National Wildlife Refuge and that portion of the Wetland Management District in Flathead County, Montana. The Comprehensive Conservation Plan will define how the Complex is managed, not who manages it. Therefore, this planning effort is separate from the Confederated Salish and Kootenai Tribes' compacting requests for management authority. The Service and the Tribes have discussed working together to develop the CCP.

The Service may contract with the Tribes for resource personnel or services as needed. The Service will conduct the planning process providing the Tribes, as well as other governments, agencies, organizations, and the public with an opportunity to participate in the scoping and public comment process.

The Service is requesting input for concerns, ideas, and suggestions for the future management of the National Bison Range Complex. Anyone interested in providing input is invited to respond to the following three questions.

(1) What makes the National Bison Range Complex (or any specific unit) special or unique for you?

(2) What problems or issues do you want to see addressed in the Comprehensive Conservation Plan?

(3) What improvements would you recommend for the National Bison Range Complex (or any specific unit)?

The Service has provided the above questions for your optional use. There is no requirement to provide information to the Service. The Planning Team developed these questions to facilitate finding out more information about individual issues and ideas concerning the National Bison Range Complex. Comments received by the Planning Team will be used as part of the planning process, individual comments will not be reference in our reports or directly responded to.

There will also be an opportunity to provide input at open houses scheduled for late January 1998 to scope issues and concerns (schedule can be obtained from the National Bison Range at above address). All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (e.g., names, addresses, letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, the National Wildlife Refuge System Improvement Act of 1997, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental document will be available for review in June 1999.

Dated: November 26, 1997.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 97–32007 Filed 12–5–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: United States Geological Survey, Interior.

ACTION: Notice to accept contribution from private sources.

SUMMARY: The United States Geological Survey (USGS) is accepting a \$25,000 contribution per year for two years from Amoco Overseas Exploration Company to support the World Energy Project.

ADDRESSES: If any other parties are interested in making contributions for the same or similar purposes, please contact Mr. Vito Nuccio of the U.S. Geological Survey, Central Region Energy Resources Team, Mail Stop 939, Denver Colorado 80225–0046; telephone (303) 236–1654; e-mail vnuccio@usgs.gov.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: November 21, 1997.

P. Patrick Leahy,

Chief, Geologic Division.

[FR Doc. 97–32000 Filed 12–5–97; 8:45 am]

BILLING CODE 4210–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–0777–74]

Committees, Establishment, Renewal, Termination, etc: Alaska Resource Advisory Council; Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Nominations for Alaska Resource Advisory Council.

SUMMARY: The Bureau of Land Management, Alaska State Office, is soliciting nominations for the Alaska Resource Advisory Council. The council provides advice and recommendations to BLM on land use planning and

management of 90 million acres of public lands in Alaska. Public nominations will be considered for 30 days after the publication date of this notice.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10–15 member citizen-based advisory councils as established and authorized under the Federal Advisory Committee Act. Council members represent the various interests concerned with the management of the public lands in Alaska. These include three categories:

- Category One—Representatives of energy and mining development, timber industry, off-road vehicle use and developed recreation.
- Category Two—Representatives of environmental and resource conservation organizations and archaeological or historic interests.
- Category Three—Representatives of state and local government, Alaska Natives, academicians involved in natural sciences, and the public-at-large.

BLM is currently seeking nominations to fill vacancies in categories one and two.

Individuals may nominate themselves or others. Nominees must be residents of the State of Alaska, and will be evaluated on the basis of education, training, experience of the issues, and knowledge of Alaska's public lands. Nominees should have a demonstrated commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations and a completed nomination form.

ADDRESSES: To request a nomination package, contact External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

DATES: All nominations should be received on or before January 7, 1998.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, Bureau of Land Management, Alaska State Office, (907) 271–5555.

Dated: November 24, 1997.

Tom Allen,

State Director.

[FR Doc. 97–32005 Filed 12–5–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[OR-130-1020-00;GP8-0057]

Notice of Meeting of the Eastern Washington Resource Advisory Council**AGENCY:** Interior, Bureau of Land Management, Spokane District.**ACTION:** Meeting of the Eastern Washington Resource Advisory Council; January 15, 1998, in Spokane, Washington.

SUMMARY: A meeting of the Eastern Washington Resource Advisory Council will be held on January 15, 1998. The meeting will convene at 7:00 p.m., at Doubletree Hotel Spokane/City Center, Spokane Falls Ballroom, 322 N. Spokane Falls Court, Spokane, Washington, 99201; (509) 455-9600. The meeting will adjourn upon completion of business, but no later than 10:00 p.m. Public comments will be heard from 7:30 p.m. until 9:00 p.m. If necessary to accommodate all wishing to make public comments, a time limit may be placed upon each speaker. The purposes of the meeting are to discuss the Draft Eastside Environmental Impact Statement and to receive an update on the status of the Standards for Rangeland Health and Livestock Grazing Guidelines.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 North Fancher Road, Spokane, Washington, 99212; or call 509-536-1200.

Dated: December 2, 1997.

Joseph K. Buesing,*District Manager.*

[FR Doc. 97-32001 Filed 12-5-97; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[AK-910-0777-74]

Notice of Alaska Resource Advisory Council Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of Alaska Resource Advisory Council Meeting.

SUMMARY: The Alaska Resource Advisory Council will conduct an open meeting Thursday, January 22, 1998, from 9 a.m. until 4:30 p.m. and Friday, January 23, 1998, from 8:30 a.m. until 4

p.m. The council will review BLM land management issues and take public comment on those issues. The meeting will be held in the Denali Room on the 4th floor of the Anchorage Federal Building at 7th and C Street.

Public comments will be taken from 2-3 p.m. Thursday, January 22. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513-7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271-5555.

Dated: November 25, 1997.

Tom Allen,*State Director.*

[FR Doc. 97-32006 Filed 12-5-97; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[OR-050-1020-00: GP8-0053]

Notice of Meeting of John Day-Snake Resource Advisory Council**AGENCY:** Bureau of Land Management, Prineville District; Interior.**ACTION:** Meeting of John Day-Snake Resource Advisory Council; Pendleton, Oregon, January 13, 1998.

SUMMARY: A meeting of the John Day-Snake Resource Advisory Council will be held on January 13, 1998 beginning at 8:00 a.m. at the Yellowhawk Community Health Center, Umatilla Reservation, Pendleton, Oregon. The meeting is open to the public. Public comments will be received at 1:00 p.m. Topics to be discussed by the Council will include the Interior Columbia Basin Ecosystem Management Project, implementation of Standards for Rangeland Health and Guidelines for Livestock Grazing on public lands, and an update on the Oregon Governor's Forest Health Advisory Committee.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 NE. Third Street, P.O. Box 550, Prineville, Oregon 97754, or call 541-416-6700.

Dated: November 26, 1997.

James L. Hancock,*District Manager.*

[FR Doc. 97-32059 Filed 12-5-97; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[NM-030-1430-01; NMNM98528]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico**AGENCY:** Bureau of Land Management (BLM), Interior.**ACTION:** Notice of realty action; R&PP Act classification.

SUMMARY: The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to Dona Ana County, New Mexico under the provision of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*). Dona Ana County proposes to use the land for a Juvenile Correctional and Rehabilitative Facility.

T. 23 S., R. 1 W., NMPM
Sec. 33, E $\frac{1}{2}$ NE $\frac{1}{4}$, south of the frontage road paralleling Interstate Highway 10. Containing 56 acres, more or less.

DATES: Comments regarding the proposed lease/conveyance or classification must be submitted on or before January 22, 1998.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525-4349.

SUPPLEMENTARY INFORMATION:

Lease or conveyance will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein. Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. On or before January 22, 1998,

interested persons may submit comments regarding the proposed lease/conveyance or classification of the land to the District Manager, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a Juvenile Correctional and Rehabilitative Facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Juvenile Correctional and Rehabilitative Facility.

Dated: December 2, 1997.

Josie Banegas,

Acting District Manager.

[FR Doc. 97-32004 Filed 12-5-97; 8:45 am]

BILLING CODE 4310-VC-P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Title II Fiscal Year 1998 Development Program Proposal Final Draft Guidelines and FY 1997 Annual Results Report

Pursuant to Section 207(b) of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), as amended, notice is hereby given that the final draft P.L. 480 Title II guidelines for fiscal year 1999 Program Proposals and Fiscal Year 1997 Annual Results Reports is being made available to interested parties for the required thirty-day comment period.

Individuals who wish to receive a copy of the draft guidelines should contact: Office of Food for Peace, Agency for International Development, 1300 Pennsylvania Avenue (RRB 7.06-153), Washington, DC 20523-0809. Contact person: Gwen Johnson, (202) 712-0664. Individuals who have

questions or comments on the draft guidelines, should contact David Nelson at (202) 712-1828.

The thirty-day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: November 20, 1997.

William T. Oliver,

Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 97-31904 Filed 12-5-97; 8:45 am]

BILLING CODE 6116-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 25-97]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME

Monday, December 15, 1997, 9:30 a.m. to 5:00 p.m.

Wednesday, December 17, 1997, 9:30 a.m. to 5:00 p.m.

Monday, December 22, 1997, 9:30 a.m. to 5:00 p.m.

Monday, December 29, 1997, 9:30 a.m. to 5:00 p.m.

Wednesday, December 31, 1997, 9:30 a.m. to 5:00 p.m.

SUBJECT MATTER: (1) Oral Hearings and Hearings on the Record on Objections to Individual Proposed Decisions on Claims of Holocaust Survivors Against Germany; (2) Issuance of Individual Final Decisions on Claims of Holocaust Survivors Against Germany.

STATUS: Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, N.W., Room 6002, Washington, DC 20579. Telephone: (202) 616-6988.

Dated at Washington, DC, December 3, 1997.

Judith H. Lock,

Administrative Officer.

[FR Doc. 97-32152 Filed 12-4-97; 9:18 am]

BILLING CODE 4410-01-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

December 3, 1997.

The Department of Labor has submitted the ETA 9068 (Formula Grants) and ETA 9068-1 (Competitive Grants) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub.L. 104-13, 44 U.S.C. Chapter 35). OMB approval has been requested by December 31, 1997. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Todd Owen ({202} 219-5096, x.143).

Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desk Officer for the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395-7316).

The Office of Management and Budget is particularly interested in comments which:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of response.

Agency: Employment and Training Administration.

Title: Welfare-to-Work Formula (ETA 9068)/Competitive Cumulative Quarterly Status Reports (ETA 9068-1).
OMB Number: 1205-New.

Frequency: Quarterly.

Affected Public: (1) WtW Formula Grants: States, local governments, and

Private Industry Councils; and (2) WTW Competitive Grants: Eligible applicants from Business or other for profit and non-profit institutions. The Welfare to Work program is a new program

designed to assist States in finding unsubsidized employment. The quarterly financial status reports are due to the Employment and Training Administration in order to evaluate the

program, for program planning and management, to measure regulatory compliance, and for audit purposes.

DOL, ETA REPORTING BURDEN FOR WTW FORMULA AND BONUS GRANTS (ETA 9068)

Requirements	1st year	2nd year	3rd year	4th year
Number of Reports Per Entity Per Quarter	1	1	2	2.
Total Number of Reports Per Entity Per Year	3	4	8	8.
Number of Hours Required for Recording/Reporting Per Quarter Per Report	40 minutes ...	80 minutes ...	120 minutes	80 minutes.
Total Number of Hours Required for Recording/Reporting Hours Per Entity Per Year.	2	5	8	5.
Number of Entities Reporting	55	55	55	55.
Total Number of Hours Required for Recording/Reporting Burden Per Year	110	293	440	293.
Total Burden Cost @\$10.50 per hour.	\$1,155.00	\$3,080.00	\$4,620.00	\$3,080.00.

NOTE: Formula Grants will only be issued in years 1 and 2; Grantees may be eligible for a Bonus grant in year 3. All grants funds will be tracked in the same automated format.
In year 1, formula grants will not be allotted until the 2nd qtr.

DOL, ETA REPORTING BURDEN FOR WTW COMPETITIVE GRANTS (ETA 9068-1)

Requirements	1st year	2nd year	3rd year	4th year
Number of Reports Per Entity Per Quarter	1	1	2	2.
Total Number of Reports Per Entity Per Year	3	4	4	4.
Number of Hours Required for Recording/Reporting Per Quarter Per Report	40 minutes ...	80 minutes ...	120 minutes	80 minutes.
Total Number of Hours Required for Recording/Reporting Hours Per Entity Per Year.	2	5	8	5.
Estimated Number of Entities Reporting	200	200	200	200.
Total Number of Hours Required for Recording/Reporting Burden Per Year	400	1,067	1,600	1,067.
Total Burden Cost @\$10.50 per hour.	\$4,200.00	\$11,200.00 ...	\$16,800.00 ...	\$11,200.00

NOTE: Competitive Grants to be awarded in years 1 and 2. Estimate 200 grants will be awarded to eligible applicants. All grant funds will be tracked in the same automated format.
In year 1, Competitive grants will not be let until the 2nd quarter.

Description: This request for emergency clearance of the WtW Formula and Competitive Cumulative Quarterly Status report formats is necessary so that the Department may collect financial data from the States and other grant recipients on a quarter basis. The information will provide a means for the Secretary of Labor to manage and evaluate the program as well as to develop a formula for measuring State performance to be utilized in determining and awarding bonuses to States. These performance bonuses are authorized under the Act in Section 403(a)(5)(E).

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 97-32056 Filed 12-5-97; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Temporary Closing of Microfilm Research Room at National Archives Building

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA plans to close the Microfilm Research Room at the National Archives Building (Room 400) from January 12 to 16, 1998, to refurbish the room and install new equipment. Any changes to these dates will be posted in the fourth floor lobby outside the Microfilm Research Room. Researchers may also obtain updated information by calling or contacting NARA at the telephone number or email address shown in the **FOR FURTHER INFORMATION CONTACT** section.

DATES: January 12 to 16, 1998.

ADDRESSES: The Microfilm Research Room is located in the National Archives Building at 700 Pennsylvania Ave., NW, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Jo Ann Williamson, Chief, Archives I, User Services Branch, Tel. 202-501-5400. E-mail inquiries: <inquire@nara.gov>.

Dated: December 1, 1997.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 97-32058 Filed 12-5-97; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of Membership of the National Science Foundation's Performance Review Board for Office of Inspector General Senior Executive Service positions.

SUMMARY: This announcement of the membership of the National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Wilkinson, Jr., at the above address or (703) 306-1180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Office of Inspector General

Senior Executive Service Performance Review Board is as follows:

Charles E. Hess, Chairman, Audit and Oversight Committee, National Science Board, Chairperson
Linda P. Massaro, Director, Office of Information and Resource Management, Executive Secretary
Judith S. Sunley, Assistant to the Director.

Dated: December 3, 1997.

John F. Wilkinson, Jr.,

Director, Division of Human Resource Management.

[FR Doc. 97-32074 Filed 12-5-97; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Company; Philadelphia Electric Company; Delmarva Power and Electric Company; Atlantic City Electric Company; Salem Nuclear Generating Station, Units 1 and 2; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80 of the indirect transfer of control of Atlantic City Electric Company's (ACE) and Delmarva Power and Light Company's (DP&L) interests in the Salem Nuclear Generating Station (SNGS), Units 1 and 2, licenses to the extent effected by a proposed merger and restructuring of Atlantic Energy, Inc. (the parent holding company of ACE) and DP&L, resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. Atlantic Energy, Inc. will cease to exist. Public Service Electric and Gas Company (PSE&G), Philadelphia Electric Company (PECo), DP&L, and ACE are co-holders of Facility Operating Licenses Nos. DPR-70 and DPR-75, issued for operation of the SNGS, Units 1 and 2, located in Lower Alloways Creek Township, Salem County, New Jersey. PSE&G, the licensed operator of the facilities, and PECo are not involved in the proposed merger and restructuring. An application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L) informed the

Commission of the proposed merger and corporate restructuring.

According to the proposed plan, there will be no significant change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of the SNGS, Units 1 and 2, due to the corporate restructuring. ACE and DP&L will continue to hold the licenses, and no direct transfer of the licenses will occur.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after appropriate notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to the proposed action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97-32018 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

Public Service Electric and Gas Company, Atlantic City Electric Company, Hope Creek Generating Station; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80, of the indirect transfer of control of Atlantic City Electric Company's (ACE) interest in the Hope Creek Generating Station (HCGS) license to the extent effected by a proposed merger of

Atlantic Energy, Inc. (the parent holding company of ACE) and Delmarva Power & Light Company (DP&L), resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. Atlantic Energy, Inc. will cease to exist. Public Service Electric and Gas Company, not involved in the merger, is co-holder of Facility Operating License No. NPF-57, along with ACE, issued for operation of the HCGS, located in Lower Alloways Creek Township, Salem County, New Jersey. An application filed by ACE under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Counsel for ACE and DP&L, informed the Commission of the proposed corporate restructuring.

According to the proposed plan, there will be no significant change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of the HCGS due to the corporate restructuring. ACE will continue to hold the license, and no direct transfer of the license will occur.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after appropriate notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to the proposed action, see the application filed by ACE under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97-32022 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY
COMMISSION**

[Docket Nos. 50-277 and 50-278]

**PECO Energy Company, Public
Service Electric and Gas Company,
Delmarva Power and Light Company,
Atlantic City Electric Company, Peach
Bottom Atomic Power Station, Units 2
and 3; Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80, of the indirect transfer of control of the interests in the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, licenses to the extent effected by a proposed merger of Atlantic Energy, Inc. (the parent holding company of Atlantic City Electric Company (ACE) and Delmarva Power & Light Company (DP&L), resulting in the formation of a new holding company, Conectiv, Inc. ACE is co-holder of Facility Operating Licenses Nos. DPR-44 and DPR-56, along with Public Service Electric and Gas Company (PSE&G), PECO Energy Company (PECO), and DP&L, issued for operation of the PBAPS, Units 2 and 3, located in Peach Bottom Township, York County, Pennsylvania.

Environmental Assessment*Identification of the Proposed Action*

The proposed action would consent to the indirect transfer of the interests in PBAPS to the extent effected by the proposed merger of Atlantic Energy, Inc. and DP&L, resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. No direct transfer of the licenses as held by ACE and DP&L would occur. PECO, the licensed operator of the facilities, and PSE&G are not involved in the merger and restructuring.

The proposed action is in accordance with an application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Counsel for ACE and DP&L.

The Need for the Proposed Action

The proposed action is required to enable the proposed merger and restructuring of Atlantic Energy, Inc., ACE and DP&L to occur to the extent indirect transfers of control of the licenses will be effected by the merger and restructuring.

*Environmental Impacts of the Proposed
Action*

The Commission has completed its evaluation of the proposed action and concludes that there will be no physical or operational changes as a result of the proposed action. The corporate merger and restructuring will not affect the qualifications or organizational affiliation of the personnel who operate the facilities, as PECO, not involved in the merger, will continue to be responsible for the operation of PBAPS, Units 2 and 3.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action will not affect nonradiological plant effluents and will have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Peach Bottom Atomic Power Station, Units 2 and 3," April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on September 15, 1997, the staff consulted with the Pennsylvania State official, Mr. S. Maingi of the State of Pennsylvania, Bureau of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1061, Harrisburg, Pennsylvania.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

*Director, Project Directorate I-2, Division of
Reactor Projects—I/II, Office of Nuclear
Reactor Regulation.*

[FR Doc. 97-32020 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-M

**NUCLEAR REGULATORY
COMMISSION**

[Docket Nos. 50-277 and 50-278]

**PECO Energy Company, Public
Service Electric And Gas Company,
Delmarva Power And Light Company,
Atlantic City Electric Company, Peach
Bottom Atomic Power Station, Units 2
And 3; Notice Of Consideration Of
Approval Of Application Regarding
Proposed Corporate Restructuring**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80, of the indirect transfer of control of Atlantic City Electric Company's (ACE) and Delmarva Power and Light Company's (DP&L) interests in the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, licenses to the extent effected by a proposed merger and restructuring of Atlantic Energy, Inc. (the parent holding company of ACE) and DP&L, resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned

subsidiaries. Atlantic Energy, Inc., will cease to exist. PECO Energy Company, Public Service Electric and Gas Company (PSE&G), DP&L, and ACE are co-holders of Facility Operating Licenses Nos. DPR-44 and DPR-56, issued for operation of PBAPS, Units 2 and 3, located in Peach Bottom Township, York County, Pennsylvania. PECO, the licensed operator of the facilities, and PSE&G are not involved in the proposed merger and restructuring. An application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Counsel for ACE and DP&L, informed the Commission of the proposed merger and corporate restructuring.

According to the proposed plan, there will be no significant change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of PBAPS, Units 2 and 3, due to the corporate restructuring. ACE and DP&L will continue to hold the licenses, and no direct transfer of the licenses will occur.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after appropriate notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to the proposed action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., Shaw, Pittman, Potts & Trowbridge (counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97-32021 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Company; Atlantic City Electric Company; Philadelphia Electric Company; Delmarva Power and Light Station, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80, of the indirect transfer of control of the interests in the Salem Nuclear Generating Station (SNGS), Units 1 and 2, licenses to the extent effected by a proposed merger of Atlantic Energy, Inc. (the parent holding company of Atlantic City Electric Company (ACE) and Delmarva Power & Light Company (DP&L), resulting in the formation of a new holding company, Conectiv, Inc. ACE is co-holder of Facility Operating Licenses Nos. DPR-70 and DPR-75, along with Public Service Electric and Gas Company (PSE&G), Philadelphia Electric Company (PECo), and DP&L issued for operation of the SNGS, Units 1 and 2, located in Lower Alloways Creek Township, Salem County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the transfer of the interests in SNGS to the extent effected by the proposed merger of Atlantic Energy, Inc. and DP&L, resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. No direct transfer of the licenses as held by ACE and DP&L would occur. PSE&G, the licensed operator of the facilities, and PECo are not involved in the merger and restructuring.

The proposed action is in accordance with an application filed by ACE and DP&L under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Counsel for ACE and DP&L.

The Need for the Proposed Action

The proposed action is required to enable the proposed merger and restructuring of Atlantic Energy, Inc., ACE, and DP&L to occur to the extent indirect transfers of control of the licenses will be effected by the merger and restructuring.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there will be no physical or operational changes as a result of the proposed action. The corporate merger and restructuring will not affect the qualifications or organizational affiliation of the personnel who operate the facilities, as PSE&G, not involved in the merger, will continue to be responsible for the operation of SNGS, Units 1 and 2.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action will not affect nonradiological plant effluents and will have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement" for Salem Nuclear Generating Station, Units 1 and 2, April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on October 21, 1997, the staff consulted with the New Jersey State official, Mr. R. Pinney of the State of New Jersey, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the application filed by ACE and DP&L under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97-32019 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

Public Service Electric and Gas Company and Atlantic City Electric Company; Hope Creek Generating Station, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order, under 10 CFR 50.80 of the indirect transfer of control of Atlantic City Electric Company's (ACE) interests in the Hope Creek Generating Station (HCGS) license to the extent effected by a proposed merger of Atlantic Energy, Inc. (the parent holding company of ACE) and Delmarva Power & Light Company (DP&L), resulting in the formation of a new holding company, Conectiv, Inc. ACE is co-holder of Facility Operating License No. NPF-57, along with Public Service Electric and Gas Company (PSE&G), issued for operation of the HCGS, located in Lower Alloways Creek Township, Salem County, New Jersey.

Environmental Assessment*Identification of the Proposed Action*

The proposed action would consent to the indirect transfer of the interest in HCGS to the extent effected by the proposed merger of Atlantic Energy, Inc. and DP&L, resulting in the formation of a new holding company, Conectiv, Inc., under which ACE and DP&L would become wholly owned subsidiaries. ACE would continue to be a co-licensee of HCGS, and no direct transfer of the license would occur. PSE&G is not involved in the proposed merger.

The proposed action is in accordance with an application filed by ACE under cover of a letter dated April 30, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Counsel for ACE and DP&L.

The Need for the Proposed Action

The proposed action is required to enable the proposed merger and restructuring of Atlantic Energy, Inc., ACE, and DP&L to occur to the extent an indirect transfer of the license will be effected by the merger and restructuring.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there will be no physical or operational changes as a result of the proposed action. The corporate merger and restructuring will not affect the qualifications or organizational affiliation of the personnel who operate the facilities, as PSE&G, not involved in the merger, will continue to be responsible for the operation of HCGS.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action will not affect nonradiological plant effluents and will have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental

impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of the Hope Creek Generating Station," NUREG-1074, December 1984.

Agencies and Persons Consulted

In accordance with its stated policy, on October 21, 1997, the staff consulted with the New Jersey State official, Mr. R. Pinney of the State of New Jersey, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the application filed by ACE under cover of a letter dated April 30, 1997, as supplemented November 7, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge (Counsel for ACE and DP&L), which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey.

Dated at Rockville, Maryland, this 2nd day of December 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-2, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 97-32023 Filed 12-5-97; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF ENERGY

President's Council on Integrity and Efficiency

Senior Executive Service Performance; Review Board Membership

AGENCY: President's Council on Integrity and Efficiency (PCIE), Department of Energy.

ACTION: Notice of Senior Executive Service Performance Review Board membership.

SUMMARY: This notice sets forth the names and titles of the current membership of the PCIE Performance Review Board.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Individual offices of (the) Inspector General.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General's Act of 1978, as amended, has created independent audit and investigative units—Offices of (the) Inspector General—at 61 Federal agencies. In 1981, the President's Council on Integrity and Efficiency (PCIE) was established by Executive Order as an interagency committee charged with promoting integrity and effectiveness in Federal programs. The PCIE is chaired by the Office of Management and Budget's Deputy Director for Management, and comprised principally of the 29 Presidentially appointed Inspectors General (IGs). The primary objectives of the PCIE are (1) mounting collaborative efforts to address integrity, economy and effectiveness issues that transcend

individual Federal agencies; and (2) increasing the professionalism and effectiveness of IG personnel throughout the Government.

II. PCIE Performance Review Board

Under 5 U.S.C. 4314(c) (1)–(5) and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards are to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current members of the President's Council on Integrity and Efficiency Performance Review Board are as follows:

Members	Title
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AGENCY FOR INTERNATIONAL DEVELOPMENT

Everett L. Mosley	Deputy Inspector General.
Carol L. Levy	Assistant Inspector General for Investigations.
C. Michael Flannery	Assistant Inspector General for Security.
Robert S. Perkins	Legal Counsel.

DEPARTMENT OF AGRICULTURE

Joyce Fleischman	Deputy Inspector General.
Paula F. Hayes	Assistant Inspector General for Policy Development & Resources Management.
James R. Ebbitt	Assistant Inspector General for Audit.
Richard D. Long	Deputy Assistant Inspector General for Audit.
Robert W. Young, Jr	Deputy Assistant Inspector General for Audit.
Craig L. Beauchamp	Assistant Inspector General for Investigations.
Jon E. Novak	Deputy Assistant Inspector General for Investigations.
Christine Jung	Deputy Assistant Inspector General for Investigations.

DEPARTMENT OF COMMERCE

Elizabeth T. Barlow	Counsel to the Inspector General.
George E. Ross	Assistant Inspector General for Audits.

DEPARTMENT OF DEFENSE

Nicholas T. Lutsch	Assistant Inspector General for Administration & Information Management.
Robert J. Lieberman	Assistant Inspector General for Auditing.
William G. Dupree	Assistant Inspector General for Investigations.
Russell A. Rau	Assistant Inspector General for Policy & Oversight.
Clifford F. Broome	Director for Departmental Inquiries.
Joel J. Leson	Deputy Assistant Inspector General for Administration & Information Management.
David K. Steensma	Deputy Assistant Inspector General for Auditing.
Donald E. Davis	Deputy Assistant Inspector General for Audit Policy & Oversight.
John F. Keenan	Deputy Assistant Inspector General for Investigation.

DEPARTMENT OF ENERGY

Gregory H. Friedman	Deputy Inspector General for Audit Services.
Michael W. Conley	Deputy Inspector General for Inspections.
Judith D. Gibson	Assistant Inspector General for Resource Management.
Herbert Richardson	Assistant Inspector General for Investigations.
Stanley R. Sulak	Director, Audit Policy, Plans & Programs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Michael F. Mangano	Principal Deputy Inspector General.
Thomas D. Roslewicz	Deputy Inspector General for Audit Services.

Members	Title
Joseph E. Vengrin	Assistant Inspector General for Audit Policy/Oversight.
George Reeb	Assistant Inspector General for Health Care Financing Audits.
Joe Green	Assistant Inspector General for Public Health Service Audits.
John A. Ferris	Assistant Inspector General for Human, Family & Department Services Audits.
John E. Hartwig	Deputy Inspector General for Investigations.
Robert E. Richardson	Assistant Inspector General for Criminal Investigations.
George Grob	Deputy Inspector General for Evaluation & Inspections.
Dennis J. Duquette	Deputy Inspector General for Management & Policy.
D. McCarty Thornton	Counsel to the Inspector General.
Lewis Morris	Assistant Inspector General for Litigation Coordination.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

John J. Connors	Deputy Inspector General.
Kathryn M. Kuhl-Inclan	Assistant Inspector General for Audit.
Michael R. Phelps	Deputy Assistant Inspector General for Audit.
Phillip Newsome	Deputy Assistant Inspector General for Investigation.
Judith Hetheron	Counsel to the Inspector General.

DEPARTMENT OF THE INTERIOR

Richard N. Reback	Chief of Staff and General Counsel.
John R. Sinclair	Assistant Inspector General for Investigations.

DEPARTMENT OF JUSTICE

Robert L. Ashbaugh	Deputy Inspector General.
Mary W. Demory	Assistant Inspector General for Inspections.
Howard L. Sribnick	General Counsel.

DEPARTMENT OF LABOR

Patricia Dalton	Deputy Inspector General.
Sylvia Horowitz	Assistant Inspector General for Management & Counsel.
John Getek	Assistant Inspector General for Audit.
F.M. Broadaway	Assistant Inspector General for Investigations.

DEPARTMENT OF STATE

John C. Payne	Deputy Inspector General.
Richard Melton	Deputy Inspector General.
M. Milton MacDonald	Assistant Inspector General for Audits.
James K. Blubaugh	Assistant Inspector General for Inspections.
Robert S. Terjesen	Assistant Inspector General for Investigations.
Jon Wiant	Assistant Inspector General for Security & Intelligence Oversight.

DEPARTMENT OF TRANSPORTATION

Raymond J. DeCarli	Deputy Inspector General.
Roger P. Williams	Senior Counsel.
Lawrence H. Weintrob	Assistant Inspector General for Auditing.
Todd J. Zinser	Assistant Inspector General for Investigations.
Wilbur L. Daniels	Deputy Assistant Inspector General for Maritime and Departmental Programs.
Patricia J. Thompson	Deputy Assistant Inspector General for Surface Transportation.
Alexis M. Stefani	Deputy Assistant Inspector General for Aviation.
John L. Meche	Deputy Assistant Inspector General for Financial, Economic and Information Technology.

DEPARTMENT OF THE TREASURY

Richard Calahan	Deputy Inspector General.
Dennis Schindel	Assistant Inspector General for Audit.
Raisa Otero-Cesario	Assistant Inspector General for Investigations.
Gary Whittington	Assistant Inspector General for Policy, Planning & Resources.
William Pugh	Deputy Assistant Inspector General for Financial Audits.
John Balakos	Associate Inspector General for Program Audits.
James Cottos	Special Technical Advisor to the Inspector General.

DEPARTMENT OF VETERANS AFFAIRS

Michael J. Costello	Assistant Inspector General for Investigations.
David H. Gamble	Deputy Assistant Inspector General for Investigations.
Michael G. Sullivan	Assistant Inspector General for Auditing.

Members	Title
Michael Slachta, Jr	Deputy Assistant Inspector General for Auditing.
John H. Mather, M.D	Assistant Inspector General for Healthcare Inspections.
Maureen T. Regan	Counselor to the Inspector General.

ENVIRONMENTAL PROTECTION AGENCY

Nikki Tinsley	Acting Inspector General.
Kenneth Konz	Assistant Inspector General for Audit.
John Jones	Assistant Inspector General for Management.
Allen Fallin	Assistant Inspector General for Investigations.
Emmet Dashiell	Deputy Assistant Inspector General for Investigations.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Richard Skinner	Deputy Inspector General.
Nancy Hendricks	Assistant Inspector General for Audits.
Paul Lillis	Assistant Inspector General for Investigations.

GENERAL SERVICES ADMINISTRATION

Joel S. Gallay	Deputy Inspector General.
Kathleen S. Tighe	Counsel to the Inspector General.
James E. Henderson	Assistant Inspector General for Investigations.
Gary Seybold	Deputy Assistant Inspector General for Investigations.
William E. Whyte, Jr	Assistant Inspector General for Auditing.
Eugene L. Waszily	Deputy Assistant Inspector General for Auditing.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Richard D. Triplett	Assistant Inspector General for Investigations.
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NUCLEAR REGULATORY COMMISSION

David C. Lee	Deputy Inspector General.
Thomas J. Barchi	Assistant Inspector General for Audits.
James E. Childs	Assistant Inspector General for Investigations.

OFFICE OF PERSONNEL MANAGEMENT

Joseph R. Willaver	Deputy Inspector General.
Harvey D. Thorp	Assistant Inspector General for Audits.
Gary S. Yauger	Assistant Inspector General for Investigations.

RAILROAD RETIREMENT BOARD

William H. Tebbe	Assistant Inspector General for Investigations.
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SMALL BUSINESS ADMINISTRATION

Karen S. Lee	Deputy Inspector General.
Phyllis K. Fong	Assistant Inspector General for Management and Legal Counsel.
Peter L. McClintock	Assistant Inspector General for Auditing.
Thomas C. Cross	Assistant Inspector General for Inspection and Evaluation.

SOCIAL SECURITY ADMINISTRATION

James G. Huse, Jr	Deputy Inspector General.
Thomas J. Blatchford	Assistant Inspector General for Investigations.
Pamela J. Gardiner	Assistant Inspector General for Audit.
Daniel R. Devlin	Deputy Assistant Inspector General for Audit.

Dated: December 1, 1997.

John C. Layton,

Inspector General, Department of Energy, and Vice Chair, PCIE.

[FR Doc. 97-32047 Filed 12-5-97; 8:45 am]

BILLING CODE 6450-01-U

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22922; 812-10458]

Janus Investment Fund, et al.; Notice of Application

December 2, 1997.

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

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and (iv) section 17(d) of the Act and rule

17d-1 under the Act to permit certain joint arrangements.

Summary of Application: Applicants request an order that would permit certain registered investment companies to participate in a joint lending and borrowing facility.

Applicants: Janus Investment Fund, Janus Aspen Series, Janus Capital Corporation ("Janus Capital"), any person controlling, controlled by, or under common control with Janus Capital, and any open-end management investment company registered under the Act for which Janus Capital or any person controlling, controlled by, or under common control with Janus Capital serves as investment adviser.¹
FILING DATES: The application was filed on December 9, 1996 and amended on July 9, 1997, and November 7, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 29, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, Janus Capital Corporation, 100 Fillmore Street, Denver, CO 80206-4923.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, (202) 942-0562 (Office of Investment Company Regulation, Division of Investment Management), or Mercer E. Bullard, Special Counsel, (202) 942-0659 (Office of Chief Counsel, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's

Public Reference Branch, 450 5th Street, N.W., Washington, DC, 20549 (tel. 202-942-8090).

Applicants' Representations

1. Janus Investment Fund is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust. Janus Aspen Series is registered under the Act as an open-end management investment company and organized as a Delaware business trust. Janus Investment Fund and Janus Aspen Series have, respectively, nineteen and nine separate portfolios (each a "Fund"). Janus Capital is registered as an investment adviser under the Investment Advisers Act of 1940. Kansas City Southern Industries, Inc., a publicly traded holding company whose primary subsidiaries are engaged in asset management, transportation and information processing, owns approximately 83% of the outstanding voting stock of Janus Capital. Each Fund has entered into an investment advisory agreement with Janus Capital under which Janus Capital exercises discretionary authority to purchase and sell securities for the Funds. Janus Capital also provides administrative services to the Funds.

