

Federal Register

Tuesday
March 30, 1999

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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 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:** April 20, 1999 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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Proclamation 7176 of March 25, 1999

The President

Education and Sharing Day, U.S.A., 1999

By the President of the United States of America

A Proclamation

Our Nation was founded at a time of extraordinary change, as the world began to move from an agrarian to an industrial economy. Today, as we approach the 21st century, exciting innovations in science and technology are revolutionizing our society, and once again Americans must adapt to the demands of a new era. Beckoning us with exciting new challenges and far-reaching opportunities, our future depends as never before on our Nation's commitment to excellence in education.

Americans have met the dynamic changes in our society not only through education but also by finding strength in our shared goals and values. And, as we prepare for the challenges of a new millennium, these time-honored principles must remain an important part of our children's education. Far more than the accumulation of facts and figures, a well-rounded education that will serve our children throughout their lives must also include the wisdom and insights of past generations. Family members, teachers, administrators, and neighbors should share their experiences and ideals with young people to help them develop into mature, confident, and responsible adults.

An esteemed scholar and inspired religious leader, Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, devoted his life to empowering young people through education. His belief in the importance of intellectual and spiritual enlightenment led him to establish more than 2,000 educational and social institutions around the world. Promoting faith, family, and community, his work enriched our society and helped to lay the foundation for our continued progress.

On this day and throughout the year, let us rededicate ourselves to the ideals of education and sharing that were championed by Rabbi Schneerson and are embraced by compassionate leaders across our country. As our society continues to change and evolve, let us work with keen minds and warm hearts to forge a future of peace and prosperity for all our children.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 28, 1999, as Education and Sharing Day, U.S.A. I invite Government officials, educators, volunteers, and all of the people of the United States to observe this day with appropriate activities, programs, and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William Clinton

[FR Doc. 99-7906

Filed 3-29-99; 8:45 am]

Billing code 3195-01-P

Rules and Regulations

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

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.

GENERAL ACCOUNTING OFFICE

4 CFR Parts 27 and 28

Personnel Appeals Board; Procedural Rules

AGENCY: General Accounting Office Personnel Appeals Board.

ACTION: Interim rule with request for comments.

SUMMARY: The General Accounting Office Personnel Appeals Board (PAB) has authority with respect to employment practices within the General Accounting Office (GAO or agency), pursuant to the General Accounting Office Personnel Act of 1980. The PAB hereby amends its regulations, on an interim basis, to conform to Board policy recognizing that a quorum of three members of the Board may exercise all the powers of the Board, and that a majority of a quorum may act in any matter requiring consideration by the full Board. The Board invites public comment on this amendment before it becomes final.

DATES: These interim regulations are effective March 30, 1999. Comments on these regulations must be received by the Board on or before June 1, 1999, in order to be considered.

ADDRESSES: Comments may be mailed to: Clerk, General Accounting Office Personnel Appeals Board, Suite 560, Union Center Plaza II, 441 G Street NW., Washington, DC 20548. Comments may also be submitted by facsimile transmission to 202-512-7525.

FOR FURTHER INFORMATION CONTACT: Beth Don, Executive Director, 202-512-6137.

SUPPLEMENTARY INFORMATION: The General Accounting Office Personnel Appeals Board is authorized by Congress, pursuant to 31 U.S.C. 751-755, to hear and decide certain employment-related cases brought by GAO employees and to exercise

oversight over equal employment opportunity at the agency. By statute, the Board is composed of five members who serve five-year nonrenewable terms. 31 U.S.C. 751(a) and (c)(1). The statute contains no provision expressly governing Board procedures in the case of a vacancy in Board membership. The statute states that the Board may delegate to a member or panel of members the authority to act under its power to consider and order corrective and disciplinary action. 31 U.S.C. 753(c). A decision of a member or panel is final unless the Board reconsiders the decision either on motion of a party or on its own initiative. 31 U.S.C. 753(c). Further, the statute authorizes the Board to prescribe regulations providing for appeals and providing for the operating procedures of the Board. 31 U.S.C. 753(e).

The Board has followed the common law rule, set forth in Roberts Rules of Order and recognized by the Supreme Court in *FTC v. Flotill Products*, 389 U.S. 179 (1967), that a majority of a quorum constituted of a simple majority of a collective body may act for that body when the enabling statute is silent on the question. This principle was adopted by the Board as a policy statement on May 15, 1995. The amendment to the Board's regulations is intended to formalize the application of the common law rule to the Board's operating procedures. The Board is making this regulation effective immediately upon publication, on an interim basis, to conform the regulation to the Board's practice and to clarify who may act for the Board. The Board, however, welcomes public comment and will carefully consider all comments received before adopting this regulation in final form.

List of Subjects

4 CFR Part 27

Government employees, Organization and functions (government agencies).

4 CFR Part 28

Administrative practice and procedure, Equal employment opportunity, Government employees, Labor-management relations.

For the reasons set forth in the preamble, the General Accounting Office Personnel Appeals Board amends

4 CFR Chapter I, Subchapter B, as follows:

PART 27—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; ORGANIZATION

1. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 753.

2. Section 27.1 is revised to read as follows:

§ 27.1 The Board.

The General Accounting Office Personnel Appeals Board, hereinafter the Board, is composed of five members appointed by the Comptroller General, in accordance with the provisions of 31 U.S.C. 751. For purposes of the regulations in this part and 4 CFR parts 28 and 29, a simple majority of the Board shall constitute a quorum and a majority of a quorum may act for the Board. The Board may designate a panel of its members or an individual Board member to take any action within the scope of the Board's authority, subject to later reconsideration by the Board.

PART 28—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE GENERAL ACCOUNTING OFFICE

1. The authority citation for Part 28 continues to read as follows:

Authority: 31 U.S.C. 753.

2. Section 28.3 is amended by revising the definition of *Board* to read as follows:

§ 28.3 General definitions.

* * * * *

Board means the General Accounting Office Personnel Appeals Board as established by 31 U.S.C. 751 and explained in 4 CFR 27.1.

* * * * *

Michael Wolf,

Chair, Personnel Appeals Board, U.S. General Accounting Office.

[FR Doc 99-7741 Filed 3-29-99; 8:45 am]

BILLING CODE 1610-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-265-AD; Amendment 39-11100; AD 99-02-18 R1]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment corrects information in an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB-120 series airplanes, that currently requires removing the thermal insulating blankets from the upper rear nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, that amendment also currently requires installing new stainless steel plates onto the upper rear nacelle structure. The actions specified in that AD are intended to prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe. This amendment corrects the requirements of the existing AD by correcting affected spare part numbers of thermal insulating blankets. This amendment is prompted by review of the requirements of the existing AD.

DATES: Effective March 3, 1999.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of March 3, 1999 (64 FR 4029, January 27, 1999).

FOR FURTHER INFORMATION CONTACT:

Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE-117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337-2748; telephone (770) 703-6091; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION: On January 15, 1999, the FAA issued AD 99-02-18, amendment 39-11012 (64 FR 4029, January 27, 1999), which is applicable to certain EMBRAER Model EMB-120 series airplanes. That AD requires removing the thermal insulating blankets from the upper rear

nacelle structure; re-positioning the engine exhaust duct; and replacing the engine exhaust bracket with a new engine exhaust bracket, if necessary. For certain airplanes, that AD also requires installing new stainless steel plates onto the upper rear nacelle structure. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions required by that AD are intended to prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe.

As published, paragraph (d) of AD 99-02-18 contained two incorrect references to spare part numbers of thermal insulating blankets. The first incorrect reference was a typographical error that identified spare part number "120035413-001" as one of the blankets that, as of the effective date of the AD, shall not be installed on any airplane. That part number does not exist. The correct part number is identified in EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998 (which was referenced as the appropriate source of service information for accomplishment of the required actions) as "120-35413-001."

The second incorrect reference identified a spare part number (i.e., "120-35411-002") that does exist, but corresponds to a thermal insulating blanket that is not subject to the identified unsafe condition of the AD. The correct spare part number is identified in the referenced service bulletin as "120-35413-002." Therefore, this action revises paragraph (d) of the AD to reference the correct spare part numbers identified above.

Action is taken herein to correct these requirements of AD 99-02-18 and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains March 3, 1999.

Since this action only corrects a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 39-11012 (64 FR 4029, January 27, 1999), and by adding a new airworthiness directive (AD), amendment 39-11100, to read as follows:

99-02-18 R1 Empresa Brasileira de Aeronautica S.A. (EMBRAER):

Amendment 39-11100. Docket 98-NM-265-AD. Revises AD 99-02-18, Amendment 39-11012.

Applicability: Model EMB-120 series airplanes, serial numbers (S/N) 120003, 120004, and 120006 through 120336 inclusive; certificated in any category.

Note 1: This AD applies to each airplane 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 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 (e) 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 fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe, accomplish the following:

(a) For airplanes identified in "Part I" of the effectivity listing of EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) in accordance with the service bulletin.

(1) Remove the thermal insulating blankets from the upper rear nacelle structure.

(2) Install new stainless steel plates onto the upper rear nacelle structure.

(b) For airplanes identified in "Part II" of the effectivity listing of EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, remove the thermal insulating blankets from the upper rear nacelle structure in accordance with the service bulletin.

(c) For all airplanes: Prior to further flight following accomplishment of either paragraph (a) or (b) of this AD, as applicable,

re-position the engine exhaust duct with the use of shims in accordance with EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998. If it is not possible to re-position the engine exhaust duct with the use of shims as specified in the service bulletin, prior to further flight, replace the rear exhaust duct bracket with a new rear exhaust duct bracket, in accordance with the "Note" in paragraph 1.3.1.1 of the Planning section of the service bulletin.

(d) As of the effective date of this AD, no person shall install on any airplane a thermal insulating blanket having part number (P/N) 120-35411-025, -035, -036, 120-35413-001, or 120-35413-002.

(e) 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, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(f) 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.

(g) The actions shall be done in accordance with EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 3, 1999 (64 FR 4029, January 27, 1999). Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) The effective date of this amendment remains March 3, 1999.

Issued in Renton, Washington, on March 23, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 99-7689 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket No. OST-99-5132]

RIN 2105-AC75

Second Extension of Computer Reservations Systems Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is revising its rules governing airline computer reservations systems (CRSs) to change the rules' expiration date for a second time. This revision changes the date from March 31, 1999, to March 31, 2000, to keep the rules from terminating on March 31, 1999. The rules will thus remain in effect while the Department continues out its reexamination of the need for CRS regulations. The Department finds that the current rules should be maintained because they are necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services. The Department previously extended the rules from December 31, 1997, to March 31, 1999.

DATES: This rule is effective on March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION: Our CRS rules have always had an expiration date to ensure that we would periodically review the need for the rules and their effectiveness. In a 1997 rulemaking we changed the rules' expiration date from the original sunset date, December 31, 1997, to March 31, 1999. 62 FR 66272 (December 18, 1997).

We will not be able to complete our reexamination of the current rules by March 31, 1999. Because we believed that the current rules should be maintained pending our reexamination of the need for rules, we proposed to change the rules' expiration date to March 31, 2000, and gave interested persons an opportunity to comment on that proposal. 64 FR 9457 (February 26, 1999). We received comments from Amadeus Global Travel Distribution, Worldspan, the Association of Asia Pacific Airlines, and America West Airlines, all of which supported the proposal, as did Southwest Airlines, which filed a late reply.

Background

As explained in our notice proposing to revise the rules' expiration date, we have found that CRS rules are necessary to protect airline competition and to ensure that consumers can obtain accurate and complete information on airline services. 64 FR 9458-9459. CRSs have become essential for the marketing of airline services for almost all airlines operating in the United States, and market forces do not discipline the price and quality of service offered airlines by the CRSs. Travel agents rely on CRSs to provide airline information and bookings for their customers, and almost all airlines receive most of their bookings from travel agencies. The travel agencies' typical exclusive or predominant use of one system compels each airline to participate in an agency's system if it wishes to have its services readily saleable by that agency. Each system, moreover, is controlled by airlines or airline affiliates, who could use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. For these reasons, we adopted rules regulating CRS operations in the United States, 57 FR 43780 (September 22, 1992). 64 FR 9458-9459.

Our rules included a sunset date, December 31, 1997, to ensure that we would reexamine whether the rules remained necessary and whether they were effective. 57 FR 43829-43830 (September 22, 1992). We have begun a reexamination of our current rules by publishing an advance notice of proposed rulemaking that invited interested persons to comment on whether we should readopt the rules and, if so, with what changes. 62 FR 47606 (September 10, 1997). Almost all of the parties responding to our advance notice of proposed rulemaking have urged us to maintain CRS rules, although these parties also argued that various changes should be made to the rules, mostly to strengthen them. 64 FR 9458.

Our Proposed Extension of the CRS Rules

Our inability to complete our reexamination of the rules by the original sunset date, December 31, 1997, caused us to change the sunset date to March 31, 1999. 62 FR 66272 (December 18, 1997).

We proposed again to change the expiration date for the rules to March 31, 2000, so that they would remain in effect pending our reexamination of our rules, since we could not complete that reexamination by March 31, 1999. 64 FR

9457 (February 26, 1999). The time and procedures required for that process made it impossible for us to meet that deadline. The proposed temporary extension of the current rules would maintain the status quo until we determine which rules, if any, should be adopted. As we explained, maintaining the rules in effect appeared to be necessary to protect airline competition and consumers against unreasonable practices. A short-term extension of the rules would protect airline competition and consumers against the injuries that would otherwise occur, given our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CRS to prejudice the competitive position of other airlines. Furthermore, allowing the current rules to expire could be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. 64 FR 9458.

Finally, we noted that maintaining the rules in effect appeared necessary to meet the United States' obligations under various treaties and bilateral air services agreements to assure foreign airlines a fair and equal opportunity to compete. 64 FR 9459.

We stated that we regret our inability to finish the reexamination of the rules by March 31, 1999. Recognizing the importance of having CRS rules that reflect current industry conditions, we explained that our review has taken more time than anticipated, in part due to recent developments in airline distribution. In addition, we have had to address other airline competition issues that appeared to be more urgent. We recognize that several parties were alleging that the compelling need for certain additional CRS regulations required us to act promptly on those issues without waiting for the completion of the overall reexamination of the rules. We are considering whether there were issues that should be addressed before we complete our overall reexamination of the rules. 64 FR 9458.

Due to the need to make the proposed amendment effective by March 31, 1999, we shortened the comment period to fourteen days. 64 FR 9457.

Comments

Four parties filed comments. The commenters are Amadeus Global Distribution System ("Amadeus"), Worldspan, America West Airlines, and the Association of Asia-Pacific Airlines ("Asia-Pacific Association"). Worldspan does not object to the proposed extension of the current rules, and the

other three parties endorse our tentative conclusion that CRS rules remain necessary. Worldspan and the Asia-Pacific Association agree that our on-going review of our current rules will be a complex process and must be done carefully.

Three of the commenters urge us, however, to act promptly on some CRS issues before we complete our overall review of the rules. Amadeus contends that we should adopt a rule prohibiting the tying of a travel agency's ability to sell corporate discount fares with its choice of the system affiliated with the airline offering the discount fares. Worldspan objects to a piecemeal revision of the current rules; Worldspan asserts, however, that, if any issue is considered before the completion of the rules' overall reexamination, that issue should be the extension of the mandatory participation rule, 14 CFR Part 255.7(a), to cover airlines like Southwest that market one system without participating in other systems. America West argues that we should act immediately on its pending petitions for rules addressing the systems' high booking fees and the problems created for airlines by Internet booking services.

Southwest filed a reply which supports our proposed extension of the rules and argues that Worldspan's proposed rule would injure both Southwest and airline travellers.

Decision

We will change the rules' sunset date to March 31, 2000, as we proposed. Amadeus, Worldspan, America West, the Asia Pacific Association, and Southwest support our proposal, and no one has objected to it. The analysis underlying our proposal is consistent both with the findings made by us in earlier CRS rulemakings and with the position of almost all parties in the underlying rulemaking (Docket OST-97-2881) that CRS rules are still necessary. We will consider, however, whether CRS regulations are still needed as part of our overall reexamination of the CRS rules.

America West, Amadeus, and Worldspan each urge us to act quickly on the specific rule proposals of interest to it. We will consider their requests as part of our review of the comments and reply comments filed in the proceeding for reexamining all of the CRS rules. While we appreciate their interest in obtaining expedited action on certain issues, we note that their requests are generally controversial and opposed by other commenters.

Effective Date

We have determined for good cause to make this amendment effective on March 31, 1999, rather than thirty days after publication as required by the Administrative Procedure Act, 5 U.S.C. 553(d), except for good cause shown. Maintaining the current rules in effect on a continuing basis requires us to make this amendment effective by March 31, 1999. Since the amendment preserves the status quo, it will not require the systems, airlines, and travel agencies to change their operating methods. As a result, making the amendment effective less than thirty days after publication will not burden anyone.

Regulatory Process Matters

Regulatory Assessment

This rule is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034 (February 26, 1979).

In our notice of proposed rulemaking, we tentatively determined that maintaining the current rules should impose no significant costs on the CRSs. Since the systems have already taken all the steps necessary to comply with the rules' requirements on displays and functionality, continuing to comply with those rules would not impose a substantial burden on the systems. Keeping the rules in effect would benefit participating airlines, since they would otherwise be subjected to unreasonable terms for participation, and consumers, who might otherwise be given incomplete or inaccurate information on airline services. The rules also contain provisions that are designed to prevent abuses in the systems' competition with each other for travel agency subscribers. 64 FR 9459.

In our notice we also pointed out that our last comprehensive CRS rulemaking included an economic analysis that we believe remains applicable to our extension of the rules' expiration date. We concluded that no new economic analysis appeared to be necessary, but we stated that we would consider comments from any party on that analysis before we again revised the rules' sunset date. 64 FR 9459.

No one filed comments on the economic analysis. We will therefore base this rule on the analysis used in our last comprehensive CRS rulemaking. We will prepare a new

economic analysis as part of our review of the existing rules, if we determine that rules remain necessary.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Small Business Impact

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies.

Our notice of proposed rulemaking set forth the reasons for our proposed extension of the rules' expiration date and the objectives and legal basis for that proposed rule. We also noted that keeping the current rules in force would not modify the existing regulation of small businesses. We referred to the final rule in our last comprehensive CRS rulemaking, which contained an analysis that we used to determine that the rules would not have a significant economic impact on a substantial number of small entities. In proposing to revise the sunset date to March 31, 2000, we reasoned that that analysis appeared to remain valid for that proposed extension. We therefore adopted that analysis as our tentative regulatory flexibility statement but stated that we would consider any comments filed on that analysis in connection with this proposal. 64 FR 9459-9460.

We tentatively concluded that maintaining our existing CRS rules would primarily affect two types of small entities, smaller airlines and travel agencies. We further noted that the rule would also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large, if our CRS rules allowed airlines to operate more efficiently than they otherwise would. 64 FR 9459.

Keeping the rules in effect would benefit smaller airlines that have no ownership interest in a CRS, since the rules prohibit certain potential system practices that could injure their ability to operate profitably and compete successfully. The rules provide important protection to smaller airlines, for example, by barring display bias and discriminatory booking fees. If there

were no rules, the systems' airline owners could use them to prejudice the competitive position of other airlines. *Ibid.*

The CRS rules additionally affect the operations of smaller travel agencies, primarily by prohibiting certain CRS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CRS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services. 64 FR 9459-9460.

We invited interested persons to address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking. 64 FR 9460.

No one filed comments on our Regulatory Flexibility Act analysis. We will adopt the analysis set forth in the notice of proposed rulemaking.

Our proposed rule contained no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law 96-511, 44 U.S.C. Chapter 35.

Federalism Implications

This rule will have no 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 12812, we have determined that the proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation amends 14 CFR Part 255, as follows:

PART 255—[AMENDED]

1. The authority citation for part 255 continues to read as follows:

Authority: 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

2. Section 255.12 is revised to read as follows:

§ 255.12 Termination.

Unless extended, the rules in this part shall terminate on March 31, 2000.

Issued in Washington, D.C. on March 25, 1999, under authority delegated by 49 CFR 1.56a (h) 2.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99-7753 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-62-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211-0127a; FRL-6313-4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The El Dorado County Air Pollution Control District (EDCAPCD), Rule 239 concerns control of emissions of oxides of nitrogen (NO_x) from natural gas-fired residential water heaters.

This approval action will incorporate this rule into the Federally approved SIP. The intended effect of approving of this rule is to regulate NO_x emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: This rule is effective on June 1, 1999 without further notice, unless EPA receives adverse comments by April 29, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901
 Environmental Protection Agency, Air Docket (6102) 401 "M" Street, S.W., Washington, D.C. 20460
 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812
 El Dorado County Environmental Management Department, Air Pollution Control District, 2850 Fairlane Court, Placerville, CA 95667

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901
 Telephone: (415) 744-1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters. Rule 239 was submitted by the State of California to EPA on June 23, 1998.

II. Background

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 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_x requirements and is incorporated into this document by reference.

Section 182 (f) of the Clean Air Act requires States to apply the same

requirements to major stationary sources of NO_x ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. El Dorado County Air Pollution Control District (EDCAPCD) is classified as serious¹; therefore this area is subject to the RACT requirements of section 182(b)(2) cited below and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_x) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There are no major stationary sources covered by this rule; however, this rule is expected to achieve substantial reductions of NO_x because it applies to a large number of small sources.

This document addresses EPA's direct final action for EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters. EDCAPCD's Rule 239 was first adopted on March 24, 1998.

The State of California submitted the rule to EPA for incorporation into its SIP on June 23, 1998. Rule 239 was found to be complete on August 25, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V² and is being finalized for approval into the SIP.

NO_x emissions contribute to the production of ground level ozone and smog. EDCAPCD's Rule 239 specifies exhaust emission standards for NO_x from natural gas-fired residential water heaters. This rule was originally adopted as part of District's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for this rule.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_x rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for

Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_x Supplement (57 FR 55620) and various other EPA policy guidance documents.³

South Coast Air Quality Management District (SCAQMD) has developed a protocol document entitled Nitrogen Oxides Emissions Compliance Testing for Natural Gas-fired Water Heaters and Small Boilers jointly with the industry and replaces the ANSI requirements currently used by manufacturers. EPA has used SCAQMD's guidance document in evaluating EDCAPCD's Rule 239 for consistency with the enforceability requirements.

There is currently no version of EDCAPCD's Rule 239, Natural Gas-fired Residential Water Heaters, in the SIP. Rule 239 establishes NO_x and carbon monoxide (CO) emissions limits for natural gas-fired residential water heaters with rated heat inputs of greater than or equal to 75,000 Btu per hour.