2. In 1995, each Fund, Janus Capital and Janus Service Corporation, the Funds' transfer agent, obtained an order under section 17(d) and rule 17d-1 permitting them and certain other registered investment companies (collectively, "Joint Account Participants") to deposit uninvested cash balances that remain at the end of a trading day in one or more joint trading accounts (each a "Joint Account") to be used to enter into short-term investments. Janus Capital invests the cash in the Joint Account as part of its duties under its existing advisory contract with each Joint Account Participant and does not charge any additional fee for this service.

3. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments, either directly or through the Joint Account. Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a portfolio security sold by a Fund has been delayed. Currently, the Funds have credit arrangements with their custodians (*i.e.*, overdraft protection) under which the custodians may, but are not obligated to, lend money to the Funds to meet the Funds' temporary cash needs.

4. If the Funds were to borrow money from their custodians under their current arrangements or under other credit arrangements with a bank, the Funds would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit for serving as a middleman between a borrower and lender. Other bank loan arrangements, such as committed lines of credit, would require the Funds to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Fund.

5. Applicants request an order that would permit the Funds to enter into lending agreements ("Interfund Lending Agreements") under which the Funds would lend money directly to and borrow money directly from each other through a credit facility for temporary purposes ("Interfund Loan"). Applicants believe that the proposed credit facility would substantially reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the proposed credit facility would substantially reduce the Funds' need to borrow from banks, the Funds might also continue to maintain committed lines of credit or other borrowing arrangements with banks. The Funds also would continue to maintain overdraft protection currently provided by their custodians.

6. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

7. Applicants also propose using the credit facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the Fund has

¹ All existing Funds (defined below) that currently intend to rely on the order have been named as applicants, and any other existing or future Funds that subsequently rely on the order will comply with the terms and conditions in the application.

undertaken to purchase a security with the proceeds from securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

8. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks or short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rather higher than they otherwise could obtain from investing their cash through the Joint Account in repurchase agreements. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

9. The interest rate charged to the Funds on any Interfund Loan would be the average of the Repo Rate and the Bank Loan Rate, as defined below. The Repo Rate for any day would be the highest rate available to the Joint Account Participants from investments in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by Janus Capital each day an Interfund Loan is made according to a formula established by the trustees of the Funds (the "Trustees") designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (e.g., Federal Funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Trustees periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the benchmark rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Trustees.

10. The credit facility would be administered by Janus Capital's money market investment professionals (including the portfolio manager for the

money market funds ("Money Market Funds")) and fund accounting department (collectively, the "Cash Management Team"). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. As in the case of the Joint Account, Janus Capital on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Once it had determined the aggregate amount of cash available for loans and borrowing demand the Cash Management Team would allocate loans among borrowing Funds without any further communication from portfolio managers. Applicants expect far more available uninvested cash each day than borrowing demand. All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Funds' portfolio manager. After Janus Capital has allocated cash for Interfund Loans, it will invest any remaining cash in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Funds. The Money Market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

11. The Cash Management Team would allocate borrowing demand and cash available for lending among the Funds on what the Team believed to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction.

12. Janus Capital would: (i) Monitor the interest rates charged and the other terms and conditions of the loans, (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund, and (iv) make quarterly reports to the Trustees concerning any transactions by the Funds under the credit facility and the interest rates charged. The method of allocation and related administrative procedures would be approved by each Fund's Trustees, including a majority of

Trustees who are not "interested persons" of the Funds, as defined in section 2(a)(19) of the Act ("Independent Trustees"), to ensure that both borrowing and lending Funds participate on an equitable basis.

13. Janus Capital would administer the credit facility as part of its duties under its existing management or advisory and service contract with each Fund and would receive no additional fee as compensation for its services. Janus Capital or companies affiliated with it may collect standard pricing, recordkeeping, bookkeeping and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

14. Each Fund's participation in the proposed credit facility will be consistent with its organizational documents and its investment policies and limitations. The prospectus of each Fund discloses that the Fund may borrow money for temporary purposes in amounts up to 25% of its total assets. Each non-Money Market Fund may mortgage or pledge securities as security for borrowings in amounts up to 15% of its net assets. Each of the Money Market Funds may mortgage or pledge securities only to secure permitted borrowings. As a fundamental policy, each Fund may lend securities or other assets if, as a result, no more than 25% of its total assets would be lent to other parties.

15. The prospectus of each Fund currently discloses that Funds advised by Janus Capital intend to seek permission from the SEC to borrow money from or lend money to each other. If applicants' requested order is granted, the Statement of Additional Information ("SAI") of each Fund will disclose all material facts about intended participation in the credit facility. All borrowings and loans by the Funds will be consistent with the organizational documents and investment policies of the respective Funds.

16. In connection with the credit facility, applicants request an order under (i) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having Janus Capital as their common investment adviser.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with potential adverse interests to and influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because (i) Janus Capital would administer the program as a disinterested fiduciary; (ii) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through the Joint Account; (iii) the Interfund Loans would not involve a greater risk than such other investments; (iv) the lending Fund would receive

interest at a rate higher than it could obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that Janus Capital would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; provided, that immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture,

note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d-1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d-1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantages to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The interest rates to be charged to the Funds under the credit facility will

be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, Janus Capital will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than the Repo Rate and more favorable to the borrowing Fund than the quoted Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total less than 10% of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 25% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market

value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No equity, taxable bond or Money Market Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 5%, 7.5% or 10%, respectively, of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold to cover either shareholder redemptions or sales fails, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the credit facility, as measured on the day the most recent loan was made, will not exceed the greater of 125% of the fund's total net cash redemptions and 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by the lending Fund and may be repaid on any day by the borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. Janus Capital's Cash Management Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without intervention of the portfolio manager of the Fund (except the portfolio manager of the Money Market Funds acting in her or his capacity as a member of the Cash Management Team). All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Funds' portfolio manager. The Cash Management Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that the portfolio manager of the Money Market Funds has access to loan demand data). Janus Capital will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Funds.

13. Janus Capital will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards of Trustees concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

14. The Trustees of each Fund, including a majority of the Independent Trustees: (a) will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of such Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, Janus Capital will promptly refer such loan for arbitration to an independent arbitrator selected by the Trustees of any Fund involved in the loan who will serve as arbitrator of disputes concerning

Interfund Loans.² The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Trustees setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and commercial bank borrowings, and such other information presented to the Fund's Trustees in connection with the review required by conditions 13 and 14.

17. Janus Capital will prepare and submit to the Trustees for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all funds are treated fairly. After the credit facility commences operations, Janus Capital will report on the operations of the credit facility at the Trustees' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund that is a registered investment company shall prepare an annual report that evaluates Janus Capital's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N-SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) that the Interfund Rate will be higher than the Repo Rate but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Trustees; and (e) that the interest

rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N-SAR.

18. No Fund will participate in the credit facility unless it has fully disclosed in its SAI all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-32029 Filed 12-5-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of December 8, 1997.

A closed meeting will be held on Thursday, December 11, 1997, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, December 11, 1997, at 2:30 p.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if

any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: December 4, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-32168 Filed 12-4-97; 11:06 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39380; File No. SR-OPRA-97-5]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising the Allocation of Revenues Between OPRA's Basic Accounting Center and OPRA's Index Option Accounting Center

December 1, 1997.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Exchange Act"), notice is hereby given that on November 5, 1997, the Options Price Reporting Authority ("OPRA"),¹ submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The amendment revises the allocation of revenues between OPRA's basic accounting center and the index option accounting center. OPRA has designated this proposal as concerned solely with administration of the Plan, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3-2(c)(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise revenue allocations under the Plan between OPRA's basic accounting center and the index option accounting center. Currently, the Plan provides for

¹ OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3-2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Exchange ("PCX"); and the Philadelphia Stock Exchange ("PHLX").

² If the dispute involves Funds with separate Boards of Trustees, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each party.

allocation of revenues on the basis of a 75% allocation to the basic accounting center and 25% to the index option accounting center. Because OPRA has not yet unbundled the index option service and has no current plans to do so, there is no specified portion of the system revenues derived from the index option service. When OPRA adopted the fixed allocations several years ago, the allocations reflected the relative market share at the time. However, the volume of index options has decreased relative to that of equity options, so that the current allocation formula no longer reflects the relative market share of index and equity options. Therefore, the amendment proposes to replace the existing allocation formula with a formula that is expressly based on current relative market share, so that as relative market share changes from time to time, it will no longer be necessary to amend the OPRA Plan in order to maintain a fair and appropriate allocation of these revenues. The proposed Plan amendment will change the allocations from a fixed basis to a relative market share basis until such time as OPRA might impose separate charges for access to information and facilities pertaining to index option securities.

II. Solicitation of Comments

Pursuant to Rule 11Aa3-2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3-2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR-OPRA-97-5 and should be submitted by December 29, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-31960 Filed 12-5-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39373; File No. SR-DTC-97-14]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Revisions to the Procedures for Running Call Lotteries on Issues of Book Entry Only Securities

November 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 2, 1997, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-97-14) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend DTC's procedures for running call lotteries for book-entry only ("BEO") issues of securities. Under the revisions, DTC will run lotteries using its participants' positions as of the close of business on the day DTC announces the lottery instead of the call publication date.²

² 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² A copy of DTC's proposed call lottery procedures is attached as Exhibit A to DTC's proposed rule change, which is available for inspection and copying at the Commission's Public Reference room or through DTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.³

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise DTC's call lottery procedures for BEO securities.⁴ Currently, DTC's call lottery process allocates partially called securities⁵ among participants having positions in the called securities based on the participants' positions on the call publication date.⁶ Under the proposed rule change, DTC will run the call lotteries using participants' positions as of the close of business on the day DTC announces the call lottery. The proposed rule change does not set forth any other amendments to DTC's call lottery procedures.

DTC believes that changing its procedures solely for BEO securities will reduce the number of short positions without any adverse impact to

³ The Commission has modified the text of the summaries prepared by DTC.

⁴ For a discussion of DTC's call lottery process, refer to Securities Exchange Act Release Nos. 21523 (November 27, 1984), 49 FR 47352 (File No. SR-DTC-84-09) (filing and immediate effectiveness of proposed rule change); 30552 (April 2, 1992) 57 FR 12352 (File No. SR-DTC-90-02) (order temporarily approving a proposed rule change by the DTC relating to the establishment of a procedure to recall certain deliveries which have created short positions as a result of call lotteries); 35034 (November 30, 1994) 59 FR 63396 (File Nos. SR-DTC-94-08 and SR-DTC-94-09) (order granting temporary approval of proposed rule changes to establish procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits); and 36651 (December 28, 1995) 61 FR 429 (File No. SR-DTC 95-21) (order granting accelerated permanent approval of a proposed rule change concerning short position reclamation procedures).

⁵ The terms of certain issues allows the issuer to call part of the outstanding security for redemption at certain times during the issue's life. This type of security is referred to as a callable security. Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity. Generally when an issuer calls a security, the issuer's trustee publishes notice that the issue has been called or in the case of registered securities, mails notice to the registered holders.

⁶ The call publication date is the date on which the issuer gives notice of the redemption.

its participants because DTC believes that the publication date is less relevant to BEO securities than other types of securities. According to DTC, issuers of BEO securities generally do not publish partial call notices. Instead, the issuers inform DTC of the call notice because DTC is the securities' holder of record. DTC will then notify its participants. While an issuer may inform DTC of a publication date, DTC believes that this is done only for purposes of DTC's lottery and that the date has no real significance. As a result of the expected fewer short positions, DTC believes that its participants will save on depository charges which are 130 percent of the current market value of short positions. DTC's participants also will save on the costs associated with reconciling short positions and the costs associated with purchasing securities to cover short positions.

DTC believes that the proposed rule change is consistent with the requirements of the Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder because it promotes efficiencies in the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has solicited participant comments on the proposed rule change. It has taken into account participant responses to earlier proposed alternatives to revising the call lottery procedures in developing this rule change. The Reorganization Division Inc. of the Securities Industry Association wrote DTC to express its support for revising the call lottery procedures for BEO securities.⁷

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal**

⁷ Letter from Brad F. Lesowitz, President, Reorganization Division, Inc., Securities Industry Association to Donald F. Donahue, Executive Vice President, DTC (April 4, 1997). A copy of the letter is attached as Exhibit C to DTC's proposed rule change, which is available for inspection and copying at the Commission's Public Reference room or through DTC.

Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-97-14 and should be submitted by December 29, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-31962 Filed 12-5-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39368; File No. SR-NYSE-97-32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extension of the Pilot for Allocation Policy and Procedures

November 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁸ 17 CFR 200.30-3(a)(12).

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 26, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the effectiveness of the pilot program relating to the Exchange's Allocation Policy and Procedures until January 16, 1998. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the effectiveness of a pilot program relating to the Exchange's Allocation Policy and Procedures. The Exchange's Allocation Policy and Procedures are intended: (1) To ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange recently implemented, on a pilot basis, a revised Allocation Policy and Procedures to amend the procedures by which the Exchange selects a specialist for newly listing companies.³ The Exchange's pilot program provides listing companies with two options, either: (1) to have their specialist unit selected by the Allocation Committee according to existing allocation criteria, with company input permitted in the form of a "generic letter" which may describe desired general characteristics of a specialist unit, but may not mention particular units or describe characteristics that would be applicable to a readily identifiable specialist unit; or (2) to make the final selection of a specialist unit from among three to five units selected by the Allocation Committee, with a generic letter from the company describing desired specialist unit characteristics permitted, as in (1) above. In the case of both options, if a generic letter is submitted, the letter would be distributed to all specialist units along with allocation data sheets ("green sheets").

On October 6, 1997, the Commission approved an extension of the pilot program until November 28, 1997 to continue to study its effects.⁴ On October 20, 1997, the NYSE requested that the Commission grant permanent approval of the Allocation Policy and Procedures, as amended.⁵ The proposed amendments relate to sections of the policy dealing with listing company input, spin-offs and related companies. Subsequently, Commission staff determined that the Commission required more time to consider the Exchange's request to make permanent the amendments to the Allocation Policy and Procedures. Therefore, at the request of Commission staff, the Exchange proposes to extend the Allocation Policy and Procedures pilot program until January 16, 1998.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act⁶ that an Exchange have rules that are designed to promote just and

equitable principles of trade, to remove impediments and to 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 Exchange believes that extending the effectiveness of the Allocation Policy and Procedures until January 16, 1998 is consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated between specialist units to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(e)(6)⁸ thereunder because it does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. The Exchange requests that the Commission waive the provision in Rule 19b-4(e)(6)(iii)⁹ requiring written notice of the NYSE's intent to file the proposed rule change at least five days prior to the filing date. The Commission grants the Exchange's request to waive the pre-filing requirement because the proposed merely continues an existing pilot program for a limited duration.

A proposed rule change filed under Rule 19b-4(e) does not become operative prior to thirty days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds good cause for the proposed rule change to become operative prior to the thirtieth day after the date of the filing, November 26, 1997. The Commission notes that accelerating the operative date of the proposed rule change will enable the Exchange to continue its Allocation Policy and Procedures pilot program on an uninterrupted basis. The Commission further notes that it has previously solicited comments on the pilot program and no comments were received. Further, the extension of the existing pilot is of limited duration, only until January 16, 1998. For the foregoing reasons, the proposed rule change will become operative on November 28, 1997.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-97-32 and should be submitted by December 29, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-32027 Filed 12-5-97; 8:45 am]

BILLING CODE 8010-01-M

³ See Securities Exchange Act Release No. 38372 (March 7, 1997), 62 FR 13421 (March 21, 1997) (notice of filing and immediate effectiveness of File No. SR-NYSE-97-04).

⁴ See Securities Exchange Act Release No. 39206, 62 FR 53679 (October 15, 1997) (order approving File No. SR-NYSE-97-27).

⁵ See Securities Exchange Act Release No. 39288 (October 30, 1997), 62 FR 60297 (November 7, 1997) (noticing File No. SR-NYSE-97-30).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(e)(6).

⁹ 17 CFR 240.19b-4(e)(6)(iii).

¹⁰ 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-39379; File No. SR-NYSE-97-17]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Amend the Exchange's Wireless Data Communications Initiatives

December 1, 1997.

I. Introduction

On May 28, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to modify certain aspects of its program for the use of wireless data communications technology that allows a member in a trading crowd or elsewhere on the trading floor to communicate with other locations on the floor by means of a hand-held wireless device.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38786 (June 30, 1997), 62 FR 36597 (July 8, 1997). No comments were received on the proposal. This order approves the proposed rule change.

II. Description

In 1995, the Committee approved a proposed rule change of the Exchange³ that allowed the Exchange to introduce wireless data communications technology onto the Exchange trading floor. The Exchange believes that such technology expedites, and makes more efficient, the process by which members receive and execute orders. The technology involves the floor-based use of wireless hand-held data communications devices. To effect that initiative, the Exchange undertook to develop and install a wireless data communications infrastructure on its floor. It determined to allow private vendors, as well as the Exchange itself, to offer hand-held device services to Exchange members.

As described at length in the 1995 Filing, the Exchange's plan has been to introduce the new technology in four phases:

(1) In Phase I, the Exchange supervised and monitored three "proof-of-concept" pilot programs on the floor of the Exchange.

(2) In Phase II, the Exchange monitored and supervised additional, more structured, pilot testing of independent wireless data communications services, including that offered by the Exchange.

(3) In Phase III, the Exchange will conduct on the floor a preproduction pilot test of its wireless data communications system infrastructure, will supervise the installation and testing of the infrastructure and will move its own wireless data communications system to the infrastructure. In addition, the Exchange will continue to allow pilot testing of private vendors' wireless data communications services.

(4) In Phase IV, the Exchange will direct the production roll-out of the wireless data communications infrastructure and the migration of vendors to the infrastructure.

The Exchange had completed Phase I prior to the time of its submission of the 1995 Filing. Since then, the Exchange has completed Phase II and recently entered into Phase III.

Specifically, the purposes of the proposed rule change are: (1) To modify the types of wireless data communications that the Exchange will permit over the infrastructure; (2) to clarify that a vendor cannot provide wireless data communications services to Exchange members unless it is a member organization of the Exchange; and (3) to introduce the forms of agreement and provisions pursuant to which the Exchange will allow vendors and member organizations to provide wireless data communications services to members on the trading floor of the Exchange in the production roll-out environment.

First, the Exchange proposes to modify the types of wireless communications permitted over the infrastructure. The 1995 Filing specified as follows:

A vendor's Phase II pilot program must restrict wireless data communications to communications between a hand-held device used by a member on the floor and a terminal in a floor booth location. The Exchange will prohibit all floor-based wireless data communications between any other points.

The Exchange limited communications during the Phase II pilot programs to communications between a booth terminal and a floor-based hand-held device and will continue that limitation during Phase III pilot programs. However, the Exchange proposes the ultimate addition of

communications between two hand-held devices on the floor.

As during the pilot programs, the Exchange will continue to prohibit wireless data communications either from a booth terminal or from a location on the trading floor to a location off of the floor. However, the same as under the pilot programs, a member subscribing to a wireless data communications service, whether from the Exchange or from a private vendor, may effect communications between a floor booth terminal and a member's off-floor system in the same "wired" manner as it can today, subject to applicable rules and policies. In addition, the subscribing member's booth terminal may interface with the Exchange's Common Message Switch ("CMS") in order to allow the member to enter orders into the Exchange's SuperDOT System complex. That interface would not differ from today's booth/CMS interfaces and would be subject to existing CSM interface standards.

Next, the Exchange proposes to only provide access to its wireless communications infrastructure to vendors that are member organizations. The Exchange anticipates that some member organizations that are interested in vending those services will enter into contracts with non-member organizations (e.g., traditional wireless data device vendors that desire to function as agents or contractors of the member organization) and that those contracts will delegate many of the service functions to those other entities. The Exchange is willing to permit that use of agents and contractors, so long as the member organization remains responsible for the performance of those functions and guarantees the performance of the agents and contractors.

Additionally, the Exchange included as part of the 1995 Filing, a form of agreement (the "Pilot Program Vendor Form") pursuant to which the Exchange would allow vendors of wireless data communications services to provide those services to Exchange members for the purposes of the Phase I and Phase II pilot testing. Now that the pilot testing period is completed, the Exchange has derived from the Pilot Program Vendor Form two different forms of agreement that are designed for use by member organizations that wish to provide wireless data communications services to members in the Exchange's production roll-out wireless data communications environment. One of those forms (the "Associated Member Form") allows a member organization to provide such

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 35931 (June 30, 1995), 60 FR 35767 (July 11, 1995) ("1995 Filing").

services to members that are officers, partners and employees of the member organization. The other form (the "Revised Vendor Form") allows a member organization to provide such services to other members.

The primary differences of substance between the Pilot Program Vendor Form and the Revised Vendor Form are as follows. The Revised Vendor Form eliminates: (1) References to the creation and installation of the infrastructure; (2) permission to use radio bands other than that which the Exchange provides through its infrastructure; (3) a requirement that members migrate to the infrastructure once it becomes available; and (4) a limited Exchange obligation to support the communications equipment of private vendors.

Also, the Revised Vendor Form clarifies that only member organizations may vend wireless data communications services on the Exchange's floor, but allows the member organization to delegate functions to agents and contractors, so long as the member organization guarantees the performance of the agents and contractors. The Revised Vendor Form will allow communications between members using hand-held devices at two different locations on the trading floor, as well as between a member using a hand-held device on the floor and a member at a booth terminal, as the Exchange permitted in the pilot programs.

In addition, the Revised Vendor Form will not contain the restriction on participating vendors that they refrain from discriminating among the members to whom they are willing to provide their vendor services.⁴ The Exchange believes that the completion of the infrastructure means that the technology necessary to allow every member to enjoy wireless data communications services will be available, whether from a vending member organization or from the Exchange. In Phase IV, the production roll-out phase, the Exchange will therefore allow vending member organizations to enter into such wireless data communications arrangements with members as they may see fit. For instance, a member organization may vend a wireless data communication service to Exchange members, but may offer preferential terms and conditions to members with which it is affiliated. As a result, the Revised Vendor Form will eliminate: (1) the several provisions found in the Pilot Program Vendor Form

that require the vendor to provide wireless data communications services only on unbiased, non-discriminatory grounds; and (2) the provision that limits the scope of any pilot program to 25 members.

The Revised Vendor Form also will eliminate the provision that prohibits a vendor from representing that it is the sole vendor of wireless data communications services on the Exchange floor. Finally, the Exchange proposes to add to the Revised Vendor Form a provision that prohibits a vending member organization from introducing its service, or from modifying its equipment or transmission methodology, until the Exchange has seen the service or the modification operate satisfactorily. In addition, the Revised Vendor Form grants the Exchange the right to test a service and related equipment.⁵

The vendor agreement form requires the vendor to prepare a description of its service for attachment to the form. *Attachment A* to the form ("the Revised Vendor Service Description") sets forth the information that the Exchange requires the vendor to include in the service description. The Exchange proposes to eliminate, from that required information, information that completion of the infrastructure makes irrelevant. In addition, the Exchange proposes to add to those required items of information the vendor's method and location for storing devices when not in use. Furthermore, the Exchange proposes to clarify that among the rules and regulations with which the vendor is required to comply are all health and safety standards.⁶

As an important element of the Pilot Program Vendor Form, the Exchange required a vendor of a Phase I or II pilot program to provide its service to a member only pursuant to a written contract with the member. The Exchange required that contract to govern six elements of the vendor-member relationship⁷ and to include certain provisions designed to protect the interests of the Exchange and its members. The Exchange set forth those

⁵ Finally, the proposed rule change provides that: the NYSE is not liable to the vendor, any Authorized Service Recipient, or any other person, for lost profits; and that the vendor cannot represent that the NYSE provides the service, except for the infrastructure and certain other equipment in support of the wireless data communications services.

⁶ The service description as so amended (the "Revised Vendor Service Description") is set forth in *Attachment A* to *Exhibit A* of the rule filing.

⁷ Responsibility for losses; training; system maintenance and support; technological limitations; the availability of equipment and spare parts; and service charges.

requirements in an *Attachment B* to the Pilot Program Vendor Form. For the purpose of the Revised Vendor Form, the Exchange is proposing to amend those contract requirements in the manner set forth in *Attachment B* to *Exhibit A* (the "Revised Vendor-Member Agreement Terms"). The amendments: reflect the fact that the Exchange will now permit communications between members using hand-held devices at two different locations on the floor; remove the requirement that the vendor-member agreement must govern the six prescribed elements of the relationship; remove the Exchange-imposed termination requirements for terminations by the vendor or the subscribing member; and add that NYSE rules apply.

For the production roll-out phase, the Exchange has prepared the Associated Member Form for use by a member organization that wishes to provide wireless data communications services on the Exchange's trading floor solely to officers, partners and employees of the member organization that are Exchange members.⁸

The Associated Member Form contains provisions that are almost identical in substance to those found in the Revised Vendor Form, except that the Associated Member Form requires the member organization to take responsibility for the actions of its members and to assure that its members will comply with all provisions of the Form as well as with relevant laws, rules and regulations. For that reason, the Exchange does not propose to require the member organization to enter into an agreement with a subscriber to its wireless data communications service if the subscriber is an Exchange member that is an officer, partner or employee of the member organization. As a result, the Exchange does not propose to impose on the member organization a set of terms and conditions—for application between the member organization and its members—that parallel those set forth in the Revised Vendor-Member Agreement Terms. However, the proposed rule change does add to the Associated Member Form a paragraph similar to one found in the Revised Vendor-Member Agreement Terms stating that if the Exchange determines that any Associated Member has failed to comply with the rules, policies and

⁸ A copy of the Associated Member Form is attached to the filing as *Exhibit B*. Attached as *Attachment A* to that form is a service description (the "Associated Member Service Description"), modified from the Revised Vendor Service Description as necessary to reflect the associated member context.

⁴ The Commission notes that the anti-discrimination restrictions will still apply through the completion of Phase III.

procedures of the NYSE, the Commission, or the Federal Communications Commission ("FCC"), then the vendor (customer) has to stop providing the Service to that Associated Member immediately, upon notice to the customer or after a reasonable amount of time after notice.

As in respect of Phase II, the Exchange reserves the right to limit the number of vendors that may provide wireless data communications systems on the floor during Phase IV, based on the ability of the Exchange to maintain its regulatory oversight responsibilities in a satisfactory manner. In addition, as the Exchange gains experience with the use of wireless data communications technology on its floor, it may determine that additional restrictions, such as in respect of permissible transmissions or hardware, are warranted.

The Exchange does not currently plan to charge vendors or Exchange members or member organizations for the privilege of providing wireless data communications services during Phase IV, although it reserves its right to do so. If the Exchange does determine to impose Phase IV charges or any other charges, it would first seek Commission approval of any such charge.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).⁹ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public, by continuing to expedite and improve the efficiency of the process by which members receive and execute orders on the floor of the Exchange.¹¹

The Commission believes that allowing communications between two hand-held devices located at two

different positions on the floor is consistent with the Act and the original pilot approval because it will expedite and allow for more efficient processing of orders and dissemination of information among members on the floor, by eliminating the current necessary step of communicating with the booth terminal. A member may rely on the information it receives from another member on the floor through a hand-held wireless device to make trading decisions, without having to first communicate with the booth. The Commission notes the pilot testing has demonstrated that the Exchange's wireless data communications infrastructure has the capacity to accommodate those communications. The Commission also notes that the restriction will still apply that any order or information coming from off the floor must go to a booth terminal before it can be transmitted to someone on the floor of the Exchange.

The Commission also believes that it is consistent with the Act to allow the Exchange to provide access to its wireless data communications infrastructure only to vendors that are member organizations because only member organizations are subject to the Exchange's Constitution, rules, and oversight. The Exchange notes that the only vendors that participated in wireless data communications service pilot tests during Phases I and II were a member organization of the Exchange and a party affiliated with a member organization of the Exchange. It is unlikely that this restriction will dampen the availability of available vendors, given that member organizations will be allowed to contract out the provided vendor services.

The Commission believes that the proposed changes to the Pilot Program Vendor form, resulting in two separate forms, the Revised Vendor Form and the Associated Member Form, are consistent with the Act. The Commission believes that the proposed changes that eliminate references to the creation and installation of the infrastructure, permission to use radio bands other than that which the Exchange provides through its infrastructure, the requirement that members migrate to the infrastructure once it becomes available, and a limited Exchange obligation to support the communications equipment of private vendors, are reasonable because the Exchange will use the Revised Vendor Form in an environment in which the Exchange will already have completed the development and installation of its

wireless data communications infrastructure.

In addition, because the Exchange limited the scope of the Phase I and II pilot programs and will similarly limit Phase III pilot programs, the Exchange insisted that each participating vendor refrain from discriminating among the members to whom it was willing to provide its pilot service through the end of Phase III. However, the completion of the infrastructure means that the technology necessary to allow every member to enjoy wireless data communications services will be available, whether from a vending member organization or from the Exchange. Therefore, in Phase IV, the production roll-out phase, the proposed rule change will allow vending member organizations to enter into such wireless data communications arrangements with members as they may see fit. The Commission believes that this portion of the proposed rule change will not result in unfair discrimination between customers, issuers, brokers, and dealers, in part because the NYSE's own system will be available to everyone,¹² which means that a member will always be able to have access to wireless data communication services. The Commission notes that eliminating the non-discriminatory requirements allows both vendors and potential customer/members to negotiate more freely regarding various aspects of the service.

The Commission believes that the proposed rule change that eliminates from the Revised Vendor Form the provision that prohibits a vendor from representing that it is the sole vendor of wireless data communications services on the Exchange floor is reasonable under the Act because the Exchange feels certain that all members will be aware that the Exchange and certain member organizations will provide service alternatives.¹³

Finally, the Commission believes that the addition to the Revised Vendor Form of a provision that prohibits a vending member organization from introducing its service, or from modifying its equipment or transmission methodology, until the Exchange has seen the service or the modification operate satisfactorily, and allows the Exchange to test the service

¹² Phone call between Santo Famularo, NYSE and Heather Seidel, Attorney, Market Regulation, Commission, on October 3, 1997.

¹³ The Exchange has represented that it will circulate a bulletin to its members informing them that there will be service alternatives through Exchange members and the Exchange itself. Telephone conversation between Santo Famularo, NYSE, and Heather Seidel, Attorney, Market Regulation, Commission, on November 25, 1997.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

or related equipment, is consistent with the Act. The Commission believes that this change gives the Exchange sufficient authority to oversee its infrastructure by strengthening the Exchange's contractual safeguards at a time¹⁴ when the Exchange will allow vendors to have access to the Exchange's infrastructure, unlike Phases I and II, and when the Exchange may not have the same degree of communication with vending member organizations as it has had during the earlier phases.¹⁵

The Commission believes that the Revised Vendor-Member Agreement Terms¹⁶ are consistent with the Act.¹⁷ The proposed change that will remove the requirement that the vendor-member agreement must govern the six prescribed elements of that relationship is reasonable under the Act because it allows both the vendor and the member greater flexibility in fashioning a service agreement that is agreeable to both parties. Now that there will be no restriction on the number of customers a vendor may have,¹⁸ and the Exchange's service will be available to all parties who wish to utilize it, it is reasonable to allow the vendors and members more freedom in structuring their service agreements, within the boundaries set forth in the Revised Vendor Form and its attachments. Also, the provision that adds that the NYSE Constitution and rules apply is consistent with the Act because the NYSE is charged with ensuring that its members (and hence, the vendors and their customers) comply with the NYSE rules.

The Commission notes that the Associated Member Form contains provisions that are almost identical in substance to those found in the Revised Vendor Form.¹⁹ However, under the proposed rule change, the Associated Member Form requires the member organization to take responsibility for

¹⁴ The Commission notes that the Revised Vendor Form is to be used only during Phase IV.

¹⁵ The Commission believes that the proposed changes to the Revised Vendor Service Description, which sets forth the information that the Exchange requires the vendor to include in the service description, are consistent with the Act because the proposed changes eliminate the requirement of certain information that completion of the infrastructure makes irrelevant.

¹⁶ See *supra* note 7 and accompanying text.

¹⁷ The proposed rule change that permits communications between members using hand-held devices at two different locations on the floor is incorporated into this document and is consistent with the Act for the same reasons discussed above.

¹⁸ The vendor must still not exceed capacity.

¹⁹ Therefore, the Commission believes that the reasoning behind approving the changes to the Revised Vendor Form also applies to the Associated Member Form, for the similar proposed changes.

the actions of its members and to assure that its members will comply with all provisions of the Form as well as with relevant laws, rules and regulations. For that reason, the Exchange does not propose to require the member organization to enter into an agreement with a subscriber to its wireless data communications service if the subscriber is an Exchange member that is an officer, partner or employee of the member organization; as a result, the proposed rule change does not impose on the member organization a set of terms and conditions that parallel those set forth in the Revised Vendor-Member Agreement Terms. The Commission believes that this portion of the proposed rule change is consistent with the Act because it still provides for sufficient control over the vendor-customer relationship and notes that the proposed rule change does provide that the vendor must terminate its relationship with an Associated Member whom the Exchange has determined has failed to comply with the rules, policies, and procedures of the NYSE, the Commission, or the FCC.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-NYSE-97-17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-32028 Filed 12-5-97; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC-14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC 14) will hold a meeting on December 15, 1997 from 9:15 a.m. to 4:00 p.m. The meeting will be open to the public from 9:15 a.m. to 1:00 p.m. and closed to the public from 1:00 p.m. to 4:00 p.m.

DATES: The meeting is scheduled for December 15, 1997, unless otherwise notified.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

ADDRESSES: The meeting will be held at the Department of Commerce in Room 4830, located at 14th Street and Constitution Avenue, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg, Department of Commerce, 14th St. and Constitution Ave., N.W., Washington, D.C. 20230, (202) 482-4792 or Bill Daley, Office of the United States Trade Representative, 600 17th St. N.W., Washington, D.C. 20508, (202) 395-6120.

SUPPLEMENTARY INFORMATION: The ISAC 14 will hold a meeting on December 15, 1997 from 9:15 a.m. to 4:00 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of 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. During the discussion of such matters, the meeting will be closed to the public from 1:00 p.m. to 4:00 p.m. The meeting will be open to the public and press from 9:15 a.m. to 1:00 p.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

Pate Felts,

Acting Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 97-31950 Filed 12-5-97; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on the Triennial Review of the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement")

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is requesting written

public comments with respect to the review by the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary Measures (the "SPS Committee") of the Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement"). At the conclusion of the Uruguay Round, the WTO signatories agreed to review the SPS Agreement three years after its entry into force. The review is expected to focus on progress in implementing the SPS Agreement, including provisions relating to the requirement that measures be based on science and risk assessment, to transparency and notification procedures, harmonization of international sanitary and phytosanitary standards, and distinctions between the levels of sanitary and phytosanitary protection established in different situations. In particular, the United States will be assessing the contribution that implementation of the SPS Agreement makes to the reduction of unjustified barriers to agricultural trade, while preserving the United States' ability to protect human, animal and plant life and health. Comments received will be considered by the Executive Branch in formulating U.S. positions and objectives relating both to the scope of the review and to the specific issues to be considered by the SPS Committee during the review process.

DATES: Public comments are due by noon, January 9, 1998.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: John Ellis, Director for Sanitary and Phytosanitary Affairs, Office of WTO and Multilateral Affairs, USTR, (202-395-3063).

SUPPLEMENTARY INFORMATION: The Chairman of the TPSC invites written comments from the public on issues to be address in the course of the review by the WTO SPS Committee of the WTO SPS Agreement. The review will begin at the tenth meeting of the SPS Committee, scheduled for March 15-16, 1998 in Geneva, and will be on the Committee's agenda for the three other SPS Committee meetings scheduled in 1998, to take place in June, September and November.