The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_x).
- Administrative and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to applicable guidance regarding emission limits. Rule 239 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and emissions limits. Incorporation of the rule into the SIP would decrease the NO_x emissions allowed by the SIP.

A detailed discussion of the sources controlled, the controls required, and justification can be found in the

¹EDCAPCD area retained the designation of nonattainment and is classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

²EPA 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).

³Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy 52 FR 45044 (November 24, 1987); "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

Technical Support Document (TSD) for Rule 229, dated December 30, 1998, which is available from the U.S. EPA Region IX office.

EPA has evaluated the submitted rule and has determined it consistent with the CAA, EPA regulations and EPA policy. Therefore, Rule 239, Natural Gas-fired Residential Water Heaters; is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_x Supplement to the General Preamble.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an

environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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 the 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 final rule will not have a significant

impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

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 annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 1, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

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

Dated: March 11, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (256) (D) to read as follows:

§ 52.220 Identification of plan.

* * * * *
(c) * * *

(256) * * *
(i) * * *
(D) El Dorado County Pollution Control District .
(1) Rule 239 adopted on March 24, 1998.
* * * * *
[FR Doc. 99-7668 Filed 3-29-99; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

**45 CFR Part 303
RIN 0970-AB72**

Child Support Enforcement Program; Grants to States for Access and Visitation Programs: Monitoring, Evaluation, and Reporting

AGENCY: Office of Child Support Enforcement (OCSE), HHS.
ACTION: Final rule.

SUMMARY: This final rule implements provisions contained in section 391 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and establishes the requirements for State monitoring, reporting and evaluation of Grants to States for Access and Visitation Programs. Access and Visitation programs support and facilitate non-custodial parents' access to and visitation of their children by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup) and development of guidelines for visitation and alternative custody arrangements.

EFFECTIVE DATE: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: David Arnaudo, OCSE, Division of Automation and Special Projects, (202) 401-5364. Hearing impaired individuals may call the Federal Dual Relay Service at 1-800-877-8339 between 8:00 a.m. and 7:00 p.m.

SUPPLEMENTARY INFORMATION:

Statutory Authority

The final regulations are published under the authority of section 469B of the Social Security Act (the Act), as added by section 391 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104-193), and section 1102 of the Act. Section 469B(e)(3) requires that each State receiving a grant for Access

and Visitation Programs shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

Background

Notice of Proposed Rulemaking

On March 31, 1998 a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register**. Public comments were formally requested. Comments received in response to this request are discussed and summarized below.

History of Federal Involvement in Access and Visitation

The Federal financial involvement in access and visitation began when the Family Support Act of 1988 (Pub. L. 100-485) authorized up to \$4 million each year for fiscal years 1990 and 1991 for State demonstration projects to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders. The legislation required an evaluation of these projects and a Report to Congress on the findings. In October 1996, the Department of Health and Human Services transmitted to Congress the report entitled, "Evaluation of the Child Access Demonstration Projects". The report indicated that requiring both parents to attend mediation sessions and developing parenting plans was successful for cases without extensive long-term problems.

In September, 1996, the U.S. Commission on Child and Family Welfare submitted a report to the President and Congress which strongly endorsed additional emphases at all government levels, especially State and local levels, to ensure that each child from a divorced or unwed family have a parenting plan which encourages and enables both parents to stay emotionally involved with the child(ren).

Finally, PRWORA added a new provision at section 391 to award funds annually to States to establish and administer programs to support and facilitate non-custodial parents' (fathers or mothers) access to, and visitation of, their children. Activities funded by this program include mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision, neutral drop-off and pickup), development of guidelines for visitation and alternative custody arrangements. States may administer programs directly or through contracts or grants with courts, local public agencies, or nonprofit private entities; States are not required to

operate such programs on a statewide basis.

Under this provision, the amount of the grant to be made to the State shall be the lesser of 90 percent of State expenditures during the fiscal year for activities just described or the allotment to the State for the fiscal year. The Federal government will pay for 90 percent of project costs, up to the amount of the grant allotment. In other words, States are required to provide for at least ten percent of project funding even if they do not spend their entire allotment. The allotment would be determined as follows: an amount which bears the same ratio to \$10,000,000 for grants as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States. Such allotments are to be adjusted so that no State is allotted less than \$50,000 for fiscal years 1997 and 1998 or \$100,000 for any succeeding fiscal year. These funds may not be used to supplant expenditures by the State for authorized activities; rather, States shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

In September 1997, the Office of Child Support Enforcement awarded 54 States and independent jurisdictions Access and Visitation Grants covering all the activities mentioned in the Act. A second round of grants was issued in September 1998; all States and Territories, except Guam, received grants. Guam did not apply.

Description of Regulatory Provisions

Paragraph 303.109(a) has been added to 45 CFR part 303 containing procedures for States to follow in monitoring, evaluating and reporting on their Grants for Access and Visitation Programs. This rule requires States to monitor all access and visitation programs to ensure that these programs are: (1) Providing services authorized under section 469B(a) of the Act; (2) being conducted efficiently and effectively; (3) complying with reporting and evaluation requirements, as set forth in paragraphs 303.109(b) and 303.109(c); and (4) providing appropriate safeguards to insure the safety of children and parents.

Paragraph 303.109(b) allows States to evaluate programs funded by section 469B of the Act, but does not require these programs to be evaluated. States are, however, required to assist in the evaluation of programs deemed significant or promising by the Department, as directed by program memorandum.

Paragraph 303.109(c) requires that States provide a detailed description of each funded program including such information as: service providers and administrators, service area, population served, program goals, application or referral process, referral agencies, nature of the program, activities provided, and length and features of a "completed" program. This paragraph also requires, with regard to programs which provide services: the number of applicants or referrals for each program, the total number of participating individuals and the number of persons completing program requirements by authorized activities (e.g., mediation, education etc.). This information will help the Office of Child Support Enforcement assess: (1) The demand for the program, the effectiveness of outreach and ability of the program to meet demand; (2) the services being delivered and the number and the characteristics of the individuals being served; and (3) whether such individuals are completing standard program requirements.

Paragraph 303.109(c)(3) requires States to report information specified in paragraphs 303.109(c)(1) and (c)(2) annually, collected at a date and in a form as the Secretary may prescribe.

Response to Comments

We received comments from representatives of 14 States and local IV-D agencies, national organizations, advocacy groups and private citizens on the proposed rule published March 31, 1998, in the *Federal Register* (63 FR 15351-53). A summary of the comments received and our responses follows; similar or identical comments have been grouped together:

Comment: One commenter suggested that § 303.109(a) of the regulation calling for monitoring of "all access and visitation programs" should be restricted to mean only those programs funded by DHHS' grants to States for Access and Visitation Programs and other funded programs.

Response: In this final rule, OCSE states that: "The State must monitor all programs funded under Grants to States for Access and Visitation Programs * * *." This addresses the commenter's concern. In one section of the NPRM this qualifier, "funded under Grants to States for Access and Visitation Programs", was not used, thereby giving an inaccurate impression. It was not our intent to extend the monitoring requirement to other funded programs.

Comment: There was a concern among commenters that the regulation contains no requirement to monitor whether States are screening potential

clients for domestic violence (spousal or child abuse) to ensure that the battered spouse is not put at further risk.

Response: We share the concerns for safety expressed by commentators who wrote about domestic violence. Access and visitation by a non-custodial parent can lead to dangerous situations for some parents and their children. The safety of the custodial parents and their children must be addressed when it is a problem. It is our intent to encourage States to ensure safety when necessary in implementing grants under this program. States should develop procedures to assess the degree of danger, weighing sensitively the assertions of both parents.

In response to the comments, we have added to the regulation a new requirement under § 303.109(a) requiring States to monitor programs to safeguard against domestic violence, as follows:

"(a) *Monitoring.* The State must monitor all programs funded under Grants to States for Access and Visitation Programs to ensure that the programs * * * contain safeguards to ensure the safety of parents and children."

Comment: Several commenters suggested that the regulation require specific approaches for addressing problems that may occur in activities funded by these grants. Concerns were noted regarding mandated mediation and supervised transfer and visitation of children.

Response: Since we wish to provide maximum flexibility to the States, we have not required specific approaches to dealing with issues of domestic violence. Consistent with our authority under the Statute to regulate what the States need to monitor, we require States to monitor their grantees to ensure that there are procedures in place and being used to ensure safety.

Regarding mandated mediation, we wish to make clear that the statute does not mandate mediation for any particular clients. Mediation mandated by the courts for contending parents is one service that the States may choose to fund. We recognize that in some cases, mediation may be dangerous for the victim of abuse. There is also evidence that in some cases involving partner abuse, mediation has been effective. This is a service that warrants careful monitoring by States to ensure that safety assessments are conducted. When it is determined not to be warranted, alternative forms of conflict resolution should be used.

States may choose to use their grants to fund supervised transfer and visitation of children by non-custodial

parents. Neutral drop-off or pickup of children (supervised transfer) is designed to provide for the transfer of children without danger for the abused parent or hostile actions between the parents when domestic violence or other situations involving acrimony between parents exist. Supervised visitation is designed to promote and protect the safety of the visited child. States should monitor such programs when funded by this authority (as discussed above) to ensure that adequate and appropriate procedures are in place and being used to ensure safety.

Comment: Commenters suggested that grantees be required to consult local domestic violence agencies about appropriate procedures for identifying and assisting battered parents.

Response: Based on our experience with other service sectors that have addressed domestic violence, consultation with community based domestic violence experts is often very useful. While requiring such consultation would go beyond the scope of this regulation, we do believe domestic violence experts have important experience and knowledge that can be useful to access and visitation programs. We encourage all access and visitation grantees to hold consultations with experts in the field of domestic violence.

Comment: One commenter wanted to include domestic violence as one category of participant data reported.

Response: We have not included domestic violence as a category of participant data reported because the quality of information collected is not likely to be consistent or useful. It would be difficult to reach any agreement for reporting responses on how domestic violence should be defined or how the determination would be made that domestic violence had occurred. Additionally, services and targeted clientele will vary widely from State to State, and even within States, making comparisons even more inappropriate. We do encourage States to use their own State protocols and definitions of domestic violence to monitor and evaluate how their programs are protecting the safety of parents and children.

Comment: One commenter suggested that Grants for Access and Visitation Programs be conducted by those with domestic violence training.

Response: The legislation mandates that the Governor of each State determine the organizational entity responsible for the grant program. Each State has the flexibility and responsibility to determine the services

to be provided and qualifications of the providers.

Comment: Another domestic violence related concern is that the final rule should acknowledge that domestic violence occurs in many of the access and visitation cases before the family court and, therefore, the statement that involvement by non-custodial parents is desirable for children should be dropped or amended.

Response: In response to the concern about domestic violence we have added to the regulations a requirement that all States monitor access and visitation programs to ensure that programs have safeguards to ensure the safety of parents and children.

Comment: One commenter stated that visitation and access should not be mandatory for the non-custodial parent. The commenter also suggests that evaluation requirements should look at the success of visitation and not just the number of visits.

Response: The Act does not require the noncustodial parent to visit the child; rather, it funds activities to facilitate and encourage non-custodial parents to participate in raising the child(ren) as determined appropriate by the parents and the court. There are no specific evaluation requirements placed on either State or Federal government evaluation activities regarding visitation programs or any other allowable services provided under the program. We would encourage any evaluators of visitation programs to carefully determine the most appropriate measures of success for program evaluation purposes.

Comment: One commenter had several suggestions:

(i) OCSE should include in the monitoring requirements that States assure that the Access and Visitation Programs funded under Federal grants do not merely replace existing programs.

Response: Section 469B(d) of the Act does not allow States to supplant or use Federal funds authorized under this Act to replace or displace State funds spent for the same purposes as specified by section 469B(a) of the Act. States must use these Federal grant funds to supplement these expenditures at a level at least equal to the level of such expenditures as existed in fiscal year 1995. States are required to follow all requirements in the statute, therefore, it is not necessary to repeat the requirement in the regulation.

(ii) OCSE should prohibit use of funds for programs that are available only to children of divorced or separated parents, on the one hand, or children of unmarried parents on the other hand.

Response: The philosophy of this Act is to allow States maximum flexibility. Some States may concentrate their efforts only on unwed families (or on divorced families) because there are already State programs serving other families. We would not want to limit the flexibility States have under this act to address unmet needs.

(iii) OCSE should require that the States report on the economic status of program participants.

Response: This has been done in the reporting requirements for a description of the program under § 303.109(c)(1) of this final regulation. Under these requirements States must report as follows:

(c) *Reporting:* the State must: report a detailed description of each program funded, providing the following information as appropriate: * * * population served (income * * *) * * *.

(iv) OCSE should involve experts on the life situations and needs of the children of unmarried parents in setting up their programs.

Response: The philosophy behind this program is to give the States maximum flexibility. Most States are delivering programs through experienced community-based organizations or court agencies.

Comment: One commenter noted that some States are using grant funds in the first year to assess which access and visitation program strategies to undertake; in such States there would be no reporting of cases. Reporting requirements are only where services are provided.

Response: It is appropriate to footnote any report with this information. Thus no change needs to be made to the regulation.

Comment: Two commenters had comments on reporting responsibilities and definitions as follows: In the requirement for description of project—§ 303.109(c)—an addition should be made for “outcome measures”. There should be some data elements that measure whether the program is achieving its goals; the current data elements do not.

Response: We have chosen not to include outcome measures in our initial reporting requirements. First, States can and are providing a wide variety of services. It would be premature at this early stage of program implementation to specify a limited set of outcomes, that may or may not measure the outcomes or changes that States are attempting to achieve. Second, program outcomes in this area are often difficult and expensive to measure. Given the limited resources of this program it is more cost

effective to focus routine reporting on service delivery and use evaluation efforts to measure outcomes.

Comment: The data requirement for program "graduates" could be meaningless due to definitional inconsistencies between States and projects.

Response: For clarity, we have revised the wording to read: "Number of persons who have completed program requirements." Even though each program and project may have a different set of program requirements for recipients, this data element will measure the extent to which programs were successful in ensuring that participants completed these requirements.

Comment: In § 303.109(a) "effective" and "efficient" should be defined.

Response: Effective means whether the programs are actually doing what they are intended to do. Efficient means that they are accomplishing their mission using a reasonable amount of resources. Because each State may provide very different services there is no way to standardize these definitions for reporting purposes.

Comment: ACF should work with States to create a standardized database to track program information.

Response: Given the variety of programs, this is what we have attempted to do, while at the same time preserving State flexibility and minimizing burden.

Comment: "Urban/rural" as part of the required description of a project should be defined due to the different nature of rural and urban in States of different sizes.

Response: We are not making a change in the regulation. However, in the instructions that accompany the reporting form, we have indicated that an urban project is defined as operating within a Standard Metropolitan Statistical Area (SMSA) and that a rural project is defined as operating outside a SMSA. We have added the category "mixed" to cover a project area that serves both SMSA and non-SMSA areas.

Comment: There are two comments about reporting on the nature of the referral. One commenter suggested that the providers should have to report on the type of the referral. Another commenter indicated that in § 303.109(c)(2), referral reporting should distinguish between court-referred and self-referred.

Response: The regulation at § 303.109(c)(2) does indicate that the source of referral will be included in the reporting requirements. Source of referral will include such categories as courts, social services agencies,

responsible fatherhood programs, churches and self-referral. Additionally, the reporting forms will indicate whether clients are receiving services on a mandatory or voluntary basis. In general, mandatory services will include services that a court or other agency requires an individual to participate in. Voluntary services will include non-mandatory referrals and self-referrals. We believe these two categories of source of referral and mandatory versus voluntary participation will provide us with the information we need about the nature of participation. Self-referred relates to individuals signing up for access and visitation services on their own accord or on a voluntary basis.

Comment: What is meant by program participant families and individuals?

Response: We have revised the final rule to ask only for information on individuals. We have done this to avoid confusion about reporting of families or individuals. This is because in some cases only the non custodial parent receives services. However, sometimes services would be received jointly by both ex-spouses or father and mother as in the case of mediation. Occasionally the child is involved. As such, if we use family as a measure of service, all three of these types could be considered a family; however, the service provider is not given credit for the differential costs of serving different numbers of people. Also, use of individual as opposed to families is easier to do if the family under consideration changes (e.g., if a man applies for services, and then the ex-spouse becomes involved etc.). As such, we would have the States count individuals only and not families; however, on the survey form we would have individuals identified as non-custodial parents, custodial parents and/or child(ren) to provide a more precise definition.

Comment: Does this language contemplate a father and his family in a supervised visitation program? How about a custodial parent? Do all individuals in a family have to be recorded? More precision is needed in defining individuals and families.

Response: As discussed above, we have changed reporting to count individuals only. As such, if a family of three (e.g., husband, ex-spouse, and child) is served, States would count three individuals and not one family. The individual becomes the service unit. In the survey form, individuals would be counted as non-custodial parents, custodial parents and/or child(ren).

In the case of supervised visitation, a non-custodial father and a child or children and a third person (the

supervisor) are involved. However, only the non-custodial father and the child or children are served; this translates into two to three or more individual service units. The supervisor would not be considered a service unit since this is part of the service, not someone served.

Comment: The definition of when a program is significant to require an evaluation by the State should be defined. Will such evaluations be funded by the Federal government?

Response: The regulations permit, but do not require, States to evaluate their access and visitation programs. State initiated evaluations can be paid for out of State access and visitation grant funds or other State funds. States must cooperate in any federally initiated evaluations of the access and visitation grant program. It is not possible to determine in advance what type of programs might be considered significant or promising. These decisions will be based on our review of State program activities. Specific decisions regarding cost sharing will be made in the context of specific evaluation designs.

Comment: One commenter recommended that OCSE develop an on-line database for reporting of data. Client satisfaction should be reported.

Response: We will consider the suggestion for an on-line database. We have not included client satisfaction in the requirements since we wanted to avoid complexity and ambiguity.

Comment: One commenter believed that the requirement asking for information on race of recipients is inappropriate, and in many cases where work is handled by the phone, it would be awkward for mediators to ask the race question. The commenter recommended either eliminating this question or making it optional.

Response: We agree that there are circumstances in which it would be inappropriate or awkward. We will therefore include on the reporting form the designation "unknown" in recognition that sometimes this information cannot be collected.

Comment: One commenter felt that the State child support enforcement agency should not be required to report on the Access and Visitation Grants when the agency in the State administering this grant is not the child support agency.

Response: We agree. The reporting agency is the State agency administering the Access and Visitation Program. This, in many cases, is not the child support enforcement agency.

Comment: One commenter believed that enforcement of visitation rights is vital.

Response: Visitation enforcement is an allowable program activity under section 469B(a) of the Act. Since there are no specific reporting, monitoring, or evaluation provisions dealing with visitation enforcement in isolation, it is not specifically mentioned in the regulation.

Paperwork Reduction Act

The new regulation at § 303.109(c) contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review and has received approval. The OMB control number is 0970-0178.

Legal Significance Statement: 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.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this final regulation will not result in a significant impact on a substantial number of small entities. The primary impact of the regulation will be on State governments, which are not considered small entities under this Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that the rule is consistent with these priorities and principles. Statutory provisions require States that receive grants for child access and visitation programs to monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L.

104-4) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

The Department has determined that this final rule will not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of more than \$100 million in any one year. The Department has determined that this rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Congressional Review of Rulemaking

This rule is not a major rule as defined in Chapter 8 of 5 U.S.C. List of Subjects 45 CFR Part 303

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.597, Grants to States for Access and Visitation).

Dated: March 10, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

For reasons stated in the preamble, we are amending 45 CFR Part 303 as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. A new section 303.109 is added to read as follows:

§ 303.109 Procedures for State monitoring, evaluation and reporting on programs funded by Grants to States for Access and Visitation Programs.

(a) *Monitoring.* The State must monitor all programs funded under Grants to States for Access and

Visitation Programs to ensure that the programs are providing services authorized in section 469B(a) of the Act, are being conducted in an effective and efficient manner, are complying with Federal evaluation and reporting requirements, and contain safeguards to insure the safety of parents and children.

(b) *Evaluation.* The State:

(1) May evaluate all programs funded under Grants to States for Access and Visitation Programs;

(2) Must assist in the evaluation of significant or promising projects as determined by the Secretary;

(c) *Reporting.* The State must:

(1) Report a detailed description of each program funded, providing the following information, as appropriate: service providers and administrators, service area (rural/urban), population served (income, race, marital status), program goals, application or referral process (including referral sources), voluntary or mandatory nature of the programs, types of activities, and length and features of a completed program;

(2) Report data including: the number of applicants/referrals for each program, the total number of participating individuals, and the number of persons who have completed program requirements by authorized activities (mediation—voluntary and mandatory, counseling, education, development of parenting plans, visitation enforcement—including monitoring, supervision and neutral drop-off and pickup) and development of guidelines for visitation and alternative custody arrangements; and

(3) Report the information required in paragraphs (c)(1) and (c)(2) of this section annually, at such time, and in such form, as the Secretary may require.

[FR Doc. 99-7667 Filed 3-29-99; 8:45 am]

BILLING CODE 4184-01-P

Proposed Rules

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

[Docket No. 99-02]

RIN 1557-AB66

“Know Your Customer” Requirements

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The OCC is withdrawing the “Know Your Customer” proposal which was published December 7, 1998. The OCC is taking this action in response to concerns about the privacy implications and likely burden of the proposed rule. **DATES:** The proposed rule is withdrawn on March 30, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Pasley, Assistant Director, Enforcement and Compliance Division (202) 874-4879; Thomas Fleming, Compliance Specialist (202) 874-4879, or Susan Quill, Compliance Expert (202) 874-4879, Community and Consumer Policy; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division (202) 874-4879, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On December 7, 1998, the OCC, the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) each published “Know Your Customer” proposals.¹ The proposed rules would have required each bank and savings association to develop a program designed to determine the identity of its customers; determine its customers’ sources of funds; determine the normal and expected transactions of its

customers; monitor account activity for transactions that are inconsistent with those normal and expected transactions; and report any transactions of its customers that were determined to be suspicious in accordance with the OCC’s existing suspicious activity reporting regulations.

In response to its Know Your Customer proposal, the OCC received over 16,000 comments during the comment period, which closed on March 8, 1999. Virtually all of the commenters opposed adoption of the proposed rule. Commenters were concerned primarily about the privacy implications of the proposal and the burden it would impose on financial institutions.

The overwhelming majority of commenters were individual, private citizens who voiced very strong opposition to the proposal as an invasion of personal privacy. Other issues raised by these commenters included that the Agencies lack the authority to issue the proposal; the cost of any Know Your Customer program would be passed on to customers; and the regulation would be ineffective in preventing money laundering and other illicit financial activities.

Banks, bank holding companies, and banking trade groups that commented uniformly opposed the proposal. Their concerns included the following: (1) the regulation would be very costly to implement, especially for small banks; (2) the Know Your Customer program would invade customer privacy; (3) commercial banks would be unfairly disadvantaged and lose customers if all segments of the financial services industry are not covered; (4) compliance with the regulation would divert resources from Y2K preparation; (5) the Agencies lack authority to adopt the regulation; (6) public confidence in the banking industry would be harmed by the regulation; and (7) the regulation is both unnecessary and redundant, as banks are already familiar with their customers and have adequate procedures in place.

In light of the comments received, the OCC is withdrawing the proposal. While the OCC believes that banks should adopt their own policies and procedures to determine the identities of their customers, and should have systems and controls that will allow them to identify suspected illegal conduct, the

large majority of national banks already have policies and processes in place to accomplish these objectives.

List of Subjects in 12 CFR Part 21

Bank Secrecy Act, Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

Authority and Issuance

For the reasons stated in the Preamble, under the authority vested in the OCC by 12 U.S.C. 93a, the OCC’s notice of proposed rulemaking titled “Know Your Customer” Requirements, published on December 7, 1998, at 63 FR 67524, is withdrawn.

Dated: March 23, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 99-7767 Filed 3-29-99; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-ANE-69]

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to Pratt & Whitney JT9D series turbofan engines, that currently requires initial and repetitive eddy current inspections (ECI) of 14th and 15th stage high pressure compressor (HPC) disks for cracks, and removal of cracked disks and replacement with serviceable parts. This action would revise the definition of a shop visit to make compliance less restrictive, and add references to a Nondestructive Inspection Procedure attached to applicable service bulletins. This proposal is prompted by feedback from operators saying that the shop visit definition in the current AD made AD compliance unnecessarily restrictive. The actions specified by the proposed AD are intended to prevent 14th and 15th stage HPC disk rupture, which

¹ See 63 FR 67524 (OCC); 63 FR 67516 (FRB); 63 FR 67529 (FDIC); 63 FR 67536 (OTS).

could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by April 29, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 95-ANE-69, 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.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. This information may be examined at the FAA, New England Region, Office of the Regional 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-69." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 95-ANE-69, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

On October 5, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98-21-22, Amendment 39-10830 (63 FR 55500, October 16, 1998), applicable to Pratt & Whitney (PW) Model JT9D-59A, -70A, -7Q, -7Q3, and JT9D-7R4 series turbofan engines, to require initial and repetitive eddy current inspections (ECI) of 14th and 15th high pressure compressor (HPC) disks for cracks. That action was prompted by reports of disk bore cracks found during shop inspections on both the 14th and 15th stage HPC disks. That condition, if not corrected, could result in 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft.

Since the issuance of that AD, the FAA has received feedback that requests changing the definition of shop visit as published in the final rule, published October 16, 1998, to the wording used in the supplemental NPRM (SNPRM), published January 5, 1998. In writing the final rule, the FAA changed the definition of shop visit for clarification from the version published in the SNPRM, January 5, 1998. This change, in effect, made the definition of shop visit more restrictive. The final rule states in paragraph (e) "For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for scheduled maintenance." The SNPRM stated in paragraph (e) "For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal from an uninstalled engine."

In order to conduct the repetitive inspections of 14th and 15th stage HPC disks for cracks when the opportunity presents itself when the low pressure turbine module is removed, typically when the engine is in the shop and maintenance work is being performed, and to be consistent with the risk analysis, the definition of shop visit is

proposed to be changed to "For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal".

In addition, this final rule adds references to the Nondestructive Inspection Procedure No. 858 (NDIP-858), dated November 7, 1995, attached to the various versions of the referenced service bulletins, which was inadvertently omitted from the current AD.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would revise AD 98-21-22 to revise the shop visit definition and add reference to NDIP-858.

Since this revised proposed rule would only change the definition of the shop visit and add reference to the NDIP, there is no effect on the economic analysis.

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 removing 39-10830 (63 FR 55500, October 16, 1998), and by adding a new airworthiness directive, to read as follows:

Pratt & Whitney: Docket No. 95-ANE-69.

Revises AD 98-2122, Amendment 39-10830.

Applicability: Pratt & Whitney (PW) Model JT9D-59A, -70A, -7Q, -7Q3, and JT9D-7R4 series turbofan engines, with the following 14th and 15th stage high pressure compressor (HPC) disks installed: Part Numbers (P/Ns) 5000814-01, 790014, 789914, 790114, 5000815-01, 5000815-021, 704315, 704315-001, 786215, 786215-001, 704314, 789814, and 790214. These engines are installed on but not limited to Airbus A300 and A310 series aircraft, Boeing 747 and 767 series aircraft, and McDonnell Douglas DC-10 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 (f) 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 14th and 15th stage HPC disk rupture, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Inspect 14th stage HPC disks, P/N 5000814-01, in accordance with Nondestructive Inspection Procedure No. 858 (NDIP-858), dated November 7, 1995, attached to PW Alert Service Bulletin (ASB) No. JT9D-7R4-524, original issue dated December 13, 1995, or Revision 1, dated June 26, 1997, as follows:

(1) Perform an initial eddy current inspection (ECI) for cracks as follows:

(i) For disks with 7,000 or more cycles since new (CSN), and 3,000 or more cycles in service (CIS) since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 7,000 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 7,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 8,000 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

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

(b) Inspect 14th stage HPC disks, P/N's 790014, 789914, 790114, and 15th stage HPC disks, P/N's 5000815-01, 5000815-021, 704315, 704315-001, 786215, and 786215-001, in accordance with NDIP-858, dated November 7, 1995, attached to PW ASB No. JT9D-7R4-A72-524, dated December 13, 1995, or Revision 1, dated June 26, 1997, or PW ASB No. A6232, dated December 13, 1995, or Revision 1, dated January 11, 1996, or Revision 2, June 26, 1997, as applicable, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 6,500 or more CSN, and 3,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 6,500 or more CSN, and less than 3,000 CIS since last shop visit, on the effective date of this AD, inspect within 4,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with less than 6,500 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 4,000 CIS since last shop visit, or 7,500 CSN, whichever occurs later.

(iv) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 4,000 CIS since last ECI.

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

(c) Inspect 14th stage HPC disks, P/N's 704314, 789814, and 790214, in accordance with NDIP-858, dated November 7, 1995, attached to PW ASB No. A6232, original issue, dated December 13, 1995, or Revision 1, dated January 11, 1996, or Revision 2, dated June 26, 1997, as follows:

(1) Perform an initial ECI for cracks as follows:

(i) For disks with 2,000 or more CSN, and 2,000 or more CIS since last shop visit, on the effective date of this AD, inspect within the next 1,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(ii) For disks with 2,000 or more CSN, and less than 2,000 CIS since last shop visit, on the effective date of this AD, inspect within 3,000 CIS since the last shop visit, or at the next shop visit, whichever occurs first.

(iii) For disks with 2,000 or more CSN, and no previous shop visits, inspect within 3,000 CIS after the effective date of this AD, or at the next shop visit, whichever occurs first.

(iv) For disks with less than 2,000 CSN on the effective date of this AD, inspect at the next shop visit after the effective date of this AD, but before exceeding 5,000 CSN.

(v) For uninstalled disks on or after the effective date of this AD, inspect prior to installation.

(2) Thereafter, perform ECI for cracks at intervals not to exceed 3,000 CIS since last ECI.

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

(d) Within 30 days of inspection, report inspection results on the form labeled "14th and 15th Stage HPC Disk Inspection Report," to Pratt & Whitney Customer Technical Support. The fax number is listed on that form which is attached to PW ASB No. JT9D-7R4-A72-524, Revision 1, dated June 26, 1997, or PW ASB No. A6232, Revision 2, June 26, 1997. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120-0056.

(e) For the purpose of this AD, a shop visit is defined as a low pressure turbine module removal.

(f) 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.

(g) 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 March 23, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99-7688 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-19]

Proposed Modification of Class E Airspace; Savanna, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Savanna, IL. A Global Positioning System (GPS)

Standards Instrument Approach Procedure (SIAP) to Runway (Rwy) 13 has been developed for Tri-Township Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 18, 1999.

ADDRESSES: Send comments to the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rules Docket No. 99-AGL-19, 2300 East Devon Avenue, Des Plaines Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 99-AGL-19." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained

in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Savanna, IL, to accommodate aircraft executing the proposed GPS Rwy 13 SIAP at Tri-Township Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, 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 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 the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Savanna IL [Revised]

Savanna, Tri-Township Airport, IL (Lat. 42°02'45"N., long. 90°06'27"W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the Tri-Township Airport.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-7456 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-18]

Proposed Modification of Class E Airspace; Hamilton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Hamilton, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 11 has been developed for Hamilton-Fairfield Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rule Docket No. 99-AGL-18, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-AGL-18." The postcard will be date/

time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Hamilton, OH, to accommodate aircraft executing the proposed GPS Rwy 11 SIAP at Hamilton-Fairfield Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, 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 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 the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Hamilton, OH [Revised]

Hamilton, Hamilton-Fairfield Airport OH
(Lat. 39° 21' 52"N., long. 84° 34' 29"W.)
Hamilton NDB

(Lat. 39° 22' 21"N., long. 84° 34' 21"W.)

That airspace extending upward from 700 feet above the surface within an 6.6-mile radius of the Hamilton-Fairfield Airport and within 2.9 miles either side of the 280° bearing from the Hamilton NDB, extending from the 6.6-mile radius to 10.0 miles west of the NDB, excluding that airspace within the Covington, KY, and Middletown, OH, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1998.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99-7449 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AWP-4]

Proposed Modification of Class E Airspace; Chico, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E airspace area at Chico, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13L and GPS RWY 31R at Chico Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 31R SIAP to Chico Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Chico Municipal Airport, Chico, CA.

DATES: Comments must be received on or before April 29, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP-520, Docket No. 98-AWP-4, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 90261.

The official docket may be examined in the Office of the Regional Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Air Traffic Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725-6539.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98-AWP-4." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by modifying the Class E airspace area at Chico, CA. The establishment of a GPS RWY 13L and GPS RWY 31R SIAP at Chico Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is

needed to contain aircraft executing the new approach procedures at Chico Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS RWY 31R SIAP at Chicago Municipal Airport, Chico, CA. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this 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. Therefore, this proposed 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 proposed rule would 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; 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 the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Chico, CA [Revised]

Chico Municipal Airport, CA
(Lat. 39°47'44"N, long. 121°51'30"W)

Chico VOR/DME
(Lat. 39°47'23"N, long. 121°50'50"W)

Ranchaero Airport, CA
(Lat. 39°43'15"N, long. 121°52'04"W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Chico Municipal Airport and within 1.8 miles each side of the Chico VOR/DME 316° radial, extending from the 4.3-mile radius to 7 miles northwest of the Chico VOR/DME and that airspace 1.8 miles west and 3.5 miles east of the Chico VOR/DME 164° radial extending from the 4.3-mile radius to 6 miles south of the Chico VOR/DME and that airspace within 1.8 miles each side of the Chico VOR/DME 222° radial extending from the 4.3-mile radius to 6.6 miles southwest of the Chico VOR/DME, excluding the portion within a 1-mile radius of the Ranchoero Airport.

* * * * *

Issued in Los Angeles, California, on February 4, 1999.

Dawna J. Vicars,

*Assistant Manager, Air Traffic Division,
Western-Pacific Region.*

[FR Doc. 99-7629 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200, 202, 210, 228, 229, 230, 232, 239, 240 and 249

[Release Nos. 33-7659; 34-41207; IC-23751; File No. S7-30-98]

RIN 3235-AG83

The Regulation of Securities Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rule; Extension of Comment Period.

SUMMARY: The Securities and Exchange Commission is extending the comment period for its proposals to modernize and clarify the regulatory structure for offerings under the Securities Act of 1933. Those proposals are in Securities Act Release No. 7606A (11/13/98), 63 FR 67174 (12/4/98) (the "Proposing Release"). The original comment deadline established by the Proposing Release was April 5, 1999. The new deadline is June 30, 1999.

DATES: Public comments are due on or before June 30, 1999.

ADDRESSES: Please send three copies of your comments to Jonathan G. Katz,

Secretary, U.S. Securities and Exchange Commission, Mail Stop 0609, 450 Fifth Street, NW, Washington, DC 20549-0609. You can send comment letters electronically to the following e-mail address: rule-comments@sec.gov. The comment letter should refer to File Number S7-30-98. If you use e-mail, include this file number in the subject line. Anyone can inspect and copy comment letters in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. We will post comment letters submitted electronically on our Internet site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: Anita Klein at (202) 942-2980 or David Maltz at (202) 942-1921, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On November 13, 1998, the Commission issued the Proposing Release. It describes proposals to modernize and clarify the regulatory structure for offerings under the Securities Act of 1933 while maintaining investor protection. The proposals covered five major topics: Registration system reform; communications around the time of an offering; prospectus delivery requirements; integration of private and public offerings; and periodic reporting under the Securities Exchange Act of 1934. The deadline for submitting public comments established by the Proposing Release was April 5, 1999. The Commission has received requests to extend the deadline. We are therefore extending the comment period to June 30, 1999, so that commenters have adequate time to address the issues raised by the Proposing Release.

Dated: March 24, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99-7684 Filed 3-29-99; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2510

RIN 1210-AA48

Plans Established or Maintained Pursuant to Collective Bargaining Agreements Under Section 3(40)(A) of ERISA

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Negotiated rulemaking advisory committee meeting.

SUMMARY: The Department of Labor's (Department) ERISA Section 3(40) Negotiated Rulemaking Advisory Committee (Committee) was established under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act (the FACA) to develop a proposed rule implementing the Employee Retirement Income Security Act of 1974 (ERISA), as amended. The purpose of the proposed rule is to establish a process and criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA. The proposed rule will also provide guidance for determining when an employee benefit plan is established or maintained under or pursuant to such an agreement. Employee benefit plans that are established or maintained for the purpose of providing benefits to the employees of more than one employer are "multiple employer welfare arrangements" (MEWAs) under section 3(40) of ERISA, and therefore are subject to certain state laws, unless they meet one of the exceptions set forth in section 3(40)(A). At issue in this regulation is the exception for plans or arrangements that are established or maintained under one or more agreements which the Secretary finds to be collective bargaining agreements. It is the view of the Department that it is necessary to distinguish organizations that provide benefits through collectively bargained employee representation from organizations that are primarily in the business of marketing commercial insurance products.

DATES: The Committee will meet from 8:30 am to approximately 5:00 pm on each day on Tuesday, April 20 and Wednesday, April 21, 1999.

ADDRESSES: This Committee meeting will be held in Conference Room N-4437 C/D, at the offices of the U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210. All interested parties are invited to attend this public meeting. Seating is limited and will be available on a first-come, first-serve basis. Individuals with disabilities wishing to attend who need special accommodations should contact, at least 4 business days in advance of the meeting, Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N-4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219-4600; fax (202) 219-7346). The date, location and time for subsequent Committee meetings will

be announced in advance in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N-4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219-4600; fax (202) 219-7346). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Minutes of all public meetings and other documents made available to the Committee will be available for public inspection and copying in the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 4:30 p.m. Any written comments on these minutes should be directed to Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N-4611, 200 Constitution Avenue, NW, Washington, DC 20210 (telephone (202) 219-4600; fax (202) 219-7346). This is not a toll-free number.

Agenda

The Committee will continue to discuss the possible elements of a process and potential criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA (29 U.S.C. 1001 *et seq.*). Discussion of these issues is intended to help the Committee members define the scope of a possible proposed rule.

Members of the public may file a written statement pertaining to the subject of this meeting by submitting 15 copies on or before Tuesday, April 13, 1999, to Patricia Arzuaga, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N-4611, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives wishing to address the Committee should forward their request to Ms. Arzuaga or telephone (202) 219-4600. During each day of the negotiation session, time permitting, there shall be time for oral public comment. Members of the public are encouraged to keep oral statements brief, but extended written statements may be submitted for the record.

Organizations or individuals may also submit written statements for the record without presenting an oral statement. 15 copies of such statements should be sent to Ms. Arzuaga at the address above. Papers will be accepted and included in the record of the meeting if received on or before April 13, 1999.

Signed at Washington, DC, this 22nd day of March, 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99-7709 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56, 57, 77, and 120

RIN 1219-AA47

Hazard Communication

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document concerns the factual basis for our (MSHA's) certification that the proposed rule on hazard communication (hazcom proposal) for the mining industry would have no significant impact on small businesses; a preliminary determination that the hazcom proposal would not significantly or adversely impact the environment; the health of children; or State, local, and tribal governments; and an updated analysis of the information collection and paperwork burden under the Paperwork Reduction Act of 1995 (PRA 95). We are reopening the rulemaking record for the limited purpose of receiving comments on these items.

DATES: We must receive your comments by June 1, 1999.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send your comments to MSHA. Clearly identify comments as such and send them—

(1) By mail to Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703-235-5551; or

(3) By electronic mail to comments@msha.gov.

In addition, send your comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for MSHA, 725 17th Street NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, 703-235-1910.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 1987, the United Mine Workers of America (UMWA) and the United Steelworkers of America (USWA) jointly petitioned MSHA to adapt the Occupational Safety and Health Administration's (OSHA's) Hazard Communication Standard (HCS) to both coal and metal/nonmetal (M/NM) mines and to propose it for the mining industry. They based their petition on the need for miners to be better informed about the chemical hazards in their workplace.

In response to this petition, we published an advance notice of proposed rulemaking (ANPRM) on hazard communication for the mining industry on March 30, 1988 (53 FR 10256); published the hazcom proposal on November 2, 1990 (55 FR 46400); and held three public hearings in 1991. The record closed on January 31, 1992.

The hazcom proposal would require an operator to develop and implement a hazcom program which includes—

- (1) Evaluating the hazards of chemicals present at the mine and maintaining a list of those determined to be hazardous;

- (2) Labeling containers of hazardous chemicals;

- (3) Preparing or obtaining material safety data sheets (MSDS's) for each hazardous chemical;

- (4) Training miners; and

- (5) Providing access to the written materials.

An effective hazcom program increases both awareness and knowledge of the hazards of chemicals in the workplace. Awareness and knowledge of chemical hazards present in the workplace increase the likelihood that a miner will take appropriate precautions when working with or around chemicals. We believe that the use of these precautions will help reduce the incidence of chemically-related, occupational injuries and illnesses among miners.

Our hazcom proposal would integrate our existing labeling requirements into a new, comprehensive, hazcom program. We based the hazcom proposal on comments received in response to the ANPRM, as well as on our experience in the mining industry. We also considered relevant standards of other Federal agencies, including OSHA's experience with its HCS, and applicable legislation. MSHA's hazcom proposal is generally consistent with OSHA's HCS.

Although we are preparing the final rule, we first need to address several regulatory mandates, some of which were not in existence when we

published our hazcom proposal in 1990. These statutory mandates and Executive Orders require us to evaluate the impact of a regulatory action on small mines; State, local, and tribal governments; and the environment.

We recognize that the mining industry has changed since 1990 when we developed the Preliminary Regulatory Impact Analysis (PRIA) and published the hazcom proposal. Most of the changes, however, would decrease the total impact of the hazcom proposal on the mining industry. For example, the number of mines and miners has decreased while the number of independent contractors has increased. We believe that this change would decrease the impact of the hazcom proposal because fewer mines and miners generally mean fewer total compliance costs.

Additionally, independent contractors are more likely to have a hazcom program because they are more likely to work in operations under OSHA jurisdiction, as well as in mines under MSHA jurisdiction. Similarly, some mine operators already have a hazcom program as company policy, because the parent company also has operations in industries subject to OSHA's HCS, or the mine is located in a State with an individual State right-to-know law. We believe that these existing hazcom programs decrease the economic impact of MSHA's hazcom proposal on the mining industry.

Another change that affects the hazard communication environment is increased public awareness due to the length of time that the OSHA HCS has been in effect. There is an abundance of hazard communication information, supplies, training, and training aids

readily available to the public off-the-shelf or through the Internet.

II. Specific Issues

A. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA) requires a regulatory agency to evaluate each proposed rule and to consider alternatives so as to minimize the rule's impact on small entities (businesses and local governments). In the preamble to our hazcom proposal, we certified that the hazcom proposal would not have a significant economic impact on a substantial number of small mining operations. The preamble also included a full discussion of our preliminary conclusions about regulatory alternatives and invited the public to comment. The preamble and PRIA, however, did not use the Small Business Administration's (SBA's) definition of a small entity. Under the RFA, we must use SBA's definition of a small entity in determining a rule's economic impact unless, after consultation with SBA and an opportunity for public comment, we establish another definition and publish the definition in the **Federal Register**. For the mining industry, SBA defines "small" as a business with 500 or fewer employees. To ensure that we comply with the RFA requirements, this notice informs you of the hazcom proposal's impact on "small" mines, using the SBA definition of a small entity, and provides you with an opportunity to comment.

In 1996, Congress enacted the Small Business Regulatory Enforcement Fairness Act (SBREFA) amending the RFA. SBREFA requires a regulatory

agency to include in the preamble to a rule the factual basis for that agency's certification that the rule has no significant impact on a substantial number of small entities. The agency then must publish the factual basis in the **Federal Register**, followed by an opportunity for public comment. Although SBREFA did not exist when we published the hazcom proposal, we are now publishing the factual basis for our previous certification that the hazcom proposal poses "no significant impact," to give you an opportunity to comment on it.

Factual Basis for Certification of "No Significant Impact"

At the time we published the hazcom proposal, we defined a small mine to be one that employed fewer than 20 miners. To determine the costs for mines with 500 or fewer employees, we applied the same basic methodology that we had used in the PRIA to estimate the costs for mines with fewer than 20 employees. We used 1997 closeout data for numbers of mines and miners and current data for the cost of materials and labor.

Table I indicates the number of operations with 500 or fewer employees and the total number of employees at these operations. We substituted these figures for those that we had used in the original 1990 PRIA to estimate the impact on operations with fewer than 20 employees. We estimate that the annual cost of complying with the 1990 hazcom proposal for operations with 500 or fewer employees would be about \$5.54 million annually: \$1.20 million for coal operations and \$4.34 million for M/NM operations.