Background

During the Uruguay Round of multilateral trade negotiations, a primary U.S. negotiating objective was to obtain substantial commitments for liberalization of international agricultural trade. The resulting WTO

Agreement on Agriculture, which requires the elimination of many non-tariff barriers and the phased reduction of tariffs on agricultural products, is providing significant new market access opportunities for U.S. agricultural exports.

The United States was aware during the Uruguay Round that unjustified sanitary and phytosanitary (SPS) measures have often restricted U.S. agricultural exports, even after tariffs or other non-tariff barriers have been reduced or eliminated. To address this problem, the SPS Agreement was negotiated to ensure that WTO members would not impose protectionist trade barriers disguised as SPS measures. The importance of the SPS Agreement to agricultural trade is reflected in Article 14 of the Agreement on Agriculture, which emphasizes that WTO members have agreed to give effect to the SPS Agreement.

The SPS Agreement reflects a careful balance of rights and obligations. The Agreement safeguards WTO members' rights to adopt and implement regulations to protect human, animal and plant life or health (including food safety and environmental measures), and to establish the level of protection of life and health they deem to be appropriate. The United States has a strong interest in preserving these rights, which ensure the ability to maintain the U.S. standards of public health and environmental protection.

At the same time, the SPS Agreement establishes obligations designed to ensure that an SPS measure is in fact intended to protect against the risk asserted, rather than to serve as a disguised trade barrier. In particular, the Agreement requires that a measure adopted to protect human, animal and plant life and health be based on science and a risk assessment, and that it be no more restrictive than is necessary to achieve the intended level of human, animal or plant health protection.

The same balance is sought in the SPS Agreement's provisions relating to international sanitary and phytosanitary standards, guidelines and recommendations. Recognizing that the harmonization of international standards may contribute both to improved protection of human, animal and plant life and health and to the removal of unnecessary trade barriers, the Agreement calls for each WTO member to use relevant international standards as a basis for establishing its SPS measures, subject to other provisions of the Agreement. At the same time, the Agreement makes clear that it does not require "downward harmonization," and that no WTO

member is required to adopt an international standard if doing so would result in a lower level of human, animal or plant health protection than that government has determined to be appropriate.

In the SPS Committee, the United States has pushed aggressively for full and effective implementation of WTO members' commitments under the SPS Agreement. For example, the United States has provided strong leadership in promoting implementation of the Agreement's transparency and notification provisions, in order to ensure effective surveillance of WTO members' SPS measures. Members' notifications of new SPS measures and other important information are now available on the WTO's internet home page (<http://www.wto.org>). The SPS Agreement's notification procedures, which provide an opportunity for the United States to comment on other WTO members' draft SPS measures in advance, have proven to be increasingly useful in identifying potential trade problems and facilitating the resolution of differences before trade is actually affected.

In recent years, the United States has successfully resolved a number of bilateral trade problems associated with the application of SPS measures in key overseas markets. In these negotiations, reference to the requirements of the SPS Agreement has been an important factor in U.S. trading partners' decisions to eliminate or modify scientifically unjustified SPS measures. The United States has also made active use of the procedures of the WTO Dispute Settlement Body (DSB) to push for the removal of scientifically unjustified SPS measures which have a major impact on U.S. exports.

Persons submitting written comments on the review of the SPS Agreement should provide a statement, in twenty copies, by noon, January 9, 1998, to Gloria Blue, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 503, 600 17th Street, NW., Washington, DC 20508. Non-confidential information received will be available for public inspection by appointment in the USTR Reading Room, Room 101, Monday through Friday, 9:30 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb on 202-395-6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be

accompanied by a non-confidential summary thereof.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97-32053 Filed 12-5-97; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Privacy Act of 1974; Notice To Add a System of Records

AGENCY: Operating Administrations, Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Department of Transportation is proposing to add a system of records to its inventory of system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Crystal M. Bush at (202) 366-9713 (Telephone), (202) 366-7066 (Fax), crystal.bush@ost.dot.gov (Internet Address).

SUPPLEMENTARY INFORMATION: The purpose is to establish a system of records to collect and manage the data needed to provide a nationwide pool of vessel and vessel owner information that will help in identification and recovery of stolen vessels and deter vessel theft and fraud.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 2, 1997 to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

DOT/CG 590

SYSTEM NAME:

Vessel Identification System (VIS).

SECURITY CLASSIFICATION:

VIS is unclassified, sensitive.

SYSTEM LOCATION:

United States Coast Guard (USCG), Operations Systems Center, 175 Murrall Drive, Martinsburg, WV 25401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with established relationship(s)/association to vessels that are state-numbered and/or titled and U.S. Coast Guard-documented, and that are included in the Vessel Identification System (VIS). Specifically, owners or agents of such vessels, as well as lienholders.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Records containing vessel identification information and vessel characteristics on state-numbered and/or titled vessels or Coast Guard-documented vessels including: vessel name (if Coast Guard-documented), make of vessel or name of vessel builder, manufacturer year/year vessel built, vessel model year, title number, Coast Guard official number, certificate of number assigned by the state including expiration date, hull identification number, length of vessel, type of vessel, hull type, propulsion type, fuel type, primary use, endorsements (if Coast Guard documented), and hailing port name endorsements (if Coast Guard documented).

b. Records containing personal information including: name of each owner, address of principal place of residence of at least one owner, mailing address if different than the principal place of residence, and either an owner's social security number, date of birth and driver's license number, or other individual identifier. If a vessel owner is a business, the business address and taxpayer identification number will be included.

c. Records containing lienholder and insurance information including: name of lienholder, and city and state of principal place of residence or business of each lienholder.

d. Records containing law enforcement information including: law enforcement status code (stolen, recovered, lost, destroyed, or abandoned), law enforcement hold, reporting agency, originating case number, National Crime Information Center (NCIC) number, VIS user identification, incident location, last sighted date/time/location, law enforcement contact and phone number, and hours of operations.

e. Records containing vessel registration information including: registration and, if applicable title number including effective and expiration date, issuing authority, and, for Coast Guard documented vessels, the official number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

46 U.S.C. 12501-07.

PURPOSE(S):

The primary purpose of VIS is to provide a nationwide pool of state-numbered and/or titled and U.S. Coast Guard-documented vessels that will assist in identification and recovery of stolen vessels, deter vessel theft and fraud, and other purposes relating to the ownership of vessels.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Federal, state and local law enforcement officials for law enforcement purposes including the recovery and return of stolen property and to deter vessel theft and fraud.

b. Federal and state numbering and titling officials for the purposes of tracking, registering and titling vessels.

c. National Crime Information Center data contained in VIS will only be released to National Crime Information Center authorized users.

d. Disclosure may be made to agency contractors who have been engaged to assist the agency in the performance of a contract service or other activity related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

e. See DOT Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage of all records is in an automated database operated and maintained by the U.S. Coast Guard.

RETRIEVABILITY:

Records are retrieved by:

- Vessel hull identification number (HIN).
- State certificate of number.
- Title number.
- U.S. Coast Guard official number.
- USCG vessel name and hailing port.
- Vessel owner or business name.
- Vessel owner's social security number or alternate identifier (e.g., DOB, driver's license number, or taxpayer identification number).

SAFEGUARDS:

The VIS falls under the guidelines of the United States Coast Guard Operations System Center (OSC) in Martinsburg, WV. This computer facility has its own approved System Security Plan, which provides that:

- The system will be maintained in a secure computer room with access restricted to authorized personnel only.
- Access to the building must be authorized and is limited.
- VIS will support different access levels for fields in the same record. These levels will allow different classes

of users access to specific information as governed by Federal privacy laws.

d. VIS will control access by requiring that users provide a valid account name and password. VIS will contain a function that tracks system usage for other authorized users (i.e., non-participating states, commercial institutions, and private individuals). VIS will require users to change access control identifiers at six month intervals.

The U.S. Coast Guard will operate the VIS in consonance with Federal security regulations, policy, procedures, standards and guidance for implementing the Automated Information Systems Security Program.

e. Only authorized DOT personnel and authorized U.S. Government contractors conducting system maintenance may access VIS records.

f. Access to records are password protected and the scope of access for each password is limited to the official need of each individual authorized access.

g. Additional protection is afforded by the use of password security, data encryption, and the use of a secure network, National Law Enforcement Telecommunications System (NLETS).

RETENTION AND DISPOSAL:

a. Records of active cases will be retained until they become inactive; inactive cases will be archived and retained for 50 years. Records will be selected to be archived into an off-line file for any vessel that has been inactive for a period of 10 years. A vessel is inactive when the State number and/or Coast Guard Document have expired with the exception of the vessels that have a law enforcement hold and vessels with a law enforcement status of stolen.

b. Daily backups shall be performed automatically. The backups will be comprised of weekly full backups followed by daily incremental backups; a log of transactions is maintained daily for recovery purposes.

c. Copies of backups are stored at an off-site location.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Transportation, United States Coast Guard Headquarters, Information Resource Division, System Development Division (G-MRI-3), 2100 2nd Street, SW, Washington, DC 20593-0001.

NOTIFICATION PROCEDURE:

Submit a written request noting the information desired and for what purpose the information will be used. The request must be signed by the

individual or his/her legal representative. Send the request to: USCG Headquarters, Commandant (G-SII), 2100 2nd Street, SW., Washington, DC 20593-0001.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures.

RECORD SOURCE CATEGORIES:

All information entered into the VIS is gathered from participating states and the National Crime Information Center (NCIC) in the course of normal routine business. VIS information will be accessible through the Coast Guard Data Network (CGDN), National Law Enforcement Telecommunications System (NLETS), the Internet, and dial-up modem. VIS shall also interface with the Coast Guard's existing Merchant Vessel Documentation System (MVDS) DOT/CG 591 to provide participating states with information on USCG documented vessels and interface with the Motorboat Registration System to provide participating states with information on vessels registered by the Coast Guard for the state of Alaska.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt from disclosure under the provisions of 5 U.S.C. 552a(k)(2). However, in specific cases where maintenance of information results in the denial of a right, privileges or benefits to which the individual is entitled, the information will be released in accordance with section (k)(2). This provides in part that material compiled for law enforcement purposes may be withheld from disclosure to the extent the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express promise that his/her identity would be held in confidence. Additionally, material received prior to 27 September 1974 will be withheld, if the source received an implied promise that his/her identity would be held in confidence.

Dated: November 19, 1997.

Eugene K. Taylor, Jr.,

Director, Information Resource Management, Department of Transportation.

[FR Doc. 97-32061 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues; New Tasks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of a new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of new tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Manager, Transport Standards Staff, ANM-110, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave. SW., Renton, WA 98055-4056, telephone (425) 227-2190, fax (425) 227-1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is Transport Airplane and Engine issues. These issues involve the airworthiness standards for transport category airplanes in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135. The corresponding European airworthiness standards for transport category airplanes are contained in Joint Aviation Requirements (JAR)-25, JAR-E, and JAR-P, respectively. The corresponding Canadian Standards are contained in Chapters 525, 533, and 535 respectively.

The Tasks

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization tasks:

Task 1. As a short-term project, consider the need for a regulation that requires installation of ice detectors, aerodynamic performance monitors, or another acceptable means to warn

flightcrews of ice accumulation on critical surfaces requiring crew action (regardless of whether the icing conditions are inside or outside of Appendix C of 14 CFR Part 25). Also consider the need for a Technical Standard Order for design and/or minimum performance specifications for an ice detector and aerodynamic performance monitors. Develop the appropriate regulation and applicable standards and advisory material if a consensus on the need for such devices is reached. (Schedule: September 1998, Reach agreement on proposed rule; January 1999, NPRM package delivered to FAA from ARAC; March 1999, Publish NPRM; March 2000, Publish Final Rule.)

As long-term projects:

Task 2. Review National Transportation Safety Board recommendations A-96-54, A-96-56, and A-96-58, and advances in ice protection state-of-the-art. In light of this review, define an icing environment that includes supercooled large droplets (SLD), and devise requirements to assess the ability of aircraft to safely operate either for the period of time to exit or to operate without restriction in SLD aloft, in SLD at or near the surface, and in mixed phase conditions if such conditions are determined to be more hazardous than the liquid phase icing environment containing supercooled water droplets. Consider the effects of icing requirement changes on 14 CFR part 23 and part 25 and revise the regulations if necessary. In addition, consider the need for a regulation that requires installation of a means to discriminate between conditions within and outside the certification envelope. (Schedule: September 1999, Reach technical agreement; January 2000, NPRM package delivered to FAA from ARAC; March 2000, Publish NPRM; March 2001, Publish Final Rule.)

Task 3. Propose changes to make the requirements of 14 CFR 23.1419 and 25.1419 the same (Schedule: September 1999, Reach technical agreement; January 2000, NPRM package delivered to FAA from ARAC; March 2000, Publish NPRM; March 2001, Publish Final Rule)

Task 4. Harmonize 14 CFR §§ 23.1419, 25.1419, 25.929, and 25.1093 and JAR 23.1419, 25.1419, 25.929, and 25.1093. (Schedule: September 1999, Reach technical agreement; January 2000, NPRM package delivered to FAA from ARAC; March 2000, Publish NPRM; March 2001, Publish Final Rule)

Task 5. Consider the effects icing requirement changes may have on 14 CFR §§ 25.773(b)(1)(ii), 25.1323(e),

25.1325(b) and revise the regulations if necessary. (Schedule: September 1999, Reach technical agreement; January 2000, NPRM Package delivered to FAA from ARAC; March 2000, Publish NPRM; March 2001, Publish Final Rule (if necessary)).

Task 6. Consider the need for a regulation on ice protection of angle of attack probes (Schedule: September 1999, Reach technical agreement; January 2000, NPRM package delivered to FAA from ARAC; March 2000, Publish NPRM; March 2001, Publish Final Rule (if necessary)).

Task 7. Develop or update advisory material pertinent to items 2 through 6 above. (Schedule: October 2000, Advisory material package delivered to FAA from ARAC; March 2001, Publish advisory material).

If ARAC determines rulemaking action (e.g., NPRM, supplemental NPRM, final rule, withdrawal) should be taken, or advisory material should be issued or revised, it has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Tasks

ARAC has accepted these tasks and has chosen to assign them to a new Ice Protection Harmonization Working Group (IPHWG) under the Transport Airplane and Engine issue. The new working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned tasks. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

The IPHWG will coordinate with the Flight Test Harmonization Working Group, other harmonization working groups, organizations, and specialists as appropriate. Other affected groups, organizations, and specialists may include but not be limited to the Powerplant Installation Harmonization Working Group, Engine Harmonization Working Group, General Aviation Manufacturers Association (GAMA), human factors specialists, and meteorologists. Coordination with the Flight Test Harmonization Working Group will be necessary to ensure that the IPHWG does not initiate work on issues already being addressed by the Flight Test group. Coordination with GAMA will be necessary to ensure that the proposed NASA Advanced General Aviation Transport Experiment project is considered throughout the process of accomplishing the short and long term projects. The IPHWG will request ARAC assignment of tasks to existing working

groups if necessary. The IPHWG will identify to ARAC the need for additional new working groups when existing groups do not have the appropriate expertise to address certain tasks.

Working Group Activity

The Ice Protection Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider Transport Airplane and Engine Issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider Transport Airplane and Engine Issues.

Participation in the Working Group

The Ice Protection Harmonization Working Group will be composed of experts having an interest in the assigned tasks. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the Ice Protection Harmonization Working Group will not

be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on November 24, 1997.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97-32034 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-97-3163]

Decision That Nonconforming 1995 Ferrari F50 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1995 Ferrari F50 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1995 Ferrari F50 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 1995 Ferrari F50), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective December 8, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the

motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer R-90-006) petitioned NHTSA to decide whether 1995 Ferrari F50 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 18, 1997 (62 FR 44030) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice, from Fiat Auto U.S.A., Inc. (Fiat), the U.S. representative of Ferrari, S.p.A., the vehicle's manufacturer. In its comment, Fiat observed that non-U.S. certified 1995 Ferrari F50 passenger cars are equipped with manual 3-point seat belts while their U.S. certified counterparts are equipped with motorized 2-point shoulder belts and manual 2-point lap belts. Fiat contended that modification of a non-U.S. certified 1995 Ferrari F50 for compliance with the automatic restraint requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*, would be very difficult, if not impossible, owing to the fact that the vehicle has a carbon body. Fiat additionally observed that the petitioner inaccurately described the vehicle as having "rear belts," in view of the fact that it is a two seater. With respect to the requirements of FMVSS No. 210, *Seat Belt Assembly Anchorages*, Fiat claimed that non-U.S. certified 1995 Ferrari F50 passenger cars have 3-point anchorages, while their U.S. certified counterparts have 4-point anchorages. Addressing the requirements of FMVSS No. 214, *Side Impact Protection*, Fiat contended that U.S. certified 1995 Ferrari F50 passenger cars have a steel beam inside their doors that cannot be simply added to the non-U.S. certified version of the vehicle.

NHTSA afforded J.K. an opportunity to respond to Fiat's comments. With respect to Fiat's comments regarding FMVSS No. 208 and 210 compliance issues, J.K. responded that the automatic belt system that is supplied on the U.S. certified 1995 Ferrari F50 bolts on to existing mounts that are on the seats and door frames of the non-U.S. certified version of the vehicle. J.K. additionally acknowledged that the reference to rear seat belts in the petition was in error since the 1995 Ferrari F50 has no rear seat. With respect to the FMVSS No. 214 compliance issue raised by Fiat, J.K. stated that the door beams in the U.S. certified 1995 Ferrari F50 are bolt-on components that can be easily installed on the non-U.S. certified version of the vehicle without the need for fabrication or welding.

NHTSA has reviewed each of the issues that Fiat has raised regarding J.K.'s petition. NHTSA believes that J.K.'s responses adequately address each of those issues. NHTSA further notes that the modifications described by J.K. are consistent with its finding that a non-U.S. certified 1995 Fiat F50 is "capable of being readily altered to comply with all Federal motor vehicle safety standards."

NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-226 is the eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1995 Ferrari F50 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1995 Ferrari F50 passenger cars originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CAR 593.8; delegations of authority at 49 CAR 1.50 and 501.8.

Issued on: December 2, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97-32037 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-97-3164]

Decision That Nonconforming 1988-1989 Audi 80 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1988-1989 Audi 80 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1988-1989 Audi 80 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 1988-1989 Audi 80), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of December 8, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with

NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Champagne) (Registered Importer R-90-009) petitioned NHTSA to decide whether 1988-1989 Audi 80 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 5, 1997 (62 FR 42156) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice, from Volkswagen of America, Inc. (Volkswagen), the U.S. representative of Audi AG, the vehicle's manufacturer. In its comment, Volkswagen observed that the alterations identified in the petition are the minimum that are necessary to conform non-U.S. certified 1988-1989 Audi 80 passenger cars to the applicable Federal motor vehicle safety standards. Volkswagen further observed that in addition to differences in the bumper system, modifications were made to the body components and structure of U.S. certified 1988-1989 Audi 80 passenger cars to achieve compliance with the Bumper Standard found in 49 CFR part 581.

Petitioners for eligibility determinations are not required to submit arguments in support of the capability of a non-conforming vehicle to comply with the Bumper Standard. Under statute, eligibility determinations are based solely on the capability of a vehicle to comply with the Federal motor vehicle safety standards.

However, a passenger motor vehicle that does not meet the Bumper Standard at the time of importation must be brought into compliance after importation in order to comply with the law. Therefore, a vehicle eligibility notice affords a forum through which issues of compliance with the Bumper Standard can be raised and discussed. However, NHTSA has no authority to deny an eligibility petition solely on the basis that the vehicle is incapable of being conformed to meet the Bumper Standard.

Volkswagen's first observation, as described above, appears to be generally

supportive of the petition. Although Volkswagen's second observation identifies a potential need for alterations beyond those specified in the petition to conform non-U.S. certified 1988-89 Audi 80 passenger cars to the Bumper Standard, the company nowhere contends that these alterations cannot be readily made. The petitioner and other RIs seeking to import 1988-89 Audi 80s under this exemption should recognize Volkswagen's concern and may be assured that NHTSA will carefully examine data they submit in support of their certification of compliance with the Bumper Standard.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-223 is the eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1988-1989 Audi 80 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1988-1989 Audi 80 passenger cars originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CAR 593.8; delegations of authority at 49 CAR 1.50 and 501.8.

Issued on: December 2, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97-32038 Filed 12-5-97; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12-53]

Delegation of Authority to Make Decisions on Appeals of the Initial Denial of Records Under the Freedom of Information Act

Dated: December 1, 1997.

1. Delegation

a. This Directive delegates to the Deputy Assistant Secretary (Human Resources) the authority to make appeal decisions on the initial denial of records or other adverse determinations made

by the Office of Equal Opportunity Program under 5 U.S.C. 552; 5 U.S.C. 552a; and 31 Code of Federal Regulations (CFR) Part 1, Subparts A and C.

b. This Directive delegates to the Director, Office of Equal Opportunity Program, the authority to make appeal decisions on the initial denial of records and other adverse determinations made by the Regional Complaint Centers under 5 U.S.C. 552; 5 U.S.C. 552a; and 31 CFR Part 1, Subparts A and C.

2. Authority

a. Treasury Order 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

b. 31 CFR Part 1, Subparts A and C.

3. Reference

Treasury Directive 25-05, "The Freedom of Information Act," dated January 18, 1996.

4. Expiration Date

This Directive expires three years from the date of issuance unless superseded or cancelled prior to that date.

5. Office of Primary Interest

Office of Equal Opportunity Program, Office of the Deputy Assistant Secretary (Human Resources), Office of the Assistant Secretary for Management and Chief Financial Officer.

Nancy Killefer,

Assistant Secretary for Management and Chief Financial Officer.

[FR Doc. 97-32025 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 1, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (PD)

OMB Number: 1535-0104.

Form Number: PD F 2066.

Type of Review: Extension.

Title: Application by Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as Amended.

Description: Form 2066 is used as an application by survivors for payment of a bond or check issued under the Armed Forces Leave Act of 1946 to veterans of World War II.

Respondents: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 200 hours.

OMB Number: 1535-0105.

Form Number: PD F 2481.

Type of Review: Extension.

Title: Application for Recognition as Natural Guardian of Minor Not Under Legal Guardianship and for Disposition of Minor's Interest in Registered Securities.

Description: The form is used by the natural guardian or a minor not under legal guardianship to request proper disposition of securities registered in the name of a minor.

Respondents: Individuals or households.

Estimated Number of Respondents: 25.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 13 hours.

OMB Number: 1535-0108.

Form Number: PD F 2471.

Type of Review: Extension.

Title: Certificate to Support Application for Relief on Account of Lost, Stolen or Destroyed United States Securities.

Description: The form is executed by individuals to support an application for relief on account of lost, stolen or destroyed United States securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 200 hours.

Clearance Officer: Vicki S. Thorpe, (304) 480-6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106-1328.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 97-31954 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-40-P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

November 24, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0949.

Form Number: IRS Form 2587.

Type of Review: Extension.

Title: Application for Special Enrollment Examination.

Description: This information relates to the determination of the eligibility of individuals seeking enrollment status to practice before the Internal Revenue Service.

Respondents: Individual or households.

Estimated Number of Respondents/Recordkeepers: 8,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 6 minutes.

Frequency of Response: Other (one-time filing).

Estimated Total Reporting/Recordkeeping Burden: 25,550 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 97-31955 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 1, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request

In order to conduct the survey described below in mid-December 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by December 12, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545-1432. Project Number: M:SP:V 97-031-G. Type of Review: Revision.

Title: North Florida District Office of Research and Analysis (DORA's) On-Line Filing Program Survey.

Description: The purpose of this survey is to determine what IRS can do to improve On-Line filing and to encourage taxpayers to file On-Line.

Respondents: Individuals or households.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: Other (one time only).

Estimated Total Reporting Burden: 167 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer. [FR Doc. 97-31956 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 1, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in early-December 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by December 4, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545-1432. Project Number: M:SP:V 97-032-G. Type of Review: Revision. Title: 1997 IRS Communications Tracking Study.

Description: The purpose of this study is to collect information to (1) accurately and objectively establish a "benchmark" of current levels of taxpayers awareness of IRS electronic filing options as the communications program unfolds. The survey will provide crucial communications information and guidance to ensure the maximum numbers of taxpayers are aware of the electronic filing options.

The information obtained from the survey will be used to determine the effectiveness of the communications program in increasing taxpayer awareness of their electronic filing options. This research program is also designed to provide strategic communications guidance to ensure the key target audience of e-filing is exposed to this message. In addition, the information obtained will be utilized to determine the benefits and limitations of public service announcement (PSA) market advertising and paid market advertising.

Respondents: Individuals or households.

Estimated Number of Respondents: 3,200.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: Other (one time only).

Estimated Total Reporting Burden: 534 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer. [FR Doc. 97-31957 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

December 1, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0002. Form Number: IRS Form CT-2. Type of Review: Extension.

Title: Employee Representative's Quarterly Railroad Tax Return.

Description: Employee representatives file Form CT-2 quarterly to report compensation on which railroad retirement taxes are due. IRS uses this information to ensure that employee representatives have paid the correct tax. Form CT-2 also transmits the tax payment.

Respondents: Individual or households.

Estimated Number of Respondents/Recordkeepers: 28.

Estimated Burden Hours Per Respondent/Recordkeeper:

Table with 2 columns: Activity and Duration. Rows include Recordkeeping (26 min), Learning about the law or the form (14 min), Preparing the form (31 min), Copying, assembling and sending the form to the IRS (17 min).

Frequency of Response: Quarterly.

Estimated Total Reporting/Recordkeeping Burden: 165 hours.

OMB Number: 1545-0043.
Form Number: IRS Form 972.
Type of Review: Extension.

Title: Consent of Shareholder to Include Specific Amount of Gross Income.

Description: Form 972 is filed by shareholders of corporations to elect to include an amount in gross income as a dividend. The IRS uses Form 972 as a check to see if an amended return is filed to include the amount in income and to determine if the corporations claimed the correct amount.

Respondents: Individual or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 400.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	13 min.
Learning about the law or the form.	3 min.
Preparing the form	14 min.
Copying, assembling, and sending the form to the IRS.	31 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 412 hours.

OMB Number: 1545-0135.
Form Number: IRS Form 1138.
Type of Review: Extension.

Title: Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.

Description: Form 1138 is filed by corporations to request an extension of time to pay their income taxes, including estimated taxes. Corporations may only file for an extension when they expect a net operating loss carryback in the tax year and want to delay the payment of taxes from a prior tax year.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 2,033.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	3 hr., 21 min.
Learning about the law or the form.	42 min.
Preparing and sending the form to the IRS.	47 min.

Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 9,819 hours.

OMB Number: 1545-0236.
Form Number: IRS Form 11-C.
Type of Review: Extension.

Title: Occupational Tax and Registration Return for Wagering.

Description: Form 11-C is used to register persons accepting wagers (Internal Revenue Code section 4412). IRS uses this form to register the respondent, collect the annual stamp tax (Internal Revenue Code section 4412), and to verify that the tax on wagers is reported on Form 730.

Respondents: Business or other-for-profit, Individual or households.

Estimated Number of Respondents/Recordkeepers: 11,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	7 hr., 10 min.
Learning about the law or the form.	34 min.
Preparing the form	1 hr., 38 min.
Copying, assembling, and sending the form to the IRS.	16 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 110,975 hours.

OMB Number: 1545-1143.
Form Number: IRS Form 706-GS(D-1).

Type of Review: Extension.

Title: Notification of Distribution From a Generation-Skipping Trust.

Description: Form 706-GS(D-1) is used by trustees to notify the IRS and distributees of information needed by distributees to compute the Federal Generation Skipping Trust (GST) tax imposed by Internal Revenue Code (IRC) section 2601. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individual or households.

Estimated Number of Respondents/Recordkeepers: 80,000.

Estimated Burden Hours Per Respondent/Recordkeepers:

Recordkeeping	1 hr., 33 min.
Learning about the law or the form.	1 hr., 46 min.

Preparing the form	41 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 348,000 hours.

OMB Number: 1545-1144.
Form Number: IRS Form 706-GS(D).
Type of Review: Extension.

Title: Generation-Skipping Transfer Return for Distributions.

Description: Form 706-GS(D) is used by the distributees to compute and report the Federal Generation-Skipping Transfer (GST) tax imposed by Internal Revenue Code (IRC) section 2601. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individual or households.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	7 min.
Learning about the law or the form.	13 min.
Preparing the form	24 min.
Copying, assembling, and sending the form to the IRS.	19 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,030 hours.

OMB Number: 1545-1145.
Form Number: IRS Form 706-GS(T), Schedule A and Schedule B.

Type of Review: Extension.

Title: Generation-Skipping Transfer Tax Return for Terminations.

Description: Form 706-GS(T) is used by trustees to compute and report the Federal Generation-Skipping Transfer (GST) tax imposed by Internal Revenue Code (IRC) section 2601. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individual or households.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 706-GS(T)	Schedule A	Schedule B
Recordkeeping	40 min	13 min	13 min.
Learning about the law or the form	29 min	17 min	7 min.
Preparing the form	32 min	38 min	20 min.
Copying, assembling, and sending the form to the IRS	20 min	20 min	20 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 690 hours.
OMB Number: 1545-1558.
Revenue Procedure Number: Revenue Procedure 97-43 and Revenue Ruling 97-39.

Type of Review: Extension.
Title: Procedures for Electing Out of Exemptions Under Section 1.475(c)-1 (Revenue Procedure 97-43); and Mark to Market Accounting Method for Dealers in Securities (Revenue Ruling 97-39).

Description: Revenue Procedure 97-43 provides taxpayers automatic consent to change to mark-to-market accounting for securities after the taxpayer elects under 1.475(c)-1, subject to specified terms and conditions. Revenue Ruling 97-39 provides taxpayers additional mark-to-market guidance in a question and answer format.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Respondent: 27 hours, 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 550,000 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management

and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
 [FR Doc. 97-31958 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

December 2, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0029.
Form Number: IRS Forms 941, Schedule B (Form 941); 941-PR, Schedule B (941-PR); 941-SS, and 941-V.

Type of Review: Extension.

Title: Employer's Quarterly Federal Tax

Return (Form 941); Employer's Record of Federal Tax Liability (Schedule B, Form 941); Planilla Para La Declaración Trimestral Del Patróno (Form 941-PR); Registro Suplementario De La Obligación Contributiva Federal Del Patróno (Schedule B, Form 941-PR); Employer's Quarterly Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands (Form 941-SS); and Payment Voucher (Form 941-V).

Description: Form 941 is used by employers to report payments made to employees subject to income tax and Social Security/Medicare taxes and the amounts of these taxes. Form 941-PR is used by employers in Puerto Rico to report Social Security and Medicare taxes only. Form 941-SS is used by employers in the U.S. possessions to report Social Security and Medicare taxes only. Schedule B is used by employers to record their employment tax liability.

Respondents: Business or other for-profit, individual or households, not-for-profit institutions, Federal Government, State, Local or Tribal Governments.

Estimated Number of Respondents/Recordkeepers: 12,494,773.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
941	11 hr., 43 min	28 min	1 hr., 37 min	16 min
941 Schedule B	2 hr., 40 min	0 min	2 min	0 min
941-PR	7 hr., 0 min	6 min	12 min	0 min
941-PR Schedule B	2 hr., 40 min	0 min	2 min	0 min
941-SS	7 hr., 16 min	0 min	13 min	0 min
941-V	14 min	0 min	0 min	0 min

Frequency of Response: Quarterly.
Estimated Total Reporting/Recordkeeping Burden: 318,978,543 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
 [FR Doc. 97-31959 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Notice of Firearms Manufactured or Imported.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8930.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form(s) and instructions should be directed to Nereida Levine, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8330.

SUPPLEMENTARY INFORMATION:

Title: Notice of Firearms Manufactured or Imported.

OMB Number: 1512-0025.

Form Number: ATF F 2 (5320.2).

Abstract: ATF F 2 (5320.2) is used by a federally qualified firearms manufacturer or importer to report firearms manufactured or imported and to have these firearms registered in the National Firearms Registration and Transfer Record (NFRTR) as proof of the lawful existence of the firearm.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 590.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 5,900.

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.

Dated: December 2, 1997.

John W. Magaw,

Director.

[FR Doc. 97-32065 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****Proposed Collection; Comment Request**

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Monthly Report—Export Warehouse Proprietor.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8930.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form(s) and instructions should be directed to Mary Wood, Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8185.

SUPPLEMENTARY INFORMATION:

Title: Monthly Report—Export Warehouse Proprietor.

OMB Number: 1512-0115.

Form Number: ATF F 5220.4 (2140).

Abstract: ATF F 5220.4 is a report that is completed and filed by proprietors who are qualified to operate export warehouses that handle untaxed tobacco products. The report provides a summation of all transactions at the export warehouse and accounts for the untaxable products being handled by these proprietors. No tax will be paid on the tobacco products if they are properly exported.

Current Actions: The only change to this information collection is an increase in the number of respondents therefore resulting in an increase in burden hours.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 221.

Estimated Time Per Respondent: 48 minutes.

Estimated Total Annual Burden Hours: 2,148.

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.

Dated: December 2, 1997.

John W. Magaw,

Director.

[FR Doc. 97-32066 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****Proposed Collection; Comment Request**

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Explosives Transaction Record.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650

Massachusetts Avenue, NW.,
Washington, DC 20226, (202) 927-8930.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form(s) and instructions should be directed to Gail H. Davis, Firearms, Explosives and Arson Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8053.

SUPPLEMENTARY INFORMATION:

Title: Explosives Transaction Record.

OMB Number: 1512-0184.

Form Number: ATF F 5400.4.

Abstract: The Explosives Transaction Record is used to verify the qualification and identification of unlicensed persons wishing to purchase explosive materials from licensed dealers, as well as the location in which the explosives are intended for storage and/or use. ATF uses the information in its investigations and inspections to establish leads and determine compliance.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households.

Estimated Number of Respondents: 1,140.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 7,227.

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.

Dated: December 2, 1997.

John W. Magaw,

Director.

[FR Doc. 97-32067 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Special Tax Renewal Registration and Return and Special Tax Location Registration Listing.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8930. **FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Revenue Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8188.

SUPPLEMENTARY INFORMATION:

Title: Special Tax Renewal Registration and Return and Special Tax Location Registration Listing.

OMB Number: 1512-0500.

Form Number: ATF F 5630.5R and ATF F 5630.5RC.

Abstract: All of the information requested on ATF F 5630.5R and ATF F 5630.5RC is essential to the functions of collecting, processing and accounting for alcohol, tobacco and/or firearms special tax payments. The forms identify the taxpayer, tax classes and the particular premises covered by the return.

Current Actions: The only change to this information collection is a decrease in the number of respondents.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 350,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 87,500.

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.

Dated: December 2, 1997.

John W. Magaw,

Director.

[FR Doc. 97-32068 Filed 12-5-97; 8:45 am]

BILLING CODE: 4810-31-P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Distilled Spirits Plant (DSP) Processing Records and Reports.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8930.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form(s) and instructions should be directed to Marsha D. Baker, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8177.

SUPPLEMENTARY INFORMATION:

Title: Distilled Spirits Plant (DSP) Processing Records and Reports.
OMB Number: 1512-0198.
Form Number: ATF F 5110.28.
Recordkeeping Requirement ID Number: ATF REC 5110/3.

Abstract: The information collected is necessary to account for and verify the processing of distilled spirits in bond. The information is used to audit plant operations, monitor industry activities for the efficient allocation of personnel resources and the compilation of statistics. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 134.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 3,886.

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.

Dated: December 2, 1997.

John W. Magaw,
Director.

[FR Doc. 97-32069 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****Proposed Collection; Comment Request**

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Signing Authority for Corporate Officials.

DATES: Written comments should be received on or before February 6, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8930.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form(s) and instructions should be directed to Majorie D. Ruhf, Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8202.

SUPPLEMENTARY INFORMATION:

Title: Signing Authority for Corporate Officials.