TABLE I.—ANNUAL COMPLIANCE COSTS BY MINE SIZE*

Mine size (employment)	No. of mines		No. of miners		Annual compliance cost	
	Coal	M/NM	Coal	M/NM	Coal	M/NM
Small (1-500)	6,558	14,306	112,864	178,303	\$1,197,241	\$4,344,381
Large (>500)	11	35	6,179	28,190	32,033	195,775
All Operations	6,569	14,341	119,043	206,493	1,229,274	4,540,156

*Includes independent contractors and their employees.

Whether these compliance costs impose a "significant" impact on small entities depends on their effect on the profits, market share, and financial viability of small mines. To address these issues, we had to determine whether compliance with the hazcom proposal would place small mines at a significant competitive disadvantage relative to large mines or impose a significant cost burden on small mines.

The first step in this determination is to establish whether compliance with the hazcom proposal would impose substantial capital or first-year, start-up costs on small mines. Because financing is typically more difficult or more expensive to obtain for small mines than for large mines, initial costs may impose a greater burden on small mines than on large mines. The hazcom proposal, however, does not require engineering

controls or other items requiring substantial initial capital expenditure that would place small mines at a competitive disadvantage relative to large mines.

The initial costs associated with the hazcom proposal are those necessary to develop and implement a hazard communication program. Based on our updated estimate of this cost on mines employing 500 or fewer employees, we

projected that the first-year, start-up costs would be about \$900 to \$1,200 per operation. Because this cost is less than one percent of the revenue for these mines, we believe that the hazcom proposal would not impose substantial capital or first-year, start-up costs on small mines.

The second step in this determination is to establish whether there are significant economies of scale in compliance that would place small mines at a competitive disadvantage relative to large mines. In the PRIA, we

investigated economies of scale by calculating whether compliance costs are proportional to mine employment. As shown in Table II, the annual compliance cost per miner would be about \$11 for small coal mines, \$5 for large coal mines, \$24 for small M/NM mines, and \$7 for large M/NM mines. These compliance costs would be about twice as great per miner for small coal mines than for large coal mines and over three times greater per miner for small M/NM mines than for large M/NM mines. Although we believe that this

difference may be significant, it is unlikely to provide strategic leverage because, as shown in Table II, both small coal mines and small M/NM mines generate over 95 percent of the revenues in their respective markets. Furthermore, as shown in Table II, total compliance costs would be about 18 times larger, on average, for a large coal mine than for a small coal mine and about 22 times larger, on average, for a large M/NM mine than for a small M/NM mine.

TABLE II.—COMPLIANCE COST PER MINER AND PER MINE*

Mine size (employment)	Average compliance cost per miner		Average compliance cost per mine		Total revenues (in millions)	
	Coal	M/NM	Coal	M/NM	Coal	M/NM
Small (1-500)	\$11	\$24	\$183	\$304	\$18,680	\$22,370
Large (>500)	5	7	2,912	5,594	1,980	2,630
All Operations	10	22	187	317	20,660	25,000

*Includes independent contractors and their employees.

The third step in this determination is to establish whether the compliance costs impose a significant burden on small mines in absolute terms. For this purpose, we examined compliance costs relative to revenues per small mine (or, equivalently, for all small mines). As

shown in Table III, compliance costs represent only about 0.006 percent of the value of coal mine production and only about 0.019 percent of the value of M/NM mine production. Because the cost of the rule as a percentage of revenue would be considerably less

than one percent, we believe that this result, in conjunction with the previous analysis, provides a reasonable basis for the certification of "no significant impact" in this case.

TABLE III.—COMPLIANCE COSTS COMPARED TO REVENUE*

Small mines (employing 1-500)	Average cost per mine	Revenue per mine (millions)	Total cost (millions)	Total revenue (millions)	Cost as % of revenue
Coal	\$183	\$2.848	\$1.197	\$18,680	0.006
M/NM	304	1.564	4.344	22,370	0.019

*Includes independent contractors and their employees.

B. Paperwork Reduction Act

When we published our hazcom proposal, the information collection and paperwork requirements were not an information collection burden under the 1980 Paperwork Reduction Act (PRA 80) because they were third-party disclosures. On August 29, 1995, the Office of Management and Budget (OMB) published a final rule in the **Federal Register** (60 FR 44978) implementing the new Paperwork Reduction Act of 1995 (PRA 95). These OMB rules expanded the definition of "information" to clarify that PRA 95 also covered Agency rules that required businesses or individuals to maintain information for the benefit of a third-party or the public, rather than the government. The requirements for information collection and dissemination in the hazcom proposal are now an information collection

burden because of the expanded definition of "information" under PRA 95.

The collection of information contained in the hazcom proposal is subject to review by OMB under PRA 95. We will submit the proposed paperwork package to OMB for its review and approval under section 3507(o) of PRA 95. We describe the respondents and information collection requirements below with an estimate of the annual information collection burden. This estimate includes the time to inventory chemicals, determine the hazards of chemicals present, prepare or obtain labels or MSDS's as necessary, prepare training materials and train miners, and provide copies of written materials.

We further invite comment on—

(1) Whether this collection of information is necessary to protect miners;

(2) The accuracy of our estimate of the burden, including the validity of our methodology and assumptions;

(3) Ways to enhance the quality, usefulness, and clarity of the information; and

(4) Ways to minimize the burden on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

Description of requirements: The hazcom proposal is primarily an information collection and dissemination rule. The information collection and paperwork burden encompasses each section of this proposed part. These requirements are summarized in Table IV below.

TABLE IV.—DESCRIPTION OF INFORMATION COLLECTION PROVISIONS

Provision	Information collection burden
Written Hazard Communication Program	Preparation, administration, and annual review determine hazardous chemicals distribute written program when requested.
Training Program	Develop or obtain training courses and materials conduct initial training for miners administer re: training miners about changing hazards.
Material Safety Data Sheets	Develop for hazardous chemicals produced maintain availability and accuracy distribute to miners and reps, employers, and customers.
Labeling Containers	Prepare for chemicals produced maintain legibility and accuracy provide information to customers.
Trade Secrets	Provide confidential information when needed.

Description of respondents: The respondents are operators, including independent contractors. We estimate that this provision affects those operators who do not already have a hazcom program at their mines. For the purpose of the hazcom proposal, we estimated that 5 percent of small mines and 10 percent of large mines voluntarily have implemented all of the requirements in MSHA's hazcom proposal. In addition, some mines have implemented all or part of the requirements contained in the hazcom proposal to comply with State hazard communication or right-to-know laws.

The percentage of mines complying with these State laws varies depending on the type of mine and the specific provision. For example, some mines

may keep MSDS's and label containers, but do not have a written program or conduct hazcom training for miners. Also, we assumed that all independent contractors conduct some work at locations under OSHA jurisdiction and would have an existing hazcom program. The contractor's hazcom program, however, may need modification for a particular mine. The magnitude of the burden for any individual mine operator or independent contractor, therefore, will vary greatly by the size, type, and location of the operation.

Information Collection Burden: The burden of the hazcom proposal is greater initially, when developing and implementing the program. Subsequent years, the burden is primarily for

maintaining and administering the program. Because this hazcom proposal would not require any capital expenditures, we did not annualize these initial costs. The total estimated first-year, start-up information collection burden for the hazcom proposal is about 789,500 hours (\$20.3 million labor cost) plus an associated cost of about \$3,757,000. The total estimated annually recurring information collection burden for the second year and each year thereafter is about 230,700 hours (\$5.2 million labor cost) plus an associated annual cost of about \$578,000. Table V and Table VI summarize MSHA's estimate, by provision, of the information collection burden on the mining industry for the first year and annually thereafter.

TABLE V.—FIRST-YEAR INFORMATION COLLECTION BURDEN*

Provision	Number of respondents	Number of responses	Number of responses per respondent	Hours per response	Total hours	Associated costs**
Written Program	17,042	24,365	1.4	3.76	91,595	\$397,748
Training	20,910	57,775	2.8	4.54	262,229	2,718,403
Hazard Determination and MSDS's	20,910	1,441,459	69	0.23	334,216	578,095
Labels	20,910	596,042	29	0.17	100,919	63,093
Trade Secrets	147	147	1.0	4.00	586	0
Total	20,910	2,119,787	101	0.37	789,544	3,757,339

* Discrepancies due to rounding.

** The cost associated with the information collection is for material, supplies, and copying expenses; it does not include the labor cost for the burden hours.

TABLE VI.—ANNUAL INFORMATION COLLECTION BURDEN*

Provision	Number of respondents	Number of responses	Number of responses per respondent	Hours per response	Total hours	Associated costs**
Written Program	4,364	4,364	1.0	3.79	16,544	\$38,573
Training	4,440	11,113	2.5	4.61	51,282	7,502
Hazard Determination and MSDS's	20,910	952,722	46	0.13	125,517	339,631
Labels	2,267	60,693	27	0.61	36,768	192,257
Trade Secrets	147	147	1.0	4.00	586	0
Total	20,910	1,029,038	49	0.22	230,697	577,963

* Discrepancies due to rounding.

** The cost associated with the information collection is for material, supplies, and copying expenses; it does not include the labor cost for the burden hours.

C. Environmental Assessment

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of certain proposed actions. It requires further that these agencies prepare an Environmental Impact Statement for major actions significantly affecting the quality of the human environment. We have reviewed the hazcom proposal in accordance with the requirements of NEPA, the regulations of the Council on Environmental Quality (40 CFR part 1500), and the Department of Labor's NEPA regulations (29 CFR part 11). As a result of this review, we determined that this hazcom proposal would have no significant environmental impact.

D. Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the hazcom proposal for any potential environmental health and safety effects on children and have determined that it would have no adverse effects on children.

E. Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13084, we certify that the hazcom proposal would not impose substantial direct compliance costs on Indian tribal governments. We provided the public, including Indian tribal governments which operate mines, the opportunity to comment on the hazcom proposal and to participate in the public hearings.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires Federal agencies to consider the impact of proposed actions on State, local, and tribal governments. The hazcom proposal would impact about 200 sand and gravel or crushed stone operations that are run by State, local, or tribal governments. We have determined that the hazcom proposal does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments of more than \$100 million in the aggregate, or increased expenditures by the private sector of more than \$100 million. Moreover, we have determined that the hazcom proposal does not significantly or uniquely affect small governments.

III. Request for Comments

Since we published our hazcom proposal in 1990, Congress has passed

several legislative mandates and the President has issued several Executive Orders affecting the promulgation of regulations. In addition, we did not address a mandate that existed in 1990. With this in mind, we are reopening the rulemaking record for a limited time to provide the public an opportunity to comment on the hazcom proposal's economic and environmental impact and paperwork burden. Allowing time for additional public comments will not delay the promulgation of the final rule.

I encourage all interested parties to take advantage of this opportunity to provide information and express your concerns on the specific issues discussed here. If not responding by electronic mail, we would appreciate receiving your comments on a computer disk along with the original hard copy. Contact us with any questions about format.

You can obtain a copy of our hazcom proposal or PRIA by contacting us at the address or telephone number provided at the beginning of this notice.

Dated: March 23, 1999.

Marvin W. Nichols, Jr.,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99-7683 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-43-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211-0127b; FRL-6313-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of oxides of nitrogen (NO_x) emissions from natural gas-fired residential water heaters within the El Dorado County Air Pollution Control District.

The intended effect of proposing approval of this rule is to regulate NO_x emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules Section of this **Federal Register**, the EPA is approving the

state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 29, 1999.

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

Copies of the rule and EPA's evaluation report of the 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

El Dorado County Environmental
Management Department, Air
Pollution Control District, 2850
Fairlane Court, Placerville, CA 95667

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 Telephone: (415) 744-1160.

SUPPLEMENTARY INFORMATION: This document concerns El Dorado County Air Pollution Control District's Rule 239, Natural Gas-fired Residential Water Heaters, submitted by the California Air Resources Board to EPA on June 23, 1998. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 11, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99-7669 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-P

Notices

Federal Register

Vol. 64, No. 60

Tuesday, March 30, 1999

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 DEFENSE

Office of the Secretary

[Transmittal No. 99-08]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the

requirements of section 155 of Pub. L. 104-164 Dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99-08, with attached transmittal and policy justification.

Dated: March 24, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

BILLING CODE 6001-01-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

15 MAR 1999
In reply refer to:
I-99/02369

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-08 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Bahrain for defense articles and services estimated to cost \$110 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

A handwritten signature in black ink, appearing to read "MS Davison".

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Separate Cover:
Classified Annex

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-08**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

- (i) **Prospective Purchaser:** Bahrain
- (ii) **Total Estimated Value:**
- | | |
|--------------------------|-----------------------|
| Major Defense Equipment* | \$ 17 million |
| Other | <u>\$ 93 million</u> |
| TOTAL | \$ 110 million |
- (iii) **Description of Articles or Services Offered:**
Twenty-six AIM-120B Advanced Medium Range Air-to-Air Missiles (AMRAAM), 50 launcher rails, Interrogator Friend or Foe, missile containers, integration of software, spare and repair parts, support and test equipment, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support.
- (iv) **Military Department:** Air Force (YBI)
- (v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None
- (vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex under separate cover
- (vii) **Date Report Delivered to Congress:** 15 MAR 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Bahrain - AIM-120B Advanced Medium Range Air-to-Air Missiles**

The Government of Bahrain has requested a possible sale of 26 AIM-120B Advanced Medium Range Air-to-Air Missiles (AMRAAM), 50 launcher rails, Interrogator Friend or Foe, missile containers, integration of software, spare and repair parts, support and test equipment, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support. The estimated cost is \$110 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Bahrain will use these missiles to enhance the air-to-air self defense capability of its F-16 aircraft and to increase interoperability with U.S. forces. Bahrain will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Systems Company, Tucson, Arizona. There are no offset agreements proposed to be entered into in connection with this potential sale.

It is estimated that during implementation of this proposed sale a number of U.S. Government personnel and contractor representatives will be assigned to Bahrain or travel there intermittently.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 99-7739 Filed 3-29-99; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests****AGENCY:** Department of Education.**ACTION:** Notice of proposed information collection requests.**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.**DATES:** An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 25, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 1, 1999.**ADDRESSES:** Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Comments regarding the regular clearance and requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202-4651, or should be electronically mailed to the internet address Pat_Sherrill@ed.gov, or should be faxed to 202-708-9346.**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the

requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 24, 1999.

William E. Burrow,*Acting Leader, Information Management Group, Office of the Chief Information Officer.***Office of Elementary and Secondary Education***Type of Review:* New.*Title:* School Violence Prevention and Early Childhood Development Activities Under the Safe Schools/Healthy Students Initiative.*Abstract:* Safe Schools/Healthy Students Initiative is to assist schools and communities to enhance and implement comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development. Eligible activities may include, but are not limited to, programs such as mentoring, conflict resolution, after school activities, multi-systemic therapy, functional family therapy, social skill

building, school-based probation, student assistance, teen courts, truancy prevention, alternative education, developing information sharing systems, staff/professional development, hiring additional resource officers, etc.

Additional Information: This program is a collaborative effort between the Department of Justice, the Department of Health and Human Services and the Department of Education.*Frequency:* Annually.*Affected Public:* State, local or Tribal Gov't, SEAs or LEAs.*Reporting and Recordkeeping Hour Burden:*

Responses: 425.

Burden Hours: 11,900.

[FR Doc. 99-7700 Filed 3-29-99; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests****AGENCY:** Department of Education.**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.**DATES:** Interested persons are invited to submit comments on or before June 1, 1999.**ADDRESSES:** Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202-4651, or should be electronically mailed to the internet address Pat_Sherrill@ed.gov, or should be faxed to 202-708-9346.**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process

would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 24, 1999.

William E. Burrow,
Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New

Title: Early Childhood Longitudinal Study—Birth Cohort 2000, Field Test and Full Scale Data Collection

Frequency: On occasion

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 2,280

Burden Hours: 3,082

Abstract: The Early Childhood Longitudinal Study—Birth Cohort 2000 (ECLS-B) is a component of the Early Childhood Longitudinal Studies program. Studies also include the Kindergarten Class of 1998–1999, currently underway. The ECLS program responds to increased policy interest in

a critical period in the development of children, the years from zero to three. The principal purposes of the study are to assess children's health status and their growth and development in a variety of key domains that are critical for later school readiness and academic achievement. The key domains include physical health and growth, motor development, and social and emotional maturation.

The data set will provide a comprehensive and reliable longitudinal data set describing the growth of children, from birth through first grade. The data can also be used by a wide range of federal agencies on topics such as maternal and child health; childhood illnesses and disabilities; nonparental child care and early childhood education; health intervention; family economics and composition; welfare dependency; cultural diversity; and food and nutrition.

[FR Doc. 99-7701 Filed 3-29-99; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-406-022]

CNG Transmission Corporation; Notice of Report of Refund

March 24, 1999.

Take notice that on March 16, 1999, CNG Transmission Corporation (CNG), tendered for filing its report of refunds attributable to the resolution of the captioned proceedings. CNG states that the reported refunds reflect CNG's implementation of the rates contained in the Commission-approved Stipulation and Agreement filed on August 31, 1998 (the August 31 Stipulation).

CNG states that the purpose of this filing is to report refunds and associated interest that CNG ultimately resolved with its customers effective February 18, 1999. CNG further states that these refunds were made as a result of CNG's implementation of the settlement rates approved by Commission order dated November 24, 1998, in Docket Nos. RP97-406-000, et al. 85 FERC 61,261 (1998). As detailed in Attachment A to CNG's transmittal letter, CNG's total refund obligation consisted of a principal amount of \$56,664,462.40, plus interest of \$2,626,178.82 through February 18, 1999, for a total refund obligation of \$59,290,641.22.

CNG states that copies of this letter of transmittal and summary workpapers

are being mailed to affected customers and interested state commissions.

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 must be filed on or before March 31, 1999. 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-7698 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94-2-007]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 24, 1999.

Take notice that on February 23, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission its Refund Report made to comply with the April 17, 1995 Settlement in Docket No. GP94-02, et al. as approved by the Commission on June 15, 1995.

Columbia states that on February 20, 1999 it made refunds, as billing credits, in the amount of \$251,162.75. The refunds represent a deferred tax refund received from Trailblazer Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement with FERC Interest.

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 must be filed on or before March 31, 1999. 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 proceedings. Copies of this filing are

on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-7696 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94-2-008]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 24, 1999.

Take notice that on February 23, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Federal Energy Regulatory Commission its Refund Report made to comply with the April 17, 1995 Settlement in Docket No. GP94-02, *et al.* as approved by the Commission on June 15, 1995.

Columbia states that on January 20, 1999 it made refunds, as billing credits, in the amount of \$58,460.04. The refunds represent a deferred tax refund received from Overthrust Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G. Schedule 5 of the Settlement with FERC Interest.

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 must be filed on or before March 31, 1999. Protests will be considered by the Commission is determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 99-7697 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-267-000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

March 24, 1999.

Take notice that on March 22, 1999, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP99-267-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to certificate and to continue the operation of an existing delivery point, installed under Section 311(a) of the Natural Gas Policy Act, under El Paso's blanket certificate issued in Docket No. CP82-435-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

El Paso states that the Desert Hills Delivery Point was installed under Section 311(a) and has exclusively used this delivery point for the transportation and delivery of natural gas under Part 284, Subpart B on behalf of Southwest Gas Corporation. El Paso states that the regulatory restriction placed on the operation of a facility installed under Section 311(a) of the NGPA prohibits El Paso shippers from utilizing this delivery point under any transportation arrangement other than a Subpart B transportation arrangement. In view of this limited service flexibility, El Paso believes that certification of the Desert Hills Delivery Point, located in Maricopa County, Arizona, pursuant to Section 157.212 of the Commission's Regulations, is necessary and in the public interest. El Paso states that continued operation of the facility is not prohibited by El Paso's existing Volume No. 1-A FERC Gas Tariff. El Paso states that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the

Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,
Secretary.

[FR Doc. 99-7695 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99-1525-000 and ER99-1992-000]

Mid-Continent Area Power Pool; Notice of Filing

March 23, 1999.

Take notice that on March 18, 1999, Mid-Continent Area Power Pool (MAPP), tendered for filing a letter informing the Commission of that on March 3, 1999, MAPP's Regional Transmission Committee passed a motion relevant to filings made in the above-referenced dockets.

Any person desiring to be heard or to protest such 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 385.214). All such motions and protests should be filed on or before April 2, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 99-7693 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. CP99-263-000]

**Midcoast Interstate Transmission, Inc.;
Notice of Request for Authorization
Under Blanket Certificate**

March 24, 1999.

Take notice that on March 19, 1999, Midcoast Interstate Transmission, Inc. (Midcoast), 3230 Second Street, Muscle Shoals, Alabama 355661, filed in FERC Docket No. CP99-263-000 a request pursuant to Sections 157.205 and 157.211, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install and operate a new delivery point under Midcoast's blanket certificate issued in Docket No. CP85-359-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208-2222 for assistance.

Midcoast proposes to install and operate the facilities to accommodate natural gas deliveries to Alventia LLC (Alventia), a Delaware Limited Liability Corporation, at a plant being constructed in Morgan County, Alabama. Transportation service for Alventia will be provided pursuant to Rate Schedule FT of Midcoast's FERC Gas Tariff, Second Revised Volume No. 1. Midcoast states that Alventia acquired FT capacity on its system by a pre-arranged capacity release. Midcoast also states that its existing tariff does not prohibit the additional service.

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 in the time allowed, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,*Secretary.*

[FR Doc. 99-7694 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. RP99-69-002]

**National Fuel Gas Supply Corporation;
Notice of Compliance Filing**

March 24, 1999.

Take notice that on February 18, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed effective date of November 1, 1998.

National Fuel states that this filing is being made in compliance with the Commission's Order issued on February 11, 1999, in the above-referenced docket [86 FERC ¶ 61,143 (1999)], which directed National Fuel to remove the rate component adjustment proposal from its *pro forma* service agreements. National Fuel further indicates that a recurring typographical error was also corrected.

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 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,*Secretary.*

[FR Doc. 99-7699 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. CP99-265-000]

**Northern Natural Gas Company; Notice
of Request Under Blanket
Authorization**

March 24, 1999.

Take notice that on March 19, 1999, Northern Natural Gas Company (Northern), 11 South 103rd Street, Omaha, Nebraska, 68103-0330, filed a prior notice request with the Commission in Docket No. CP99-265-000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon 13 small volume measuring stations located in Iowa, Kansas, Minnesota, and Nebraska, under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Northern proposes to abandon 13 small volume measuring stations based on requests from 13 end-users for the removal of the measuring stations from their property. Northern states that the measuring stations are located in Carrol County, Iowa; Ottawa County, Kansas; Freeborn, Le Sueur, Pine, Scott, and Sherburn Counties, Minnesota; and Gage, Jefferson, and Johnson Counties, Nebraska. Northern further states that it would spend \$2,000 to remove these 13 farm taps from its customers' property.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-7747 Filed 3-29-99; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ERL-6317-1]

Proposed Settlement Agreement, Clean Air Act Citizen Suit**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, (the "Act"), this is a notice of a proposed consent decree, which the United States Environmental Protection Agency ("EPA") lodged with the United States District Court for the District of Columbia on March 12, 1999, in a lawsuit filed by the Sierra Club under section 304(a) of the Act, 42 U.S.C. 7604(a) (*Sierra Club v. Browner*, Civ. No. 98-1610). This lawsuit concerns EPA's alleged failure to promulgate regulations for fifty percent of the categories and subcategories of sources of hazardous air pollutants listed pursuant to section 112(c) of the Act, 42 U.S.C. 7412(c). The lawsuit also concerns EPA's alleged failure to promulgate regulations by November 15, 1997, for specific categories and subcategories of sources of hazardous air pollutants that EPA designated for regulation by that date under section 112(e)(3) of the Act, 42 U.S.C. 7412(e)(3). The proposed consent decree provides that EPA shall promulgate regulations under section 112(d) for specified categories and subcategories by specified deadlines.

For a period of thirty (30) days following the date of publication of this notice, you may submit written comments relating to the proposed consent decree if you were not named as a party to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will establish deadlines for issuing certain regulations under section 112(d) of the Act.

EPA lodged a copy of the proposed consent decree with the Clerk of the United States District Court for the District of Columbia on March 12, 1999. You may also obtain a copy from Phyllis Cochran, Air and Radiation Division

(2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-7606. Send written comments to Diane McConkey at the address above. Comments must arrive no later than April 29, 1999.

Lisa K. Friedman,*Acting General Counsel.*

[FR Doc. 99-7774 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-M**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6316-9]

Clean Air Act Advisory Committee; Mobile Sources Technical Review Subcommittee; Notification of Public Advisory Subcommittee; Open Meeting**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet on: Wednesday, April 14, 1999 from 9:30 a.m. to 3:00 p.m. Eastern Standard Time (registration at 8:30 a.m.) at: Holiday Inn—Eisenhower, 2460 Eisenhower Avenue, Alexandria, VA 22314-4695, Ph: (703) 960-3400; Fax: (703) 329-0953.

This is an open meeting and seating is on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups, updates and announcements of general interest such as the status of the Tier 2 rulemaking, the Clean Air Act Advisory Committee, the National Research Council's study of the MOBILE model, and discuss other current issues in the mobile source program, including a presentation on environmental justice.

Members of the public requesting further technical information should contact:

Mr. Philip A. Lorang, Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214-4374, Fax: 734/214-4821, email: lorang.phil@epa.gov
or

Mr. John T. White, Alternate Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214-4353, Fax: 734/214-4821, email: white.johnt@epa.gov

Background information can also be obtained by visiting the subcommittee's website at:

<http://transaq.ce.gatech.edu/epatac>

Subcommittee members and interested parties requesting administrative information should contact: Ms. Jennifer Criss, FACA Management Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, FACA Help Line: 734/214-4518, Ph: 734/214-4029, Fax: 734/214-4821, email: criss.jennifer@epa.gov

Written comments of any length (with at least 20 copies provided) should be sent to the subcommittee no later than January 6, 1999.

The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Margo T. Oge,*Director, Office of Mobile Sources.*

[FR Doc. 99-7775 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-M**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6316-8]

Notice of Public Meeting on Drinking Water Issues

Notice is hereby given that the U.S. Environmental Protection Agency (EPA) is holding a meeting on April 28-29, 1999, at Resolve, 1255 23rd St., NW, Suite 275, Washington, DC 20037, for the purpose of exchanging technical information on issues related to the use of ultraviolet (UV) radiation for disinfection of drinking water. The meeting will start at 8:30 a.m. on Wednesday, April 28 and will adjourn on Thursday, April 29 at 4:00 p.m. The meeting will provide an evaluation of the current status of knowledge and prioritize additional research needs related to selected aspects of UV disinfection of drinking water. The public is invited to attend the meeting as observers. Seating is very limited so advance registration is required.

For additional information about the meeting and to register, please contact Dan Schmelling of EPA's Office of Ground Water and Drinking Water at (202) 260-1439 or by e-mail at schmelling.dan@epamail.epa.gov.

Dated: March 23, 1999.

Cynthia C. Dougherty,*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 99-7776 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6317-4]

Effluent Guidelines Plan Update and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announces several recent developments in the effluent guidelines program. The Agency is developing a proposed rule for the Construction and Development industry and announces a public meeting to discuss the project. EPA also initiated a preliminary study of the Aquaculture industry. Finally, EPA announces a revised deadline for the Iron and Steel Manufacturing rule.

DATES: The public meeting for the Construction and Development rulemaking will be held on April 20, 1999, from 9:00 a.m. to 12:00 noon.

ADDRESSES: The meeting will take place at the Voice of America Auditorium, Wilbur J. Cohen Federal Building, 300 block of C Street, SW (between 3rd and 4th Streets), Washington, DC. See **SUPPLEMENTARY INFORMATION** for details on parking and transit. Written inquiries may be sent to: Engineering and Analysis Division (4303), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For the Construction and Development rulemaking, contact Eric Strassler, telephone 202-260-7150, E-mail: strassler.eric@epa.gov. For the Aquaculture preliminary study, contact Michael Clipper, telephone 202-260-1278, E-mail: clipper.mike@epa.gov. For the Iron and Steel rulemaking, contact George Jett, telephone 202-260-7151, E-mail: jett.george@epa.gov. Fact sheets on these projects are available on EPA's website at <http://www.epa.gov/OST/guide>.

SUPPLEMENTARY INFORMATION: EPA published its 1998 Effluent Guidelines Plan on September 4, 1998 (63 FR 47285). The Plan described the Effluent Guidelines Program and listed regulations that the Agency was developing or intended to develop. As mentioned in the Plan, several of these regulation projects are required by a Consent Decree in *Natural Resources Defense Council et al v. Browner (D.D.C. 89-2980, January 31, 1992, as modified)*. Table 1 in the Plan listed deadlines for the rules, with a footnote explaining that EPA was discussing extensions to some deadlines with the plaintiffs. See 63 FR 47286.

By court order dated November 18, 1998, the deadlines set forth in the Consent Decree for the Iron and Steel rule have been extended, to the dates noted below. The Agency has begun work on a new rulemaking project for the Construction and Development industry. The affected projects are listed in the following table.

MODIFICATIONS TO EFFLUENT GUIDELINES DEADLINES

Category	Proposal	Final action
Iron and Steel Manufacturing	10/00	4/02
Construction and Development	*12/00	*2/02

*EPA intends to pursue extensions to these deadlines.

Construction and Development Rule

EPA's new rulemaking project for the Construction and Development industry follows the Agency's publication of a *Preliminary Data Summary on Urban Storm Water Best Management Practices*. (Publication number pending. The report will be available on the EPA website at <http://www.epa.gov/OST/stormwater>). The regulations would apply to storm water discharges associated with construction activities, specifically for new development, as well as to those associated with re-development activities. The regulations would address storm water runoff from construction sites during the active phase of construction, as well as design considerations to minimize the adverse effects of post-construction runoff. Entities potentially affected by this rulemaking would include land developers, home builders, builders of commercial and industrial property, and other private and public sector construction site owners and operators.

EPA chose to begin development of effluent guidelines for the construction and development industry to support applicable state and local requirements for erosion and sediment controls and storm water best management practices (BMPs). State and local requirements vary widely, as does the performance of BMPs used. Sediment loadings from construction site discharges can be orders of magnitude higher than those associated with discharges from undisturbed areas. In addition, construction site runoff can contribute high loadings of nutrients and metals to receiving streams. Besides contributing pollutants, the increased runoff volumes and flow rates following development can cause significant degradation of receiving stream quality. Adverse impacts include: stream bed scouring

and habitat degradation; shoreline erosion and stream bank widening; loss of fish populations and loss of sensitive aquatic species; increased frequency of downstream flooding; and aesthetic degradation.

EPA intends to evaluate the inclusion of design and maintenance criteria as minimum requirements for a variety of BMPs which are used at construction sites to prevent or mitigate the impacts of storm water discharges on surface water quality. Current requirements for construction site BMPs vary around the United States, ranging from local erosion and sediment control programs with detailed site plan requirements and BMP specifications, to communities with few or no requirements.

EPA also intends to develop effectiveness and applicability criteria for BMPs that are used to manage post-construction discharges. By incorporating more water-quality sensitive site design aspects during the planning phase of projects, the adverse impacts of post-construction discharges can be minimized substantially.

BMPs used during construction and development activities include temporary control measures, permanent control measures and low-impact land-use practices. Temporary control measures include sediment trapping devices (such as silt fences, vegetated filter strips and sediment basins) and erosion control devices (such as mulching, temporary re-vegetation, and application of erosion control mats and blankets). These measures are used primarily to prevent loss of soil during the active phase of construction. Permanent measures remain in place to manage runoff after completion of construction activities, and may include structural BMPs, such as extended detention wet ponds, constructed wetland systems, and sand filters. Low-impact development practices can be incorporated into a site design during the planning phase of the project, and may include restrictions on the amounts of impervious surfaces created, preservation of stream buffers and sensitive areas (such as natural wetlands and riparian corridors), restrictions on the disturbance of soil and vegetation, and maintenance of the natural infiltrative capacity of an area.

EPA intends to consider the merits and performance of all appropriate management measures that can be used to reduce the adverse impacts of storm water discharges from construction and development activities. The Agency does not envision requirements for use of particular BMPs at specific sites, but plans to assist builders in BMP selection by publishing data on the performance

to be expected of various BMP types. EPA hopes to build on the successes of some of the effective state and local programs currently in place around the country, and to establish nation-wide criteria to encourage improved BMP selection, design, implementation and maintenance. The effluent guidelines would also enhance the "menu" of municipal BMPs (associated with the proposed construction, as well as development and redevelopment "minimum measures") scheduled for release by the Agency under the NPDES "Phase II" storm water rule in 2000.

Aquaculture Preliminary Study

EPA conducts preliminary studies to evaluate existing information on wastewater discharges from industrial categories. The Agency has begun a study of Aquaculture, also known as fish farming, in response to comments received during the preparation of the 1998 Effluent Guidelines Plan.

EPA will summarize available information on aquaculture wastewater characterization; waste collection, storage, and treatment systems; and management practices. The Agency will include information on industry demographics, trends and economics. EPA will also examine environmental impacts that are associated with wastewater from aquaculture operations and existing case studies of the costs and benefits of controls to mitigate these impacts. This information may be used to inform future decisions on the need to regulate wastewater discharges from this industry.

Stakeholder Involvement in Effluent Guidelines Projects

EPA relies extensively on the participation of stakeholders as it develops effluent guidelines. The Agency will be identifying its information needs for the Construction and Development rule and the Aquaculture study, and will initiate a data sharing process that will actively involve interested participants from industry, citizen groups, state and local governments, other Federal agencies and researchers.

EPA will conduct a public meeting on the Construction and Development rulemaking project on April 20, 1999, from 9:00 a.m. to 12:00 noon, at the Voice of America Auditorium, Wilbur J. Cohen Federal Building, 300 block of C Street, SW (between 3rd and 4th Streets), Washington, DC. The closest Metro subway station is Federal Center, SW (2 blocks from the Auditorium). Limited public parking is available. Public garages are located at 301 4th St., SW; Virginia Ave. between 3rd and 4th

St., SW; and 6th St. at C St., S.W. Agency staff will provide background on the effluent guidelines development process and identify data needs. EPA will answer questions and all stakeholders can participate in an informal discussion as time allows. This meeting is not a public hearing and the Agency will not be accepting formal testimony.

EPA welcomes suggestions on the development of effluent guidelines and preliminary studies. Internet web pages will be provided to explain the projects and distribute technical documents for review and comment. These web pages will be available through the Effluent Guidelines home page at <http://www.epa.gov/OST/guide>.

Dated: March 23, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99-7772 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6317-2]

The National Advisory Council for Environmental Policy and Technology, (NACEPT) New Standing Committee on Sectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory for the NACEPT Standing Committee on Sectors Meeting; Open Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Standing Committee on Sectors will meet on the date and time described below. The meeting is open to the public. Seating at the meeting will be a first-come basis and limited time will be provided for public comment. For further information concerning this meeting, please contact the individual listed with the announcement below.

NACEPT Standing Committee on Sectors: April 15—April 16, 1999

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the NACEPT Standing Committee on Sectors on Thursday, April 15, 1999 from 9:00 a.m. EST to 5:30 p.m. EST on Friday, April 16, 1999 from 8:30 a.m. to 4:00 p.m. EST. The agenda for the meeting includes an orientation to NACEPT, review of the accomplishments of the Common Sense Initiative, discussion of the Committee's Charge, and discussion

of the Sector Based Environmental Protection Action Plan for fiscal year 1999 and 2000. A formal Agenda will be available at the meeting.

The meeting will be held at the Hotel Washington located at 515-15th Street, NW, Washington, DC 20004

(Pennsylvania Avenue and 15th Street). The telephone number is 202-638-5900.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Pub. L. 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing.

In follow-up to completion of work by EPA's Common Sense Initiative (CSI) Council, the Administrator has asked NACEPT to create a new Standing Committee on Sectors. This will provide a continuing Federal Advisory Committee forum from which the Agency can continue to receive valuable multi-stakeholder advice and recommendations on sector approaches.

Based on the lessons learned in CSI and many other sector based programs, the Agency has developed a Sector Based Environmental Protection Action Plan to reinforce and expand sector based approaches to achieving environmental results. The Standing Committee on Sectors will, through NACEPT (the Council): (1) Continue to support the on-going CSI work, (2) support the implementation of the Action Plan, as noted above, and (3) serve as a vehicle to get stakeholder reaction and input on sector based issues in a timely way.

For further information concerning this NACEPT Standing Committee on Sectors meeting, contact Kathleen Bailey, Designated Federal Officer, on (202) 260-7417, or E-mail: bailey.kathleen@epa.gov.

Inspection of Subcommittee Documents

Documents relating to the above topics will be publicly available at the meeting. NACEPT Standing Committee on Sectors Subcommittee information can also be accessed electronically on our web site at <http://www.epa.gov/sectors>.

Kathleen Bailey,

Designated Federal Officer.

[FR Doc. 99-7773 Filed 3-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6317-3]

Science Advisory Board; Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that two Subcommittees of the Advisory Council on Clean Air Compliance Analysis of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time and all meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating EPA Office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB Office. Details on availability are noted below.

Background

The Air Quality Models Subcommittee (AQMS) and the Health and Ecological Effects Subcommittee (HEES) (both part of the Science Advisory Board's (SAB) Advisory Council on Clean Air Compliance Analysis), will each hold public meetings on the dates and times described below. For further information concerning the specific meetings described in this section, please contact the individuals listed below. These public meetings are a follow-up to earlier Council, AQMS and HEES public meetings held on January 22 & 23, 1998 (AQMS), January 29 & 30, 1998 (HEES) and February 5 & 6, 1998 (Council) (See 62 FR 67363, Wednesday, December 24, 1997) pertaining to the ongoing review of the 1990 Clean Air Act Amendments (CAAA) Section 812 Prospective Study of Costs and Benefits. (See also earlier meetings pertaining to the Prospective Study as announced in 62 FR 10045, Wednesday, March 5, 1997; 62 FR 19320, April 21, 1997; and 62 FR 32605, June 16, 1997).

Consistent with the apparent Congressional intent behind Section 812 of the 1990 CAAA, and with the Environmental Protection Agency's (EPA's) judgments regarding the potential utility of a comprehensive economic assessment of the Clean Air Act, the four fundamental goals of the first Prospective Study to be submitted to Congress are stated succinctly as follows:

(a) To facilitate greater understanding of the value of America's overall investment in clean air, particularly the

value of the additional requirements established by the 1990-CAAA (CAAA-90);

(b) To facilitate greater understanding of where future investments in air pollution control might yield the greatest reduction in adverse human health and/or environmental effects for the resources expended;

(c) To help evaluate the significance of potential new and emerging information pertaining to the benefits and costs of air pollution control;

(d) To help identify areas of economic and scientific research where additional effort might improve the comprehensiveness of and/or decrease the uncertainty associated with future estimates of the benefits and costs of air pollution control.

Pursuant to the above four goals, the Agency has embarked on and engaged the Council and its subcommittees in review of the Prospective Study activities. These activities involve a number of component studies, such as analytical design, scenario development, emissions profiles, air quality modeling, physical effects modeling, direct cost estimation, sector studies, air toxics analysis, economic valuation, comparison of benefits and costs, and report generation. Working drafts of relevant portions of these components, along with focused charges have been presented to the Council and its two subcommittees, the Air Quality Models Subcommittee (AQMS) and the Health and Ecological Effects Subcommittee (HEES). For the most recent reviews, the Council, AQMS and HEES prepared the following Advisories: (a) Prospective Study I: Advisory by the Air Quality Models Subcommittee on the Air Quality Models and Emissions Estimates Initial Studies, EPA-SAB-COUNCIL-ADV-98-02, September 9, 1998; (b) Advisory on the CAAA of 1990 Section 812 Prospective Study: Overview of Air Quality and Emissions Estimates Modeling, Health and Ecological Valuation Issues Initial Studies, EPA-SAB-COUNCIL-ADV-98-003, September 9, 1998; and (c) An SAB Advisory on the Health and Ecological Effects Initial Studies of the Section 812 Prospective Study: Report to Congress, EPA-SAB-COUNCIL-ADV-99-005, February 10, 1999. (See below for how to obtain copies of these reports from the SAB).

Upcoming meetings are described below. Other meetings, including a meeting of the full Council are in the planning stage and will take place this spring or summer. These meetings will be announced in a subsequent **Federal Register** Notice.

The draft document that presents, compiles and documents the results and methodologies used for the first draft of the Prospective Study: Report to Congress, including the Appendices to the draft, which are the subject of these reviews will be available upon request from the originating EPA office (See below for how to obtain copies from the EPA Program Office).

1. Health and Ecological Effects Subcommittee (HEES)

The Health and Ecological Effects Subcommittee (HEES) of the Advisory Council on Clean Air Compliance Analysis will review the draft Prospective Study: Report to Congress, with a focus on the health and ecological aspects of the Clean Air Act Amendments (CAAA) Section 812 Prospective Study data, emissions modeling assumptions, methodology, results and documentation of human health effects, ecological effects, and assessment of impact on stratospheric ozone. Specific review materials include: Draft Appendix D: Human Health Effects; Draft Appendix E: Ecological Effects; and Draft Appendix G: Stratospheric Ozone Assessment. The HEES will meet on Tuesday, April 20, 1999, from 9:30 am to 5:00 pm and Wednesday, April 21, 1999 from 9:00 am to 4:00 pm. The meeting will take place in the Latham Hotel, 3000 M Street, N.W., Washington, DC 20007; tel. (202) 726-5000.

The draft charge to the HEES is as follows:

It is respectfully requested that the Council—and its subsidiary HEES—review the forthcoming materials and provide advice to the Agency pursuant to the following general charge questions, consistent with the review responsibilities of the Council as defined in section 812 of the CAAA90:1.

(a) Are the input data used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(b) Are the models, and the methodologies they employ, used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(c) If the answers to either of the two questions above is negative, what specific alternative assumptions, data or methodologies does the Council recommend the Agency consider using for the first prospective analysis?

While the above charge defines the general scope of the advice requested from the Council and the HEES, a number of specific questions are presented below for which the Agency is particularly interested in obtaining

advice from the Council and HEES. In addition, further specific questions and issues may be presented for consideration to the Council and HEES during the discussions scheduled to take place on April 20–21, 1999.

(d) In response to the emergence of new information and analysis EPA has recently re-evaluated the literature and developed a new approach to estimating reductions in mortality resulting from decreased ozone concentrations. EPA proposes to use a Monte-Carlo based meta-analysis of the literature relating ozone concentrations and mortality, and requests comment on the following four issues:

(1) *Soundness of Approach*—Reviewers should address the suitability of the study authors' meta-analysis technique, and evaluate the method against other possible meta-analysis techniques.

(2) *Study Selection Criteria*—Reviewers should consider the appropriateness and comprehensiveness of the nine study selection criteria used in the meta-analysis, and/or suggest alternative or additional criteria where appropriate. In particular, EPA requests comments on the use of European studies to characterize US concentration-response functions.

(3) *Treatment of Uncertainty*—Reviewers should specifically address any concerns or problems associated with the authors' treatment of uncertainty surrounding reported ozone regression coefficients.

(4) *Interpretation of Results*—EPA seeks guidance on interpreting the meta-analysis results relative to the Pope PM study; i.e., the appropriateness of using these results to estimate the share of mortality attributable to ozone exposure, versus mortality incremental to the results of the Pope study.

(e) HEES encouraged EPA to evaluate a wide range of threshold assumptions in the PM mortality analysis. In response to HEES' comments on this issue, EPA performed a sensitivity analysis of thresholds below and above the annual PM_{2.5} standard of 15 µg/m³. EPA requests guidance from the HEES on the following points:

(1) Clarification of the HEES analytic basis for rejecting use of the lowest observed effects level as estimated in the underlying health effects literature;

(2) Clarification of the analytic basis for any threshold greater than the 15 µg/m³ level;

(3) Suggestions for an analytically defensible approach to developing concentration-response functions that correctly adjust for the threshold assumption. In particular, EPA requests advice on whether introducing a

threshold implies changes to the functional form and slope of the C–R function that is derived from the underlying studies.

(f) Regarding assessment of the benefits of reductions in air toxics, EPA requests guidance and clarification from the HEES as to how in-depth review of high-risk HAPs can be used to generate estimates of avoided health impacts due to reductions in HAP exposure, given the scarcity of HAP monitoring data and HEES significant concerns about the reliability of HAP concentration estimates generated by the ASPEN model.

(g) In response to HEES recommendations, EPA is developing a qualitative characterization of regional variation in C–R functions. EPA requests guidance on specific studies that document the extent of regional variation.

(h) EPA requests HEES review of the proposed method to estimate changes in health risks among Canadians and Mexicans that would result from CAAA controls. EPA requests HEES comments on the validity and defensibility of the assumptions and methods proposed for estimating these effects and on the suitability of the approach.