OMB Number: 1512-0188.

Form Number: ATF F 5100.1.

Abstract: ATF collects this information in order to assure that only individuals authorized by a regulated business sign the form on the business' behalf. The form identifies the corporation, the individual or office authorized to sign, and documents the authorization. The permittee is required to keep copies of all qualifying documents for 3 years after final discontinuance.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 250.

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.

Dated: December 2, 1997.

John W. Magaw,
Director.

[FR Doc. 97-32070 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Fiscal Service****Surety Companies Acceptable on Federal Bonds: Executive Risk Indemnity Inc.**

SUMMARY: (Dept. Circ. 570, 1997 Rev., Supp. No. 4).

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch (202) 874-6507.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, on page 35558 to reflect this addition:

Executive Risk Indemnity Inc.

BUSINESS ADDRESS: 82 Hopmeadow Street, P.O. Box 2002, Simsbury, CT, 06070-7683. **PHONE:** (860) 408-2000.

UNDERWRITING LIMITATION:^b \$12,001,000. **SURETY LICENSES:**^c AL, AK, AZ, AR, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Delaware.

Certificates of Authority expire on June 30 each year, unless revoked prior

to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (<http://www.fms.treas.gov/c570.html>) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874-6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service Washington, DC, telephone (202) 512-1800. When ordering the Circular from GPO, use the following stock number: 048000-00509-8.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: December 1, 1997.

Charels F. Schwan III,

*Director, Funds Management Division,
Financial Management Service.*

[FR Doc. 97-32078 Filed 12-5-97; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506

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 4506, request for Copy or Transcript of Tax Form.

DATES: Written comments should be received on or before February 6, 1998 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 form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Copy or Transcript of Tax Form.

OMB Number: 1545-0429.

Form Number: 4506.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related documents. Form 4506 is used for this purpose. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

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: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 914,540.

Estimated Time Per Respondent: 1 hr., 4 min.

Estimated Total Annual Burden Hours: 969,412.

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: November 25, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97-32076 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041 and Related Schedules D, J, and K-1

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 1041 and related Schedules D, J, and K-1.

DATES: Written comments should be received on or before February 6, 1998 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 form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Estates and Trusts (Form 1041), Capital Gains and Losses (Schedule D), Accumulation Distribution for a Complex Trust (Schedule J), Beneficiary's Share of Income, Deductions, Credits, etc. (Schedule K-1).

OMB Number: 1545-0092.

Form Number: Form 1041 and related Schedules D, J, and K-1.

Abstract: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. The data is used by the IRS to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.

Current Actions:

The following changes were made:
Form 1041:

Page 2

Line 6 was added to Schedule A for an adjustment necessitated by Internal Revenue Code section 1202.

Other Information—Line 9 was added to identify those returns with potential for generation-skipping transfer tax.

Page 3

Line 11 was added to Schedule I for the new section 1202 adjustment.

New Part IV was necessitated by the capital gain changes in the Taxpayer Relief Act of 1997 (TRA 97). Because capital gain rates may not be below the alternative minimum tax rates, fiduciaries must calculate the capital gains minimum tax on Schedule I.

Schedule D

Line 4 was deleted to reduce burden and save space.

Parts II and III were revised to reflect the capital gain changes in TRA 97. The

old Part V was moved to the instructions and made into a worksheet. Old Part VI was renumbered as Part V. The new Tax Computation Using Maximum Capital Gain Rates has been completely revised as required by TRA 97.

Schedule K-1

New lines 4a and 4b were added to reflect changes made by TRA 97. The beneficiaries need this breakdown of long-term capital gain to complete their own Schedule D.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 3,242,585.

Estimated Time Per Respondent: 107 hr., 21 min.

Estimated Total Annual Burden Hours: 348,095,641.

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: November 26, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97-32077 Filed 12-5-97; 8:45 am]

BILLING CODE 4830-01-U

Corrections

Federal Register

Vol. 62, No. 235

Monday, December 8, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation

Correction

In rule document 97-24739 beginning on page 49826, in the issue of Tuesday,

September 23, 1997, make the following correction:

§ 101.4 [Corrected]

On page 49848, in § 101.4(h)(1), in the first column, in the first line, "pressed" should read "be expressed".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-4155-F-02]

RIN 2506-AB91

Community Development Block Grants: New York Small Cities Program

Correction

In rule document 97-30940, beginning on page 62912, in the issue of Tuesday, November 25, 1997, make the following correction:

On page 62912, in the second column, under **Discussion of Public Comments**, in the second line, "July" should read "June".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-97-58]

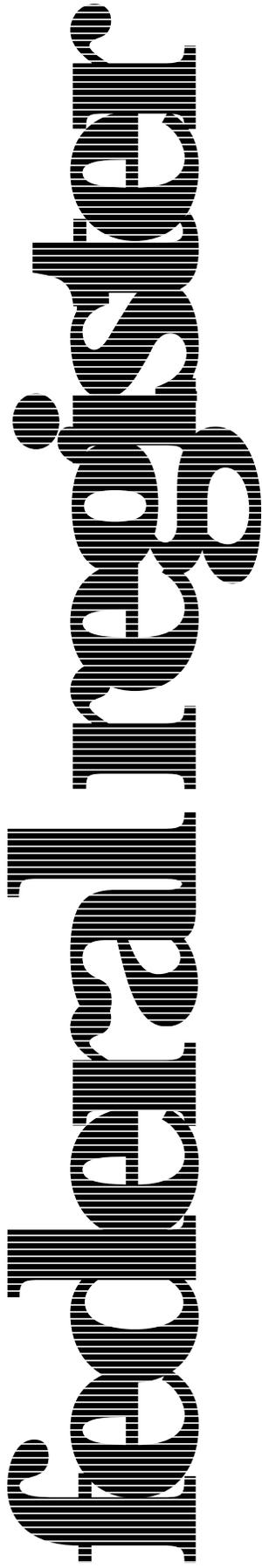
Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 97-30775, beginning on page 62665, in the issue of Monday, November 24, 1997, make the following correction:

On page 62665, in the second column, in **Petitions for Exemption**, in the 12th line, *Docket No.*: "29041" should read "29014".

BILLING CODE 1505-01-D



Monday
December 8, 1997

Part II

**Environmental
Protection Agency**

40 CFR Part 264, et al.
**Hazardous Waste Treatment, Storage, and
Disposal Facilities and Hazardous Waste
Generators; Organic Air Emission
Standards for Tanks, Surface
Impoundments, and Containers; Final
Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, and 270

[IL-64-2-5807; FRL-5931-7]

RIN 2060-AG44

Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; clarification and technical amendment.

SUMMARY: Under the authority of the Resource Conservation and Recovery Act (RCRA), as amended, the EPA has promulgated standards (59 FR 62896, December 6, 1994) to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment. (The standards are known colloquially as the "subpart CC" standards due to their inclusion in subpart CC of parts 264 and 265 of the RCRA subtitle C regulations). These air standards control organic emissions from certain tanks, containers, and surface impoundments (including tanks and containers at generators' facilities) used to manage hazardous waste

capable of releasing organic waste constituents at levels which can harm human health and the environment.

Since publication of the final standards on December 6, 1994, the EPA has given public notice and taken comment on several proposed revisions to the final rule, and has made corresponding amendments. In response to public comments and inquiries, today's action makes clarifying amendments to certain regulatory text, and provides clarification of certain preamble language that was contained in previous documents for this rulemaking.

DATES: These amendments are effective December 8, 1997.

ADDRESSES: This document is available on the EPA's Clean-up Information Bulletin Board (CLU-IN). To access CLU-IN with a modem of up to 28,800 baud, dial (301) 589-8366. First time users will be asked to input some initial registration information. Next, select "D" (download) from the main menu. Input the file name "RCRA-FIN.ZIP" to download this document. Follow the on-line instructions to complete the download. More information about the download procedure is located in Bulletin 104; to read this type "B 104" from the main menu. For additional help with these instructions, telephone the CLU-IN help line at (301) 589-8368.

Docket. The supporting information used for the subpart CC rulemaking is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to this rulemaking are F-91-CESP-FFFFF, F-92-CESA-FFFFF, F-94-CESF-FFFFF, F-94-CE2A-FFFFF, F-95-CE3A-FFFFF, F-96-CE3F-FFFFF, and F-96-CE4A-FFFFF. The RCRA docket is located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Review of docket materials is conducted at the Virginia address; the public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (703) 603-9230. The mailing address for the RCRA docket office is RCRA Information Center (5305W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For general information about the RCRA Air Rules, or specific rule requirements of RCRA rules, please contact the RCRA Hotline, toll-free at (800) 424-9346. Contacts for specific information are listed in the **SUPPLEMENTARY INFORMATION** section of this preamble.

SUPPLEMENTARY INFORMATION:

Regulated Entities: The entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Businesses that treat, store, or dispose of hazardous waste and are subject to RCRA subtitle C permitting requirements, or that accumulate hazardous waste on-site in RCRA permit-exempt tanks or containers pursuant to 40 CFR 262.34(a).
Federal Government	Federal agencies that treat, store, or dispose of hazardous waste and are subject to RCRA subtitle C permitting requirements, or that accumulate hazardous waste on-site in RCRA permit-exempt tanks or containers pursuant to 40 CFR 262.34(a).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the amendments to the regulation affected by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 264.1030 and § 265.1030 of the RCRA subpart AA rules, § 264.1050 and § 265.1050 of the RCRA subpart BB rules, and § 264.1080 and § 265.1080 of the RCRA subpart CC air rules.

Informational Contacts

If you have questions regarding the applicability of this action to a particular situation, or questions about compliance approaches, permitting, enforcement and rule determinations,

please contact the appropriate regional representative below:

Region I

Stephen Yee, (617) 565-3550; Jim Gaffey, 565-3437; U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203-0001

Region II

Abdool Jabar, (212) 637-4131; John Brogard, 637-4162; Jim Sullivan, 637-4138; U.S. EPA, Region II, 290 Broadway, New York, NY 10007-1866

Region III

Linda Matyskiela, (215) 566-3420; Andrew Clibanoff, 566-3391; U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107

Region IV

Denise Housley, (404) 562-8495; Rick Gillam, 562-8498; Jan Martin, 562-8593; Anita Shipley, 562-8466; Donna Wilkinson, 562-8490; Judy Sophianolpoulos, 562-8604; David Langston, 562-8588; U.S. EPA, Region IV, 61 Forsyth Street, Atlanta, GA 30303

Region V

Jae Lee, (312) 886-3781; Uylaine McMahan, 886-4454; Mike Mikulka, 886-6760; Ivonne Vicente, 886-4449; Wen Huang, 886-6191; U.S. EPA, Region V, 77 West Jackson Street, Chicago, IL 60604

Region VI

Michelle Peace, (214) 665-7430; Teena Wooten, 665-2279; U.S. EPA, Region

VI, 1445 Ross Avenue, Suite 1200,
Dallas, TX 75202-2733

Region VII

Ed Buckner, (913) 551-7621; Ken
Herstowski, 551-7631; U.S. EPA,
Region VII, 726 Minnesota Avenue,
Kansas City, KS 66101

Region VIII

Mindy Mohr, (303) 312-6525; Janice
Pearson, 312-6354; U.S. EPA, Region
VIII, 999 18th Street, Suite 500,
Denver, CO 80202-2466

Region IX

Stacy Braye, (415) 774-2056; Jean
Daniel, 774-2128; U.S. EPA, Region
IX, 75 Hawthorne Street, San
Francisco, CA 94105

Region X

Linda Liu, (206) 553-1447; David
Bartus, 553-2804; U.S. EPA, Region
X, 1200 Sixth Avenue, Seattle, WA
98101

For questions about testing or
analytical methods mentioned in this
document, please contact Ms. Rima
Dishakjian, Emission Measurement
Center (MD-19), U.S. Environmental
Protection Agency, Research Triangle
Park, North Carolina 27711, telephone
number (919) 541-0443. For
information concerning the analyses
performed in developing this rule,
contact Ms. Michele Aston, Emission
Standards Division (MD-13), U.S.
Environmental Protection Agency,
Research Triangle Park, North Carolina
27711, telephone number (919) 541-
2363, electronic mail address,
"aston.michele@epamail.epa.gov."

Background

Section 3004(n) of RCRA requires
EPA to develop standards to control air
emissions from hazardous waste
treatment, storage, and disposal
facilities (TSDF) as may be necessary to
protect human health and the
environment. This requirement echoes
the general requirement in RCRA
section 3004(a) and section 3002(a)(3)
to develop standards to control hazardous
waste management activities as may be
necessary to protect human health and
the environment. The Agency has
issued a series of regulations to
implement the section 3004(n) mandate;
these regulations control air emissions
from certain process vents and
equipment leaks (part 264 and part 265,
subparts AA and BB), and emissions
from certain tanks, containers, and
surface impoundments (the subpart CC
standards, which are the primary
subject of today's action).

The EPA today is making technical
amendments to the final subpart AA,
BB, and CC standards, and providing
interpretations for certain provisions of
those rules. Since the publication of the
final subpart CC rule (59 FR 69826,
December 4, 1994), the EPA has
published four **Federal Register**
documents that delayed the effective
date of that rule. The first (60 FR 26828,
May 19, 1995) revised the effective date
of the standards to be December 6, 1995.
The second (60 FR 56952, November 13,
1995) revised the effective date of the
standards to be June 6, 1996. The third
(61 FR 28508, June 5, 1996) further
postponed the effective date for the rule
requirements until October 6, 1996, and
the fourth (61 FR 59931, November 25,
1996) established the ultimate effective
date of December 6, 1996. The EPA has
also issued an indefinite stay of the
standards specific to units managing
wastes produced by certain organic
peroxide manufacturing processes (60
FR 50426, September 29, 1995).

On August 14, 1995, the EPA
published a **Federal Register** document
entitled, "Proposed rule; data
availability" (60 FR 41870) and opened
RCRA docket F-95-CE3A-FFFFF to
accept comments on revisions that the
EPA was considering for the final
subpart CC standards. The EPA
accepted public comments on the
appropriateness of these revisions
through October 13, 1995. Throughout
1996 and into the present year, the EPA
also engaged in repeated discussions
with representatives of the groups filing
petitions for review challenging the
subpart CC standards.

To further inform the affected public
of the major clarifications, compliance
options, and technical amendments
being considered, the EPA conducted a
series of seminars during August and
September of 1995. At that time, a total
of six seminars were held nationally. An
updated series of six seminars was held
in September through December 1996
and two additional seminars were held
March and April of 1997 in conjunction
with an industry trade association.
(Refer to EPA RCRA Docket No. F-95-
CE3A-FFFFF.) During these seminars,
additional comments were received on
the RCRA air rules for tanks, surface
impoundments, and containers. These
comments were also considered by the
EPA in developing this final action.

On February 9, 1996, the EPA
published a **Federal Register** document
(61 FR 4903), "Final rule; technical
amendment," which made clarifying
amendments in the regulatory text of the
final standards, corrected typographical
and grammatical errors, and clarified
certain language in the preamble to the

final rule to better convey the EPA's
original intent.

On November 25, 1996, the EPA
published a **Federal Register** document
(61 FR 59932), "Final rule" that
amended provisions of the final
subparts AA, BB, CC rules to better
convey the EPA's original intent, to
provide additional flexibility to owners
and operators who must comply with
the rules, and to change the effective
date of the requirements contained in
the subpart CC rules to be December 6,
1996.

Today's action makes technical
amendments to the final subparts AA,
BB, CC rules in order to clarify the
regulatory text of the final standards;
interpret those standards; correct
typographical, printing, and
grammatical errors; and clarify certain
language published in the preambles of
previous **Federal Register** documents, to
better convey the EPA's original intent.

Today's amendments include one
change to 40 CFR Part 270, to correct a
typographical error made in the
December 6, 1994 final rule. The text
listing the sections of regulatory
requirements that must be included in
the general inspection schedule
incorrectly listed "245.193(i)" where
section 264.193(i) was intended. This
was obviously a typographical error, as
all of the sections listed in that
provision are from 40 CFR part 264; the
sections are listed in numeric order, and
"245.193(i)" was very obviously out of
place. Further, no section 245.193(i)
exists; in fact, no 40 CFR 245 exists.
Today's amendment corrects this
typographical error.

Outline

The information presented in this
preamble is organized as follows:

- I. Subpart B—General Facility Standards
- II. Subpart E—Manifest System,
Recordkeeping, and Reporting
- III. Subpart AA—Air Emission Standards for
Process Vents
 - A. Applicability
 - B. Definitions
 - C. Standards: Closed-Vent Systems and
Control Devices
 - D. Recordkeeping Requirements
- IV. Subpart BB—Air Emission Standards for
Equipment Leaks
 - A. Applicability
 - B. Standards: Closed-Vent Systems and
Control Devices
 - C. Alternative Standards for Valves
 - D. Recordkeeping Requirements
 - E. Open-ended Valves and Lines
- V. Subpart CC—Air Emission Standards for
Tanks, Surface Impoundments, and
Containers
 - A. Applicability and Definitions
 - B. Schedule for Implementation of Air
Emission Standards
 - C. Standards: General

- D. Waste Determination Procedures
- E. Standards: Tanks
- F. Standards: Surface Impoundments
- G. Standards: Containers
- H. Standards: Closed-Vent Systems and Control Devices
- I. Recordkeeping and Reporting Requirements
- J. Appendix VI to Part 265
- VI. Administrative Requirements
 - A. Docket
 - B. Paperwork Reduction Act
 - C. Executive Order 12866
 - D. Regulatory Flexibility
 - E. Unfunded Mandates Act
 - F. Immediate Effective Date
- VII. Legal Authority

I. Subpart B—General Facility Standards

Today's action removes §§ 264.1091(b) and 265.1091(b) from the list of sections in §§ 264.15 and 265.15, respectively. Sections 264.15 and 265.15 contain a list of provisions from which inspection items and frequencies are required to be included in the general facility inspection schedule. The inspection requirements for floating roof tanks that were in §§ 264.1091(b) and 265.1091(b) of subpart CC as promulgated, were incorporated into §§ 264.1084 and 265.1085 by the November 25, 1996, final rule amendments (61 FR 59944). That action also removed and reserved §§ 264.1091(b) and 265.1091(b). Therefore, the EPA is revising this provision to reference the paragraphs that now contain the inspection requirements. The EPA is also correcting a previous omission, by including a reference to the sections of subpart CC that include inspections requirements.

II. Subpart E—Manifest System, Recordkeeping, and Reporting

Today's action also removes §§ 264.1091(b) and 265.1091(b) from the list of sections from which monitoring, testing, or analytical data, and corrective action requirements must be included in the facility operating record. The monitoring and testing requirements for floating roof tanks that were in §§ 264.1091(b) and 265.1091(b) of subpart CC as promulgated, were incorporated into §§ 264.1084 and 265.1085 by the November 25, 1996 final rule amendments (61 FR 59944) and, as just noted, §§ 264.1091(b) and 265.1091(b) were removed and reserved. Therefore, the EPA is revising this provision to reference the paragraphs that now contain the appropriate requirements, and including a reference to provisions of subpart CC that were previously omitted through an oversight.

III. Subpart AA—Air Emission Standards for Process Vents

A. Applicability

In today's action, the EPA is amending §§ 264.1030(b)(3), 264.1050(b)(3), 265.1030(b)(3), and 265.1050(b)(3) to make clear the EPA's original intent as to when recycling units are subject to the subpart AA and BB rules. The EPA made clear in the November 25, 1996 preamble that recycling units which are otherwise exempt from RCRA subtitle C regulation under 40 CFR 261.6(c)(1) are not subject to subpart AA and BB standards unless some other unit at the facility has to obtain a RCRA permit. See 61 FR at 59932–33, and 59935. The Agency also showed how the existing regulation could be interpreted to give this result. *Id.* at 59935. Put another way, Subparts AA and BB are applicable to recycling units at permitted TSDF and interim status TSDF. Also, at both TSDF and generator facilities (generators' 90-day accumulation units), subparts AA and BB are applicable to units that are not recycling units. However, the EPA believes that the rule language can be drafted to make this point more clearly, and is doing so in today's rule, for both subpart AA and BB.

The EPA is further clarifying that the RCRA "permit-as-shield" provisions do not apply to the subpart AA (or the subpart BB or CC standards); see Section VI.E of the preamble to the final rule, 59 FR 62910, December 6, 1994. This means that owners and operators receiving permits before the date those rules became effective must nevertheless comply with the subpart AA (and the subpart BB and CC) regulatory standards. The EPA is adding a sentence to § 264.1030(c) which essentially cross-references the existing § 270.4(d) provision stating that "permit-as-a shield" does not apply to these units.

The EPA has previously amended 40 CFR 270.4 (see 59 FR 62952, December 6, 1994) to require that owners and operators of TSDF that have been issued final permits prior to December 6, 1996, comply with the air standards under 40 CFR part 265, subparts AA, BB, and CC until the facility's permit is reviewed or reissued by the EPA. As was explained in Section VIII.A of the preamble to the final rule (59 FR 62920, December 6, 1994), this amendment eliminates application of the "permit-as-a-shield" practice for these air standards but does not require that the EPA or the TSDF owner or operator initiate a permit modification to add the requirements of 40 CFR part 264, subparts AA, BB, or CC. The EPA believes that this

minimizes the administrative burden on the TSDF owner or operator as well as limits the additional burden on the permitting resources of the EPA.

However, when a permit is reopened or subject to renewal, or when a TSDF owner or operator submits a Class 3 modification request pertaining to an existing unit or addition of a new unit subject to these standards, then the applicable requirements of 40 CFR part 264, subparts AA, BB, and CC will be incorporated into the modified permit conditions.

The EPA is also amending the applicability provision of subpart AA by adding a new § 264.1030(d) and § 265.1030(d). This provision states that a process vent is not subject to the subpart AA standards provided the owner or operator certifies that all subpart AA-regulated process vents at the facility are equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified in Part 60, 61, or 63. The EPA adopted a similar provision for units subject to subpart CC as part of the November 1996 amendments (see § 264.1080(d) and § 265.1080(d) of subpart CC) and the logic for applying the same exemption in the same manner to subpart AA process vents is identical. The preamble discussion at Section IV.C, 61 FR 59938–59939 (November 25, 1996) explains at length why this exemption avoids unnecessary duplication with CAA requirements, all of which discussion applies equally here. The EPA in fact intended that the exemption apply to subpart AA process vents as well (since there is no basis for distinguishing between subpart AA and CC units for this purpose), but inadvertently omitted the exemption from subpart AA when it codified the subpart CC exemption. Today's amendment corrects that oversight.

This exemption is, however, implemented slightly differently from the parallel exemption for subpart CC units. Both of the compliance approaches allowed under the existing subpart AA rules require emission control or emission limits on a facility-wide basis. See 40 CFR 264.1032(a)(1) and (a)(2). Thus, to be equally protective of human health and the environment, the EPA considers it necessary that any alternative compliance demonstration require control of all of the process vents at the facility that would have otherwise been regulated under subpart AA. Therefore, today's exemption is only available at a facility where each and every process vent that would otherwise be subject to subpart AA is equipped with, and operating air

emission controls, in compliance with an applicable CAA standard under Parts 60, 61, or 63. As with the similar provisions in subparts BB and CC, to comply with the requirements at paragraphs § 264.1030(d) or § 265.1030(c), the emissions from each subpart AA process vent must be routed through an air emission control device; a vent that is in compliance with a CAA standard under an exemption from control device requirements is not in compliance with those provisions of subpart AA. Despite this minor restriction, the EPA considers this alternative to provide the facility owner or operator with a broader degree of compliance flexibility, and less extensive monitoring, recordkeeping, and reporting requirements under RCRA, and therefore to warrant promulgation.

The EPA has received inquiries as to whether portable equipment that otherwise meets the definition of a unit subject to the subpart AA, BB, or CC regulations, is subject to the requirements of subparts AA, BB, and CC. The literal language of the regulations clearly applies, since there is no exemption for portable equipment in the regulations. Nor does the EPA consider that such an exemption is appropriate. Portable equipment that is used to manage hazardous waste consistent with the applicability requirements of these subparts would emit the same volume of organics that stationary equipment would emit. The EPA therefore considers it appropriate to subject portable equipment to the same control requirements as stationary, or non-portable equipment. By this interpretation, the EPA is not extending the applicability of the AA, BB, or CC standards; rather, the EPA is merely clarifying that these standards do not contain any exemption or special criteria for portable equipment. Moreover, the fact that such portable equipment may also be used for non-hazardous waste applications has no bearing on the EPA's intent to regulate the portable equipment during instances when it is used for hazardous waste applications. The EPA does not consider that fact to affect the need to control the equipment when it is in hazardous waste service.

B. Definitions

"In light liquid service" was defined in § 264.1031 to be consistent with the definition of "in light liquid service" in the NSPS for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry (40 CFR part 60, subpart VV). It was the EPA's intent that the determination of "in light liquid

service" be based on the organic content of a liquid. However, questions have been raised by the regulated community regarding how to account for water in the determination of "in light liquid service." In response to the questions, the definition of "in light liquid service" in § 264.1031 is revised by changing "* * * the vapor pressure of one or more of the components in the stream is greater than 0.3 kilopascals (kPa) at 20 °C, the total concentration of the pure components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20 °C is equal to or greater than 20 percent by weight * * *" to read as follows "* * * the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20 °C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20 °C is equal to or greater than 20 percent by weight * * *". This revision clarifies that the definition applies only to the organic components of the waste stream; not to non-organic chemicals that meet the vapor pressure criteria (e.g., water). The revised definition is consistent with the definition of "in light liquid service" in the recently promulgated NESHAP for equipment leaks (40 CFR part 63, subpart H).

C. Standards: Closed-Vent Systems and Control Devices

The final subpart AA air emission standards for process vents provided up to an 18-month implementation schedule after the effective date that a facility becomes subject to the provisions of subpart AA, for installation and operation of closed-vent systems and control devices. The February 9, 1996 (61 FR 4911) revisions to §§ 264.1033(a)(2) and 265.1033(a)(2) extended the implementation schedule to as much as 30 months, consistent with the requirements of subpart CC. Consistent with this existing provision, today's revisions clarify that units which become newly subject after the subpart AA effective date of December 21, 1990 as a result of an EPA regulatory change or statutory change, are also provided a 30-month implementation schedule. The provision is also amended to clarify that units which become newly subject to subpart AA after that effective date due to any reason other than an EPA regulatory change or statutory amendment are not allowed to comply using an implementation schedule; they must be in compliance on the date that the unit first becomes subject to subpart AA.

A printing correction is also being made to this section in

§ 265.1033(f)(2)(vi)(B). The degree symbol was inadvertently printed in lower case rather than as a superscript; today's action corrects this.

The November 25, 1996, amendments to the subpart CC standards (at § 265.1088(c)(2)(i)) for control devices and closed-vent systems, added provisions to allow up to 240 hours per year for periods of planned, routine maintenance of a control device; during such time, the control device is not required to meet the performance requirements for emission reductions specified in the rule. The EPA's rationale for adding this allowance to subpart CC is explained in the preamble to those amendments at 61 FR 59948. The EPA has determined that, based on the nature of the affected operation or the type of unit that is being served by the control device, there are circumstances in which a limited allowance for control device down-time during maintenance is reasonable. For example, the EPA made a similar allowance of up to 240 hours for control device performance in the HON requirements for storage vessels, i.e., tanks, (see § 63.119(e)(3)); this allowance was made based on consideration of the fact that a HON facility with affected storage vessels normally would not have adequate excess storage tank capacity to handle emptying an affected tank(s) each time the control device serving the vessel(s) is shut down for routine maintenance. It is also important to note that the HON regulation did not extend this same routine maintenance allowance for control devices to other types of units, or to affected process vents; the HON allowance is only for control devices serving storage vessels. The EPA has judged that the operational practices of process vents are significantly different from those of storage vessels, and thus do not warrant a similar allowance for control device down-time.

In the amendments to the subpart CC rule that were published in November 1996, the EPA adopted the provision from the HON, and further extended and broadened the control device allowance in applying it to control devices that serve not only tanks but also surface impoundments and containers (see § 264.1087(c)(2)(i)). The decision to extend the allowance to the subpart CC hazardous waste management units was also based on the consideration of typical operational practices of affected TSDF. Within the waste management industry, the quantities and compositions of the waste managed vary widely over time; also, many regulated waste management units (i.e., tanks and impoundments)

have vent flow rates low enough that several units are controlled using a single device. For several waste management units served by a single control device, it is not feasible in most cases to have enough excess storage capacity to handle all the units that would be served by a single control device. Therefore, the EPA included the control device maintenance allowance in the subpart CC standards for containers and surface impoundments, as well as for tanks. As in the case of the HON, the EPA does not consider it appropriate to extend the control device allowance for maintenance time to control devices serving process vents. Therefore, the EPA is not extending the control device maintenance allowance to subpart AA process vents.

It also has come to the attention of the EPA that some commenters have misinterpreted the language relating to the accuracy of the temperature monitoring devices that the EPA specified in the subpart AA standards for closed-vent systems and control devices, found at §§ 264.1033(f) and 265.1033(f). As these commenters interpret the rule language, the EPA has specified a degree of accuracy that precludes monitoring devices with greater accuracy than is specified in the regulations. This is not the EPA's intent, and the Agency does not consider this to be a reasonable interpretation of the rule. At numerous places in this rule and other rules, the EPA has specified the accuracy of temperature monitoring devices by requiring "an accuracy of ± 1 percent of the temperature being monitored in degrees Celsius ($^{\circ}\text{C}$) or $\pm 0.5^{\circ}\text{C}$, whichever is greater." It is implicit in the use of this language that the EPA is providing a range of accuracy with which the monitoring device must comply or conform. For example, the term " ± 1 percent" indicates that the accuracy of the device must fall within the range from plus 1 percent to minus 1 percent. Any device that has an accuracy within this range complies with the rule requirement. It was not the intent of the EPA to preclude the use of devices with greater (i.e., better) accuracy than the absolute value specified.

D. Recordkeeping Requirements

Commenters have stated that the requirement at § 265.1035(c)(10)(iv) to record the maximum instrument reading measured by Method 21 after a leak has been successfully repaired or determined to be not repairable is unnecessary. They contend that because other rules which require use of EPA Method 21, such as the Off-Site Waste and Recovery Operations NESHAP (40

CFR part 63, subpart DD), do not require this instrument reading, the requirement should be removed. Although subpart DD to part 63 does not contain a similar recordkeeping requirement for the instrument reading, as part of the information recorded when a leak is detected using Method 21, various other regulations do have similar requirements (see § 63.181(d)(4) of 40 CFR part 63, subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks). The EPA continues to believe that this information is useful in the implementation and enforcement of the air emission regulations. Instrument monitoring after a repair is an indication of the success of the repair, information which EPA considers commensurate with the initial leak monitoring requirements at § 265.1033(k)(1)(i). Instrument monitoring upon determination that a leak is not repairable is an indication of the severity of the organic emissions that will continue to be emitted from the non-repairable equipment, which EPA considers valuable information for the implementation and future review of its organic air emissions standards. Therefore, EPA will maintain this recordkeeping requirement.

IV. Subpart BB—Air Emission Standards for Equipment Leaks

A. Applicability

Today's action adds appropriate language to the subpart BB applicability provisions to cross reference and clarify that the EPA has modified the "permit-as-a-shield" practice for implementation of the subpart BB (as well as the subpart AA and CC) RCRA air rules. The modification of this practice affects owners and operators of existing TSDF for which final RCRA permits have been issued by the EPA. Paragraph (c) in § 264.1050 and § 265.1050 is being revised to clarify that the owner or operator is subject to the requirements of 40 CFR part 265, subpart BB until such date that the owner or operator receives a final RCRA permit incorporating the requirements of 40 CFR part 264, subpart BB.

The EPA has previously amended 40 CFR 270.4 (see 59 FR 62952, December 6, 1994) to require that owners and operators of TSDF that have been issued final permits prior to December 6, 1996, comply with the air standards under 40 CFR part 265, subparts AA, BB, and CC until the facility's permit is reviewed or reissued by the EPA to include the part 264 standards. As is explained in Section VIII.A of the preamble to the final rule (59 FR 62920, December 6,

1994), this amendment eliminates application of the "permit-as-a-shield" practice for these air standards, but does not require that the EPA or the TSDF owner or operator initiate a permit modification to add the requirements of 40 CFR part 264, subparts AA, BB, or CC. The EPA considers the existing regulatory text to accurately convey this intent, and is providing this preamble discussion in response to commenters' requests.

B. Standards: Closed-Vent Systems and Control Devices

The final subpart BB air emission standards for equipment leaks referenced the subpart AA closed-vent system and control device requirements to provide up to an 18-month implementation schedule after the effective date that a facility becomes subject to the provisions of subpart BB, for installation and operation of closed-vent systems and control devices. The February 9, 1996 (61 FR 4911) revisions to §§ 264.1060 and 265.1060 added a paragraph to extend the implementation schedule to as much as 30 months, consistent with the requirements of subpart CC. Today's amendments clarify that units that begin operation after the subpart BB effective date of December 21, 1990, and that become subject to the requirements of subpart BB because of an EPA regulatory change or a statutory change after December 21, 1990, are also provided a 30-month implementation schedule. The provision is also amended to clarify that units which become newly subject to subpart BB after that effective date due to any reason other than an EPA regulatory change or a statutory amendment are not allowed to comply using an implementation schedule; they must be in compliance on the date that the unit first becomes subject to subpart BB. In recognition that facilities have been on notice since 1990 of the applicability of subparts AA and BB, and since 1991 of the applicability of subpart CC, the EPA considers it reasonable to expect facilities that become newly-subject to these subparts, through other than a statutory or EPA regulatory change, to be in compliance with the provisions on the date that they become newly subject.

C. Alternative Standards for Valves

Clarifying language is being added to the alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair. The EPA has received comments on the ambiguity of the skip period leak detection and repair provisions as codified. The codified language is ambiguous because it gives no

indication of how the alternative work practice that involves two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent which allows the owner or operator to skip one of the quarterly leak detection periods [§ 264.1062(b)(2) or § 265.1062(b)(2)] interacts with the alternative work practice that involves five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent which allows the owner or operator to skip three of the quarterly leak detection periods [§ 264.1062(b)(3) or § 265.1062(b)(3)]. Nor is the codified language clear on whether the periods with the percentage of valves leaking equal to or less than 2 percent need to be repeated after the initial skipped periods, or if the owner or operator is allowed to continue on the skip period schedule once the criteria have been met for one period.

In order to clarify the EPA's intent regarding the skip monitoring alternatives, paragraphs in § 264.1062(b) and § 265.1062(b) are being amended to more fully explain that, if the specified criteria are met under the alternatives, the owner or operator can monitor for leaks once every six months (i.e., under § 264.1062(b)(2)) or once every year (i.e., under § 264.1062(b)(3)). If an owner or operator is monitoring equipment every six months, under § 264.1062(b)(2), he is not complying with the five consecutive quarterly leak detection requirements of § 264.1062(b)(3), and thus does not qualify to begin monitoring once every year. Essentially, if an owner or operator meets the requirements of subsection (b)(2), he may choose to either begin monitoring every six months, or he may choose to continue quarterly monitoring in an attempt to meet the requirements of subsection (b)(3); complying with the provision of subsection (b)(2) excludes the opportunity to comply with the requirements of subsection (b)(3).

Once an owner or operator meets the qualifications of either subsection (b)(2) or subsection (b)(3), he is then allowed to continue the skip monitoring of that provision as long as the percentage of valves found leaking by the semiannual or annual monitoring is equal to or less than 2 percent. These clarifying amendments reflect the Agency's prior intent regarding the implementation of the alternative standards for valves.

D. Recordkeeping Requirements

The recordkeeping provisions of subpart BB are being amended to eliminate any owner or operator burden caused by regulatory overlap. The subpart BB recordkeeping provisions in § 264.1064(m) and § 265.1064(m) are

being amended to allow any equipment that contains or contacts hazardous waste that is subject to subpart BB and also subject to regulations in 40 CFR part 60, 61, or 63 to determine compliance with subpart BB by documentation of compliance with the relevant provisions of the Clean Air Act rules codified under 40 CFR part 60, part 61, or part 63. Because compliance with subpart BB is demonstrated through recordkeeping, this recordkeeping revision has the effect of exempting equipment that would otherwise be subject to subpart BB from subpart BB requirements, provided the equipment is operated, monitored and repaired in accordance with an applicable CAA standard, and appropriate records are kept to that effect.

As is described in Section III.A of this preamble regarding the potential regulatory overlap of the RCRA air rules and Clean Air Act regulations, the EPA is providing this exemption to reduce the possibility of duplicative or conflicting requirements for those TSD units using organic emission controls in compliance with a NESHAP but which are also subject to requirements under the RCRA standards. The EPA considers this to be the most appropriate approach to ensure that air emissions from equipment managing hazardous waste are controlled to the extent necessary to protect human health and the environment. This exemption was originally included with the promulgation of subpart BB on June 21, 1990 (55 FR 25454), in the same format, but with more specificity as to the CAA regulations. As discussed in Section III.A. of this preamble, it was clearly the Agency's intent to apply the same rationale explained in the November 25, 1996 preamble at 61 FR 59938, to extend the applicability exemption to subpart BB equipment operated, monitored and repaired in accordance with an applicable CAA standard under 40 CFR part 60, 61, or 63.

The November 25, 1996 final rule amendments added a provision to the applicability of subpart BB that excludes equipment that contains or contacts affected hazardous waste for a period of less than 300 hours per calendar year. See 61 FR at 59937. One commenter has requested that the Agency clarify whether equipment which is not in service, but contains hazardous waste residue, is considered to be in contact with hazardous waste. The EPA considers the language of the provision explicit on this point; the amount of time that equipment contains hazardous waste, whether at operating capacity or as a residue, is considered

time that the equipment "contains or contacts" hazardous waste. Thus, if subpart BB equipment contains subpart BB-regulated hazardous waste residues for more than 300 hours during a calendar year, that equipment would not be exempt from subpart BB under the provisions at § 264.1050(f) or § 265.1050(f). The EPA purposefully worded the provision to say, "contains or contacts" because the emissions from the equipment are related to the organic hazardous waste that is in the equipment; even if the process or equipment is not in service, the organic hazardous waste in contact with the equipment has the potential to volatilize, and EPA considers it necessary to subject the equipment to the requirements of subpart BB. Thus, EPA is today reiterating that the regulation at § 264.1050(f) and § 265.1050(f) requires the equipment to be void of subpart BB-regulated waste for a minimum of 300 hours per calendar year.

The same commenter inquired whether, for the purposes of this same provision, the period of time which the equipment contains or contacts subpart BB-regulated waste must be consecutive (e.g. 290 consecutive hours), or if it could be the sum of shorter periods (e.g., ten periods of 29 hours each). The provision was intended to exempt equipment that does not contain or contact subpart BB-regulated waste a total of 300 hours of more during a calendar year. This provision was adopted from similar provisions of the Hazardous Organic NESHAP promulgated under 40 CFR 63.160. See preamble discussion at 61 FR 59937, November 25, 1996. It is implicit in reading the language at 40 CFR 63.160(a) that the EPA intended the requirement to refer to a sum, or total, of 300 hours per calendar year, as opposed to a single period of 300 hours. The EPA is today amending regulatory text at 264.1050(f) and 265.1050(e) and the associated recordkeeping requirements at 264.1064(g)(6) and 265.1064(g)(6) to remove the phrase, "a period of" and thus, remove any ambiguity as to the Agency's intent that for this regulatory requirement, instances during which equipment contains or contacts subpart BB-regulated waste need not be consecutive; it is only required that the sum of all time that the equipment contains or contacts subpart BB-regulated waste is less than 300 hours per calendar year.

E. Open-Ended Valves and Lines

Several comments have been received regarding the requirements for open-

ended lines or valves as they relate to gravity piping. Commenters expressed concern that gravity feed piping that is equipped with an open valve or line does not meet the requirements of the subpart BB standards. Subpart BB requires that each open-ended valve or line be equipped with a cap, blind flange, plug, or a second valve when managing hazardous wastes with an organic content equal to or greater than 10 percent by weight. The commenters have suggested that the EPA amend the subpart BB requirements to state that the EPA considers a drain system that meets the requirements of 40 CFR part 63, subpart RR, National Emission Standards for Individual Drain Systems to be a closed system. The EPA has examined this issue and has found no technical basis for making a change to the existing rule. Moreover, the Part 63 subpart RR requirements are intended for control of waste in organic concentrations on the order of magnitude with the 500 ppmw action level of the subpart CC standards, whereas the subpart BB standards in parts 264 and 265 are applicable to equipment that contacts waste with an organic concentration of 10 percent by weight. There is a significant difference in the level of required control between the two standards. The EPA does not consider it appropriate to allow the subpart RR drain system requirements to substitute for the more extensive open-ended valve and line requirements of subpart BB, because application of the subpart RR standards to subpart BB equipment would not provide an equivalent level of organic emission control as would be achieved by compliance with the applicable subpart BB requirements. Facility owners or operators with gravity feed piping that requires a vent to facilitate draining can comply with the subpart BB and CC standards by installing organic emission control equipment on the pipe vent. The control requirements in subpart BB are appropriate and adequate for control of open-ended lines and valves.

V. Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

A. Applicability and Definitions

In §§ 264.1080 and 265.1080, the EPA is revising the effective date of the subpart CC rules to be December 6, 1996. This revised effective date was established in the November 25, 1996 amendments, but this regulatory change was inadvertently omitted from that action. Today's revision corrects this oversight.

In § 265.1081, the definition of "in light material service" is revised to correct a typographical error to capitalize the T in "the" as follows, "* * * The vapor pressure of one or more of the organic constituents * * *"

B. Schedule for Implementation of Air Emission Standards

The final subpart CC standards allow the owner or operator to prepare an implementation schedule for installation of control equipment that cannot be installed and in operation by the effective date of the rule (See § 265.1082(a)(2)). The EPA intended that the implementation schedule apply to any capital projects implemented by the owner or operator to comply with the subpart CC requirements. (See 61 FR at 4905, February 9, 1996.) This intent was expressed in the 1994 final rule; see Hazardous Waste TSD Background Information for Promulgated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, EPA-453/R-94-076b ("BID") page 9-7, which states that the owner's or operator's approach to complying with the air emission control requirements under the subpart CC standards may involve a major design and construction project which requires longer than 18 months to complete (e.g., replacing a large open surface impoundment with a series of covered tanks). To further clarify this intent, § 265.1082 is revised by today's action to specify that compliance can be demonstrated through an implementation schedule when either: (1) control equipment or waste management units can not be installed and in operation by the rule effective date; or (2) modifications of production or treatment processes to satisfy subpart CC exemption criteria in accordance with § 265.1083(c) can not be completed by the rule effective date. In either case, the implementation schedule must be entered into the facility record, and must contain information demonstrating that the facility will be in compliance with all of the requirements of subpart CC, no later than December 8, 1997. The revisions to the schedule for implementation also incorporate the revised effective date of December 6, 1996.

Commenters have questioned whether compliance activities other than those involving the installation of equipment or the modification of processes may be accomplished under an implementation schedule. For example, whether a facility can delay compliance past the rule effective date for monitoring or testing requirements. The preamble to the February 9, 1996 **Federal Register** document clarified that "The EPA

expects such instances to be rare, but in the event a facility cannot implement any technical requirement of subparts AA, BB, or CC, it is the EPA's intent that the owner or operator document the necessity for a delay in the facility operating record. To be in compliance with the rule, the necessary documentation must be in place by [the rule effective date]." See 61 FR at 4905, February 9, 1996. The EPA maintains that there may be circumstances in which a facility owner or operator can not be in compliance with certain monitoring or testing requirements by the effective date of the standards. For example, if a facility owner or operator is unable to begin operation of a control device prior to the rule effective date, he would not be able to perform the required monitoring of that device by that date either. However, to be in compliance with the subpart CC rules, the owner or operator must be in compliance with all the rule requirements as soon as is practicable, but no later than December 8, 1997.

(Note: The only exceptions to this final compliance date are those requirements applicable to certain tanks in which stabilization operations are performed, which must be in compliance no later than June 8, 1998 (see 59 FR at 62912, December 6, 1994), and requirements delayed by the Regional Administrator, as discussed below in this section of today's preamble.

Today's action is also amending regulatory language to clarify that owners or operators of facilities and units that become newly subject to the requirements of subpart CC after December 8, 1997, because of an action other than an EPA regulatory change or a statutory change under RCRA, must comply with all applicable rule requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to subpart CC); the 30-month implementation schedule does not apply in this case. The EPA considered this to be implicit in the existing language of paragraph (b) of § 265.1082. The Agency is adding new language in response to questions and comments from affected facilities regarding interpretation of the rule requirements regarding implementation schedules. The new provision will be codified as paragraph 265.1082(c).

One commenter expressed concern regarding the initial monitoring of closed-vent systems. They noted that delayed compliance is allowed under the rules for routine monitoring of those systems that are either inaccessible or unsafe to monitor, and requested that similar provision be allowed for initial monitoring that may be delayed due to

weather or process conditions. The EPA has examined this issue and has concluded that a change in the rule is not appropriate. The industry has been on notice for several years that the subpart CC rules would require these monitoring inspections. Any facilities that become newly subject to the subpart through an EPA regulatory amendment or statutory amendment are typically allowed at least 6 months from the date of publication of the action; the EPA considers this to have been sufficient notice to adequately prepare for, and perform, the necessary monitoring.

As published in the December 6, 1994, final rule, paragraph (c) of § 265.1082 allowed the EPA Regional Administrator to "extend the implementation date for control equipment at a facility, on a case by case basis * * *," In the preamble to the final rule (see 59 FR 62919, December 6, 1994, and the amendments to the rule published November 25, 1996, (see 61 FR 59938), the EPA stated its intent to include the provision to allow the Regional Administrator to extend the implementation date in situations beyond the owner or operators's control, and that this extension would be available only in "situations such as delays in State permit processing." The Agency went even further in placing constraints on these limited conditions by identifying situations associated with permit processing where the allowance would not apply (see 59 FR 62919). It is clear from the literal reading of the provision that the EPA fully intends that the Regional Administrator's extension of an implementation schedule is only allowable for a capital project implemented by a facility owner or operator to comply with the subpart CC air emission control requirements. It is also clear that the Agency does not intend that this Regional Administrator allowance for implementation schedule extensions apply to anything other than the installation of air emission control equipment. Today's action re-designates this provision as paragraph 265.1082(d) to allow the regulatory amendment described above in this section of today's preamble to be codified as subsection (c); however, the provision for Regional Administrator extensions of the final rule compliance date is not changed.

C. Standards: General

Today's amendments are further clarifying that the subpart CC RCRA air rules apply only to units managing a hazardous waste; to this effect, the EPA is adding the word "hazardous" in front of the word "waste" in §§ 264.1082(b)

and 265.1083(b). This point has been made by the EPA throughout the proposal and promulgation of the subpart CC rules (see 59 FR 62896, December 6, 1994, and 61 FR 4906, February 9, 1996); however, there have remained some questions and uncertainties regarding applicability of the rules to non-hazardous wastes. The changes being made today are intended to provide additional emphasis that only hazardous wastes are subject to the subpart CC controls.

Paragraph 265.1083(c)(2)(i) is revised to correct a typographical error in the symbol for the exit concentration limit; the symbol should be C subscript t "(C)." .

In addition, §§ 264.1082(c)(3) and 265.1083(c)(3) have been revised to add as an exempt unit a surface impoundment used for biological treatment of hazardous waste in accordance with subpart CC requirements. The EPA intended to exempt surface impoundments used for biological treatment from the subpart CC control requirements. The preamble to the final rule in Section VII(A)(5) (59 FR 62917, December 6, 1994) clearly states " * * * air emission controls are not required for a surface impoundment in which biological treatment of a hazardous waste is performed under the same conditions specified in the rule for tanks." However, surface impoundments performing biological treatment were inadvertently left out of the biological treatment unit exemption in the November 25, 1996, final rule amendments (61 FR 59954).

The EPA has received a number of inquiries asking for interpretations of the provision of the subpart CC rules which states that wastes that meet applicable Land Disposal Restriction (LDR) treatment standards for organic hazardous constituents are exempt from the subpart CC air emission standards. Section 264.1082(c)(4) exempts from the RCRA subpart CC air emission standards:

"A tank, surface impoundment, or container for which all hazardous wastes placed in the unit * * *

"(i) Meets the numerical concentration limits for organic hazardous constituents, applicable to the hazardous waste, as specified in 40 CFR part 268—Land Disposal Restrictions under Table "Treatment Standards for Hazardous Waste" in 40 CFR 268. 40 * * *

A parallel exemption for interim status facilities is found at § 265.1083(c)(4). Under these provisions, tanks, surface impoundments, and containers receiving hazardous wastes that meet

the concentration limits for organics applicable to the waste under the generally-applicable treatment standards of the LDR program are not subject to the subpart CC air emission control regulations. See 61 FR 59941 in the preamble and 59954 in the rule (Nov. 25, 1996).

A number of members of the regulated industry (including the Environmental Technology Council, Chemical Waste Management, and the Chemical Manufacturers Association) have inquired as to how this provision applies to situations where the wastes in question are not yet prohibited from land disposal or consist of mixtures of different hazardous wastes. This preamble answers those questions. Copies of correspondence between EPA and these entities have been placed in the public docket for the rule.

The key phrase in the above exemption is what treatment standards are "applicable to the waste." EPA interprets this phrase expansively to include the treatment standard for organics that would apply to the waste whether or not the waste is currently prohibited, so that the exemption may apply to wastes not yet required to be treated for organics as a precondition to land disposal. Under this interpretation, hazardous wastes could be exempt from subpart CC regulation if they meet the treatment standards for organics that would ultimately be required as a precondition to land disposal. This is a reasonable construction of the rule's language (the phrase "applicable to the waste" is ambiguous as to its precise scope), and is supported by the preamble to the rule (which says that the exemption can apply to wastes that are not prohibited, see 61 FR 59941). In addition, this reading is consistent with the exemption's underlying principle: if hazardous wastes meet generally-applicable LDR treatment standards for organics, their concentrations of organics are in virtually every case going to be less than warrants control under the subpart CC rules (i.e., volatile organic concentrations will be less than 500 ppmw).

The EPA recognizes that it could interpret the language to apply only to hazardous wastes that are prohibited and actually subject to a treatment standard for organics. This more restrictive interpretation does not seem desirable because hazardous wastes which actually meet treatment standards for organics are likely to have been treated to remove or destroy the organics and thus not warrant regulation under subpart CC. On the other hand, it is EPA's further interpretation that this exemption does not apply to hazardous

wastes for which there would be no treatment standards for organics, namely wastes that are listed solely because of inorganic content. There is no potentially "applicable" organic treatment standard for such wastes, and the exemption thus does not apply. In addition, such wastes would not likely be treated for organic constituents; so in the event they contain higher concentrations of organics, this particular LDR exemption should not apply. Such wastes may, however, be exempt from the subpart CC rules because they contain less than 500 ppmw volatile organics at the point of waste origination (40 CFR 264.1082(c)(1)).

The following principles set out how the EPA interprets the rule for this subpart CC exemption in specific situations:

1. Listed Waste

(A) If the waste is already subject to an LDR treatment standard for organics (for example, the organic spent solvent listed as F001), the waste is not subject to subpart CC if it meets the treatment standards for organic hazardous constituents in that waste (e.g. the treatment standards for organics in F001 set out in § 268.40);

(B) If the waste is newly listed so that no treatment standard under § 268.40 has yet been established, determine if the waste was listed for organic constituents in Part 261 Appendix VII and if so, if the waste meets the Universal Treatment Standards (UTS) for those constituents (set out in § 268.40) then the waste is exempt from subpart CC. The EPA considers the UTS to be "applicable" because it is clear that this is the standard which will apply when the waste is prohibited;

(C) If the waste is listed only because it contains inorganic constituents (e.g. electroplating wastewater treatment sludge (F006)), then it is not eligible for the LDR exemption at § 264.1082(c)(4) but could be exempt for other reasons, such as containing less than 500 ppmw volatile organics at the point of waste origination. This is true whether or not the waste is already a prohibited hazardous waste, or is newly listed.

2. Mixtures of Listed Wastes

The same principles as presented above apply when mixtures of listed wastes are involved:

(A) If the mixture contains listed wastes for which there are organic concentration limits in § 268.40 and newly listed wastes listed (in Appendix VII of Part 261) for organic hazardous constituents, the waste would be exempt from subpart CC if it meets the

treatment standards in § 268.40 and the treatment standards to which the newly listed waste will be subject. Thus, to be exempt under § 264.1082(c)(4), a mixture of F001 wastes and FXXX (a hypothetical newly listed waste listed for presence of benzene) would have to meet the treatment standards for the organic hazardous constituents set out in § 268.40 for F001 plus UTS for benzene;

(B) If the mixture contains listed wastes for which there are organic concentration limits in § 268.40 and listed wastes with treatment standards only for inorganic constituents (or which is newly listed, and is listed only due to presence of inorganic hazardous constituents), the waste mixture would be eligible for the § 264.1082(c)(4) variance if it meets the organic concentration limits in § 268.40. Thus, a mixture of F001 and F006 wastes would be exempt from subpart CC if it meets the treatment standard for F001 organic hazardous constituents;

(C) If the mixture consists of listed wastes which are exclusively subject to, or are listed for, inorganic hazardous constituents, the mixture is not eligible for the § 264.1082(c)(4) exemption.

Finally, part of the "applicable" LDR standard for listed wastes is that the standard not be achieved by impermissible dilution (as set out in § 268.3 and several EPA interpretations, such as in 60 FR 11706-11708 (March 2, 1995)). Impermissible dilution could involve not only mixing an agent to the waste to increase volume without contributing to the treatment process, but also allowing volatilization from the waste without capture and destruction of the organic emissions. 52 FR at 25779 (July 8, 1987); *Chemical Waste Management v. EPA*, 976 F. 2d 2, 17 (D.C. Cir. 1992). In essence, this means that the LDR standards need to be achieved by treatment that destroys or removes the organic hazardous constituent (or the wastes may meet the treatment standard as generated). See 60 FR 11708. The subpart CC rules likewise contain provisions prohibiting dilution as a means of making a waste eligible for an exemption from the rule (see, e.g., § 265.1083(c)(2)(vi)). Thus, to be eligible for this exemption from the subpart CC standards, listed wastes must either meet treatment standards for organics by treatment which destroys or removes hazardous organic constituents, or the wastes must meet those standards as generated.

3. Characteristic Wastes

The first principle to bear in mind regarding characteristic hazardous wastes is that the subpart CC rule no

longer applies once these wastes are decharacterized, i.e., no longer exhibit a characteristic of hazardous waste. This is because the subpart CC rules only apply to wastes that are identified or listed as hazardous. See, e.g., § 265.1080(a). Also, since the rules do not prohibit any method which removes a hazardous characteristic, dilution can be used for this purpose; see § 261.3(d)(1). Thus, in the discussion that follows, it must be understood that all references to characteristic hazardous wastes are to wastes which continue to exhibit a characteristic.

Characteristic wastes can be identified because of the presence of organic hazardous constituents, but also can contain organic "underlying hazardous constituents"—hazardous constituents present at levels exceeding the Universal Treatment Standards but which do not cause the waste to exhibit a characteristic; see § 268.2(i). Such hazardous constituents typically must be treated to meet UTS before a characteristic waste is land disposed (see *Chemical Waste Management v. EPA*, 976 F. 2d 2, 16-18), and so UTS can be considered to be an applicable standard for purposes of the subpart CC exemption under discussion in this preamble.

Principles applicable to specific situations involving characteristic hazardous wastes are therefore:

(A) Since subpart CC controls do not apply to nonhazardous wastes, these standards do not apply as the result of managing decharacterized wastes.

(B) If the waste exhibits ignitability, corrosivity, or reactivity (or is a mixture which exhibits one or more of these characteristics), then the waste is exempt from subpart CC if it meets treatment standards for any of the organic underlying hazardous constituents which are present (and the waste is no longer subject to subpart CC if it no longer exhibits a characteristic, whether or not treatment standards for underlying hazardous constituents are achieved). In this example, these characteristic wastes are prohibited and subject to the requirement to treat for underlying hazardous constituents, so that these standards clearly are applicable;

(C) If the waste or waste mixture exhibits a characteristic for an organic hazardous constituent (so-called Toxicity Characteristic (TC) organic wastes), then the waste must meet the treatment standard for that constituent plus UTS for any organic underlying hazardous constituent. These are the current requirements set out in Part 268 for the waste and so are clearly applicable;

(D) If the waste or waste mixture exhibits a characteristic for a metal, the waste would be exempt from subpart CC if it meets UTS for any organic underlying hazardous constituent which may be present. This result comes from the *Chemical Waste Management* opinion cited above (although the EPA has not yet amended the Part 268 rules to reflect the court's holding with respect to these wastes), and so can be viewed as applicable standards for purposes of the subpart CC exemption.

4. Examples

A number of examples that illustrate the EPA intent and interpretation of the subpart CC LDR exemption are summarized below.

1. F001 + F006. Listed organic plus listed inorganic. Meet treatment standards for organics in F001;
2. F001 + D018. Listed organic plus organic TC. Meet treatment standards for F001, treatment standards for benzene, and treatment standards for any organic underlying hazardous constituent in the D018 waste (or eliminate the D018 characteristic before the waste is managed in a tank, container or surface impoundment, in which case only the treatment standards for F001 waste would have to be satisfied for the exemption to apply);
3. F001 + D008. Listed organic plus TC metal. Meet treatment standards for F001 plus treatment standards for any organic underlying hazardous constituents which may be present in the D008 waste (or eliminate the D008 characteristic before the waste is managed in a tank, container or surface impoundment, leaving the F001 standard as the applicable treatment standard);
4. F006 + D018 + D008. Listed inorganic, TC organic, TC inorganic. Meet treatment standard for benzene and for organic underlying hazardous constituents in D018 and D008 wastes;
5. F006. Ineligible for § 264.1082(c)(4) exemption.

There have also been questions regarding whether this LDR exemption applies to mixtures that would meet the organic constituent concentration limits specified for the hazardous wastes in the mixture but for the contribution of organic constituents from the decharacterized wastes in the mixture. The EPA interprets the rule so that the LDR exemption does not apply in these circumstances. First, the language of the rule refers to "all hazardous waste placed in the unit" having to meet the treatment standard, which logically means meeting the standard at the point the hazardous waste is placed in the unit. Second, it is reasonable to look at

the point of mixing as a new point of waste origination in keeping with the overall thrust of the provision to reserve the exemption for wastes which actually are treated. See 54 FR at 26633 (June 23, 1989) where the EPA noted a similar view in the LDR context. The EPA also notes that this interpretation is consistent with other provisions of the rule where the Agency has indicated expressly that organic removal is to be evaluated in the context of each individual waste stream entering a treatment process. See section § 265.1083(c)(2)(v)(C).

The last issue addressed on this topic in today's preamble concerns the relationship of this exemption and treatment variances under the LDR program. The EPA notes that the exemption from subpart CC standards applies only to hazardous wastes that have been treated to meet the treatment standards set out in 40 CFR 268.40. This language excludes alternative standards which are established as part of the treatment variance process, which alternative standards are codified in 40 CFR 268.44. This distinction is intentional. As the EPA recently noted in the rulemaking amending the treatment variance standards, it is possible that a treatment variance may result in a standard which does not fully remove volatile organics to the extent contemplated in creating the subpart CC exemption. For this reason, the EPA has indicated explicitly that such wastes may remain subject to the subpart CC rules. The EPA reiterates that approach here.

The EPA is today amending the treatment demonstration provision for valuing waste analysis results below the limit of detection for an analytical method. In response to comments, EPA is today revising paragraphs (A) and (B) of § 264.1082(c)(2)(ix) and § 265.1083(c)(2)(ix). The change to paragraph (A) is being made in recognition that a relatively high blank value for Method 25D does not necessarily indicate that a waste stream has failed to meet the treatment demonstration requirements of § 265.1083(c)(2)(i) through (vi). The blank value required in paragraph 4.4 of EPA Reference Method 25D (codified in appendix A to 40 CFR part 60) is an indication of the organics contained in the Polyethylene Glycol, not the organics in the waste. For a Method 25D analytical result, the method instructs the operator to report the value of the instrument results minus the blank value. In a circumstance that the instrument results are higher than the blank value, the reported Method 25D result would not be non-detect, but

rather, would be a numerical concentration value. In circumstances that the instrument results are equal to the blank value, the reported result would be non-detect. In the circumstance resulting in a non-detect, the Agency does not consider it appropriate to require the facility owner or operator to compare the treatment results of paragraphs (c)(2)(i) through (vi) in § 264.1082 and § 265.1083 to one-half of the blank value, as was required by the regulatory requirement being revised today. Therefore, the Agency is adding a provision that allows the facility owner or operator to substitute a value of 25 ppmw for a non-detect Method 25D result, if one-half the Method 25D blank value is more than 25 ppmw. The Agency has selected the value of 25 ppmw because it represents 95 percent reduction of organics in a waste stream of 500 ppmw, the required percent reduction for a waste stream with a VO concentration equal to the action level for the subpart CC standards.

No default value similar to the 25 ppmw value described here is included in the provisions for non-detect results in waste determinations performed to determine whether the hazardous waste is below 500 ppmw at its point of waste origination. See 265.1084(a)(3). Such a provision is necessary in situations where an owner or operator is attempting to demonstrate a process has achieved 95 percent reduction of organics, because the concentration of the stream exiting the process unit may need to be demonstrated to be as low as 25 ppmw. Such is not the case with waste determinations performed to demonstrate that the hazardous waste stream is below the subpart CC action level of 500 ppmw, where the waste determination need only demonstrate that the waste is below 500 ppmw. The valuing of non-detects for waste determinations performed at the point of waste origination is discussed further in the following section of this preamble.

The EPA is revising paragraph (B) of § 264.1082(c)(2)(ix) and § 265.1083(c)(2)(ix) to clarify the Agency's intent that the level of detection for an analytical method other than method 25D is the sum of the limits of detection for each of the regulated compounds in the waste sample. As previously written, the provision did not clearly indicate that for purposes of this subpart, only the detection limits for organic compounds with Henry's Law greater than or equal to 0.1 Y/X are required to be summed, to establish the limit of detection for an analytical method.

The EPA is also adding a reference to organic hazardous constituents in paragraph (c)(4)(ii) of § 264.1082 (which applies when the LDR standard is a designated method of treatment), to make clear that this provision requires treatment of organics. With this revision, § 264.1082(c)(4)(ii) now conforms to § 264.1082(c)(4)(i). A conforming change is being made to the requirement for interim status facilities, at § 265.1083(c)(4)(ii).

D. Waste Determination Procedures

Paragraphs in § 264.1083(a)(2) and § 265.1084(a)(2) are revised by changing "The average VO concentration of a hazardous waste at the point of waste origination may be determined * * *" to read as follows: "For a waste determination that is required by paragraph (a)(1) of this section, the average VO concentration of a hazardous waste at the point of waste origination may be determined * * *". This waste determination requirement was explained in Section VII.A.3, *Waste Determination Procedures*, of the preamble to the final rule (59 FR 62915, December 6, 1994) as follows: "A determination of the volatile organic concentration of a hazardous waste is required by the subpart CC standards only when a hazardous waste is placed in a tank, surface impoundment, or container subject to the rule that does not use air emission controls in accordance with the requirements of the rule. A TSD owner or operator is not required to determine the volatile organic concentration of the waste if it is placed in a tank, surface impoundment, or container using the required air emission controls." Consistent with this statement, the EPA is slightly revising the current rule to make clear that the average VO concentration determination is required only for hazardous waste placed in a unit not using subpart CC air emission controls and not otherwise exempt from using subpart CC air emission controls.

Today's action also revises § 265.1084(a)(3)(ii)(B) to clarify the EPA's intent regarding the number of samples required for a waste determination. The amended paragraph states (as did the published rule language at § 265.1084(a)(5)(iv)(A) (see 59 FR 62939, December 6, 1994)), that the average of four or more sample results constitutes a waste determination for the waste stream. This amended paragraph further clarifies that one or more waste determinations may be needed to represent the average VO concentration over the complete range of waste compositions and quantities that occur during the entire averaging

period (due to normal variations in the operating conditions for the source or process generating the hazardous waste stream). Therefore, to determine the average VO concentration of a waste stream generated by a process with large seasonal variations in waste quantity, or fluctuations in ambient temperature, several waste determinations (of four or more samples each) will be required.

The affected public has been fully informed of the EPA's intent regarding the fact that four samples constitute a waste determination, and that one or more waste determinations may be needed to characterize the waste stream's VO concentration over the averaging period. To inform the public of the technical requirements and compliance options in the amended subpart CC RCRA air rules, the EPA conducted a series of six seminars during August and September of 1995 and an additional six seminars during August through November of 1996. During these seminars, the EPA presented a thorough discussion of the details associated with making a waste determination. (Refer to EPA RCRA Docket No. F-95-CE3A-FFFFF, Item No. F-95-CE3A-S0017 and Docket No. F-96-CE3A-FFFFF.)

In another clarifying revision, in each citation of Method 8260(B) and Method 8270(C) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, the reference to version (B) or (C) is being deleted by today's action. The citations that are being revised were added by the November 25, 1996, final rule amendments (61 FR 59932) to the following paragraphs of § 265.1084: (a)(3)(iii), (a)(3)(iii)(F), (a)(3)(iii)(G), (b)(3)(iii), (b)(3)(iii)(F), and (b)(3)(iii)(G).

It was the EPA's intent that the current version of each of these methods, as applicable to the waste being measured, be used in making a waste determination, not necessarily the specific versions cited. At the time the November 25, 1996 amendments were published, the versions 8260(B) and 8270(C) were only proposed methods; the published versions were 8260(A) and 8270(B). Specifying these particular versions was an inadvertent error, which is being corrected by today's action. As was stated in Section IV.F, *Waste Determination Procedures*, of the preamble to the final rule amendments (61 FR 59942, November 25, 1996), after extensive review, the EPA decided that as alternatives to using Method 25D for direct measurement of VO concentration in a hazardous waste for the subpart CC RCRA air rules, it was appropriate to add Methods 624, 625, 1624, and 1625 (all contained in 40 CFR part 136,

appendix A) and Methods 8260(B) and 8270(C) (both in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" in EPA publication SW-846) when these methods are used under certain specified conditions. It was noted that for each of these methods, there is a published list of chemical compounds which the EPA considers the method appropriate to measure. The owner or operator may only use these methods to measure compounds that are contained on the list associated with that method, unless specified validation procedures are also performed. It was further noted that for the purpose of a waste determination, the owner or operator must evaluate the mass of all VO compounds in a waste that have Henry's Law value above the 0.1 Y/X value. Therefore, it is the EPA's position that the owner or operator is responsible for determining that the analytical method being used for a waste determination is sufficient to evaluate all of the applicable organic compounds that are contained in the waste.

(Note: Today's action includes a revised list of known compounds with a Henry's Law value less than or equal to 0.1 Y/X, contained in appendix VI of subpart 265; the revisions correct typographical errors, and format the list to be alphabetical.)

Also in today's action, a printing error that placed § 265.1084(a)(3)(iii)(A) at the end of § 265.1084(a)(3)(iii) has been corrected. In addition, in the November 25, 1996 final rule amendments, because of a typographical error in § 265.1084(a)(3)(iii)(G), the words "introduction and analysis" were omitted from the sample handling steps for which site-specific procedures must be documented in the quality assurance program to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption. Today's amendments revise § 265.1084(a)(3)(iii)(G) to read as follows: "Documentation of site specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps."

Several commenters have stated that the subpart CC provisions for treatment of non-detect values in the analysis of treated waste samples, contained in §§ 264.1082(c)(ix) and 265.1083(c)(2)(ix), should also apply to waste determinations at the point of waste origination, for purposes of determining compliance with the 500 ppmw VO concentration action level of the standards. Commenters requested

this application of the non-detect policy to waste determinations because a waste determination consists of the average of four or more samples, and some of the samples analyzed may yield results that are below the analytical method's limit of detection. The commenters' concern is the same rationale that led EPA to amend the provisions at sections 264.1082 and 265.1083 in the November 25, 1996 final rule amendments; without such a provision, the owner or operator does not have a way to assign a numeric value for a non-detect reading, when computing the average of four or more waste samples to calculate a waste determination. The same logic applies to both circumstances, and it was obviously an oversight that EPA did not include this provision in the November 25, 1996 final rule amendments. Thus, the EPA is today adding to the waste determination provisions at § 265.1084(a)(3)(iv), a provision for valuing non-detect analytical results. The new rule language provides the appropriate guidance on the valuing of non-detects in the calculation of the average of four or more samples for a waste determination.

(Note: A corresponding amendment is not required at § 265.1084(b)(3)(iv) for treated hazardous waste because those rules, specifically § 264.1082(c)(2)(ix) and § 265.1083(c)(2)(ix), contain provisions for valuing non-detects when determining performance of an organic destruction or removal process.)

The EPA today is also amending regulatory language to reflect a clarification that was addressed in the November 25, 1996 rulemaking preamble (61 FR at 59943), but was inadvertently omitted from the regulatory text. This amendment adds two new paragraphs to the waste determination provisions, § 265.1084(a)(3)(v) and (b)(3)(v), to state that EPA would determine compliance with the subpart CC regulations based on the same test method used by the facility owner or operator, provided the owner or operator had used a test method appropriate for the waste. The appropriateness of an analytical method is described in paragraphs § 265(a)(3)(iii) and (b)(3)(iii), respectively. The November 25, 1995 preamble to the final rule amendments (61 FR 59943) stated that, "* * * as long as one of the allowable test methods is being used for direct measurement of the VO concentration of a hazardous waste, the EPA would only enforce against the facility on that basis (i.e., using the same test method), unless the method used is not appropriate for the hazardous waste managed in the unit." Today's

amendments add a paragraph to the analysis section of the final rule's waste determination procedures at § 265.1084(a) and (b) to codify this intended provision.

As published in the November 25, 1996 final rule amendments (61 FR 59975), paragraph 265.1084(a)(4)(iv) provides that the results of a direct measurement of average VO concentration shall be used to resolve a disagreement between the Regional Administrator and the owner or operator regarding a determination of the average VO concentration of a hazardous waste stream using knowledge. To clarify that in such cases where there is disagreement regarding use of knowledge, the owner or operator has the discretion to choose an appropriate test method or methods, the following sentence has been added to § 265.1084(a)(4)(iv): "The owner or operator may choose one or more appropriate methods to analyze each collected sample in accordance with the requirements of paragraph (a)(3)(iii) of this section."

The EPA is also clarifying the waste determination requirements for treated wastes. Prior to today's amendment, the subpart CC regulatory text required analysis of all treated waste. As explained below, a waste determination is unnecessary for a waste treated by either a boiler or industrial furnace (BIF) operated in accordance with subpart H to 40 CFR part 266, or a hazardous waste incinerator operated in accordance with subpart O to 40 CFR parts 264 or 265; the EPA is amending the rule to clarify this. Today's action revises paragraph (b)(1) of §§ 264.1083 and 265.1084 to require that the owner or operator perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of paragraphs (c)(2)(i) through (c)(2)(vi) of §§ 264.1082 and 265.1083, respectively. Those specific paragraphs are cited in today's amended rule language to clarify that a waste determination is only required for a hazardous waste placed in a waste management unit exempted under one of the treatment demonstration options that is a performance standard, as opposed to an equipment specification standard. As was noted in Section VII.A.2.b, *Treated Hazardous Waste*, of the final rule preamble (59 FR 62914, December 6, 1994), provisions for hazardous waste treatment are specified in the subpart CC standards for the following processes: (1) An organic destruction, biological degradation, or organic removal process that reduces the organic content of the hazardous

waste and is designed and operated in accordance with certain conditions specified in the rule; (2) a hazardous waste incinerator that is designed and operated in accordance with the requirements of 40 CFR part 264 subpart O or 40 CFR part 265 subpart O; or (3) a BIF that is subject to the requirements of 40 CFR part 266 subpart H.