(i) In response to HEES suggestions, EPA plans to: incorporate the revised Pope data; reduce PM-related neonatal mortality to an illustrative calculation; incorporate the most current research on CO-related health effects, chronic bronchitis incidence, and ozone-related emergency room visits for asthma; develop a summary table of uncertainties; and present non-monetized health benefit results relative to national incidence rates. EPA requests HEES review of these changes in the review material submitted to ensure they adequately reflect concerns expressed in previous HEES meetings.

(j) EPA requests SAB review of our ecological assessment framework. In particular, EPA has incorporated in the 812 report extensive discussion of: major stressors from air emissions subject to control under the CAAA and a broad range of possible impacts on ecosystem structure and function. EPA also requests review of our clarification of the selection process for identifying those elements of ecological impacts that we find suitable for quantification and monetization, based on the level of understanding of the effect and the ability to develop a defensible causal link between changes in air pollution emissions and specific ecological impacts.

(k) EPA requests review of other modifications incorporated in the

ecological evaluation approach, including the following:

(1) Qualitative characterization of interaction between air toxics and acidification in aquatic systems;

(2) Quantitative accounting for lag times in the acidification analysis and qualitative characterization in other parts of the analysis;

(3) Quantitative consideration of nitrogen saturation of terrestrial ecosystems;

(4) Use of the PnET II model in place of the deSteiguer study for estimating the impacts of ozone exposure on commercial forest stands;

(5) The criteria for selection of case study estuaries and the treatment of case study results in the analysis of the impacts of nitrogen deposition;

(6) The rationale for considering the recreational fishing impacts of nitrogen deposition in a qualitative manner only.

2. Air Quality Models Subcommittee (AQMS)

The Air Quality Models Subcommittee (AQMS) of the Advisory Council on Clean Air Compliance Analysis will meet Tuesday, May 4, 1999, from 9:00 am to 5:00 pm and Wednesday, May 5, 1999 from 9:00 am to 4:00 pm. The meeting will take place in the Science Advisory Board Conference Room M3709, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

In this meeting, the AQMS will review the draft Clean Air Act Amendments (CAAA) Section 812 Prospective Study: Report to Congress with a focus on the data, emissions modeling assumptions, methodology, results and documentation. Specific review materials include: Draft Appendix A: Scenario Development and Emissions Modeling; Draft Appendix C: Air Quality Modeling; Memorandum "Use of a Homology Mapping Technique to Estimate Ozone and Particulate Matter; Concentrations for Unmonitored Areas," from Sharon G. Douglas, Robert K. Iwamiya, and Hans P. Deuel, dated: 26 March 1999; Excerpt from Draft Human Health Effects Appendix D describing VNA method. In previous public meetings of the Council (See 61 FR 54196, Thursday, October 17, 1996, and 62 FR 10045, Wednesday, March 5, 1997 for further information), the Council advised the Agency staff that the Subcommittee should review the emissions modeling information before proceeding to conduct any model runs. The May 5, 1997 public teleconference (See 62 FR 19320, Monday, April 21, 1997) of the AQMS was conducted for this purpose and produced a letter report (EPA–SAB–

COUNCIL-LTR-97-012, dated September 9, 1997, see below for ordering information).

The charge to the AQMS is as follows:

It is respectfully requested that the Council—and its subsidiary AQMS—review the forthcoming materials and provide advice to the Agency pursuant to the following general charge questions, consistent with the review responsibilities of the Council as defined in section 812 of the CAAA90:1

(a) Are the input data used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(b) Are the models, and the methodologies they employ, used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose?

(c) If the answers to either of the two questions above is negative, what specific alternative assumptions, data or methodologies does the Council recommend the Agency consider using for the first prospective analysis?

While the above charge defines the general scope of the advice requested from the Council and the AQMS, several specific questions are presented below for which the Agency is particularly interested in obtaining advice from the Council and AQMS. In addition, further specific questions and issues may be presented for consideration to the Council and AQMS during the discussions scheduled to take place on May 4–5, 1999.

(d) Do the revisions made to the particulate matter emissions inventories—as described in the draft Report to Congress Emissions Appendix—adequately address the concerns raised by the Council and the AQMS during the January–February 1998 review meetings? If not, are there further adjustments which the Council and AQMS would recommend be made in future assessments; and do residual potential errors in the inventories warrant—in the judgment of the Council and AQMS—inclusion in EPA's pending report specific caveats regarding the magnitude and direction of potential biases which might be introduced through reliance on these inventories?

(e) The Project Team has used an expanded array of air quality model-derived adjustment factors to estimate changes relative to baseline air quality concentrations. Specifically, rather than a single adjustment factor applied in the Retrospective Study to estimate concentration changes across the entire range of initial ambient concentrations for a given pollutant, ten separate adjustment factors were calculated and

applied based on decile midpoints generated by the relevant air quality model. Do the Council and AQMS consider this methodological change to reflect an improvement in the validity and reliability of projected concentration changes relative to the previous, single adjustment factor approach?

(f) The Project Team has used an alternative spatial interpolation method to estimate baseline air quality concentrations in locations which do not have adequate local monitoring data. In the Retrospective Study, complete representation of initial air quality conditions in the 48 contiguous states for each pollutant was obtained by simple spatial interpolation to each unmonitored or undermonitored location from the closest relevant, sufficiently operated monitor. Based on advice from the AQMS and Council pursuant to the January–February 1998 review meetings, the Project Team sought to develop an enhanced methodology based on a “space-time continuum” concept described by the AQMS. The “homology mapping technique” subsequently developed by the Project Team proved promising in initial validation tests; however the Project Team concluded that additional development and validation work should be completed before using the tool in the context of the section 812 studies. As an alternative, an enhanced version of the traditional spatial interpolation method was developed which relies on inverse distance-weighted interpolation from multiple surrounding monitors. This technique is referred to as “Voronoi Neighbor Averaging (VNA)”. The Project Team requests advice from the Council and AQMS on the following two sub-questions:

(1) Do the Council and AQMS consider the homology mapping technique a reasonable adaptation of the space-time continuum concept previously advanced? If so, what specific additional development, testing, and validation steps do the Council and AQMS recommend be undertaken by the Project Team to facilitate potential use of this technique in future assessments?

(2) Do the Council and AQMS consider the change to the VNA approach to reflect an improvement in the validity and reliability of projected initial air quality concentration estimates relative to the previous, single monitor spatial interpolation method?

3. Air Quality Models Subcommittee: (AQMS)—Teleconference

The Air Quality Models Subcommittee (AQMS) of the Council will conduct a public teleconference on Thursday, June 3, 1999, from 11:00 am to 1:00 pm, Eastern Time, to review status of revisions to the draft Prospective Study: Report to Congress, as well as to conduct edits to its own draft report in review of the prospective study at the previously scheduled meeting on May 4 and 5, 1999 (see above). Please contact one of the SAB Staff contacts listed below to see if these drafts are available to the public at that time. This Teleconference will be hosted out of the Science Advisory Board Conference Room (Room M3709), U.S. Environmental Protection Agency, Washington, DC 20460.

FOR FURTHER INFORMATION:

(a) *Contacting Program Office Staff and Obtaining Review Materials*—To obtain copies of the draft documents pertaining to the CAA Section 812 Prospective Study, please contact Ms. Catrice Jefferson, Office Manager, Office of Policy Analysis and Review (OPAR), (Mail Code 6103), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260-5580; FAX (202) 260-9766, or via e-mail at <jefferson.catrice@epa.gov>. To discuss technical aspects of the draft document pertaining to the CAAA-90 Section 812 Prospective Study: Report to Congress, please contact Mr. James DeMocker, Office of Policy Analysis and Review (OPAR) (Mail Code 6103), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Tel. (202) 260-8980; FAX (202) 260-9766, or via e-mail at: <democker.jim@epa.gov>.

(b) *Contacting SAB Staff and Obtaining Meeting Information*—To obtain copies of the meeting agendas or rosters of participants, please contact Ms. Diana L. Pozun, Management Assistant to the Council, AQMS and HEES, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington, DC 20460; at Tel. (202) 260-8432; FAX (202) 260-7118; or via e-mail: <pozun.diana@epa.gov>. To discuss technical or logistical aspects of the AQMS and HEES subcommittee review process or to submit written comments, please contact Dr. K. Jack Kooyoomjian (Tel. (202) 260-2560; or via e-mail: <kooyoomjian.jack@epa.gov>), and/or Dr. Angela Nugent (Tel. (202) 260-4126; or via e-mail: <nugent.angela@epa.gov>), Designated Federal Officers to the Council, AQMS and HEES, Science Advisory Board

(1400), U.S. Environmental Protection Agency, Washington, DC 20460, FAX (202) 260-7118. To obtain information concerning the teleconference and how to participate in the SAB Conference Room or to call in, please contact Ms. Pozun.

(c) *Providing Public Comments to the SAB*—To request time to provide brief public comments at the meetings, please contact Ms. Diana L. Pozun *in writing* by mail, FAX or E-Mail at the addresses given above no later than one week prior to each of the meetings. Please be sure to specify which meeting(s) you wish to attend and provide comments, a summary of the issue you intend to present, your name and address (incl. phone, fax and e-mail) and the organization (if any) you will represent. Written comments should be submitted to Dr. Kooyoomjian at the above address prior to the meeting date.

(d) *Obtaining Copies of SAB Reports*—Copies of SAB prepared *final reports* mentioned in this **Federal Register** Notice may be obtained immediately from the SAB Home Page (www.epa.gov/sab) or by mail/fax from the SAB's Committee Evaluation and Support Staff at Tel. (202) 260-4126, or FAX (202) 260-1889. Please provide the SAB report number when making your request. *Draft* reports in progress can be obtained from Ms. Pozun once the Committee or Subcommittee Chair has released the draft.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board (SAB) expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, opportunities for oral comment at face-to-face meetings will be usually limited to ten minutes per speaker. At teleconference meetings, speakers will be usually limited to three minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting), may be mailed to the committees or its respective subcommittees prior to its meeting; comments received too close to the meeting date will normally be provided to the Council and its subcommittees at the meeting. Written comments may be provided up until the time of the meeting.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact the appropriate DFO at least five

business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 24, 1999.

Donald G. Barnes,
Staff Director, Science Advisory Board.

[FR Doc. 99-7771 Filed 3-29-99; 8:45 am]
BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 22, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 29, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0020.
Title: Application for Ground Station Authorization in the Aviation Services.
Form Number: FCC Form 406.
Type of Review: Revision of a currently approved collection.
Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, state, local or tribal government.
Number of Respondents: 1,600.
Estimated Time Per Response: 1 hour.
Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,600 hours.
Total Annual Cost: \$126,880.
Needs and Uses: FCC rules require that applicants file the FCC Form 406 to apply for a new, modification, renewal with modification or for an assignment of authorization for a Ground Station. FCC Form 406 also allows for a purpose of renewal for those licenses who did not receive the FCC's computer-generated renewal application (FCC Form 452R). This collection has been revised to delete the fee payment blocks (i.e., Fee Type Code, FCC Multiple, and Fee Due). The FCC Form 159, Fee Remittance Advice, is required with any payment to the FCC and the FCC Form 159 duplicates this information. A block has been added to the form for the applicant's e-mail address.

The information will be used by the Commission to determine whether the applicant is qualified to be licensed. Without such information the Commission could not determine whether to issue the licenses to the applicants and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. It will also be used to update the database and provide for proper use of the frequency spectrum, as well as for Compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 99-7765 Filed 3-29-99; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee; Notice of Public Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public

Law 92-463, as amended, this notice advises interested persons of a meeting of the Network Reliability and Interoperability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

DATES: April 14, 1999 at 1:30 p.m.-3:30 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room, Room TW-C305, 445 12th St. SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marsha MacBride, Executive Director of the FCC Year 2000 Task Force and Designated Federal Officer of the Council, 445 12th St. SW, Washington, DC 20554; telephone (202) 418-2379, e-mail year2000@fcc.gov.

Press Contact, Audrey Spivak, Office of Public Affairs, 202-418-0512, aspivak@fcc.gov.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that would enhance network reliability. One of the current issues before the Council is the risk that the Year 2000 date conversion problem presents for the telecommunications networks.

The agenda for the meeting is as follows: The Council will review progress reports of Focus Groups 1 and 2 which will give refined recommendations on and results from testing of the Year 2000 date conversion problem and the telecommunications networks. Focus Group 3 will provide a status report. Finally, NRSC will provide its quarterly report.

Information concerning the activities of NRIC can be reviewed at the Council's website <www.nric.org>. Material relevant to the April 14, 1999 meeting will be posted there.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. A live RealAudio feed will be available over the Internet; information on how to tune in can be found at the Commission's website <www.fcc.gov>.

The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-7797 Filed 3-29-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203-011421-014

Title: East Coast of South America

Discussion Agreement

Parties:

The Inter-American Freight Conference and its member lines:
Crowley American Transport, Inc.
Ivaran Lines Limited d/b/a as Ivaran Lines
Libra Navegacao S.A.
Alianca Transportes Maritimos SA
Columbus Line
Mexican Line Limited
APL Co. Pte Ltd.
P&O Nedlloyd B.V.

Pan American Independent Line

Digregoria de Navegacao

Zim Israel Navigation Co. Ltd.

DSR-Senator Line

A.P. Moller-Maersk Line

CSAV/Braztrans Joint Service

Sea-Land Service, Inc.

Euroatlantic Container Line S.A.

Mediterranean Shipping Co. S.A.

Amazon Line Ltd.

Synopsis: The proposed modification would authorize two or more of the parties, effective May 1, 1999, to jointly enter into service contracts and to establish voluntary service contract guidelines. The modification also authorizes the parties to charter space to and from members of the Inter-American Freight Conference on an ad hoc basis and to discuss the rationalization of vessels and other matters.

Agreement No.: 202-011528-009

Title: Japan/United States Eastbound Freight Conference

Parties:

American President Lines, Ltd.

Hapag-Lloyd Container Line GmbH

Kawasaki Kisen Kaisha, Ltd.

Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.
Wilhelmsen Lines AS

Synopsis: The proposed agreement modification reduces the notice period for independent action from ten calendar days to five calendar days, revises the conference's service contract provisions to allow for joint and individual contracting, and permits the parties to establish voluntary guidelines regarding to their joint and individual service contracts.

Agreement No.: 217-011658

Title: Delmas/Wilhelmsen Slot Charter Agreement

Parties:

Delmas America Africa Line
Wilhelmsen Lines AS

Synopsis: The proposed Agreement authorizes the parties to charter or make space and slots available to and from each other in the trade between ports on the Atlantic and Gulf Coasts of the United States, and inland and coastal points served via those ports on the one hand, and ports in Africa with the range between, and including Senegal and the Congo, and inland and coastal points served via those ports on the other hand. The parties have requested expedited review.

Dated: March 24, 1999.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-7671 Filed 3-29-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 232-011401-004

Title: MLL/H-L/Lykes Space Charter and Sailing Agreement

Parties:

Mexican Lines Limited
Hapag-Lloyd Container Linie GmbH
Lykes Lines Limited

Synopsis: The proposed modification would add Lykes Lines as a party and change the name of Transportacion Maritima Mexicana S.A. de C.V. to Mexican Lines Limited. It also restates the agreement and specifies both the number of vessels to be contributed by each party and the total amount of space to be exchanged.

Agreement No.: 301-201072

Title: New Orleans—Americana Ships Group Crane Lease Agreement

Parties:

Board of Commissioners of the Port of New Orleans
Americana Ships and its affiliates

Synopsis: The proposed agreement provides for the rental of a crane and runs through December 31, 1999

Dated: March 25, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-7703 Filed 3-29-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION**Ocean Freight Forwarder License Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

International Cargo Transporters, Inc.,
2550 NW. 72nd Ave., Suite #109,
Miami, FL 33122, Officers: Elizabeth Armenteros, President, Lourdes Castano, Vice President.

Golden Gate Shipping, Inc. d/b/a/ The Love Box, 405 N. Oak Street, Inglewood, CA 90302, Officers: Wenceslao Villaluz, President, Isabel Villaluz, Vice President.

Dated: March 24, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-7670 Filed 3-29-99; 8:45 am]

BILLING CODE 6730-01-M

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 April 13, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Thomas J. Pinnick*, Ulysses, Kansas; to acquire Resource One, Inc., Ulysses, Kansas, and thereby indirectly acquire Grant County Bank, Ulysses, Kansas.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-7743 Filed 3-29-99; 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 April 23, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *BOK Financial Corporation*, and BOKF Merger Corporation Number Nine, both of Tulsa Oklahoma; to acquire 100 percent of the voting shares of Chapparral Bancshares, Inc., Richardson, Texas; Chapparral Bancshares of Delaware, Dover, Delaware; Van Alstyne Financial Corporation, Van Alstyne, Texas; and thereby indirectly acquire Canyon Creek National Bank, Richardson, Texas; and First National Bank, Van Alstyne, Texas.

In connection with this proposal, BOKF Merger Corporation has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-7744 Filed 3-29-99; 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, including the companies listed below, 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 April 23, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *NBC Capital Corporation*, Starkville, Mississippi; to acquire FFBS Bancorp, Inc., Columbus, Mississippi, and First Federal Bank of Savings, Columbus, Mississippi, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-7742 Filed 3-29-99; 8:45 am]

BILLING CODE 6210-01-F

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sunshine Meeting Notice

TIME AND DATE: 10 a.m., Monday, April 5, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board, (202) 452-3204.

SUPPLEMENTARY INFORMATION: You may call (202) 452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 26, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-7921 Filed 3-26-99; 3:59 pm]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[File No. 9910089]

Zeneca Group PLC.; 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 June 1, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Steven Berstein or David Ingfield, FTC/S-2308, 601 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2423 or (202) 326-2637.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the 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 complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 25, 1999), 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, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the

Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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 § 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 a proposed Consent Order from Respondent Zeneca Group PLC ("Zeneca"), which is designed to remedy the anticompetitive effects resulting from the merger of Zeneca and Astra AB ("Astra"). Under the terms of the agreement, Respondent will be required, among other things, to transfer and surrender all of Zeneca's rights and assets relating to levobupivacaine, a long-acting local anesthetic, to Chiroscience Group plc ("Chiroscience"), the developer of levobupivacaine.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the proposed Consent Order and the comments received, and will decide whether it should withdraw from the proposed Consent Order or make final the proposed Order.

Pursuant to a December 9, 1998, Merger Agreement and Plan of Merger, Zeneca agreed to acquire 100 percent of all issued shares of Astra stock for approximately \$30.5 billion. Upon completion of the merger, Zeneca will be renamed AstraZeneca. The proposed Complaint alleges that the merger, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the U.S. market for long-acting local anesthetics.

Long-acting local anesthetics are pharmaceutical products used to relieve pain during the course of surgical or other medical procedures by blocking pain impulses from reaching the central nervous system. Long-acting local anesthetics have an effective duration of up to six to seven hours, and allow patients to remain awake and conscious throughout the medical procedure.

The U.S. market for long-acting local anesthetics is highly concentrated, with a pre-acquisition HHI of 6,682. Astra is the leading supplier of long-acting local anesthetics in the United States and worldwide, and is one of only two companies (along with Abbott Laboratories) with Food and Drug Administration ("FDA") approval for the manufacture and sale of long-acting local anesthetics in the United States. While Zeneca does not currently sell long-acting local anesthetics, it had entered into an agreement with Chiroscience to market and assist in the development of levobupivacaine (known commercially as Chirocaine), a new long-acting local anesthetic being developed by Chiroscience. Thus, through this agreement with Chiroscience, Zeneca is an actual potential competitor in the U.S. market for long-acting local anesthetics.

The impending introduction of levobupivacaine in 1999 was expected to result in increased competition in the U.S. market for long-acting local anesthetics, leading to lower prices and potential improvements in product safety. The proposed merger of Zeneca and Astra would eliminate this significant source of new competition and leave the long-acting local anesthetic market highly concentrated for the foreseeable future.

It is unlikely that this lost competition would have been replaced by new competitors due to the substantial barriers to entry that exist in the U.S. market for long-acting local anesthetics. A new entrant into this market would need to undertake the difficult, expensive and time-consuming process of researching and developing a new product, obtaining FDA approval and gaining customer acceptance. Because of the difficulty of accomplishing these tasks, new entry into this market, other than Zeneca's and Chiroscience's imminent introduction of levobupivacaine, would not be timely, likely or sufficient to deter or counteract the anticompetitive effects resulting from the merger.

The proposed Consent Order effectively remedies the merger's anticompetitive effects in the U.S. market for long-acting local anesthetics by requiring Zeneca to transfer and surrender all of its rights and assets relating to levobupivacaine to Chiroscience, the developer of levobupivacaine, no later than ten (10) business days after the date the Commission accepts the Consent Agreement for public comment. Under the terms of the Consent Order, Zeneca is required to transfer and surrender these assets pursuant to an agreement

entered into between Chiroscience and Zeneca that is defined in the Agreement Containing Consent Order as the "Chiroscience/Zeneca Agreement." The assets to be transferred to Chiroscience consist principally of intellectual property and know-how and include, among other things, all of the applicable patents, trademarks, copyrights, technical information and market research relating to levobupivacaine. In addition, the Consent Order requires Zeneca to comply with the other provisions of the Chiroscience/Zeneca Agreement. That agreement establishes, among other things, a transitional period during which Zeneca is required to continue carrying out certain ongoing activities relating to the commercialization of levobupivacaine, including manufacturing, regulatory, clinical, development and marketing activities. The Chiroscience/Zeneca Agreement also contains provisions that will protect the confidentiality of any information provided by Chiroscience to Zeneca in the past, or during the transitional period.

In addition, the Consent Order requires Zeneca to divest its approximately 3% investment interest in Chiroscience within four (4) months of the expiration of the Agreement Amending Share Subscription Agreement, as defined in the proposed Consent Order. Pending divestiture of this investment interest, the Order prohibits Zeneca from, directly or indirectly: (i) Exercising dominion or control over, or otherwise seeking to influence, the management, direction or supervision of the business of Chiroscience; (ii) seeking or obtaining representation on the Board of Directors of Chiroscience; (iii) exercising any voting rights attached to the investment interest; (iv) seeking or obtaining access to any confidential or proprietary information of Chiroscience; or (v) taking any action or failing to take any action in a manner that would be incompatible with the status of Zeneca as a passive investor in Chiroscience.