Under today's amendments to the rule, the EPA is clarifying its original intent, that a waste determination is required only for a treated hazardous waste placed in a waste management unit, if the unit is exempt from air emission control requirements under provisions contained in paragraphs (c)(2)(i) through (c)(2)(vi) of §§ 264.1082 and 265.1083. The EPA requires waste demonstrations for those treatment demonstration options to ensure that the treatment conditions specified in subpart CC have been met. As explained in the December 1994 final rule preamble (59 FR at 62914, December 6, 1994), the waste demonstration results are required to indicate that a sufficient mass of organic constituents have been removed or destroyed from a regulated waste stream, prior to it being placed in a hazardous waste management unit that is not equipped with air emission controls. The treatment demonstration options listed in paragraphs (c)(2)(i) through (viii) of §§ 264.1082 and 265.1083 are based on the treatment process achieving a 95% reduction by weight of organic constituents in the waste. For the provisions of (c)(2)(i) through (c)(2)(vi) of §§ 264.1082 and 265.1083, the treatment process is not specified in the regulation; rather the requirement is based on the removal efficiency of the treatment process. Thus, to demonstrate compliance, EPA considers it necessary that the owner or operator perform waste determinations to demonstrate the appropriate removal efficiency has been achieved. However, the treatment demonstration provisions of paragraph (c)(2)(vii) in §§ 264.1082 and 265.1083 require that the hazardous waste be treated in an incinerator that is designed and operated in accordance with the requirements of subpart O in 40 CFR part 264 or part 265; and the treatment demonstration provisions of paragraph (c)(2)(viii) in §§ 264.1082 and 265.1083 require that the hazardous waste be treated in a BIF that is designed and operated in accordance with the requirements of 40 CFR part 266, subpart H. The EPA considers compliance with those combustion standards to be sufficient demonstration that the organics in the waste will be destroyed by 95 percent or more, by weight, and does not consider a waste

determination necessary. The EPA has consistently given verbal guidance that waste determinations are not required for waste treated in the above-mentioned specific units, and is today making an amendment to the regulatory text to make the regulatory requirements consistent with this guidance.

In a further clarification, the EPA intended that the owner or operator use the same test method to determine the average VO concentration at the point of waste treatment as is used at the point of waste origination, if these values are to be used to determine the effectiveness of a treatment system. As was stated in Section IV.F, *Waste Determination Procedures*, of the preamble to the final rule amendments (61 FR 59942, November 25, 1996), "The main point that must be reemphasized regarding direct measurement of VO concentration is that, although the EPA is amending the rule to allow various test methods other than Method 25D to be used in a waste determination, the owner or operator must use a test method(s) that is appropriate for the compounds contained in the waste. The method(s) used for the waste determination must be suitable for and must reflect or account for all compounds in the waste with a Henry's Law constant equal to or greater than 0.1 Y/X at 25 degrees Celsius."

Since the effectiveness of a waste treatment process must be judged on the basis of the process's capacity to reduce the organics in waste relative to their concentration at the point of waste origination or at the point of entry to the treatment system, the method(s) used for the waste determination at the point of waste treatment must be appropriate to detect and measure the compounds in the waste at the point of waste origination; to put the measurements on a common basis and provide an accurate comparison, the EPA considers it necessary that the method(s) used at the point of waste origination must be the same as the method(s) used at the point of waste treatment. To clarify this requirement, which the EPA has heretofore considered implicit, the following sentence is being added to § 265.1084(b)(3)(iii): "When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of § 264.1082(c)(2)(i) through (c)(2)(vi) or § 265.1083(c)(2)(i) through (c)(2)(vi) are met, then the waste samples shall be prepared and analyzed using the same method(s) as were used in making the

initial waste determination(s) at the point of waste origination or at the point of entry to the treatment system." (Only the waste determination provisions in part 265 are being revised in connection with this rule clarification and the following rule clarification, because the subpart CC waste determination protocols are contained in part 265, and the part 264 standards cross-reference part 265.)

Because of a printing error, the equations for calculating the actual organic mass removal rate in § 265.1084(b)(8)(iii) and for calculating the actual organic mass biodegradation rate in § 265.1084(b)(9)(iv) were out of place in the November 25, 1996 amendments (61 FR 59978). This document corrects the placement of these equations.

In a further clarification to the waste determination procedures of subpart CC, paragraph 265.1084(d)(5)(ii) required that a mixture of methane in air at a concentration of approximately, but less than, 10,000 ppmw be used to calibrate the detection instrument used to determine no detectable organic emissions. It was the EPA's intent that the calibration procedure be consistent with the procedure specified in the subpart BB equipment leak test methods and procedures at §§ 264.1063 and 265.1063, as they reference the same monitoring procedure. Paragraph (b)(4)(ii) of §§ 264.1063 and 265.1063 specifies that calibration gases for the detection instrument shall be, "A mixture of methane or n-hexane and air at a concentration of approximately, but less than 10,000 ppm methane or n-hexane. Consistent with this requirement, today's action revises the requirement for calibration gases in parts 264 and 265 to provide the owner or operator the choice of using a mixture of methane or n-hexane and air.

E. Standards: Tanks

Commenters have questioned whether a facility owner or operator is permitted to install a closure device on a tank manifold system or header vent when a series of tanks have their vents (i.e., tank openings) connected to a common header. In many tanks systems, tank vents are connected to a manifold or central header, and a closure device (or pressure/vacuum device such as a conservation vent) is installed on the header rather than on the individual tanks. Prior to today's amendment, the subpart CC level 1 tank requirements at paragraph (2)(2)(iii) in § 264.1084 and § 265.1085 could have been interpreted to require that each opening on a Level 1 tank fixed roof must be either equipped with a closure device or

connected through a closed-vent system to a control device, with no allowance for the closure device or pressure/vacuum device to be installed on the tank manifold system. The EPA did not intend the regulatory requirement to disallow a closure device or pressure/vacuum device from being installed on a tank manifold system. The EPA is aware that such tank manifold or vent header systems provide a degree of emissions reduction which is derived from vapor balancing between tanks during unloading and inter-tank transfers; the EPA clearly did not intend to discourage their use. The EPA is therefore amending the subpart CC tank standards to provide that a closure device can be installed on a manifold vent header for Level 1 tanks, by revising paragraph (c)(2)(iii) in § 264.1084 and § 265.1085.

In the November 25, 1996 final rule amendments, the EPA promulgated a provision that allowed a facility to install and operate air emission control devices on Level 1 tanks. As published, the regulatory language for that provision inadvertently made it mandatory that these control devices be operating at all times when hazardous waste is managed in the tank, even at times of routine maintenance. The EPA is amending the rules today to clarify that the control device is not required to be operating during specified periods, including those instances it is necessary to provide access to the tank for performing routine inspections, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port or hatch to maintain or repair equipment. Paragraph (B) is being revised in § 264.1084(c)(2)(iii) and § 265.1085(c)(2)(iii) to better convey this intent.

In the amendments to the final rule published on November 25, 1996 (61 FR 59944), the preamble at Section G. *Standards: Tanks* that discussed the revisions to the subpart CC tank standards, stated "* * * an option is being provided allowing the use of an enclosure vented through a closed-vent system to an enclosed combustion device or a control device designed and operated to reduce the total organic content of the inlet vapor stream by at least 95 percent by weight," in order to comply with the tank level 2 air emission control requirements. However, the latter portion of this statement was incorrect and the EPA is clarifying that it was the EPA's intent that only enclosed combustion devices can be used as control devices under this alternative to comply with the Tank

Level 2 air emission control requirements. It should also be noted that the regulation as amended by the November 25, 1996 **Federal Register** document (at §§ 264.1084(d)(5) and 265.1085(d)(5)) was correct and did not contain the statement regarding the use of a (non-combustion) "control device designed and operated to reduce the total organic content of the inlet vapor stream by at least 95 percent by weight." Since publication of the November 25, 1996 preamble, the EPA has consistently and repeatedly provided verbal clarification in all forums where the subject of level 2 tank enclosures has been raised, that the noted preamble text is incorrect, and that level 2 tanks operated inside an enclosure must be vented to an enclosed combustion device. The EPA provided this information publicly at each of the six seminars EPA conducted in September through December of 1996; additionally, an industry trade association provided this same clarification at the two seminars the industry trade group conducted in March and April of 1997 (these seminars are discussed in the Background section of today's preamble). Additionally, the requirement for enclosed combustion devices on level 2 tank enclosures was strongly affirmed in the accompanying printed materials for each of these EPA and industry trade group seminars; those printed materials were distributed to all seminar attendees, and to additional members of EPA and the regulated community, for informational purposes and peer review. Further, the RCRA Hotline has been clarifying the regulatory text requirement for enclosed combustion devices to callers who have raised the topic to Hotline representatives. The requirement for enclosed combustion devices on level 2 tank enclosures is not being amended by today's action. However, the EPA is currently considering a future amendment to this requirement that would allow owners or operators to operate a Level 2 tank enclosure vented to an alternate control device, provided they make certain site-specific demonstrations. The reason EPA currently requires enclosure emissions to be vented to an enclosed combustion device is because organic concentrations in air within the enclosure are very dilute, due to the inherent dilution in the enclosure, and are often less than 100 ppm organics by volume. It is not clear to the EPA that control devices other than enclosed combustion devices, can reduce organics in such a dilute vent stream by the 95 percent control efficiency required the subpart

CC standards. The EPA has agreed to investigate the possibility whereby a facility could make a case-by-case demonstration of a non-combustion control device efficiency; the EPA would require the demonstration to show that a mass of organics would be removed from a given waste, using a particular enclosure and control device, equivalent to 95 percent reduction of organics in the tank headspace, if the tank were to be equipped with a discreet cover. Though such a demonstration would likely be fairly detailed and costly, commenters have indicated that they would be interested in pursuing such an option if it were included in the subpart CC tank enclosure requirements. The EPA considers that such an equivalency would be consistent with the existing tank standards; if a technically feasible and verifiable equivalency demonstration technique can be developed, this could be a reasonable alternative to the requirement for enclosed combustion devices under the Level 2 tank enclosure control option. The EPA will continue to investigate this option, and if a viable approach can be developed, will publish a future amendment to incorporate it into the subpart CC Level 2 tank standards.

The EPA has received inquiries as to whether doors are allowed to be open on level 2 tank enclosures, and how doors are regarded under the provisions for natural draft openings (NDO) in the "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B ("Criteria T") requirements. The Criteria T evaluation of NDO is intended to evaluate the effectiveness of the enclosure at capturing emissions from within the enclosure. Therefore, for purposes of Criteria T, the evaluation of the enclosure must be conducted on the enclosure as it is operated during hazardous waste management operations. If the enclosure has a door that is closed during waste operations, then the open doorway would not be considered an NDO; however, cracks or openings that exist around the door when it is closed would be considered NDO. Doors on enclosures are often very large, to accommodate waste transportation vehicles; thus, the effectiveness of an enclosure is severely altered by the positioning of such a door. Obviously, if a door is normally open during times when hazardous waste is managed in the enclosed tank, the open doorway would be considered an NDO.

By this clarification, the EPA is not precluding the opening of enclosure

doors. The EPA considers it appropriate to allow enclosure doors to be open for the same circumstances that tank covers can be open under paragraph 265.1085(g)(2)(i)(A) and similar paragraphs for tanks equipped with fixed roofs—when necessary to provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Also commensurate with paragraph 265.1085(g)(2)(i)(A), following completion of the activity, the owner or operator should promptly secure the door in the position it was in during the evaluation of the NDO.

It also warrants clarification that the enclosure door (and other openings not accounted for as Criteria T NDO) must be closed at all times that hazardous waste is managed in the enclosed tank (unless the tank is exempt from subpart CC air emission control requirements), not just when waste is being treated in the tank. The EPA considers it inherently obvious within the tank standards that the enclosure around a tank must be operated in the same manner in which it was evaluated for the Criteria T requirements. Specifically, paragraphs § 264.1084(i)(1) and § 265.1085(i)(1) require that the enclosure be designed and operated in accordance with the Criteria T.

The EPA recognizes that it is not feasible to require all waste transfer to and from a tank enclosure to be conducted by enclosed transfer systems. However, the EPA does consider it reasonable to interpret the provisions of § 264.1084(i)(1) and § 265.1085(i)(1) to require that the enclosure be operated in the same manner in which it was evaluated for compliance with Criteria T. Thus, the EPA is clarifying that enclosure doors and other openings not evaluated as NDO shall be closed when hazardous waste is managed inside the enclosure, except when it is necessary to open the door or opening for waste transfer, equipment access, or worker access.

In the December 6, 1994 final regulation, the regulatory text at §§ 264.1084(g) and 265.1085(g) allowed that an owner or operator may install and operate a safety device on tank covers, closed-vent systems and control devices. The amendments published on November 25, 1996 amended the tank requirements; in those amendments, the provision for safety devices was inadvertently omitted from the tank requirements for floating roof covers. Today's action adds new paragraphs 264.1084(e)(4), 264.1084(f)(4), 265.1085(e)(4), and 265.1085(f)(4) stating that safety devices are allowed

on both internal and external floating roof tank covers.

Today's action amends § 264.1084(f)(3)(iii) to correct a typographical error. The sentence "Prior to each inspection required by paragraph (f)(3)(i) or (f)(3)(ii) of this subpart * * *" is revised to read as follows, "Prior to each inspection required by paragraph (f)(3)(i) or (f)(3)(ii) of this section * * *" Also, to correct another typographical error in § 264.1084(f)(3)(i)(D)(4) and § 265.1085(f)(3)(i)(D)(4), the phrase "* * *" and then dividing the sum for each seal type by the nominal perimeter of the tank." is revised to read as follows "* * *" and then dividing the sum for each seal type by the nominal diameter of the tank."

In the November 25, 1996 final rule amendments (61 FR 59932), an exemption from the control requirements of subpart CC was added for a tank, surface impoundment, or container for which all the hazardous waste placed in the unit meets the Land Disposal Restrictions (LDR) as specified in §§ 264.1082(c)(4) and 265.1083(c)(4). However, the EPA inadvertently failed to add this exemption based on meeting applicable LDR treatment standards to the exemption from the closed system transfer requirements. Today's change adds paragraph (iii) under §§ 264.1084(j)(2) and 265.1085(j)(2) to correct this oversight. It was originally the EPA's intent to make this conforming amendment for closed system transfer requirements in the November 25, 1996 action. The basic structure of the subpart CC rule is that once a hazardous waste is subject to the provisions of the rule, all containers, tanks, and impoundments managing the waste are subject to the rule's requirements. However, once a waste is treated to destroy or remove organics in a manner specified in the rule, downstream tanks, containers, and surface impoundments are not subject to the subpart CC air requirements to operate the units with covers and/or control devices.

(Note: Recordkeeping, monitoring, reporting and testing requirements may apply to those downstream units.) See Section VII.A.2.b, *Treated Hazardous Waste*, of the preamble to the final rule (59 FR 62914, December 6, 1994). The EPA inadvertently failed to codify this core principle for closed system transfer and is correcting the omission in today's rule.

F. Standards: Surface Impoundments

Today's action corrects a typographical error in §§ 264.1085(b)(2) and 265.1086(b)(2) by revising the phrase "* * *" paragraph (d) of this sections." to read "* * *" paragraph (d)

of this section." Also, the EPA is clarifying the requirements of §§ 264.1085(d)(1)(iii) and 265.1086(d)(1)(iii) by making a non-substantive editing change. "Factors to be considered when selecting the materials for * * *" is redrafted to read "Factors to be considered when selecting the materials of construction * * *" To correct another typographical error in §§ 264.1085(d)(2)(i)(B) and § 265.1086(d)(2)(i)(B), "To remove accumulated sludge or other residues from the bottom of surface impoundment." is revised to read, "To remove accumulated sludge or other residues from the bottom of the surface impoundment."

As is discussed regarding tanks, in Section E of this preamble, the EPA inadvertently failed to add the exemption for hazardous wastes that have been treated to meet applicable LDR treatment standards to the exemption from the closed system transfer requirements for hazardous waste that is transferred to a surface impoundment. Today's action adds this exemption to the exemptions from closed system transfer requirements in §§ 264.1085(e)(2)(iii) and 265.1086(e)(2)(iii).

G. Standards: Containers

The EPA has received comments from the regulated community regarding the inspection requirements for containers; these comments clearly indicate a widespread misinterpretation of the rule requirements relevant to container inspections. Numerous commenters referenced in their statements to the EPA that the language in § 264.1086(c)(4)(i) and (d)(4)(i), and the corresponding paragraphs in 40 CFR part 265, require a visual inspection to occur within 24 hours after acceptance of each regulated container which is transported to a regulated facility and which contains hazardous waste at the time it arrives at the facility. They also noted that the requirement for an inspection to be conducted within a 24-hour time frame is unnecessarily burdensome in some limited and infrequent situations.

The visual container inspection requirement is intended to provide means for the facility owner or operator to ensure that the container has no visible openings or gaps through which organics could be emitted; see Section IV.I.3 of the preamble, 61 FR 59948, November 25, 1996. The amended container regulations published November 25, 1996, did not specify the time frame in which the initial visual inspection must be conducted. The regulation states, "In the case when

* * * the container is not emptied (i.e., does not meet the conditions for an empty container as specified in 40 CFR 261.7(b)) within 24 hours after the container is accepted at the facility, the owner or operator shall visually inspect the container * * *" The 24-hour period in the rule language refers to the time limit on emptying the container that triggers the visual inspection; the rule language in § 265.1087(c)(4)(i) and (d)(4)(i), and the corresponding paragraphs in 40 CFR part 265, as published in November 1996, do not specify the time frame in which the visual inspections must be conducted. However, it is the intent of the EPA that the initial inspection be subject to the same time requirements as were set out in the December 6, 1994, final regulation (see 40 CFR 265.1089(f)(1) of the December 6, 1994 published regulation (at 59 FR 62947)). Specifically, the container inspection must be conducted on or before the date that the container is initially subject to the subpart CC container standards. Thus, for a container with hazardous waste that is transported to a regulated facility, the inspection of the container is required on or before the date that the container is accepted at the facility.

In those situations where it would be infeasible to inspect a container on the date it is accepted at the facility, for the purpose of compliance with the subpart CC container standards, it would be acceptable for the container to be inspected prior to that date. For example, if an owner or operator of an affected facility accepts a shipment of containers that arrives at the TSDF on a truck, and the TSDF owner or operator is unable to conduct a visual inspection of the containers at the time of acceptance of the container shipment, it is acceptable under the rule to have the generator or transporter perform the visual inspection of the individual containers before or during loading of the containers onto the truck for transport to the affected facility. The transporter or generator could provide the recipient TSDF with some level of information (e.g., written documentation) to confirm the inspection has been conducted on or before the date that the container is accepted at the facility. It is likely that the TSDF owner or operator would then perform their own visual inspection when possible, (e.g., at the time that the containers are unloaded from the truck at the TSDF). The EPA considers the use of generator or transporter supplied information to comply with the visual inspection requirements similar to owner or operator use of generator

information regarding the organic content of a hazardous waste as a means to comply with the waste determination (i.e., VO concentration determination) requirements of the rule. It should be noted that in either case, it is ultimately the responsibility of the owner or operator of the affected facility to be in compliance with all the applicable regulatory requirements. The EPA is amending the language in § 264.1086(c)(4)(i) and (d)(4)(i), and the corresponding paragraphs in 40 CFR part 265, to clarify that the 24-hour period noted in the rule refers to the time frame for emptying a container, and that this 24-hour criterion then triggers the need for a visual inspection that must be conducted on or before the date that the container is accepted at the facility.

The amendment to §§ 264.1086(c)(4)(i) and (d)(4)(i), and the corresponding language in part 265, also clarify the phrase "accepted at the facility." For the purposes of this inspection requirement for containers, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest of the appendix to 40 CFR part 262 (EPA Form 8700-22), as required under subpart E of this part, at § 264.71 and § 265.71. The instructions to EPA Form 8700-22 at Item 20, Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19, state, "Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt." The EPA considers acceptance of the waste to occur at the time of manifest signature. This has been the EPA's consistent interpretation of this phrase, and is the guidance that EPA has supplied both verbally and in written seminar materials.

The EPA has received questions regarding when the opening of a cover or closure device is allowed on containers. Several of these questions have concerned the opening of the vent on vacuum trucks during loading operations and the opening of containers vents to allow venting of vapors for the purpose of worker safety. With regard to vacuum trucks, the EPA has always intended the subpart CC final rules to allow containers to vent emissions directly to the atmosphere during filling operations. This would include use of a vacuum system to fill a tank truck (i.e., a container under RCRA). Although the December 6, 1994

final rules only allowed the opening through which waste was transferred to be open during waste transfer, this was inadvertent; the EPA intended to allow venting during waste transfer operations, either through the opening through which the waste is transferred, or through a second opening that would serve as a vent. To this effect, the EPA amended the subpart CC rules on February 9, 1996 to clarify this point (see 61 FR 4909). The fact that EPA is not requiring control of vacuum trucks is also discussed in the document *Hazardous Waste Treatment, Storage, and Disposal Facilities—Background Information for Promulgated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers*; see EPA-453/R-94-076b, November 1994, Section 6.6.5. where it is clear that the EPA is fully aware that a practical means of controlling the exhaust from the vacuum pump on a vacuum truck has not been demonstrated. The EPA is now reiterating that these types of systems are allowed under the subpart CC container rules.

In response to commenters, EPA is providing clarification that venting of containers for worker safety is also allowed under the subpart CC container rules. Provision (iii) of §§ 264.1086(c)(3) and 265.1087(c)(3), which allows opening of a closure device or cover when access inside is needed, would allow the owner or operator to vent a container prior to sending a worker into a tanker or other container for clean-out. This type of venting is necessary to avoid an unsafe condition when entering a confined space. For example, venting both before and during the cleaning operations is needed to reduce the organic vapor concentration below the lower explosive limit (LEL) for worker safety. In addition, provision (v) of §§ 264.1086(c)(3) and 265.1087(c)(3), which allows opening of a safety device at any time clearly shows the EPA intent regarding the implementation measures necessary to avoid an unsafe condition. The EPA considers that the current rule language allows this type of venting for maintenance of worker safety, and is providing this preamble discussion in response to requests from commenters.

An additional interpretive clarification is required, regarding the transfer requirements to, from, and among hazardous waste containers, specifically when transfers occur in conjunction with hazardous waste stabilization operations.

The first clarification addresses whether the addition of sorbent materials is considered to be waste stabilization for the purposes of compliance with subpart CC, and thus,

whether such activities are required to be conducted in containers equipped with level 3 controls. There has been specific inquiry as to whether the subpart CC level 3 container standards apply in situations where an owner or operator "transfers" hazardous waste from one container, such as a bulk container or roll off box, to a second unit, and adds the sorbent to the waste after each scoop of waste is placed in the second unit. The container standards at § 264.1086(b)(2) state that, "* * * the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in paragraph (e) of this section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere." In its definition of waste stabilization at 40 CFR 265.1081, the EPA has stated that stabilization includes the elimination of free liquids, but does "not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid." The associated preamble language clearly defined what activities EPA was excluding from the waste stabilization definition. See 61 FR at 4905, February 9, 1996. That preamble discussion stated, "The EPA is also amending the term 'waste stabilization' to specifically exclude the process of adding non-reactive absorbent material to the surface of a waste. The EPA recognizes that to meet certain criteria under the Land Disposal Restrictions, or to prevent the introduction of liquid into certain combustion devices, owners or operators apply absorbent material to the surface of wastes just prior to disposal. In such procedures, the container is opened, absorbent material is placed on the surface of the waste to absorb a relatively small amount of liquid, and the container is closed. No mixing or agitation is involved in the process."

It is clear from the text of the regulation, as well as the February 9, 1996 preamble discussion, that addition of absorbent, even with very limited mixing or agitation, must be performed in compliance with the container level 3 standards. In fact, this is the literal meaning of the provision—such "transfer" operations result in mixing of the sorbent material with the waste, a condition that qualifies as waste stabilization under subpart CC, and requires container level 3 controls. (See also the discussion of the EPA's intentions regarding requirements for containers in the February 9, 1996

preamble at 61 FR 4903, which makes clear that a hazardous waste transfer operation conducted as described above would not satisfy the EPA's stated intent with regard to the general transfer requirements of the container standards. Therefore, the type of transfer operation described above can only occur if the containers meet the container level 3 requirements. The EPA repeats that this requirement has a sound environmental basis. Containers would remain open to the environment during such operations, and the volatile hazardous constituents will be released. The reaction of the sorbent materials with the hazardous waste would, in fact, be likely to increase the volatilization of the organics in the waste, while the container would remain uncovered as subsequent layers of waste and sorbent were applied. Such a situation would result in organic emissions that the EPA considers most appropriately controlled under the container level 3 requirements, and the rules so require.

The EPA recognizes, however, that there are circumstances where addition of sorbent is not stabilization and therefore will not trigger subpart CC container standards. This is why the rule states that stabilization "does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid." The chief example EPA has provided of such an activity is addition of sorbent just prior to the final disposition of the material (the situation given in the February 9, 1996 preamble discussion). Other examples would involve situations where tanks are covered immediately after addition of sorbent and stay covered thereafter.

Examples could occur when sorbent is added to a container at the end of a work day, or at the final completion of a waste transfer. The EPA's technical basis for allowing sorbent material to be placed on the waste surface in these limited situations, we repeat, is that any potential for volatilization to the atmosphere of the organics in the waste would be prevented by the immediate application of the container cover.

A similar issue has come to the attention of EPA, regarding the container standards at § 264.1086(d)(2) and § 265.1087(d)(2), which require that transfer of hazardous waste in or out of a container "* * * be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical * * *" This provision was an amendment to the more extensive transfer requirements that were promulgated in the December 6, 1994

rule. The November 25, 1996 amendment also revised the tank and surface impoundment transfer requirements such that only transfer between and among subpart CC-regulated tanks and surface impoundments are required to be conducted in an enclosed transfer system. This amendment was made in recognition that it is often impractical for waste in containers to be transferred to tanks or surface impoundments through an enclosed system. However, it is the EPA's intent that transfer of hazardous waste among containers, and between containers and surface impoundments or tanks, be conducted in a manner to minimize waste exposure to the atmosphere. See § 264.1084(j), § 264.1085(e), § 264.1086(d)(2) and corresponding paragraphs in part 265.

Members of the regulated community have questioned whether it is possible to evade these less extensive transfer requirements by including an intervening non-subpart CC unit when performing a transfer of hazardous waste. Specifically, certain regulated facilities have discussed transferring waste from a subpart CC-regulated unit (e.g., a tank or container) to a unit not subject to subpart CC (e.g., the floor of a containment building), then subsequently transferring the waste to a second subpart CC-regulated unit. Since the containment building is not a unit regulated by subpart CC, the subpart CC standards do not impose transfer requirements to or from containment buildings; thus, the facilities suggest that the subpart CC transfer requirements would be met. As noted above, the subpart CC container requirements state that transfer of hazardous waste to and from a regulated container shall be conducted in a manner which minimizes the waste's exposure to the atmosphere, considering practical factors. The EPA considers an unnecessary and open-air transfer of waste to or from a container, conducted in whole or in part, to avoid the subpart CC container (or tank) requirements, to not meet the obvious intent of the container transfer requirement (e.g., see 264.1086(d)(2)). The EPA is aware of waste transfer methods that would be more effective in minimizing exposure of the waste to the atmosphere—the owner or operator is responsible for conducting waste transfer in such a manner as to minimize exposure of the hazardous waste to the atmosphere. Rather than leaving this issue open to interpretation, the EPA will instruct permit writers to invoke omnibus authority under RCRA section 3005(c)(3) to assure control of such

transfers where necessary to protect human health and the environment.

There are other aspects of the container standards that also require some further clarification; one point that needs some additional explanation is in regard to the Department of Transportation (DOT) compliance demonstration option for containers. The subpart CC container standards, as amended November 25, 1996, allow three options for compliance demonstration, one of which is through compliance with certain applicable DOT regulations for packaging of hazardous materials for transportation. Commenters have stated that they consider the specification in subpart CC, as to which DOT packaging requirements qualify for that compliance option, to have resulted in an overly stringent requirement. However, the EPA has clarified that demonstration of compliance through the use of certain DOT packagings is only one approach to demonstrating compliance with the container standards. The regulated industry has indicated to EPA that the vast majority of hazardous waste that is shipped in DOT transport packagings meets the requirements for container level 1 standards. Thus, if a facility owner or operator is using a DOT packaging which is not among those specified under the subpart CC container standards, the facility owner or operator must conduct a visual inspection to determine that there are no visible openings, cracks, etc. in the container. See § 265.1087(c)(1)(ii). The EPA considers the existing regulatory language to adequately convey this intent, and is including this preamble discussion in response to commenters' requests.

The container option to comply with applicable DOT packaging regulations, described at 40 CFR 265.1087(f) and 264.1086(f), includes four requirements which must all be met to comply with the subpart CC compliance demonstration. The regulatory language of that paragraph clearly indicates (in fact, literally indicates) that compliance with all four of the subparagraphs at § 265.1087(f)(1) through § 265.1087(f)(4) is required, since the requirements are not presented as alternatives. The following paragraphs provide a detailed description of each of the four requirements found at § 265.1087(f).

The first requirement, found at 40 CFR 265.1087(f)(1), specifies that the container must meet the applicable requirements specified in 40 CFR part 178 or part 179. It is EPA's intent to require that in order to comply with 40 CFR part 265.1087(f), a container must

be subject to 49 CFR part 178 or part 179; it is also the EPA's intent to require that such a container be in compliance with all the requirements of 49 CFR parts 178 and 179 that are applicable. (Again, this is the direct and literal reading of the provision.) In developing the final rule, the EPA determined that containers subject to and in compliance with these requirements would achieve the appropriate level of air emission control; see the preamble discussion at Section IV.I.1, 61 FR 59947, November 25, 1996. The Agency could not make that finding for containers not subject to these provisions. A container not subject to 49 CFR part 178 or 179 is thus not eligible to comply with the subpart CC rule through the requirements of 40 CFR 265.1087 (c)(1)(i) or (d)(1)(i), nor the corresponding paragraphs in 40 CFR part 264; it would have to comply with the subpart CC rule through the requirements of 40 CFR 265.1087 (c)(1)(ii), (c)(1)(iii), (d)(1)(ii) or d(1)(iii), or the corresponding paragraphs in 40 CFR part 264, as appropriate.

The second requirement within 40 CFR 265.1087(f) for DOT-compliant containers stipulates that the hazardous waste must be managed in the DOT container in accordance with all the requirements contained in 49 CFR part 107 subpart B, part 172, part 173, and part 180 that are applicable to that container and the waste managed in that container. The EPA listed these regulatory parts because they were characterized by the industry and by DOT as the parts which describe the requirements for management of hazardous waste, for the types of containers that are specified in 49 CFR parts 178 and 179. The reference to 49 CFR part 107 subpart B is included to recognize the exemptions for containers that have been determined by DOT to be equivalent or superior to those required within 49 CFR part 178 and 179 standards.

The third and fourth requirements, listed in 40 CFR 265.1087(f)(3) and (f)(4) and their corresponding paragraphs in 40 CFR part 264, state that, "* * * For the purpose of complying with this subpart, no exceptions to the 40 CFR part 178 and part 179 regulations are allowed except as provided for in paragraph (f)(4) of this section," and "For a lab pack that is managed in accordance with the requirements of 40 CFR part 178 for the purpose of complying with this subpart, an owner or operator may comply with the exceptions for combination packagings specified in 40 CFR 173.12(b)." These requirements indicate that the DOT-authorized container must be in compliance with all applicable

requirements in 49 CFR parts 178 and 179. Paragraph 265.1087(f)(3) of the subpart CC rule specifically means that for the purposes of the subpart CC rule provisions, compliance with 49 CFR parts 178 and 179 is required, and no exceptions to those provisions are allowed (unless the container were a lab pack, as described in § 265.1087(f)(4)). As with the earlier provisions discussed above, this is the literal meaning of the provision. There are many exceptions, both explicit and implicit, to the 49 CFR part 178 and 179 standards which are contained in other sections of the DOT standards. The EPA's intent in 40 CFR 265.1087(f)(3) is to disallow any regulatory provision which removes or alters a requirement contained in 49 CFR parts 178 or 179, regardless of where that disallowing regulatory provision is codified, or whether that provision is specifically described as an "exception." For instance, 49 CFR 173.28(e) states that a non-reusable container may be reused for certain circumstances; however, the allowance of that paragraph would not be recognized for compliance with the subpart CC container standards at 40 CFR 265.1087(f) or 40 CFR 264.1086(f). As another example, 49 CFR 173.204 contains an implicit exception for certain hazardous materials that states, "packaging need not conform to the requirements of part 178." However, if that packaging were used to manage a hazardous waste subject to the container regulations of the subpart CC rule, the effect of 40 CFR 265.1087(f)(3) would be to require that, for compliance with the subpart CC rule, such packaging must comply with the requirements of 49 CFR part 178. In this example, 40 CFR 265.1087(f) and 264.1086(f) would disallow the exception to 49 CFR 173 provided by 49 CFR 173.204. Thus, as a general matter, 40 CFR 265.1087(f) and 264.1086(f) have the intended effect of requiring strict compliance with all applicable requirements of 49 CFR parts 178 and 179 (other than the exception for lab packs at 49 CFR 173.12(b)), for the purpose of the DOT compliance option within the subpart CC container standards. Strict compliance with these provisions is necessary to ensure that the emission reduction intended by the rule is achieved.

Today's action also corrects two typographical errors in § 264.1086. In § 264.1086(c)(2), "* * * Organic vapor permeability, the effects of the contact with the hazardous waste * * *" is revised to read as follows, "Organic vapor permeability; the effects of the contact with the hazardous waste * * *" and in § 264.1086(d)(2), "* * *

any one of the following: a submerged-fill pipe * * *" is revised to read as follows, "* * * any one of the following: A submerged-fill pipe * * *"

For containers required to use Level 2 controls under the subpart CC standards, one option under the final rules requires that the hazardous waste be managed in a "container that operates with no detectable organic emissions." (See §§ 264.1086(d)(ii) and 265.1087(d)(ii).) The test for conducting no detectable organic emissions for the purpose of complying with this requirement must be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. However, under subpart CC, there are no requirements for periodic Method 21 leak monitoring of containers. (See Section IV.I.3 of the preamble to the final rule, 61 FR 59948, November 25, 1996.) Any Method 21 monitoring to determine if the containers operate with no detectable organic emissions is conducted at the owner's or operator's discretion. In order to clarify this point, the EPA has amended the language in paragraph (g) of the container standards.

H. Standards: Closed-Vent Systems and Control Devices

The inspection and monitoring requirements under paragraph (c) of § 264.1087 and § 265.1088 are being amended to clarify that the inspection and monitoring procedures specifically cited in paragraph (c)(7) are applicable to closed-vent systems as well as to the control devices. The reference to closed-vent system in paragraph (c)(7) was inadvertently left out of the sentence specifying what shall be inspected and monitored; however, the procedures specified in the paragraph did cite the requirements applicable to closed-vent systems, and it was thus the EPA's intent that closed-vent systems be included.