The proposed Consent Order also requires Zeneca to provide the Commission a report of compliance with the Order within thirty (30) days following the date the Order becomes final and every ninety (90) days thereafter until its has complied with the terms of the Order. Finally, the Order allows the Commission to appoint an Interim Trustee to facilitate an orderly transfer of the levobupivacaine assets and to ensure that Zeneca carries out its obligations under the Consent Agreement and the Chiroscience/Zeneca Agreement.

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

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99-7752 Filed 3-29-99; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Revisions to the General Services Administration's (GSA's) Centralized Household Goods Traffic Management Program (CHAMP)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of proposed program changes for comment.

SUMMARY: This notice invites comments on GSA's revised plan to increase the CHAMP shipment surcharge from \$45 to \$145 instead of \$105 as proposed in our January 20, 1999, **Federal Register** notice published for comment (64 FR 3131). Further evaluation of the program's funding status has clearly demonstrated that this action is necessary to increase CHAMP funding to a level that will enable GSA to defray the program's expenses. This notice supersedes the January 20, 1999 **Federal Register** notice.

DATES: Please submit your comments by April 29, 1999.

ADDRESSES: Mail comments to the Transportation Management Division (FBF), General Services Administration, Washington, DC 20406, Attn: **Federal Register** Surcharge Increase Notice. GSA will consider your comments prior to implementing the proposed increase.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Senior Program Expert, Transportation Management Division, FSS/GSA, 703-305-5745.

SUPPLEMENTARY INFORMATION: GSA's CHAMP receives no Congressional funding and must depend on a shipment surcharge, currently \$45, to defray its costs. The shipment surcharge has been in effect since 1996 and no longer fully funds program expenses. GSA published a notice for comment in the **Federal Register** on January 20, 1999 (64 FR 3131) announcing its plan to increase the shipment surcharge from \$45 to \$105, and to revise the Household Goods Tender of Service "shipment definition" for the purpose of assessing the surcharge on each component of a shipment (i.e.,

households, privately owned vehicle (POV), and unaccompanied baggage) to allow us to recoup program costs.

Agency/industry comments GSA received on the proposed changes and our own programmatic concerns suggest it is time for GSA to change the way CHAMP industrial funding fees are collected. We plan to work with our Federal agency and industry partners to develop and implement an alternative funding strategy by November 1, 1999. In the interim it is necessary for us to increase the shipment surcharge. Our ongoing analysis of the program's financial status clearly indicates that \$105 would not adequately cover program expenses even with cost cutting measures we have identified and are proceeding to implement. Indeed, our in-depth analysis indicates we must increase the surcharge to \$145 to adequately cover our expenses of maintaining this valuable program.

We do, however, withdraw the January 20th proposal to add the surcharge to POV and unaccompanied baggage shipments. Moreover, instead of a line-haul transportation rate increase to cover the \$145 surcharge, GBL issuers are to include the surcharge as a separate line item on the GBL. Carriers then will bill Federal agencies for the surcharge as a separate line item on the SF-1113.

GSA is committed to providing a program that meets the needs of Federal agencies. The funding increase will be used to pay for personnel who directly support the program and activities associated with the development of program enhancements. Moreover, we are looking forward to working with our customer agency counterparts and industry partners to devise by November 1, 1999, a satisfactory approach to handling future funding for this important program.

Dated: March 25, 1999.

Barbara Vogt,

Deputy Assistant Commissioner, Office of Transportation and Property Management.
[FR Doc. 99-7826 Filed 3-29-99; 8:45 am]

BILLING CODE 6820-24-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 99059]

Childhood Asthma and Hazardous Substances Applied Research and Development Amendment

A notice announcing the availability of fiscal year 1999 funds for the Childhood Asthma and Hazardous Substances Applied Research and Development Program was published in the **Federal Register** on March 19, 1999, (Vol. 64 FR No. 53). The notice is amended as follows:

On page 13585, third column, after item G.4.d. add:

e. The extent to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

i. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

ii. The proposed justification when representation is limited or absent.

iii. A statement as to whether the design of the study is adequate to measure differences when warranted.

iv. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community (ies) and recognition of mutual benefits.

Under item G.6. change 9 per cent to 10 percent; delete item G.7. Minority Populations; and change the number for item 8. to 7.

Dated: March 24, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99-7706 Filed 3-29-99; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-145]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period October 1998 through December 1998. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E-32, Atlanta, Georgia 30333, telephone (404) 639-0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on January 28, 1999, (64 FR 4422). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR Part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605-6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between October 1, 1998, and December 31, 1999, public health assessments were issued for the sites listed below:

NPL Sites

California

George Air Force Base—Victorville—
(PB99-120982)

Hawaii

Naval Computer and
Telecommunication Area (a/k/a
NCTAMS EASTPAC Wahiawa—
Wahiawa and NRTF Laulaulei—
Laulaulei—(PB99-123093)

Illinois

Jannesson Wright Corporation—Granite
City—(PB99-115412)

Kaney Transportation—Rockford—
(PB99-118754)

Lanson Chemical—East St. Louis—
(PB99-110967)

Missouri

Armour Road Site—North Kansas City—
(PB99-110934)

New Jersey

Grand Street Site—Hoboken—(PB99-
117152)

New York

GCL Tie and Treating—Sidney—(PB99-
113938)

Rowe Industries Groundwater
Contamination—Sag Harbor—(PB99-
119521)

Pennsylvania

Salford Quarry—Lower Salford
Township—(PB99-120990)

Texas

Odessa Super Site (a/k/a Sprague Road
Ground Water Plume)—Ector—
(PB99-123085)

Puerto Rico

V&M/Albaldejo Farms Site—Vega
Baja—(PB99-123325)

Vega Baja Solid Waste Disposal—Rio
Abajo Ward/La Trocha—(PB99-
118903)

Virginia

USAF Langley Air Force Base and
NASA Research Center—Hampton—
(PB99-105587)

West Virginia

Hanlin-Allied-Olin—Moundsville—
(PB99-118747)

Non NPL Petitioned Sites

Alaska

Alaska Pulp Corporation—Sitka—
(PB99-106734)

Georgia

Old Douglas Landfill (a/k/a Douglas
County/Cedar Mountain Landfill)—
Douglasville—(PB99-119208)

Dated: March 23, 1999.

Georgi Jones,

*Director, Office of Policy and External Affairs,
Agency for Toxic Substances and Disease
Registry.*

[FR Doc. 99-7692 Filed 3-29-99; 8:45 am]

BILLING CODE 4163-70-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Indian Health Service

**Request for Public Comment: 60-Day
Proposed Collection: Indian Health
Service, Scholarship and Loan
Repayment Program**

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide a 60-day advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comment a summary of proposed information collection to be submitted to the Office of Management and Budget (OMB) for review.

Proposed Collections

Title: 09-17-0014, "Indian Health Service, Scholarship and Loan

Repayment Program" *Type of Information Collection Request:* Revision of a currently approved collection. *Form Number:* None. *Need and Use of Information Collection:* The IHS Loan Repayment Program (LRP) identifies health professionals with pre-existing financial obligations for education expenses that meet program criteria and who are qualified and willing to serve at, often remote, IHS health care facilities. Under the program, eligible health professionals sign a contract under which the IHS agrees to repay part or all of their indebtedness for professional training education. In exchange, the health professionals agree to serve for a specified period of time in IHS health care facilities. Eligible health professionals must submit an application to participate in the program. The application requests personal, demographic and educational training information, including information on the educational loans of the individual for which repayment is being requested (i.e., date, amount, account number, purpose of each loan, interest rate, the current balance, etc.). The data collected is needed and used to evaluate applicant eligibility; rank and prioritize applicants by speciality; assign applicants to IHS health care facilities; determine payment amounts and schedules for paying the lending institutions; and to provide data and statistics for program management review and analysis. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. Table 1 below provides the following: types of data collection instruments, estimated number of respondents, number of responses per respondent, annual number of responses, average burden hour per response, and total annual burden hour.

TABLE 1.—ESTIMATED BURDEN HOURS

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response*	Total annual burden hrs
Section I	350	1	0.25 (15 mins).	
Section II	350	1	0.50 (30 mins).	
Section III	350	4	0.25 (15 mins).	
Contract	350	1	0.334 (20 mins).	
Affidavit	350	1	0.167 (10 mins).	
Lender Certificate	1400	1	0.25 (15 mins).	

* For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out the treatment outcome evaluation; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

SEND COMMENTS AND REQUESTS FOR FURTHER INFORMATION: Send your written comments, requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852-1601, call non-toll free (301) 443-5938, send via fax to (301) 443-21316, or send your e-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

COMMENT DUE DATE: Your comments regarding this information collection are best assured of having their full effect if received on or before June 1, 1999.

Dated: March 18, 1999.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 99-7782 Filed 3-29-99; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4448-N-02]

Notice of Funding Availability for the Welfare-to-Work Section 8 Tenant-Based Assistance Program for Fiscal Year 1999; Technical Correction

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA); technical correction.

SUMMARY: On January 28, 1999, at 64 FR 4496, HUD published a NOFA that

announced Fiscal Year (FY) 1999 funding of approximately \$248.2 million to provide tenant-based rental assistance that will help eligible families make the transition from welfare to work. This notice makes technical corrections to that NOFA to remove an inconsistent requirement and clarify the eligibility of applicants for funding.

DATES: The original April 28, 1999 application deadline date and time is not changed. Please see the January 28, 1998 NOFA for specific details.

FOR FURTHER INFORMATION CONTACT: For answers to your questions, you may contact the Public and Indian Housing Information and Resource Center at 1-800-955-2232, or contact the Director of Public Housing, the Program Center Coordinator or the Office of Native American Program Administrator in your local HUD Office. Hearing-or speech-impaired individuals may call HUD's TTY number (202) 708-0770 or 1-800-877-8339 (the Federal Information Relay Service TTY). (Other than the "800" number, these numbers are not toll-free.) Information can also be accessed via the Internet through the HUD web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) that announced HUD's Fiscal Year (FY) 1999 Welfare-to-Work (WTW) Section 8 Tenant-Based Assistance Program funding of approximately \$248.2 million was published on January 28, 1999 (64 FR 4496). This notice clarifies the program compliance and subcontractor designation requirements in section IV of that FY 1999 WTW NOFA. The introductory text of section IV.(E) is made consistent with paragraph IV.(E)(2)(b) by requiring a statement that outlines steps to resolve compliance instead of a proposal for management improvements. The term "unaddressed" is added to modify the conditions listed in paragraphs IV.(E)(1)(a) and redesignated IV.(E)(1)(b), as explained below, that trigger the compliance requirements.

Finally, the provision in paragraph IV.(E)(1)(b), which appears to be inconsistent with the threshold requirement at paragraph V.(B)(6), is removed. Paragraph IV.(E)(1)(b) would trigger the compliance requirements if the applicant demonstrated "[s]erious underutilization evidenced by fewer than 85 percent of budgeted rental certificates or vouchers under lease". The threshold requirement at paragraph V.(B)(6) would require an applicant to demonstrate a 90 percent leasing rate to be eligible for funding. To avoid any confusion that the designation of a

subcontractor may make eligible an applicant that does not meet the 90 percent leasing rate threshold, paragraph IV.(E)(1)(b) is removed, and paragraph IV.(E)(1)(c) is redesignated as paragraph IV.(E)(1)(b).

Accordingly, FR Doc. 99-1985, the FY 1999 Welfare-to-Work (WTW) Section 8 Tenant-Based Assistance Program NOFA, published in the **Federal Register** on January 28, 1999 (64 FR 4496) is amended on page 4498, in column 2, by revising the introductory text and paragraph IV.(E)(1)(a), removing paragraph IV.(E)(1)(b), redesignating paragraph IV.(E)(1)(c) as paragraph IV.(E)(1)(b) and revising redesignated paragraph IV.(E)(1)(b), to read as follows:

(E) Program Compliance and Designation of Subcontractor.

Immediately after the publication of this NOFA, the local HUD field office will notify, in writing, those HAs that are not eligible to apply without a subcontractor acceptable to HUD and a statement that outlines the steps being taken to resolve the compliance problems, as explained in this section.

(1) * * *

(a) Unaddressed material weaknesses or reportable conditions outstanding from Inspector General audit findings, or HUD management review findings for one or more of your Section 8 rental voucher, rental certificate or moderate rehabilitation programs; or

(b) Significant unaddressed findings in program compliance reviews.

* * * * *

Dated: March 23, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99-7702 Filed 3-29-99; 8:45 am]

BILLING CODE 4210-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-963-1410-00-P and AA-6670-A]

ALASKA; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Iliamna Natives Limited, for approximately 40 acres. The lands involved are in the vicinity of Iliamna, Alaska, within lot 7 of U.S. Survey No. 2466, Alaska, and more particularly

within the S of Sec. 11 and southerly of Iliamna-Nondalton Road and northerly of the Iliamna Spur Road, T. 5 S., R. 33 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Bristol Bay Times*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 29, 1999 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terrie D. Evarts,

Land Law Examiner, Branch of State and Project Adjudication.

[FR Doc. 99-7704 Filed 3-29-99; 8:45 am]

BILLING CODE 4310--\$-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-040-09-1430-00]

Notice of Realty Action; Noncompetitive Sale of Public Lands, Navajo County, AZ [AZA 30873]

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following lands in Navajo County, Arizona have been found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Gila and Salt River Meridian, Arizona

T. 17 N., R. 21 E.,

Sec. 18, lots 1-4 incl., E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$.

Containing 638.360 acres, more or less.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action

or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Navajo County. If a determination is reached that the subject parcel contains no known mineral values, the mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests.

The patent, when issued, will contain certain reservations to the United States. Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Safford Field Office, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Office Manager, Safford Field Office, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: March 15, 1999.

William T. Civish,

Field Office Manager,

[FR Doc 99-7766 Filed 3-29-99; 8:45 am]

BILLING CODE 4310-32-M

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 7, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA-101 (Review)(Greige Polyester Cotton Printcloth from China)—briefing and vote.

5. Outstanding action jackets: (1.) Document No. INV-99-045: Approval of institution of five-year reviews on Potassium Chloride, Certain Bearings, Internal Combustion Industrial Forklift Trucks, and Nitrile Rubber.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting,

may be carried over to the agenda of the following meeting.

Issued: March 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-7868 Filed 3-26-99; 2:27 pm]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 12, 1999 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731-TA-823-824 (Preliminary)(Certain Aperture Masks from Japan and Korea)—briefing and vote.
5. Outstanding action jackets: (1.) Document No. INV-99-045: Approval of institution of five-year reviews on Potassium Chloride, Certain Bearings, Internal Combustion Industrial Forklift Trucks, and Nitrile Rubber.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-7869 Filed 3-26-99; 2:27 pm]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34,803 and NAFTA-2574]

United Technologies Automotive, Bay City, Michigan; Notice of Negative Determination Regarding Application for Reconsideration

By application dated January 5, 1999, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment

Assistance (TAA) and NAFTA-Transitional Adjustment Assistance (NAFTA-TAA), applicable to workers and former workers of the subject firm. The denial notices applicable to workers of the subject firm located in Bay City, Michigan, were signed on September 15, 1998. The TAA and NAFTA-TAA decisions were published in the **Federal Register** on October 9, 1998 (63 FR 54495) and September 28, 1998 (63 FR 51606), respectively.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers of United Technologies Automotive, Bay City, Michigan, producing automotive interior trim was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The investigation revealed that none of the subject firm customers reported increased import purchases of articles like or directly competitive with those produced at United Technologies Automotive's Bay City plant.

The NAFTA-TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of Section 250 of the Trade Act, as amended, were not met. There was no shift of production from the subject firm to Canada or Mexico, nor did the company import automotive interior trim from Canada or Mexico. The subject firm is transferring production of automotive interior trim to other domestic plants of United Technologies. The Department conducted a survey of major customers of the subject firm regarding purchases of automotive interior trim. The survey revealed that the customers were not purchasing from Canada or Mexico automotive interior trim like or directly competitive with that produced in Bay City.

In support of their application for reconsideration, the petitioners assert that "tools and parts have been sent to Mexico and these parts are then sent

back to the United States." Shipping information was attached to the application. The documents support evidence of shipments being made from Bay City to Mexico and other foreign countries, and thus must be considered exports. The Department did however, request that the subject firm provided additional information regarding the petitioners assertion that (1) machinery was transferred from Bay City to Mexico, and (2) product is being imported from Mexico. Review of the information provided by the subject firm revealed that some presses and related equipment were sent to Mexico, but the amount accounted for an insignificant portion of total Bay City assets. The company official once again confirmed that all of the Bay City automotive interior trim production was shifted to other domestic plants of United Technologies, and that none of the production in Mexico is returned to the United States.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, D.C. this 12th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7730 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,102 and NAFTA-02669]

Mitchell Manufacturing Group, a Lamont Group Company, Clare, MI; Notice of Revised Determination on Reconsideration

On March 2, 1999, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially denied TAA to workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan, producing automotive interior covers including soft trim (seat covers) because the "contributed importantly" group eligibility

requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of the major customer of Mitchell Manufacturing Group. The survey revealed that a former major customer changed manufacturers and the current manufacturer of seat covers is manufacturing those items in Mexico and importing the finished product into the U.S.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with seat covers, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan. In accordance with the provisions of the Act, I make the following certification:

All workers of Mitchell Manufacturing Group, a Lamont Group Company, Clare, Michigan who became totally or partially separated from employment on or after October 2, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 9th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7720 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,394]

Ainge Enterprises, Inc., Spanish Fork, Utah; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1998 in response to a worker petition which was filed on behalf of workers at the Ainge Enterprises, Inc., Spanish Fork, Utah.

An active certification covering the petitioning group of workers is already in effect (TA-W-34,034). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.
Grant D. Beale,
Acting Director, Office of Trade Adjustment Assistance.
 [FR Doc. 99-7728 Filed 3-29-99; 8:45 am]
 BILLING CODE 4510-30-M

the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade

Adjustment Assistance, at the address shown below, not later than April 9, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 9, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of February, 1999.

Grant D. Beale,
Acting Director, Office of Trade Adjustment Assistance.

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

APPENDIX

[Petitions Instituted on 2/22/1999]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,664	ASM America, Inc (Comp)	Phoenix, AZ	02/12/1999	Capitol Equipment.
35,665	Triple A Trouser (UNITE)	Scranton, PA	01/22/1999	Men's Dress and Casual Trousers.
35,666	Mayflower Mfg. Co (UNITE)	Old Forge, PA	01/22/1999	Men's Dress and Casual Trousers.
35,667	Federal Mogul Friction (USWA)	New Castle, IN	02/08/1999	Heavy Duty Brake.
35,668	Pinson Mining Co. (Comp)	Winnemucca, NV	02/04/1999	Gold and Silver Mining.
35,669	Pathway Bellows, Inc (IBB)	Oak Ridge, TN	02/06/1999	Expansion Joints.
35,670	SGL Carbon Corp (ICWU)	Morgantown, NC	02/08/1999	Graphite Electrodes and Products.
35,671	Snap-On-Tools Co (Wrks)	Ottawa, IL	02/08/1999	Wire-Harnesses—Diagnostic Equipment.
35,672	Allvac Latrobe Plant (USWA)	Latrobe, PA	02/08/1999	Specialty Steels—Stainless.
35,673	Clayton Williams Energy (Wrks)	Midland, TX	02/08/1999	Exploration & Prod. of Oil and Gas.
35,674	Custom Engineering Co (Comp)	Erie, PA	02/08/1999	Fabrication of Oil Pans for Locomotives.
35,675	Connor Corp (PMMS)	Indianapolis, IN	02/04/1999	Battery Parts.
35,676	Texas Boot (Comp)	Smithville, TN	02/05/1999	Western Boots.
35,677	Schuykill Haven Bleach (Comp)	Schuy'll Haven, PA	01/09/1999	Bleaching, Dyeing & Finishing Garments.
35,678	TerraTherm Environmental (Comp)	Houston, TX	02/01/1999	Provide Administrative Function Services.
35,679	Tektronix CNA (Comp)	Bend, OR	01/22/1999	Metallic & Optical Fault Locators.
35,680	Homestead Industries, Inc (UNITE)	Claremont, NH	02/01/1999	Wool for Ladies' Outerwear.
35,681	Apex Machine Shop, Inc (Wrks)	Williston, ND	02/03/1999	Downhole Drilling Tools.
35,682	Newport Steel Corp (Wrks)	Williston, ND	02/03/1999	Downhole Drilling Tools.
35,683	Franklin Dyed Yarns Co (Comp)	Greenville, SC	02/06/1999	Dyes Yarn.
35,684	Quaker State Corp (Comp)	Irving, TX	02/03/1999	Motor Oil.
35,685	Worcester Co (The) (Comp)	New York, NY	02/04/1999	Menswear Suiting—Worsted Wool Steel.
35,686	A. C. Railroad Service Co (Comp)	McKees Rocks, PA	01/29/1999	Crude Oil, Natural Gas.
35,687	Ensign Oil and Gas, Inc (Wrks)	Denver, CO	01/25/1999	Crude Oil, Natural Gas.
35,688	Tactyl Technologies, Inc (Comp)	Vista, CA	02/03/1999	Non-Latex Gloves.
35,689	AMP, Inc. (Wrks)	Seven Valleys, PA	02/01/1999	RF Coaxial Electrical Connectors.
35,690	Kleinert's, Inc of Ala. (Comp)	Elba, AL	02/01/1999	Children's Sportswear.
35,691	Star Tool (Wrks)	Hobbs, NM	01/22/1999	Exploration and Drilling Oil, Gas.
35,691A	Star Tool (Wrks)	Odessa, TX	01/22/1999	Exploration and Drilling Oil, Gas.
35,691B	Star Tool (Wrks)	Brownfield, TX	01/22/1999	Exploration and Drilling Oil, Gas.
35,692	Rock-Tenn Co. Converting (Wrks)	Otsego, MI	01/29/1999	Converted Paperboard Products.
35,693	Columbia Forest Products (Wrks)	New Freedom, PA	02/01/1999	Oak, Cherry and Hickory Veneer Panels.
35,694	Inland Paperboard & Pack (Wrks)	Orange, TX	02/03/1999	Brown, Mottled or White Paper for Boxes.
35,695	Fellowes Manufacturing (Comp)	Boone, NC	01/28/1999	Wood Racks for CD, Video, Cassettes.
35,696	FWA-JSM Drilling Co (Wrks)	Midland, TX	01/29/1999	Drilling Crude Oil, Natural Gas.
35,697	Wood Group Pressure (Comp)	Houston, TX	01/26/1999	Gas & Oilfield Equipment & Supplies.
35,698	Marquip, Inc (Wrks)	Phillips, WI	02/02/1999	Cardboard Making Machines.
35,699	Patterson Energy, Inc (Comp)	Snyder, TX	02/03/1999	Oilfield Drilling Services.
35,700	Warnaco, Inc. (UNITE)	New York, NY	01/28/1999	Gowns.
35,701	Ansell Edmont (UNITE)	Haynesville, LA	01/26/1999	Industrial Gloves.
35,702	HAPCO Screenprinting Inc (Comp)	Emmans, PA	02/02/1999	Screenprints Garments.
35,703	General Electric Ind. Sys (Wrks)	Jonesboro, AR	02/03/1999	Appliance Fan Motors.
35,704	Johnson and Johnson (Comp)	Arlington, TX	02/09/1999	Latex Surgical Gloves.