The EPA has received several comments concerning how a TSDF owner or operator would demonstrate compliance with the 95 percent removal requirement (see § 265.1088(c)(1)(i)) for a vent stream with low concentration organic vapor entering an organic air emission control device. The commenters contended that the 95 percent removal or destruction performance demonstration is not feasible for low concentration organic streams. However, the EPA has not at this time found adequate technical reasons to change the 95 percent control requirement. Similar requirements have been included in other regulations controlling air emissions from process vents on hazardous and non-hazardous

waste management operations (e.g., subpart DD in 40 CFR part 63) and guidance regarding compliance with the 95 percent control requirement has been published by the EPA, see EPA-450/3-89-021, *Hazardous Waste TSDF—Technical Guidance Document for RCRA Air Emission Standards for Process Vents and Equipment Leaks*; or EPA-450/3-91-007, *Alternative Control Technology Document—Organic Waste Process Vents*. The EPA has also published guidance regarding the control of low concentration organic vapor streams; see EPA-450/R-95-003, *Survey of Control Technologies for Low concentration Organic Vapor Gas Streams*.

It has been suggested that the EPA include the use of an activated carbon adsorption control system as a specified technology and/or use of surrogate compounds to demonstrate compliance. Again, the EPA does not have an adequate technical basis to revise the control device requirements to include a carbon adsorption control equipment specification. Carbon adsorption systems require considerable constituent and other site-specific information for proper control device design, unlike combustion systems, for which organic control efficiency is less dependent on the particular organic constituent present in the gas stream. Therefore, the EPA has not included a carbon adsorption equipment specification in the rule as an alternative to the 95 percent organic removal efficiency demonstration.

Commenters also have requested that the EPA amend the control device requirements of the rule to allow that the temperature sensor for condensers be placed in the coolant exhaust rather than in the exhaust vent stream from the condenser exit. The EPA selected this monitoring location because it was judged that monitoring the exhaust gas provided a better and more direct characterization of the performance of the condenser. In addition, the standards for closed-vent systems and control devices in subpart AA (see § 264.1033(i)) allow that "an alternative operational or process parameter may be monitored if it can be demonstrated that another parameter will ensure that the control device is operated in conformance with these standards and the control devices's design specifications." This same allowance is not contained in the part 265 standards for interim status facilities because the rules do not have provisions for reporting and thus there is no direct mechanism for Agency review of the appropriateness of the alternative parameter. The EPA did not seek to

burden the owner or operator of interim status facilities with the additional reporting requirements associated with the technical demonstration of equivalent characterization of performance. For those facilities that are monitoring an alternative parameter, e.g., condenser coolant exhaust rather than the condenser vent stream exhaust, in compliance with provisions of a Clean Air Act regulation such as the HON, the owner or operator of the unit may be able to comply with the RCRA air rules through one of the Clean Air Act applicability exemptions contained in the RCRA air rules at §§ 264.1030(d) and 265.1030(d) of subpart AA and §§ 264.1080(b)(7) and 265.1080(b)(7) of subpart CC. The EPA continues to believe that the monitoring requirements specified in the 40 CFR part 265 rules are reasonable, and the EPA does not consider it appropriate to allow alternative parameters to be monitored without a mechanism for Agency review of the alternative approach (e.g., a Clean Air Act or RCRA permit). Therefore, the EPA is not amending the rule in this regard.

As previously noted in Section III.C of this preamble, the November 25, 1996, amendments to the subpart CC standards for control devices and closed vent systems (at § 265.1088(c)(2)(i)), added provisions to allow up to 240 hours per year for periods of planned routine maintenance of a control device, during which time the control device is not required to meet the performance requirements for emission reductions specified in the rule. The EPA has received comments that control devices such as boilers, industrial furnaces, and incinerators often require routine maintenance that takes longer than 10 days per year. In connection with this, the commenters also requested that the EPA provide an extension to the repair period so long as the owner or operator documents the decision to use an extension by including certain material in the operating record. The EPA considers the emissions from hazardous waste to be a significant source of nationwide organic air emissions, and does not consider it appropriate to lengthen the time that a control device may be out of service for routine maintenance, while hazardous waste is being managed in the unit. As promulgated in December 1994, the subpart CC standards did not allow provisions for planned maintenance time, because the modeled emission reductions attributed to the implementation of these standards were based on control device operation at all times that affected waste is managed in

a unit requiring a control device. In the November 1996 amendments, the EPA revised the control device provisions in recognition that planned or routine maintenance of control devices, within reason, would limit the unplanned malfunctions. However, the EPA continues to consider that 240 hours per year is an appropriate maximum amount of time for hazardous waste to be managed in units without the required control device operating. Thus, the EPA is not amending this provision. Instances of control device down time beyond the allowed 240 hours for maintenance would be considered periods in which the facility is not in compliance with the control requirements of the rule.

The EPA is today clarifying that the requirements for management of spent carbon, at § 264.1088(c)(3)(ii) and § 265.1089(c)(3)(ii) apply only to carbon that is a hazardous waste. This clarification has been made in both the February 9, 1996 technical amendments (see 61 FR at 4910) and the November 25, 1996 final rule amendments (see 61 FR at 59936). When amending the regulatory text at § 264.1087(c)(3)(ii) and § 265.1088(c)(3)(ii) in the November 25, 1996 action, the EPA inadvertently omitted the phrases that state the requirement applies to carbon that is a hazardous waste, and the requirement applies regardless of the VO concentration of the carbon. These statements had been included in the regulatory text prior to that November 25 **Federal Register** document; today's amendment clarifies the EPA's intent by correcting that omission.

I. Recordkeeping and Reporting Requirements

In the November 25, 1996 final rule amendments (61 FR 59952 and 59971) to parts 264 and 265, the subpart CC applicability was amended to exempt any hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. Though the requirement for owner or operator certification was established at § 264.1080(b)(7), the EPA inadvertently failed to add the associated recordkeeping requirement to the recordkeeping sections of subpart CC. In order to establish minimum recordkeeping requirements for those units that are exempted from the subpart because the unit is in compliance with control requirements under a Clean Air Act regulation, the subpart CC recordkeeping requirements are being amended by today's action. A

new paragraph (j) is being added to § 264.1089 and § 265.1090 that requires the owner or operator to record and maintain: (1) a certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified in 40 CFR parts 60, 61, or 63; and (2) identification of the specific requirements with which the unit is in compliance.

Adding these requirements also necessitated a change to paragraph (a) of § 264.1089 and § 265.1090 in order to include paragraph (j) in the list of information specified for recordkeeping under the subpart.

In addition, today's action corrects typographical errors in § 264.1089(a) and § 265.1090(a). In the last sentence of § 264.1089(a), "* * * air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the conditions specified in § 264.1084(d) of this subpart." is revised to read as follows, "* * * air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the conditions specified in § 264.1080(d) or § 264.1080(b)(7), respectively, of this subpart." Similarly, in the last sentence of § 265.1090(a), "* * * air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the conditions specified in § 264.1084(d) of this subpart" is revised to read as follows, "* * * air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the conditions specified in § 265.1080(d) or § 265.1080(b)(7), respectively, of this subpart."

Also in the recordkeeping sections of subpart CC, paragraph (f) of § 264.1089 and § 265.1090 are being amended to provide the full citation referenced in the paragraph; the references to § 264.1082(c)(2) and § 265.1083(c)(2) are being expanded to state (c)(2)(i) through (c)(2)(vi) in paragraph (f) to cover specifically each of the exemption options, for which a waste determination for a treated hazardous waste is required.

In a further correction, paragraph (b)(1)(ii)(B) of § 264.1089 and § 265.1090 is being amended to correct the sentence structure and eliminate the redundant phrase "the following information."

J. Appendix VI to Part 265

Appendix VI to part 265 is revised and reprinted in total. The revisions made by today's action correct printing errors in the November 25, 1996, final rule amendments (61 FR 59993),

reformat the list to be alphabetical, correct typographical errors in compound names (for example, dimethyl hydrazine (1, is corrected to read 1,1-dimethyl hydrazine), and add CAS numbers that were not available in the November 25, 1996, final rule amendments.

There has been some uncertainty among the regulated community with respect to whether or not cyanide (CN) is classified as an "organic" compound. For purposes of subpart CC, cyanide is listed in Appendix VI to Part 265 as one of the compounds with a Henry's Law Constant less than 0.1 Y/X and as such it is not necessary to quantify CN as a part of the volatile organic concentration determination.

VI Administrative Requirements

A. Docket

Six RCRA dockets contain information pertaining to today's rulemaking: (1) RCRA docket number F-91-CESP-FFFFF, which contains copies of all BID references and other information related to the development of the rule up through proposal; (2) RCRA docket number F-92-CESA-FFFFF, which contains copies of the supplemental data made available for public comment prior to promulgation; (3) RCRA docket number F-94-CESF-FFFFF, which contains copies of all BID references and other information related to development of the final rule following proposal; (4) RCRA docket number F-94-CE2A-FFFFF, which contains information pertaining to waste stabilization operations performed in tanks; (5) RCRA docket number F-95-CE3A-FFFFF, which contains information about potential final rule revisions made available for public comment; and (6) RCRA docket number F-96-CE4A-FFFFF, which contains a copy of each of the comment letters submitted in regard to the revisions that the EPA was considering for the final subpart CC standards. The public may review all materials in these dockets at the EPA RCRA Docket Office.

The EPA RCRA Docket Office is located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Hand delivery of items and review of docket materials are made at the Virginia address. The public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (703) 603-9230. The mailing address for the RCRA Docket Office is RCRA Information Center (5305W), 401 M Street SW, Washington, DC 20460. The Docket Office is open from 9 a.m. to 4

p.m., Monday through Friday, except for Federal holidays.

B. Paperwork Reduction Act

The information collection requirements of the previously promulgated RCRA air rules were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 1593.02) may be obtained from Sandy Farmer, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260-2740.

Today's amendments to the RCRA air rules should have only a minor impact on the information collection burden estimates made previously, and that impact is expected to be a reduction. The changes consist of new definitions, alternative test procedures, clarifications of requirements, and additional compliance options. The changes are not additional requirements, but rather, are reductions in previously published requirements. The overall information-keeping requirements in the rule are being reduced. Consequently, the ICR has not been revised.

C. Executive Order 12866

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is "significant" and, therefore, subject to the OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in 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.

The RCRA subpart CC air rules published on December 6, 1994, were considered significant under Executive Order 12866, and a regulatory impact analysis (RIA) was prepared. The amendments published today clarify the

rule, provide more compliance alternatives, make certain regulatory provisions more lenient, and correct structural problems with the drafting of some sections. The OMB has evaluated this action, and determined it to be non-significant; thus it did not require their review.

D. Regulatory Flexibility

This rule is not subject to notice and comment rulemaking requirements and therefore is not subject to the Regulatory Flexibility Act. However, for the reasons discussed in the December 6, 1994 **Federal Register** (59 FR 62923), this rule does not have a significant impact on a substantial number of small entities. The changes to the rule do not add new control requirements to the December 1994 rule. The amendments in fact reduce the already-existing requirements. Therefore, the amendments are also not considered significant.

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 not a "major rule" as defined by 5 U.S.C. 804(2) given that it amends the rule published in 1994 to reduce the extent of regulation.

E. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), the 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, the 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 the 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 action promulgated today 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. Therefore, the

requirements of the Unfunded Mandates Act do not apply to this action.

F. Immediate Effective Date

The EPA has determined to make today's action effective immediately. The EPA believes that the corrections being made in today's action are either interpretations of existing regulations which do not require prior notice and opportunity for comment, or are technical corrections of obvious errors in the published rules (for example, corrections to regulations inconsistent with or not carrying out statements in the preamble or Background Information Document). Comment on such changes is unnecessary, within the meaning of 5 U.S.C. 553(b)(3)(B). In addition, the EPA notes that many of these clarifications result from the public meeting process, so that the Agency has provided a measure of opportunity for comment.

VII. Legal Authority

These regulations are amended under the authority of sections 2002, 3001-3007, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by RCRA, as amended (42 U.S.C. 6921-6927, 6930, and 6974).

List of Subjects

40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Container, Control device, Hazardous waste, Inspection, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Tank, TSDF, Waste determination.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Air pollution, Confidential business information, Hazardous waste, Permit modification, Reporting and recordkeeping requirements.

Dated: November 28, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 264, 265, and 270 of the Code of Federal Regulations are amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

Subpart B—General Facility Standards

2. Section 264.15 is amended by revising paragraph (b)(4), and leaving the "COMMENT" at the end of the paragraph to read as follows:

§ 264.15 General inspection requirements.

* * * * *

(b) * * *

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in §§ 264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 of this part, where applicable.

* * * * *

Subpart E—Manifest System, Recordkeeping, and Reporting

3. Section 264.73 is amended by revising paragraph (b)(6) to read as follows:

§ 264.73 Operating record.

* * * * *

(b) * * *

(6) Monitoring, testing or analytical data, and corrective action where required by subpart F of this part and §§ 264.19, 264.191, 264.193, 264.195, 264.222, 264.223, 264.226, 264.252-264.254, 264.276, 264.278, 264.280, 264.302-264.304, 264.309, 264.347, 264.602, 264.1034(c)-264.1034(f), 264.1035, 264.1063(d)-264.1063(i), 264.1064, and 264.1082 through 264.1090 of this part.

* * * * *

Subpart AA—Air Emission Standards for Process Vents

4. Section 264.1030 is amended by revising paragraphs (b)(3) and (c), leaving the "NOTE" at the end of paragraph (c), and adding paragraph (e), to read as:

§ 264.1030 Applicability.

* * * * *

(b) * * *

(3) A unit that is exempt from permitting under the provisions of 40

CFR 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.

(c) For the owner and operator of a facility subject to this subpart and who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this subpart shall be incorporated into the permit when the permit is reissued in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40 CFR 270.50(d). Until such date when the owner and operator receives a final permit incorporating the requirements of this subpart, the owner and operator is subject to the requirements of 40 CFR 265, subpart AA.

* * * * *

(e) The requirements of this subpart do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this subpart are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with, or made readily available with, the facility operating record.

* * * * *

5. Section 264.1031 is amended by revising the definition of "In light liquid service" to read as follows:

§ 264.1031 Definitions.

* * * * *

In light liquid service means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20°C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

* * * * *

6. Section 264.1033 is amended by revising paragraph (a)(2) to read as follows:

§ 264.1033 Standards: Closed-vent systems and control devices.

(a) * * *

(2)(i) The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the

provisions of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

(ii) Any unit that begins operation after December 21, 1990, and is subject to the provisions of this subpart when operation begins, must comply with the rules immediately (i.e., must have control devices installed and operating on startup of the affected unit); the 30-month implementation schedule does not apply.

(iii) The owner or operator of any facility in existence on the effective date of a statutory or EPA regulatory amendment that renders the facility subject to this subpart shall comply with all requirements of this subpart as soon as practicable but no later than 30 months after the amendment's effective date. When control equipment required by this subpart can not be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information: Specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this subpart. The owner or operator shall enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

(iv) Owners and operators of facilities and units that become newly subject to the requirements of this subpart after December 8, 1997, due to an action other than those described in paragraph (a)(2)(iii) of this section must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the 30-month implementation schedule does not apply).

* * * * *

Subpart BB—Air Emission Standards for Equipment Leaks

7. Section 264.1050 is amended by revising paragraphs (b)(3), (c) and (f) to read as follows:

§ 264.1050 Applicability.

* * * * *

(b) * * *

(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.

(c) For the owner or operator of a facility subject to this subpart and who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this subpart shall be incorporated into the permit when the permit is reissued in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40 CFR 270.50(d). Until such date when the owner or operator receives a final permit incorporating the requirements of this subpart, the owner or operator is subject to the requirements of 40 CFR part 265, subpart BB.

* * * * *

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of §§ 264.1052 through 264.1060 of this subpart if it is identified, as required in § 264.1064(g)(6) of this subpart.

* * * * *

8. Section 264.1060 is revised to read as follows:

§ 264.1060 Standards: Closed-vent systems and control devices.

(a) Owners and operators of closed-vent systems and control devices subject to this subpart shall comply with the provisions of § 264.1033 of this part.

(b)(1) The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the provisions of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

(2) Any unit that begins operation after December 21, 1990, and is subject to the provisions of this subpart when operation begins, must comply with the rules immediately (i.e., must have control devices installed and operating on startup of the affected unit); the 30-month implementation schedule does not apply.

(3) The owner or operator of any facility in existence on the effective date of a statutory or EPA regulatory amendment that renders the facility subject to this subpart shall comply with all requirements of this subpart as soon as practicable but no later than 30 months after the amendment's effective date. When control equipment required by this subpart can not be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information: Specific calendar dates for award or contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this subpart. The owner or operator shall enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

(4) Owners and operators of facilities and units that become newly subject to the requirements of this subpart after December 8, 1997, due to an action other than those described in paragraph (b)(3) of this section must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the 30-month implementation schedule does not apply).

9. Section 264.1062 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 264.1062 Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair.

* * * * *

(b) * * *

(2) After two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent, an owner or operator may begin to skip one of the quarterly leak detection periods (i.e., monitor for leaks once every six months) for the valves subject to the requirements in § 264.1057 of this subpart.

(3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent, an owner or operator may begin to skip three of the quarterly leak detection periods (i.e., monitor for leaks once every year) for

the valves subject to the requirements in § 264.1057 of this subpart.

* * * * *

10. Section 264.1064 is amended by revising paragraphs (g)(6) and (m) to read as follows:

§ 264.1064 Recordkeeping requirements.

* * * * *

(g) * * *

(6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.

* * * * *

(m) The owner or operator of a facility with equipment that is subject to this subpart and to regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with this subpart either by documentation pursuant to § 264.1064 of this subpart, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

11. Section 264.1080 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 264.1080 Applicability.

* * * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.

* * * * *

(c) For the owner and operator of a facility subject to this subpart who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this subpart shall be incorporated into the permit when the permit is reissued in accordance with the requirements of 40 CFR 124.15 of this chapter or reviewed in accordance with the requirements of 40 CFR 270.50(d) of this chapter. Until such date when the permit is reissued in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40 CFR 270.50(d), the owner and operator is

subject to the requirements of 40 CFR part 265, subpart CC.

* * * * *

12. Section 264.1082 is amended by revising paragraphs (b), (c)(2)(ix)(A), (c)(2)(ix)(B), (c)(3) and (c)(4)(ii) to read as follows:

§ 264.1082 Standards: General.

* * * * *

(b) The owner or operator shall control air pollutant emissions from each hazardous waste management unit in accordance with standards specified in §§ 264.1084 through 264.1087 of this subpart, as applicable to the hazardous waste management unit, except as provided for in paragraph (c) of this section.

(c) * * *

(2) * * *

(ix) * * *

(A) If Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A, or a value of 25 ppmw, whichever is less.

(B) If any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8 x 10⁻⁶ atmospheres/gram-mole/m³] at 25 degrees Celsius.

(3) A tank or surface impoundment used for biological treatment of hazardous waste in accordance with the requirements of paragraph (c)(2)(iv) of this section.

(4) * * *

(ii) The organic hazardous constituents in the waste have been treated by the treatment technology established by the EPA for the waste in 40 CFR 268.42(a), or have been removed or destroyed by an equivalent method of treatment approved by EPA pursuant to 40 CFR 268.42(b).

* * * * *

13. Section 264.1083 is amended by revising paragraphs (a)(2) and (b)(1) to read as follows:

§ 264.1083 Waste determination procedures.

(a) * * *

(2) For a waste determination that is required by paragraph (a)(1) of this section, the average VO concentration of a hazardous waste at the point of waste origination shall be determined in accordance with the procedures specified in 40 CFR 265.1084(a)(2) through (a)(4).

(b) * * *

(1) An owner or operator shall perform the applicable waste determinations for each treated hazardous waste placed in waste management units exempted under the provisions of § 264.1082(c)(2)(i) through (c)(2)(vi) of this subpart from using air emission controls in accordance with standards specified in §§ 264.1084 through 264.1087 of this subpart, as applicable to the waste management unit.

* * * * *

14. Section 264.1084 is amended by revising paragraph (c)(2)(iii) introductory text and paragraph (c)(2)(iii)(B), adding paragraph (e)(4), revising paragraph (f)(3)(i)(D)(4) and paragraph (f)(3)(iii) introductory text, adding paragraph (f)(4), and adding paragraph (j)(2)(iii) to read as follows:

§ 264.1084 Standards: Tanks.

* * * * *

(c) * * *

(2) * * *

(iii) Each opening in the fixed roof, and any manifold system associated with the fixed roof, shall be either:

* * * * *

(B) Connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and shall be operating whenever hazardous waste is managed in the tank, except as provided for in paragraphs (c)(2)(iii)(B) (1) and (2) of this section.

(1) During periods when it is necessary to provide access to the tank for performing the activities of paragraph (c)(2)(iii)(B)(2) of this section, venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operation of the control device.

(2) During periods of routine inspection, maintenance, or other activities needed for normal operations, and for removal of accumulated sludge or other residues from the bottom of the tank.

* * * * *

(e) * * *

(4) Safety devices, as defined in 40 CFR 265.1081, may be installed and operated as necessary on any tank complying with the requirements of paragraph (e) of this section.

(f) * * *

(3) * * *

(i) * * *

(D) * * *

(4) The total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in paragraph (f)(1)(ii) of this section.

* * * * *

(iii) Prior to each inspection required by paragraph (f)(3)(i) or (f)(3)(ii) of this section, the owner or operator shall notify the Regional Administrator in advance of each inspection to provide the Regional Administrator with the opportunity to have an observer present during the inspection. The owner or operator shall notify the Regional Administrator of the date and location of the inspection as follows:

* * * * *

(4) Safety devices, as defined in 40 CFR 265.1081, may be installed and operated as necessary on any tank complying with the requirements of paragraph (f) of this section.

* * * * *

(j) * * *

(2) * * *

(iii) The hazardous waste meets the requirements of § 264.1082(c)(4) of this subpart.

* * * * *

15. Section 264.1085 is amended by revising paragraphs (b)(2), (d)(1)(iii), and (d)(2)(i)(B) and adding paragraph (e)(2)(iii) to read as follows:

§ 264.1085 Standards: Surface impoundments.

* * * * *

(b) * * *

(2) A cover that is vented through a closed-vent system to a control device in accordance with the provisions specified in paragraph (d) of this section.

* * * * *

(d) * * *

(1) * * *

(iii) The cover and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices shall include: Organic vapor permeability; the effects of any contact with the liquid or its

vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover is installed.

* * * * *

(2) * * *

(i) * * *

(B) To remove accumulated sludge or other residues from the bottom of the surface impoundment.

* * * * *

(e) * * *

(2) * * *

(iii) The hazardous waste meets the requirements of § 264.1082(c)(4) of this subpart.

* * * * *

16. Section 264.1086 is amended by revising paragraphs (c)(2), (c)(4)(i), (d)(2), (d)(4)(i), and paragraph (g) introductory text to read as follows:

§ 264.1086 Standards: Containers.

* * * * *

(c) * * *

(2) A container used to meet the requirements of paragraph (c)(1)(ii) or (c)(1)(iii) of this section shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity, for as long as the container is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices shall include: Organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.

* * * * *

(4) * * *

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in 40 CFR 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the

container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to 40 CFR part 262 (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at 40 CFR 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

* * * * *

(d) * * *

(2) Transfer of hazardous waste in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this paragraph include using any one of the following: A submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

* * * * *

(4) * * *

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in 40 CFR 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the

date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to 40 CFR part 262 (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at 40 CFR 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

* * * * *

(g) To determine compliance with the no detectable organic emissions requirement of paragraph (d)(1)(ii) of this section, the procedure specified in § 264.1083(d) of this subpart shall be used.

* * * * *

17. Section 264.1087 is amended by revising paragraphs (c)(3)(ii) and (c)(7) to read as follows:

§ 264.1087 Standards: Closed-vent systems and control devices.

* * * * *

(c) * * *

(3) * * *

(ii) All carbon that is a hazardous waste and that is removed from the control device shall be managed in accordance with the requirements of 40 CFR 264.1033(n), regardless of the average volatile organic concentration of the carbon.

* * * * *

(7) The closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in 40 CFR 264.1033(f)(2) and 40 CFR 264.1033(l). The readings from each monitoring device required by 40 CFR 264.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this section.

18. Section 264.1089 is amended by revising paragraphs (a), (b)(1)(ii)(B), and (f)(1) and adding paragraph (j) to read as follows:

§ 264.1089 Recordkeeping requirements.

(a) Each owner or operator of a facility subject to requirements of this subpart shall record and maintain the information specified in paragraphs (b) through (j) of this section, as applicable to the facility. Except for air emission control equipment design documentation and information required by paragraphs (i) and (j) of this section, records required by this section shall be maintained in the operating

record for a minimum of 3 years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by paragraphs (i) and (j) of this section shall be maintained in the operating record for as long as the waste management unit is not using air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the conditions specified in § 264.1080(d) or § 264.1080(b)(7) of this subpart, respectively.

(b) * * *

(1) * * *

(ii) * * *

(B) For each defect detected during the inspection: The location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the requirements of § 264.1084 of this subpart, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected.

* * * * *

(f) * * *

(1) For tanks, surface impoundments, and containers exempted under the hazardous waste organic concentration conditions specified in § 264.1082(c)(1) or §§ 264.1082(c)(2)(i) through (c)(2)(vi) of this subpart, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of § 264.1083 of this subpart.

* * * * *

(j) For each hazardous waste management unit not using air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the requirements of § 264.1080(b)(7) of this subpart, the owner and operator shall record and maintain the following information:

(1) Certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63.

(2) Identification of the specific requirements codified under 40 CFR

part 60, part 61, or part 63 with which the waste management unit is in compliance.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

19. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart B—General Facility Standards

20. Section 265.15 is amended by revising paragraph (b)(4) to read as follows:

§ 265.15 General inspection requirements.

* * * * *

(b) * * *

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in §§ 265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090 of this part, where applicable.

* * * * *

Subpart E—Manifest System, Recordkeeping, and Reporting

21. Section 265.73 is amended by revising paragraph (b)(6), and leaving the "COMMENT" at the end of the paragraph, to read as follows:

§ 265.73 Operating record.

* * * * *

(b) * * *

(6) Monitoring, testing or analytical data, and corrective action where required by subpart F of this part and by §§ 265.19, 265.90, 265.94, 265.191, 265.193, 265.195, 265.222, 265.223, 265.226, 265.255, 265.259, 265.260, 265.276, 265.278, 265.280(d)(1), 265.302 through 265.304, 265.347, 265.377, 265.1034(c) through 265.1034(f), 265.1035, 265.1063(d) through 265.1063(i), 265.1064, and 265.1083 through 265.1090 of this part.

* * * * *

Subpart AA—Air Emission Standards for Process Vents

22. Section 265.1030 is amended by revising paragraph (b)(3), leaving the "NOTE" at the end of paragraph (b)(3), and adding paragraph (d), to read as follows:

§ 265.1030 Applicability.

* * * * *

(b) * * *

(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the requirements of 40 CFR 261.6.

(d) The requirements of this subpart do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this subpart are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with, or made readily available with, the facility operating record.

23. Section 265.1033 is amended by revising paragraphs (a)(2) and (f)(2)(vi)(B) to read as follows:

§ 265.1033 Standards: Closed-vent systems and control devices.

(a) * * *

(2)(i) The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the requirements of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

(ii) Any unit that begins operation after December 21, 1990, and is subject to the requirements of this subpart when operation begins, must comply with the rules immediately (i.e., must have control devices installed and operating on startup of the affected unit); the 30-month implementation schedule does not apply.

(iii) The owner or operator of any facility in existence on the effective date of a statutory or EPA regulatory amendment that renders the facility

subject to this subpart shall comply with all requirements of this subpart as soon as practicable but no later than 30 months after the amendment's effective date. When control equipment required by this subpart can not be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information: Specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this subpart. The owner or operator shall enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

(iv) Owners and operators of facilities and units that become newly subject to the requirements of this subpart after December 8, 1997, due to an action other than those described in paragraph (a)(2)(iii) of this section must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the 30-month implementation schedule does not apply).

* * * * *

(f) * * *

(2) * * *

(vi) * * *

(B) A temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Celsius (°C) or ±0.5 °C, whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

* * * * *

Subpart BB—Air Emission Standards for Equipment Leaks

24. Section 265.1050 is amended by revising paragraphs (b)(3) and (e) to read as follows:

§ 265.1050 Applicability.

* * * * *

(b) * * *

(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a "90-day" tank or

container) and is not a recycling unit under the provisions of 40 CFR 261.6.

* * * * *

(e) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of §§ 265.1052 through 265.1060 of this subpart if it is identified, as required in § 265.1064(g)(6) of this subpart.

* * * * *

25. Section 265.1060 is revised to read as follows:

§ 265.1060 Standards: Closed-vent systems and control devices.

(a) Owners and operators of closed-vent systems and control devices subject to this subpart shall comply with the provisions of § 265.1033 of this part.

(b)(1) The owner or operator of an existing facility who can not install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the provisions of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

(2) Any units that begin operation after December 21, 1990, and are subject to the provisions of this subpart when operation begins, must comply with the rules immediately (i.e., must have control devices installed and operating on startup of the affected unit); the 30-month implementation schedule does not apply.

(3) The owner or operator of any facility in existence on the effective date of a statutory or EPA regulatory amendment that renders the facility subject to this subpart shall comply with all requirements of this subpart as soon as practicable but no later than 30 months after the amendment's effective date. When control equipment required by this subpart can not be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information: Specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed

equipment meets the applicable standards of this subpart. The owner or operator shall enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

(4) Owners and operators of facilities and units that become newly subject to the requirements of this subpart after December 8, 1997 due to an action other than those described in paragraph (b)(3) of this section must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the 30-month implementation schedule does not apply).

26. Section 265.1062 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 265.1062 Alternative standards for valves in gas/vapor service or in light liquid service: skip period leak detection and repair.

* * * * *

(b) * * *

(2) After two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent, an owner or operator may begin to skip one of the quarterly leak detection periods (i.e., monitor for leaks once every six months) for the valves subject to the requirements in § 265.1057 of this subpart.

(3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2 percent, an owner or operator may begin to skip three of the quarterly leak detection periods (i.e., monitor for leaks once every year) for the valves subject to the requirements in § 265.1057 of this subpart.

27. Section 265.1064 is amended by revising paragraphs (g)(6) and (m) to read as follows:

§ 265.1064 Recordkeeping requirements.

* * * * *

(g) * * *

(6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year.

* * * * *

(m) The owner or operator of any facility with equipment that is subject to this subpart and to leak detection, monitoring, and repair requirements under regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with this subpart

either by documentation pursuant to § 265.1064 of this subpart, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. The documentation of compliance under regulation at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

28. Section 265.1080 is amended by revising paragraphs (b)(1) and the introductory paragraph of (c) to read as follows:

§ 265.1080 Applicability.

* * * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.

* * * * *

(c) For the owner and operator of a facility subject to this subpart who has received a final permit under RCRA section 3005 prior to December 6, 1996, the following requirements apply:

* * * * *

29. Section 265.1081 is amended by revising the definition of "In light material service" to read as follows:

§ 265.1081 Definitions.

* * * * *

In light material service means the container is used to manage a material for which both of the following conditions apply: The vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20 °C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20 °C is equal to or greater than 20 percent by weight.

* * * * *

30. Section 265.1082 is revised to read as follows:

§ 265.1082 Schedule for implementation of air emission standards.

(a) Owners or operators of facilities existing on December 6, 1996 and subject to subparts I, J, and K of this part shall meet the following requirements:

(1) Install and begin operation of all control equipment or waste management units required to comply with this subpart and complete modifications of production or

treatment processes to satisfy exemption criteria in accordance with § 265.1083(c) of this subpart by December 6, 1996, except as provided for in paragraph (a)(2) of this section.

(2) When control equipment or waste management units required to comply with this subpart cannot be installed and in operation or modifications of production or treatment processes to satisfy exemption criteria in accordance with § 265.1083(c) of this subpart cannot be completed by December 6, 1996, the owner or operator shall:

(i) Install and begin operation of the control equipment and waste management units, and complete modifications of production or treatment processes as soon as possible but no later than December 8, 1997.

(ii) Prepare an implementation schedule that includes the following information: specific calendar dates for award of contracts or issuance of purchase orders for control equipment, waste management units, and production or treatment process modifications; initiation of on-site installation of control equipment or waste management units, and modifications of production or treatment processes; completion of control equipment or waste management unit installation, and production or treatment process modifications; and performance of testing to demonstrate that the installed equipment or waste management units, and modified production or treatment processes meet the applicable standards of this subpart.

(iii) For facilities subject to the recordkeeping requirements of § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in the operating record no later than December 6, 1996.

(iv) For facilities not subject to § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in a permanent, readily available file located at the facility no later than December 6, 1996.

(b) Owners or operators of facilities and units in existence on the effective date of a statutory or EPA regulatory amendment that renders the facility subject to subparts I, J, or K of this part shall meet the following requirements:

(1) Install and begin operation of control equipment or waste management units required to comply with this subpart, and complete modifications of production or treatment processes to satisfy exemption criteria of § 265.1083(c) of this subpart by the effective date of the amendment,

except as provided for in paragraph (b)(2) of this section.

(2) When control equipment or waste management units required to comply with this subpart cannot be installed and begin operation, or when modifications of production or treatment processes to satisfy exemption criteria of § 265.1083(c) of this subpart cannot be completed by the effective date of the amendment, the owner or operator shall:

(i) Install and begin operation of the control equipment or waste management unit, and complete modification of production or treatment processes as soon as possible but no later than 30 months after the effective date of the amendment.

(ii) For facilities subject to the recordkeeping requirements of § 265.73 of this part, enter and maintain the implementation schedule specified in paragraph (a)(2)(ii) of this section in the operating record no later than the effective date of the amendment, or

(iii) For facilities not subject to § 265.73 of this part, the owner or operator shall enter and maintain the implementation schedule specified in paragraph (a)(2)(ii) of this section in a permanent, readily available file located at the facility site no later than the effective date of the amendment.

(c) Owners and operators of facilities and units that become newly subject to the requirements of this subpart after December 8, 1997 due to an action other than those described in paragraph (b) of this section must comply with all applicable requirements immediately (i.e., must have control devices installed and operating on the date the facility or unit becomes subject to this subpart; the 30-month implementation schedule does not apply).

(d) The Regional Administrator may elect to extend the implementation date for control equipment at a facility, on a case by case basis, to a date later than December 8, 1997, when special circumstances that are beyond the facility owner's or operator's control delay installation or operation of control equipment, and the owner or operator has made all reasonable and prudent attempts to comply with the requirements of this subpart.

31. Section 265.1083 is amended by revising paragraphs (b), (c)(2)(i), (c)(2)(ix)(A), (c)(2)(ix)(B), (c)(3), and (c)(4)(ii) to read as follows:

§ 265.1083 Standards: General.

(b) The owner or operator shall control air pollutant emissions from each hazardous waste management unit in accordance with standards specified

in §§ 265.1085 through 265.1088 of this subpart, as applicable to the hazardous waste management unit, except as provided for in paragraph (c) of this section.

(c) * * *
(2) * * *

(i) A process that removes or destroys the organics contained in the hazardous waste to a level such that the average VO concentration of the hazardous waste at the point of waste treatment is less than the exit concentration limit (C_i) established for the process. The average VO concentration of the hazardous waste at the point of waste treatment and the exit concentration limit for the process shall be determined using the procedures specified in § 265.1084(b) of this subpart.

* * * * *

(ix) * * *

(A) If Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A, or a value of 25 ppmw, whichever is less.

(B) If any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8 x 10⁻⁶ atmospheres/gram-mole/m³] at 25 degrees Celsius.

(3) A tank or surface impoundment used for biological treatment of hazardous waste in accordance with the requirements of paragraph (c)(2)(iv) of this section.

(4) * * *

(ii) The organic hazardous constituents in the waste have been treated by the treatment technology established by the EPA for the waste in 40 CFR 268.42(a), or have been removed or destroyed by an equivalent method of treatment approved by EPA pursuant to 40 CFR 268.42(b).

* * * * *

32. Section 265.1084 is amended by adding paragraphs (a)(3)(v) and (b)(3)(v) and by revising paragraphs (a)(2), (a)(3)(ii)(B), (a)(3)(iii) introductory text, (a)(3)(iii)(A), (a)(3)(iii)(F) introductory text, (a)(3)(iii)(G), (a)(3)(iii)(G)(J), (a)(3)(iv), (a)(4)(iv), (b)(1), (b)(3)(ii)(B), (b)(3)(iii) introductory text, (b)(3)(iii)(F) introductory text, (b)(3)(iii)(G) introductory text, (b)(3)(iv), (b)(8)(iii), (b)(9)(iv), and (d)(5)(ii) to read as follows:

§ 265.1084 Waste determination procedures.

(a) * * *

(2) For a waste determination that is required by paragraph (a)(1) of this section, the average VO concentration of a hazardous waste at the point of waste origination shall be determined using either direct measurement as specified in paragraph (a)(3) of this section or by knowledge as specified in paragraph (a)(4) of this section.

(3) * * *

(ii) * * *

(B) A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

* * * * *

(iii) Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in paragraphs (a)(3)(iii)(A) through (a)(3)(iii)(I) of this section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the

waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/ m^3] at 25 degrees Celsius. Each of the analytical methods listed in paragraphs (a)(3)(iii)(B) through (a)(3)(iii)(G) of this section has an associated list of approved chemical compounds, for which EPA considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, (incorporated by reference—refer to § 260.11(a) of this chapter) to analyze one or more compounds that are not on that method's published list, the procedures in paragraph (a)(3)(iii)(H) of this section must be followed. At the owner or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in paragraph (a)(4)(iii) of this section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air

Quality Planning and Standards, Research Triangle Park, NC 27711.

(A) Method 25D in 40 CFR part 60, appendix A.

* * * * *

(F) Method 8260 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (incorporated by reference—refer to § 260.11(a) of this chapter). Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

* * * * *

(G) Method 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (incorporated by reference—refer to § 260.11(a) of this chapter). Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(1) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.

* * * * *

(iv) Calculations.

(A) The average VO concentration (\bar{C}) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with paragraphs (a)(3) (ii) and (iii) of this section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

where:

\bar{C} = Average VO concentration of the hazardous waste at the point of waste origination on a mass-weighted basis, ppmw.

i = Individual waste determination "i" of the hazardous waste.

n = Total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed 1 year).

Q_i = Mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T = Total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = Measured VO concentration of waste determination "i" as determined in accordance with the

requirements of paragraph (a)(3)(iii) of this section (i.e. the average of the four or more samples specified in paragraph (a)(3)(ii)(B) of this section), ppmw.

(B) For the purpose of determining C_i , for individual waste samples analyzed in accordance with paragraph (a)(3)(iii) of this section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

(1) If Method 25D in 40 CFR part 60, Appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A.

(2) If any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/ m^3] at 25 degrees Celsius.

(v) Provided that the test method is appropriate for the waste as required under paragraph (a)(3)(iii) of this section, the EPA will determine compliance based on the test method used by the owner or operator as recorded pursuant to § 265.1090(f)(1) of this subpart.

(4) * * *

(iv) In the event that the Regional Administrator and the owner or operator disagree on a determination of the average VO concentration for a hazardous waste stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in paragraph (a)(3) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Regional Administrator may perform or request that the owner or operator perform this determination using direct measurement. The owner or operator may choose one or more appropriate methods to analyze each collected sample in accordance with the requirements of paragraph (a)(3)(iii) of this section.

(b) * * *

(1) An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of § 265.1083 (c)(2)(i) through (c)(2)(vi) of this subpart from using air emission controls in accordance with standards specified in §§ 265.1085 through 265.1088 of this subpart, as applicable to the waste management unit.

* * * * *

(3) * * *

(ii) * * *

(B) A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are

seasonal variations in waste quantity or fluctuations in ambient temperature.

* * * * *

(iii) *Analysis.* Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in paragraphs (b)(3)(iii)(A) through (b)(3)(iii)(I) of this section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of § 264.1082(c)(2)(i) through (c)(2)(vi) of this part, or § 265.1083(c)(2)(i) through (c)(2)(vi) of this subpart are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25 degrees Celsius. Each of the analytical methods listed in paragraphs (b)(3)(iii)(B) through (b)(3)(iii)(G) of this section has an associated list of approved chemical compounds, for which EPA considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/

Chemical Methods," EPA Publication SW-846, (incorporated by reference—refer to § 260.11(a) of this chapter) to analyze one or more compounds that are not on that method's published list, the procedures in paragraph (b)(3)(iii)(H) of this section must be followed. At the owner or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in paragraph (b)(4)(iii) of this section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

* * * * *

(F) Method 8260 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (incorporated by reference—refer to § 260.11(a) of this chapter). Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

* * * * *

(G) Method 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (incorporated by reference—refer to § 260.11(a) of this chapter). Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

* * * * *

(iv) *Calculations.* The average VO concentration (C) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with paragraphs (b)(3)(ii) and (iii) of this section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

where:

\bar{C} =Average VO concentration of the hazardous waste at the point of waste treatment on a mass-weighted basis, ppmw.

i=Individual waste determination "i" of the hazardous waste.

n=Total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed 1 year).

Q_i =Mass quantity of hazardous waste stream represented by C_i , kg/hr.

Q_T =Total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i =Measured VO concentration of waste determination "i" as determined in accordance with the requirements of paragraph (b)(3)(iii) of this

section (i.e. the average of the four or more samples specified in paragraph (b)(3)(ii)(B) of this section), ppmw.

(v) Provided that the test method is appropriate for the waste as required under paragraph (b)(3)(iii) of this section, compliance shall be determined based on the test method used by the owner or operator as recorded pursuant to § 265.1090(f)(1) of this subpart.

* * * * *

(8) * * *

(iii) The MR shall be calculated by using the mass flow rate determined in accordance with the requirements of paragraph (b)(8)(ii) of this section and the following equation:

$$MR = E_b - E_a$$

Where:

MR=Actual organic mass removal rate, kg/hr.

E_b=Waste volatile organic mass flow entering process as determined in accordance with the requirements of paragraph (b)(5)(iv) of this section, kg/hr.

E_a=Waste volatile organic mass flow exiting process as determined in accordance with the requirements of paragraph (b)(5)(iv) of this section, kg/hr.

* * * * *

(9) * * *

(iv) The MR_{bio} shall be calculated by using the mass flow rates and fraction of organic biodegraded determined in accordance with the requirements of paragraphs (b)(9)(ii) and (b)(9)(iii) of this section, respectively, and the following equation:

$$MR_{bio} = E_b \times F_{bio}$$

Where:

MR_{bio}=Actual organic mass biodegradation rate, kg/hr.

E_b=Waste organic mass flow entering process as determined in accordance with the requirements of paragraph (b)(5)(iv) of this section, kg/hr.

F_{bio}=Fraction of organic biodegraded as determined in accordance with the requirements of paragraph (b)(9)(iii) of this section.

* * * * *

(d) * * *

(5) * * *

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.

* * * * *

33. Section 265.1085 is amended by revising the introductory text of paragraph (c)(2)(iii), revising (c)(2)(iii)(B), adding paragraph (e)(4), revising paragraph (f)(3)(i)(D)(4), adding

paragraph (f)(4), and adding paragraph (j)(2)(iii) to read as follows:

§ 265.1085 Standards: Tanks.

* * * * *

(c) * * *

(2) * * *

(iii) Each opening in the fixed roof, and any manifold system associated with the fixed roof, shall be either:

* * * * *

(B) Connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and shall be operating whenever hazardous waste is managed in the tank, except as provided for in paragraphs (c)(2)(iii)(B)(1) and (2) of this section.

(1) During periods it is necessary to provide access to the tank for performing the activities of paragraph (c)(2)(iii)(B)(2) of this section, venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operation of the control device.

(2) During periods of routine inspection, maintenance, or other activities needed for normal operations, and for the removal of accumulated sludge or other residues from the bottom of the tank.

* * * * *

(e) * * *

(4) Safety devices, as defined in § 265.1081 of this subpart, may be installed and operated as necessary on any tank complying with the requirements of paragraph (e) of this section.

(f) * * *

(3) * * *

(i) * * *

(D) * * *

(4) The total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in paragraph (f)(1)(ii) of this section.

* * * * *

(4) Safety devices, as defined in 40 CFR 265.1081, may be installed and operated as necessary on any tank

complying with the requirements of paragraph (f) of this section.

* * * * *

(j) * * *

(2) * * *

(iii) The hazardous waste meets the requirements of § 265.1083(c)(4) of this subpart.

* * * * *

34. Section 265.1086 is amended by revising paragraphs (b)(2), (d)(1)(iii), and (d)(2)(i)(B) and adding paragraph (e)(2)(iii) to read as follows:

§ 265.1086 Standards: Surface impoundments.

* * * * *

(b) * * *

(2) A cover that is vented through a closed-vent system to a control device in accordance with the requirements specified in paragraph (d) of this section.

* * * * *

(d) * * *

(1) * * *

(iii) The cover and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices shall include: Organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover is installed.

* * * * *

(2) * * *

(i) * * *

(B) To remove accumulated sludge or other residues from the bottom of the surface impoundment.

* * * * *

(e) * * *

(2) * * *

(iii) The hazardous waste meets the requirements of § 265.1083(c)(4) of this subpart.

* * * * *

35. Section 265.1087 is amended by revising paragraphs (c)(4)(i), (d)(4)(i), and the introductory text of paragraph (g) to read as follows:

§ 265.1087 Standards: Containers.

* * * * *

(c) * * *

(4) * * *

(i) In the case when a hazardous waste already is in the container at the time

the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in 40 CFR 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to 40 CFR part 262 (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at 40 CFR 265.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

* * * * *

- (d) * * *
- (4) * * *

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in 40 CFR 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to 40 CFR part 262 (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at § 265.71. If a defect is detected, the owner or operator shall repair the defect

in accordance with the requirements of paragraph (d)(4)(iii) of this section.

* * * * *

(g) To determine compliance with the no detectable organic emissions requirements of paragraph (d)(1)(ii) of this section, the procedure specified in § 265.1084(d) of this subpart shall be used.

* * * * *

36. Section 265.1088 is amended by revising paragraphs (c)(3)(ii) and (c)(7) to read as follows:

§ 265.1088 Standards: Closed-vent systems and control devices.

* * * * *

- (c) * * *
- (3) * * *

(ii) All carbon that is a hazardous waste and that is removed from the control device shall be managed in accordance with the requirements of 40 CFR 265.1033(m), regardless of the average volatile organic concentration of the carbon.

* * * * *

(7) The closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in 40 CFR 265.1033(f)(2) and 40 CFR 265.1033(k). The readings from each monitoring device required by 40 CFR 265.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements of this section.

37. Section 265.1090 is amended by revising paragraphs (a), (b)(1)(ii)(B), and (f)(1) and adding paragraph (j) to read as follows:

§ 265.1090 Recordkeeping requirements.

(a) Each owner or operator of a facility subject to requirements in this subpart shall record and maintain the information specified in paragraphs (b) through (j) of this section, as applicable to the facility. Except for air emission control equipment design documentation and information required by paragraphs (i) and (j) of this section, records required by this section shall be maintained in the operating record for a minimum of 3 years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by paragraphs (i) and (j) of this section shall be maintained in the operating record for as long as the waste management unit is

not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the conditions specified in § 265.1080(d) or § 265.1080(b)(7) of this subpart, respectively.

- (b) * * *
- (1) * * *
- (ii) * * *

(B) For each defect detected during the inspection: The location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of § 265.1085 of this subpart, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected.

* * * * *

- (f) * * *

(1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in § 265.1083(c)(1) or § 265.1084(c)(2)(i) through (c)(2)(vi) of this subpart, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of § 265.1084 of this subpart.

* * * * *

(j) For each hazardous waste management unit not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the provisions of § 265.1080(b)(7) of this subpart, the owner and operator shall record and maintain the following information:

(1) Certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63.

(2) Identification of the specific requirements codified under 40 CFR part 60, part 61, or part 63 with which the waste management unit is in compliance.

* * * * *

38. Part 265, Appendix VI is revised to read as follows:

Appendix VI to Part 265—Compounds With Henry's Law Constant Less Than 0.1 Y/X

Compound name	CAS No.
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminofluorene	53-96-3
3-Acetyl-5-hydroxypiperidine.	
3-Acetyl piperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzeneearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo(a)anthracene	56-55-3
Benzo(k)fluoranthene	207-08-9
Benzoic acid	65-85-0
Benzo(g,h,i)perylene	191-24-2
Benzo(a)pyrene	50-32-8
Benzyl alcohol	100-51-6
gamma-BHC	58-89-9
Bis(2-ethylhexyl)phthalate	117-81-7
Bromochloromethyl acetate.	
Bromoxynil	1689-84-5
Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol (o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6
Cell wall.	
Chlorhydrin (3-Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloroacetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzilate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine.	
Chloro-1,2-ethane diol.	
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol & 4-chlorophenol)	95-57-8 & 106-48-9
1-(o-Chlorophenyl)thiourea	5344-82-1
Chrysene	218-01-9
Citric acid	77-92-9
Creosote	8001-58-9
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresol (mixed isomers)	1319-77-3
4-Cumylphenol	27576-86
Cyanide	57-12-5
4-Cyanomethyl benzoate.	
Diazinon	333-41-5
Dibenzo(a,h)anthracene	53-70-3
Dibutylphthalate	84-74-2
2,5-Dichloroaniline (N,N'-dichloroaniline)	95-82-9
2,6-Dichlorobenzonitrile 1	1194-65-6
2,6-Dichloro-4-nitroaniline	99-30-9
2,5-Dichlorophenol	333-41-5
3,4-Dichlorotetrahydrofuran	3511-19
Dichlorvos (DDVP)	62737
Diethanolamine	111-42-2
N,N-Diethylaniline	91-66-7

Compound name	CAS No.
Diethylene glycol	111-46-6
Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
N,N'-Diethylhydrazine	1615-80-1
Diethyl (4-methylumbelliferyl) thionophosphate	299-45-6
Diethyl phosphorothioate	126-75-0
N,N'-Diethylpropionamide	15299-99-7
Dimethoate	60-51-5
2,3-Dimethoxystrychnidin-10-one	357-57-3
4-Dimethylaminoazobenzene	60-11-7
7,12-Dimethylbenz(a)anthracene	57-97-6
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamoyl chloride	79-44-7
Dimethyldisulfide	624-92-0
Dimethylformamide	68-12-2
1,1-Dimethylhydrazine	57-14-7
Dimethylphthalate	131-11-3
Dimethylsulfone	67-71-0
Dimethylsulfoxide	67-68-5
4,6-Dinitro-o-cresol	534-52-1
1,2-Diphenylhydrazine	122-66-7
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Endrin	72-20-8
Epinephrine	51-43-4
mono-Ethanolamine	141-43-5
Ethyl carbamate (urethane)	5-17-96
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
Ethylene glycol monoethyl ether (Cellosolve)	110-80-5
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	9-64-57
4-Ethylmorpholine	100-74-3
3-Ethylphenol	620-17-7
Fluoroacetic acid, sodium salt	62-74-8
Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8
Glutaric acid	110-94-1
Glycerin (Glycerol)	56-81-5
Glycidol	556-52-5
Glycinamide	598-41-4
Glyphosate	1071-83-6
Guthion	86-50-0
Hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane)	822-06-0
Hexamethyl phosphoramidate	680-31-9
Hexanoic acid	142-62-1
Hydrazine	302-01-2
Hydrocyanic acid	74-90-8
Hydroquinone	123-31-9
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
Indeno (1,2,3-cd) pyrene	193-39-5
Lead acetate	301-04-2
Lead subacetate (lead acetate, monobasic)	1335-32-6
Leucine	61-90-5
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methane sulfonic acid	75-75-2
Methomyl	16752-77-5
p-Methoxyphenol	150-76-5
Methyl acrylate	96-33-3
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4,4'-Methylenedianiline	101-77-9
Methylene diphenylamine (MDA)	
5-Methylfurfural	620-02-0

Compound name	CAS No.
Methylhydrazine	60-34-4
Methyliminoacetic acid.	
Methyl methane sulfonate	66-27-3
1-Methyl-2-methoxyaziridine.	
Methylparathion	298-00-0
Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
4-Methylthiophenol	106-45-6
Monomethylformamide (N-methylformamide)	123-39-7
Nabam	142-59-6
alpha-Naphthol	90-15-3
beta-Naphthol	135-19-3
alpha-Naphthylamine	134-32-7
beta-Naphthylamine	91-59-8
Neopentyl glycol (dimethylolpropane)	126-30-7
Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0
2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrosoguanidine	674-81-7
N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenylene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
alpha-Picoline (2-methyl pyridine)	109-06-8
1,3-Propane sulfone	1120-71-4
beta-Propiolactone	57-57-8
Proporur (Baygon).	
Propylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4
Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1
Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether.	
Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

**PART 270—EPA ADMINISTERED
PERMIT PROGRAMS: THE
HAZARDOUS WASTE PERMIT
PROGRAM**

39. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart B—Permit Application

40. Section 270.14 is amended by revising paragraph (b)(5) to read as follows:

§ 270.14 Contents of part B: General requirements.

* * * * *

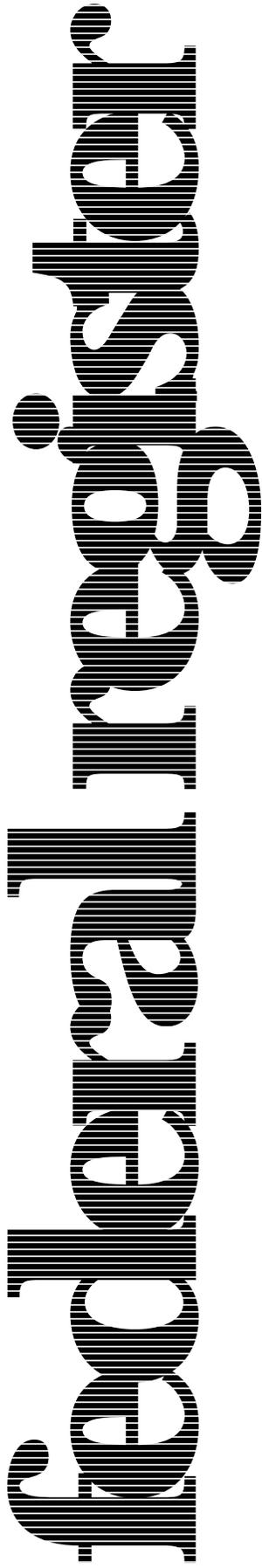
(b) * * *

(5) A copy of the general inspection schedule required by § 264.15(b) of this part. Include where applicable, as part of the inspection schedule, specific requirements in §§ 264.174, 264.193(i), 264.195, 264.226, 264.254, 264.273, 264.303, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, 264.1084, 264.1085, 264.1086, and 264.1088 of this part.

* * * * *

[FR Doc. 97-31792 Filed 12-5-97; 8:45 am]

BILLING CODE 6560-50-P



Monday
December 8, 1997

Part III

**Department of
Education**

**Office of Postsecondary Education;
Federal Perkins Loan, Federal Work-
Study, and Federal Supplemental
Educational Opportunity Grant Programs;
Notice**

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.038, 84.033, and 84.007]

Office of Postsecondary Education; Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to file an "Application for Approval to Participate in Federal Student Financial Aid Programs" (ED Form E40-34P, OMB #1840-0098) to participate in the Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant programs for the 1998-99 award year.

SUMMARY: The Secretary invites currently ineligible institutions of higher education that filed a Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646-1) for one or more of the "campus-based programs" for the 1998-99 award year to submit to the Secretary an "Application for Approval to Participate in Federal Student Financial Aid Programs" and all required supporting documents for an eligibility and certification determination.

The campus-based programs are the Federal Perkins Loan Program, the Federal Work-Study Program, and the Federal Supplemental Educational Opportunity Grant Program and are authorized by title IV of the Higher Education Act of 1965, as amended. The 1998-99 award year is July 1, 1998, through June 30, 1999.

DATES: *Closing date:* To participate in the campus-based programs in the 1998-99 award year, a currently ineligible institution must mail or hand-deliver its "Application for Approval to Participate in Federal Student Financial Aid Programs" on or before January 13, 1998. The application and all the required supporting documents for an eligibility and certification determination must be submitted to the Institutional Participation Division at one of the addresses indicated below.

ADDRESSES: *Applications and Required Documents Delivered by Mail.* The application for approval to participate and required supporting documents delivered by mail must be addressed to the U.S. Department of Education, Institutional Participation Division, Room 3522, Regional Office Building 3, 600 Independence Avenue, SW., Washington, DC 20202-5323.

An applicant must show proof of mailing consisting of one of the

following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use certified or at least first class mail. Institutions that submit applications for approval to participate and required supporting documents after the closing date will not be considered for funding under the campus-based programs for award year 1998-99.

Applications and Required Documents Delivered by Hand. An application for approval to participate and required supporting documents delivered by hand must be taken to the U.S. Department of Education, Institutional Participation Division, Room 3522, Regional Office Building 3, (GSA Building), 7th and D Streets, SW., Washington, DC 20407.

The Department will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. An application for approval to participate for the 1998-99 award year that is delivered by hand will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under the three campus-based programs, the Secretary allocates funds to eligible institutions of higher education. The Secretary will not allocate funds under the campus-based programs for award year 1998-99 to any currently ineligible institution unless the institution files its "Application for Approval to Participate in Federal Student Financial Aid Programs" and other required supporting documents by the closing date. If the institution submits its application for approval to participate or other required supporting documents after the January 13, 1998 closing date, the Secretary will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 1999-2000 award year.

For purposes of this notice, ineligible institutions only include:

(1) An institution that has not been designated as an eligible institution by the Secretary but has previously filed a FISAP; or

(2) An additional location of an eligible institution that is currently not included in the Department's eligibility certification for that eligible institution but has been included in the institution's 1998-99 FISAP.

The Secretary wishes to advise institutions that the institutional eligibility form, "Application for Approval to Participate in Federal Student Financial Aid Programs," should not be confused with the FISAP form that institutions were required to submit electronically by October 1, 1997, in order to be considered for funds under the campus-based programs for the 1998-99 award year.

Applicable Regulations

The following regulations apply to the campus-based programs:

- (1) Student Assistance General Provisions, 34 CFR Part 668.
- (2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 673.
- (3) Federal Perkins Loan Program, 34 CFR Part 674.
- (4) Federal Work-Study Program, 34 CFR Part 675.
- (5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 676.
- (6) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.
- (7) New Restrictions on Lobbying, 34 CFR Part 82.
- (8) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.
- (9) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: For information concerning designation of eligibility, contact: Liz Neverson or John Frohlicher, Institutional Participation Division, Initial Participation Branch, U.S. Department of Education, Room 3522, Regional Office Building 3, 600 Independence Avenue, SW., Washington, DC 20202-5343. Telephone: (202) 260-3270.

For technical assistance concerning the FISAP or other operational procedures of the campus-based programs, contact: Sandra K. Donelson, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, DC 20026-0781. Telephone: (202) 708-9751.

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.

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Note: The official version of this document is the document published in the **Federal Register**.

(Program Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

Dated: November 28, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97-32075 Filed 12-5-97; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/nara/fedreg/fedreg.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 1254/P.L. 105-131

To designate the United States Post Office building located at 1919 West Bennett Street in Springfield, Missouri, as the "John N. Griesemer Post Office Building". (Dec. 2, 1997; 111 Stat. 2562)

S. 156/P.L. 105-132

Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Dec. 2, 1997; 111 Stat. 2563)

S. 476/P.L. 105-133

To provide for the establishment of not less than

2,500 Boys and Girls Clubs of America facilities by the year 2000. (Dec. 2, 1997; 111 Stat. 2568)

S. 738/P.L. 105-134

Amtrak Reform and Accountability Act of 1997 (Dec. 2, 1997; 111 Stat. 2570)

S. 1139/P.L. 105-135

Small Business Reauthorization Act of 1997 (Dec. 2, 1997; 111 Stat. 2592)

S. 1161/P.L. 105-136

To amend the Immigration and Nationality Act to authorize appropriations for refugee and entrant assistance for fiscal years 1998 and 1999. (Dec. 2, 1997; 111 Stat. 2639)

S. 1193/P.L. 105-137

Aviation Insurance Reauthorization Act of 1997 (Dec. 2, 1997; 111 Stat. 2640)

S. 1559/P.L. 105-138

To provide for the design, construction, furnishing, and equipping of a Center for Historically Black Heritage within Florida A&M University. (Dec. 2, 1997; 111 Stat. 2642)

S. 1565/P.L. 105-139

To make technical corrections to the Nicaraguan Adjustment and Central American Relief Act. (Dec. 2, 1997; 111 Stat. 2644)

S.J. Res. 39/P.L. 105-140

To provide for the convening of the Second Session of the One Hundred Fifth Congress. (Dec. 2, 1997; 111 Stat. 2646)

Last List December 4, 1997

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A "●" precedes each entry that is now available on-line through the Government Printing Office's GPO Access service at <http://www.access.gpo.gov/nara/cfr>. For information about GPO Access call 1-888-293-6498 (toll free).

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Title	Stock Number	Price	Revision Date
●1, 2 (2 Reserved)	(869-032-00001-8)	\$5.00	Feb. 1, 1997
●3 (1996 Compilation and Parts 100 and 101)	(869-032-00002-6)	20.00	Jan. 1, 1997
●4	(869-032-00003-4)	7.00	Jan. 1, 1997
5 Parts:			
●1-699	(869-032-00004-2)	34.00	Jan. 1, 1997
●700-1199	(869-032-00005-1)	26.00	Jan. 1, 1997
●1200-End, 6 (6 Reserved)	(869-032-00006-9)	33.00	Jan. 1, 1997
7 Parts:			
●0-26	(869-032-00007-7)	26.00	Jan. 1, 1997
●27-52	(869-032-00008-5)	30.00	Jan. 1, 1997
●53-209	(869-032-00009-3)	22.00	Jan. 1, 1997
●210-299	(869-032-00010-7)	44.00	Jan. 1, 1997
●300-399	(869-032-00011-5)	22.00	Jan. 1, 1997
●400-699	(869-032-00012-3)	28.00	Jan. 1, 1997
●700-899	(869-032-00013-1)	31.00	Jan. 1, 1997
●900-999	(869-032-00014-0)	40.00	Jan. 1, 1997
●1000-1199	(869-032-00015-8)	45.00	Jan. 1, 1997
●1200-1499	(869-032-00016-6)	33.00	Jan. 1, 1997
●1500-1899	(869-032-00017-4)	53.00	Jan. 1, 1997
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●1940-1949	(869-032-00019-1)	40.00	Jan. 1, 1997
●1950-1999	(869-032-00020-4)	42.00	Jan. 1, 1997
●2000-End	(869-032-00021-2)	20.00	Jan. 1, 1997
●8	(869-032-00022-1)	30.00	Jan. 1, 1997
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10 Parts:			
●0-50	(869-032-00025-5)	39.00	Jan. 1, 1997
●51-199	(869-032-00026-3)	31.00	Jan. 1, 1997
●200-499	(869-032-00027-1)	30.00	Jan. 1, 1997
●500-End	(869-032-00028-0)	42.00	Jan. 1, 1997
●11	(869-032-00029-8)	20.00	Jan. 1, 1997
12 Parts:			
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●220-299	(869-032-00032-8)	34.00	Jan. 1, 1997
●300-499	(869-032-00033-6)	27.00	Jan. 1, 1997
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●13	(869-032-00036-1)	23.00	Jan. 1, 1997

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14 Parts:			
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●60-139	(869-032-00038-7)	38.00	Jan. 1, 1997
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●1000-End	(869-032-00046-8)	34.00	Jan. 1, 1997
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●400-End	(869-032-00052-2)	14.00	Apr. 1, 1997
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●141-199	(869-032-00054-9)	30.00	Apr. 1, 1997
●200-End	(869-032-00055-7)	16.00	Apr. 1, 1997
20 Parts:			
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●1300-End	(869-032-00067-1)	13.00	Apr. 1, 1997
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●300-End	(869-032-00069-7)	31.00	Apr. 1, 1997
●23	(869-032-00070-1)	26.00	Apr. 1, 1997
24 Parts:			
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500-699	(869-032-00073-5)	18.00	Apr. 1, 1997
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●1700-End	(869-032-00075-1)	18.00	Apr. 1, 1997
●25	(869-032-00076-0)	42.00	Apr. 1, 1997
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●§§ 1.0-1-1.60	(869-032-00077-8)	21.00	Apr. 1, 1997
●§§ 1.61-1.169	(869-032-00078-6)	44.00	Apr. 1, 1997
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●§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
●§§ 1.501-1.640	(869-032-00083-2)	28.00	Apr. 1, 1997
●§§ 1.641-1.850	(869-032-00084-1)	33.00	Apr. 1, 1997
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●§§ 1.908-1.1000	(869-032-00086-7)	34.00	Apr. 1, 1997
●§§ 1.1001-1.1400	(869-032-00087-5)	35.00	Apr. 1, 1997
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●300-499	(869-032-00093-0)	33.00	Apr. 1, 1997
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●600-End	(869-032-00095-3)	9.50	Apr. 1, 1997
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1-199	(869-032-00096-4)	48.00	Apr. 1, 1997

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28 Parts:				●400-424	(869-032-00152-9)	33.00	⁶ July 1, 1996
1-42	(869-032-00098-1)	36.00	July 1, 1997	●425-699	(869-032-00153-7)	40.00	July 1, 1997
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●0-99	(869-032-00100-5)	27.00	July 1, 1997	41 Chapters:			
●100-499	(869-032-00101-4)	12.00	July 1, 1997	1, 1-1 to 1-10		13.00	³ July 1, 1984
●500-899	(869-032-00102-2)	41.00	July 1, 1997	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	³ July 1, 1984
●900-1899	(869-032-00103-1)	21.00	July 1, 1997	3-6		14.00	³ July 1, 1984
●1900-1910 (§§ 1900 to 1910.999) (§§ 1900 to 1910.1000 to end)	(869-032-00104-9)	43.00	July 1, 1997	7		6.00	³ July 1, 1984
●1911-1925	(869-032-00105-7)	29.00	July 1, 1997	8		4.50	³ July 1, 1984
1926	(869-032-00106-5)	19.00	July 1, 1997	9		13.00	³ July 1, 1984
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30 Parts:				18, Vol. I, Parts 1-5		13.00	³ July 1, 1984
●1-199	(869-032-00109-0)	33.00	July 1, 1997	18, Vol. II, Parts 6-19		13.00	³ July 1, 1984
●200-699	(869-032-00110-3)	28.00	July 1, 1997	18, Vol. III, Parts 20-52		13.00	³ July 1, 1984
●700-End	(869-032-00111-1)	32.00	July 1, 1997	19-100		13.00	³ July 1, 1984
31 Parts:				●1-100	(869-032-00156-1)	14.00	July 1, 1997
●0-199	(869-032-00112-0)	20.00	July 1, 1997	101	(869-032-00157-0)	36.00	July 1, 1997
200-End	(869-032-00113-8)	42.00	July 1, 1997	●102-200	(869-032-00158-8)	17.00	July 1, 1997
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33 Parts:				●1-199	(869-028-00169-6)	28.00	Oct. 1, 1996
1-124	(869-032-00120-1)	27.00	July 1, 1997	●200-499	(869-028-00170-0)	14.00	⁵ Oct. 1, 1995
125-199	(869-032-00121-9)	36.00	July 1, 1997	*●500-1199	(869-032-00168-5)	29.00	Oct. 1, 1997
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●300-399	(869-032-00124-3)	27.00	July 1, 1997	●41-69	(869-028-00174-2)	21.00	Oct. 1, 1996
●400-End	(869-032-00125-1)	44.00	July 1, 1997	●70-89	(869-028-00175-1)	11.00	Oct. 1, 1996
●35	(869-032-00126-0)	15.00	July 1, 1997	●90-139	(869-028-00176-9)	26.00	Oct. 1, 1996
36 Parts:				●140-155	(869-028-00177-7)	15.00	Oct. 1, 1996
●1-199	(869-032-00127-8)	20.00	July 1, 1997	●156-165	(869-028-00178-5)	20.00	Oct. 1, 1996
200-299	(869-032-00128-6)	21.00	July 1, 1997	●166-199	(869-028-00179-3)	22.00	Oct. 1, 1996
300-End	(869-032-00129-4)	34.00	July 1, 1997	*●200-499	(869-032-00177-4)	21.00	Oct. 1, 1997
●37	(869-032-00130-8)	27.00	July 1, 1997	*500-End	(869-032-00178-2)	17.00	Oct. 1, 1997
38 Parts:				47 Parts:			
0-17	(869-032-00131-6)	34.00	July 1, 1997	●0-19	(869-028-00182-3)	35.00	Oct. 1, 1996
●18-End	(869-032-00132-4)	38.00	July 1, 1997	●20-39	(869-028-00183-1)	26.00	Oct. 1, 1996
●39	(869-032-00133-2)	23.00	July 1, 1997	●40-69	(869-028-00184-0)	18.00	Oct. 1, 1996
40 Parts:				●70-79	(869-028-00185-8)	33.00	Oct. 1, 1996
●1-49	(869-032-00134-1)	31.00	July 1, 1997	●80-End	(869-028-00186-6)	39.00	Oct. 1, 1996
●50-51	(869-032-00135-9)	23.00	July 1, 1997	48 Chapters:			
52 (52.01-52.1018)	(869-032-00136-7)	27.00	July 1, 1997	●1 (Parts 1-51)	(869-028-00187-4)	45.00	Oct. 1, 1996
52 (52.1019-End)	(869-032-00137-5)	32.00	July 1, 1997	●1 (Parts 52-99)	(869-028-00188-2)	29.00	Oct. 1, 1996
●53-59	(869-032-00138-3)	14.00	July 1, 1997	●2 (Parts 201-251)	(869-028-00189-1)	22.00	Oct. 1, 1996
60	(869-032-00139-1)	52.00	July 1, 1997	●2 (Parts 252-299)	(869-028-00190-4)	16.00	Oct. 1, 1996
●61-62	(869-032-00140-5)	19.00	July 1, 1997	●3-6	(869-028-00191-2)	30.00	Oct. 1, 1996
●63-71	(869-032-00141-3)	57.00	July 1, 1997	●7-14	(869-028-00192-1)	29.00	Oct. 1, 1996
●72-80	(869-032-00142-1)	35.00	July 1, 1997	●15-28	(869-028-00193-9)	38.00	Oct. 1, 1996
●81-85	(869-032-00143-0)	32.00	July 1, 1997	●29-End	(869-028-00194-7)	25.00	Oct. 1, 1996
86	(869-032-00144-8)	50.00	July 1, 1997	49 Parts:			
●87-135	(869-032-00145-6)	40.00	July 1, 1997	●1-99	(869-028-00195-5)	32.00	Oct. 1, 1996
●136-149	(869-032-00146-4)	35.00	July 1, 1997	●100-185	(869-028-00196-3)	50.00	Oct. 1, 1996
●150-189	(869-032-00147-2)	32.00	July 1, 1997	*186-199	(869-032-00193-6)	11.00	Oct. 1, 1997
●190-259	(869-032-00148-1)	22.00	July 1, 1997	●200-399	(869-028-00198-0)	39.00	Oct. 1, 1996
●260-265	(869-032-00149-9)	29.00	July 1, 1997	●400-999	(869-028-00199-8)	49.00	Oct. 1, 1996
●266-299	(869-032-00150-2)	24.00	July 1, 1997	●1000-1199	(869-028-00200-5)	23.00	Oct. 1, 1996
				●1200-End	(869-028-00201-3)	15.00	Oct. 1, 1996
				50 Parts:			
				●1-199	(869-028-00202-1)	34.00	Oct. 1, 1996
				●200-599	(869-028-00203-0)	22.00	Oct. 1, 1996
				●600-End	(869-028-00204-8)	26.00	Oct. 1, 1996

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¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

⁵ No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

⁶ No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.