[FR Doc. 99-7718 Filed 3-29-99; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,586]

Buckeye, Incorporated, Midland, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Buckeye, Incorporated, Midland, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-35,586; Buckeye, Incorporated, Midland, Texas (March 16, 1999)

Signed at Washington, D.C. this 16th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7713 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,620]

Cascade Steel Rolling Mills, Incorporated McMinnville, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1999 in response to a worker petition which was filed on February 8, 1999 on behalf of workers at Cascade Steel Rolling Mills, Incorporated, located in McMinnville, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7710 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34, 955, et al.]

Caza Drilling, Inc., North Dakota Operations; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1998, applicable to workers of Caza Drilling, Inc., North Dakota Operations headquartered in Williston, North Dakota. The notice was published in the **Federal Register** on October 9, 1998 (63 FR 54495).

At the request of company, the Department reviewed the certification for workers of the subject firm. New findings revealed that the subject firm is headquartered in Denver, Colorado (TA-W-34,955). New findings also show that worker separations have occurred at Caza Drilling, operating at various locations in Colorado (excluding Denver), Utah, Wyoming, South Dakota, Washington, and Nevada. The workers are engaged in providing oil field services on a contractual basis for crude oil producers.

The intent of the Department's certification is to include all workers of Caza Drilling, Inc. adversely affected by increased import. Accordingly, the Department is amending the certification to cover workers of Caza Drilling, Inc. operating at various locations in Colorado (excluding Denver), Utah, Wyoming, South Dakota, Washington and Nevada.

The amended notice applicable to TA-W-34,955 is hereby issued as follows:

All workers of Caza Drilling, Inc., North Dakota Operations, headquartered in Denver, Colorado (TA-W-34,955) and operating at various locations in the State of Colorado (excluding Denver) (TA-W-34,955B), Utah (TA-W-34,955C), Wyoming (TA-W-34,955D), South Dakota (TA-W-34,955E), Washington (TA-W-34,955F) and Nevada (TA-W-34,955G) who became totally or partially separated from employment on or after August 26, 1997 through September 21, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7726 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,657]

Caza Drilling, Inc., Denver, Colorado; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 16, 1999 in response to a worker petition which was filed on behalf of workers at the Caza Drilling, Inc., Denver, Colorado.

An active certification covering the petitioning group of workers is already in effect (TA-W-34,955). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance, Office of Trade Adjustment Assistance.

[FR Doc. 99-7731 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,034]

Geneva Steel, Vineyard, Utah; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 23, 1998, applicable to all workers of Geneva Steel located in Vineyard, Utah. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63087).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that employees of Ainge Enterprises, Inc., Spanish Fork, Utah were employed by Geneva Steel to prepare (cut) scrap steel for the blast furnaces used in the production of hot rolled steel products (plates, sheets, coils and pipes) at the Vineyard, Utah facility. Worker separations occurred at Ainge Enterprises, Inc. as a result of workers separations at Geneva Steel.

Based on these findings, the Department is amending the certification to include workers of Ainge Enterprises, Inc., Spanish Fork, Utah

employed by Geneva Steel, Vineyard, Utah.

The intent of the Department's certification is to include all workers of Geneva Steel adversely affected by imports.

The amended notice applicable to TA-W-35,034 is hereby issued as follows:

All workers of Geneva Steel, Vineyard, Utah and workers of Ainge Enterprises, Inc., Spanish Fork, Utah engaged in employment related to preparing (cutting) scrap steel for the blast furnaces used in the production of hot rolled steel products at Geneva Steel, Vineland, Utah who became totally or partially separated from employment on or after September 18, 1997 through October 23, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7727 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,034]

Geneva Steel, Including Workers of Heckett Multiserv, a Division of Harsco Corporation, Vineyard, UT; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 23, 1998, applicable to all workers of Geneva Steel located in Vineyard, Utah. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63087).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that employees of Heckett Multiserv, a division of Harsco Corporation, Vineyard, Utah were employed by Geneva Steel to process slag products and provide scrap and metal reclamation from the blast furnaces used in the production of hot rolled steel products (plates, sheets, coils and pipes) at the Vineyard, Utah facility. Worker separations occurred at Heckett Multiserv as a result of workers separation at Geneva Steel.

Based on these findings, the Department is amending the

certification to include workers of Heckett Multiserv, Vineyard, Utah employed at Geneva Steel, Vineyard, Utah.

The intent of the Department's certification is to include all workers of Geneva Steel adversely affected by imports.

The amended notice applicable to TA-W-35,034 is hereby issued as follows:

All workers of Geneva Steel and workers of Heckett Multiserv, a Division of Harsco Corporation, Vineyard, Utah engaged in employment related to processing slag products and providing scrap and metal reclamation from the blast furnaces for the production of hot rolled steel products at Geneva Steel, Vineyard, Utah who became totally or partially separated from employment on or after September 18, 1997 through October 23, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7729 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,763]

Heckett Multiserv, a Division of Harsco Corporation Vineyard, UT; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 8, 1999 in response to a worker petition which was filed on March 8, 1999 on behalf of workers at Heckett Multiserv, a division of Harsco Corporation, located in Vineyard, Utah.

An active certification covering the petitioning group of workers remains in effect (TA-W-35,034). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 9th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7721 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,662]

Kellwood Company, Spencer, WV; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 16, 1999 in response to a petition filed by AFL-CIO, Union of Needletrades, Industrial and Textile Employees (UNITE), Mid-Atlantic Regional Joint Board, Local 2363, on January 26, 1999 on behalf of workers at Kellwood Company, Spencer, West Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7715 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade

Adjustment Assistance, at the address shown below, not later than April 9, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address

shown below, not later than April 9, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S.

Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 03/01/1999]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,705	Kelly Springfield Tire (USWA)	Freeport, IL	02/11/1999	Tires.
35,706	Nooter Fabricators (Wkrs)	St. Louis, MO	02/04/1999	Steel Fabrication.
35,707	Wool Fashions, Inc (UNITE)	Hoboken, NJ	02/08/1999	Ladies' Coats.
35,708	Donohue Industries (PACE)	Sheldon, TX	01/30/1999	Market Pulp and Paper—Newsprint.
35,709	Handy Button Machine (Wkrs)	New York, NY	02/01/1999	Belt Buckles, Nailheads, Button Molds.
35,710	Forrest Yarns, Inc. (Co.)	Newport, ME	02/16/1999	Cone Yarn.
35,711	Halliburton (Co.)	Houston, TX	02/10/1999	Oil Drilling.
35,712	Cyprus Sierrita (Wkrs)	Green Valley, AZ	02/09/1999	Copper Mining.
35,713	Crete Oil Co., Inc. (Co.)	Robinson, IL	02/17/1999	Crude Oil.
35,714	Allegheny Ludlum Steel (USWA)	Wallington, CT	02/11/1999	Stainless Steel Strip and Sheet.
35,715	Gulf Canada Resources (Wkrs)	Denver, CO	02/09/1999	Crude Oil, Natural Gas Liquids.
35,716	KLH Industries (Co.)	Clinton, MS	12/04/1999	Electrical Wiring Harness.
35,717	Blue Ridge Screen Print (Co.)	Stuart, VA	02/11/1999	Screenprinting.
35,718	H.B. and R., Inc. (Co.)	Dickinson, ND	02/11/1999	Oilfield Services.
35,719	CNB International (UAW)	Buffalo, NY	02/09/1999	Metal Forming Machinery.
35,720	Indera Mills Co. (Co.)	Winston Salem, NC	02/11/1999	Thermal Underwear.
35,721	Newark Paperboard, Inc. (Wkrs)	Woodburn, OR	02/02/1999	Paper Products Machinery.
35,722	Rostra Precision Controls (Wkrs)	Laurinburg, NC	02/11/1999	Modulators, Cruise Controls.
35,723	Litton ATD (Wkrs)	Grants Pass, OR	02/11/1999	Radar Warning Receivers.
35,724	IRI International Corp. (Co.)	Houston, TX	02/11/1999	Equipment—Petroleum Industry.
35,725	DLB Equities, L.L.C. (Co.)	Oklahoma City, OK	02/11/1999	Oil and Gas.
35,726	Ponderosa Fibres of PA (Wkrs)	Northampton, PA	02/09/1999	Recycles Mixed Office Waste Paper.
35,727	Martin Marietta Magnesia (Wkrs)	Manistee, MI	02/09/1999	Refractories Products.
35,728	Teledyne Ryan Aeronautica (Co.)	San Diego, CA	02/10/1999	Apache Helicopter Fuselages.
35,729	Nabors Alaska Drilling (Co.)	Anchorage, AK	02/18/1999	Drilling Wells.
35,730	Medinas Concrete and Sand (Wkrs)	Questa, NM	02/08/1999	Mine Construction.
35,731	National Material Co. (USWA)	Arnold, PA	02/17/1999	Silicon Steel Service Center.
35,732	Westvaco Luke Mill (PACE)	Luke, MD	02/12/1999	Zinc Coated Papers.
35,733	Chinook Group (Wkrs)	North Branch, MN	02/09/1999	Choline Chloride Powder.
35,734	Basin Tools and Service (Wkrs)	Williston, ND	02/02/1999	Sells, rents Down Hole Tools.
35,735	McDowell County Apparel (Wkrs)	Bradshaw, WV	02/01/1999	Fleece Apparel.
35,736	Diamond Resources, Inc. (Wkrs)	Williston, ND	02/11/1999	Admin. Functions—Oil, Gas Leasing.
35,737	Weatherford, Inc. (Wkrs)	Williston, ND	02/09/1999	Oilfield Fishing & Rental.
35,738	Red Man Pipe and Supply (Wkrs)	Roosevelt, UT	02/11/1999	Line Pipe, Valves and Fittings.
35,739	Southwest Royalties (Wkrs)	Midland, TX	02/11/1999	Crude Oil, Natural Gas.
35,740	Borg Warner Automotive (Co.)	Sterling Hgts, MI	02/25/1999	Torque Converters.
35,741	Partners In Exploration (Co.)	Richardson, TX	02/16/1999	Oil and Gas Explorations.
35,742	Florida Canyon Mining (Co.)	Imlay, NV	02/11/1999	Gold Mining..
35,743	Advance Consultants (Co.)	Midland, TX	02/11/1999	On-Site Well Evaluation.
35,744	Petroglyph Operating Co. (Wkrs)	Hutchinson, KS	02/09/1999	Crude Oil.
35,745	Berk Knit Shirt (Co.)	Colon, MI	02/11/1999	Sportswear.
35,746	Boise Cascade Corp. (Co.)	Fisher, LA	02/08/1999	Lumber.
35,747	John Rems Corp. (The) (Co.)	Macungie, PA	02/03/1999	Thermal Underwear and Sleepwear.
35,748	Boones Bit Sewing (Co.)	Williston, ND	01/26/1999	Oil Drilling.
35,749	Regal Ware, Inc. (PACE)	Kewaskum, WI	02/16/1999	Drip Coffee Makers.
35,750	Cross Creek Apparel (Co.)	Mt. Airy, NC	02/01/1999	Knitted Shirts.
35,751	Baker Hughes—Centrilift (Wkrs)	Cody, WY	02/04/1999	Submersible Oilfield Equipment.
35,752	Rhodia, Inc. (Co.)	Freeport, TX	02/01/1999	Rare Earth Chemical Compounds.
35,753	Molen Drilling (Wkrs)	Billings, MT	02/15/1999	Oil Drilling.
35,754	Shasta, Inc. (IAMAW)	Monaca, PA	02/15/1999	Semi-Finish Stainless Steel Products.
35,755	Smith Meter, Inc. (UAW)	Erie, PA	02/17/1999	Liquid Measuring Meters.
35,756	Ringo Drilling (Wkrs)	Abilene, TX	02/17/1999	Oil and Gas Drilling.
35,757	Vanport Manufacturing (Co.)	Boring, OR	02/18/1999	Dimension Lumber.
35,758	ASARCO Amarillo Copper (USWA)	Amarillo, TX	02/05/1999	Refined Copper.

[FR Doc. 99-7717 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,265, et al.]

Kentucky Apparel LLP; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 21, 1999, applicable to all workers of Kentucky Apparel LLP, located in Jamestown, Tennessee. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations occurred at the Summer Shade, Fountain Run, Tompkinsville and Gamaliel, Kentucky locations of Kentucky Apparel LLP. The workers produce denim jeans.

The intent of the Department's certification is to include all workers of Kentucky Apparel LLP who were adversely affected by increased imports of denim jeans. Accordingly, the Department is amending the certification to cover the workers of Kentucky Apparel LLP, Summer Shade, Fountain Run, Tompkinsville and Gamaliel, Kentucky.

The amended notice applicable to TA-W-35,265 is hereby issued as follows:

All workers of Kentucky Apparel LLP, Jamestown, Tennessee (TA-W-35,265), Summer Shade, Kentucky (TA-W-35,265A), Fountain Run, Kentucky (TA-W-35,265B), Tompkinsville, Kentucky (TA-W-35,265C) and Gamaliel, Kentucky (TA-W-35,265D) who became totally or partially separated from employment on or after April 30, 1998 through January 21, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of March, 1999.

Grand D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7735 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,683]

Meridian Dyed Yarn Group Franklyn Dyed Yarns Greenville, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 22, 1999, in response to a petition filed on the same date on behalf of workers at Franklyn Dyed Yarns, Greenville, South Carolina.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7716 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,125]

Pool Company, Headquartered in Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 10, 1998, applicable to all workers of Pool Company, headquartered in Houston, Texas and operating in Texas, Oklahoma, New Mexico, Montana and North Dakota. The notice was published in the **Federal Register** on December 23, 1998 (63 FR 71166).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Pool Company operating at various locations in Alaska, Louisiana and California. The workers provide oilfield services related to the exploration and drilling of crude oil and natural gas.

The intent of the Department's certification is to include all workers of Pool Company adversely affected by increased imports. Accordingly, the

Department is amending the certification to cover workers of Pool Company operating at various locations in Alaska, Louisiana and California.

The amended notice applicable to TA-W-35,125 is hereby issued as follows:

All workers of Pool Company, headquartered in Houston, Texas (TA-W-35,125), operating at various locations in Alaska (TA-W-35,125F), Louisiana (TA-W-35,125G), and California (TA-W-35,125H), who became totally or partially separated from employment on or after October 10, 1997 through December 10, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. This 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7725 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,845]

Pool Company (A/K/A Pool California Energy Services), Bakersfield, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1999 in response to a worker petition which was filed on behalf of workers at the Pool Company (a/k/a Pool California Energy Services), Bakersfield, California.

An active certification covering the petitioning group of workers is already in effect (TA-W-35,125H). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance, Office of Trade Adjustment Assistance.

[FR Doc. 99-7732 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,201 and TA-W-35,485]

Quebecor Printing Federated, Inc. and Quebecor Printing Providence, Inc., Providence, Rhode Island; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Quebecor Printing Federated, Inc. and Quebecor Printing Providence, Inc., both located in Providence, Rhode Island. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-35,201; Quebecor Printing Federated, Inc.

TA-W-35,485; Quebecor Printing Providence, Inc. Providence, Rhode Island (March 17, 1999)

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-7714 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,463, et. al.]

Schlumberger Oilfield Services A/K/A Geco-Prakla, A/K/A IPM, A/K/A Product Centers A/K/A Geoquest, A/K/A Sedco-Forex, A/K/A Wireline A/K/A Shared Services Headquartered in Sugarland, TX, et. al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 1999, applicable to all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger, headquartered in Sugarland, Texas. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354).

At the request of the company, the Department reviewed the certification

for workers of the subject firm. New findings show that Schlumberger Oilfield Services is comprised of other "also known as", firm entities; Geo-Prakla, IPM, Product Centers, GeoQuest, Sedco-Forex, Wireline and Shared Services. Findings also show that worker separations occurred at Schlumberger Oilfield Services operating at various locations in the above cited states. The workers provide oilfield and gas drilling and exploration services, as well as related support and warehouse duties.

The intent of the Department's certification is to include all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger, a/k/a Anadrill Schlumberger, a/k/a Geco-Prakla, a/k/a IMP, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline and a/k/a Shared Services adversely affected by imports. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W-35,463 is hereby issued as follows:

All workers of Schlumberger Oilfield Services, headquartered in Sugarland, Texas, a/k/a Dowell Schlumberger, a/k/a Anadrill Schlumberger (TA-W-35,463), a/k/a Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline, and a/k/a Shared Services (TA-W-35,463) operating at various locations cited below who became totally or partially separated from employment on or after December 21, 1997 through January 26, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Wyoming TA-W-35,463B
California TA-W-35,463C
Alaska TA-W-35,463D
Colorado TA-W-35,463E
Arkansas TA-W-35,463F
Alabama TA-W-35,463G
North Dakota TA-W-35,463H
West Virginia TA-W-35,463I
Illinois TA-W-35,463J
Kansas TA-W-35,463K
Michigan TA-W-35,463L
Mississippi TA-W-35,463M
Utah TA-W-35,463N
Virginia TA-W-35,463O
New Jersey TA-W-35,463P
Pennsylvania TA-W-35,463Q

Signed at Washington, DC this 10th day of March, 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-7723 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,319]

Simpson Pasadena Paper Company, Pasadena, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Pasadena Paper Company, Pasadena, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-35,319; Pasadena Paper Company, Pasadena, Texas (March 15, 1999)

Signed at Washington, D.C. this 16th day of March, 1999.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99-7712 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-35,439]

Southwest Fashion, Inc., El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to workers of Southwest Fashion, Inc., El Paso, Texas. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce (cut) men's pants and some other apparel. New findings show that there was a previous certification covering the same work group, TA-W-32,684, issued on October 28, 1996. That certification expired October 28, 1998. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from October 28, 1998 to October 29, 1998, for the workers of Southwest Fashion, Inc., El Paso, Texas.

The amended notice applicable to TA-W-35,439 is hereby issued as follows:

All workers of Southwest Fashion, Inc., El Paso, Texas who became totally or partially separated from employment on or after October 29, 1998 through January 19, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7724 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,417 & TA-W-35417A]

Stanley Fastening Systems E. Greenwich, RI and N. Kingstown, RI Including Leased Workers of Olsen Staffing Services E. Greenwich RI, and N. Kingstown, RI, Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 19, 1999, applicable to all workers of Stanley Fastening Systems, located in E. Greenwich and N. Kingstown, Rhode Island. The notice was published in the **Federal Register** on January 29, 1999 (64 FR 4712).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that some employees of Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island were leased from Olsten Staffing Services to produce nails at the E. Greenwich and N. Kingstown, Rhode Island facilities. Worker separations occurred at Olsten Staffing Services as a result of workers separations at Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island.

Based on these findings, the Department is amending the certification to include workers of Olsten Staffing Services, leased to Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island.

The intent of the Department's certification is to include all workers of

Stanley Fastening Systems adversely affected by imports.

The amended notice applicable to TA-W-35,417 is hereby issued as follows:

All workers of Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island and leased workers of Olsten Staffing Services, E. Greenwich and N. Kingstown, Rhode Island engaged in employment related to the production of nails for Stanley Fastening Systems, E. Greenwich and N. Kingstown, Rhode Island who became totally or partially separated from employment on or after December 10, 1997 through January 19, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7722 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34,567, et al.]

VF Knitwear, Inc., etc., Hillsville, Virginia; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 8, 1998, applicable to workers of VF Knitwear, Inc. located in Hillsville, Virginia. The notice was published in the **Federal Register** on July 13, 1998 (63 FR 37590).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations have occurred at the Commerce Plant, Commerce, Georgia and the Ferrum Plant, Ferrum, Virginia facilities of VF Knitwear, Inc. All workers will be separated from the Commerce, Georgia and Ferrum, Virginia locations when they close permanently in June, 1999. The workers are engaged in the production of t-shirts and fleecewear.

The intent of the Department's certification is to include all workers of VF Knitwear, Inc. adversely affected by increased imports. Accordingly, the Department is amending the certification to include workers of VF Knitwear, Inc., Commerce Plant,

Commerce, Georgia and Ferrum Plant, Ferrum, Virginia.

The amended notice applicable to TA-W-34,567 is hereby issued as follows:

All workers of VF Knitwear, Inc., Hillsville, Virginia (TA-W-34,567) Commerce Plant, Commerce, Georgia (TA-W-35,567B) and Ferrum Plant, Ferrum, Virginia (TA-W-34,567C) who became totally or partially separated from employment on or after May 11, 1997 through June 8, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of March 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7733 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Survey of the Costs to States and Employers To Convert Existing Reports To Accommodate the Standardization and Expansion of Payroll Reporting

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed survey of States concerning estimated costs that States and employers will incur if they were to adopt the new standards being recommended by the Social Security Administration (SSA). A copy of the proposed survey follows in this document.

DATES: Written comments must be submitted on or before June 1, 1999.

Written comments should:

- 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Rett Hensley, Unemployment Insurance Service, Employment and Training Administration, Department of Labor, Room S4015, 200 Constitution Ave, N.W., Washington, D.C., 20210; 202 219-5615 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The passage of welfare reform legislation, child support legislation and increased concern about unemployment insurance (UI) fraud and overpayments, has stimulated a movement toward adoption of a standardized payroll reporting format. In a cooperative effort to improve the welfare of children almost all States now report UI wages and benefit payments to the National Directory of New Hires (NDNH). The reporting began with States voluntarily reporting third quarter 1997 wages and fourth quarter 1997 benefit payments. The quarterly wage data reported from State maintained systems is already a vital source of information within the NDNH.

The NDNH, which is maintained by the Social Security Administration (SSA) on behalf of the Department of Health and Human Services (HHS), also stores information from W-2 forms. Unfortunately a lack of standardization in the reporting of name and social security number (SSN) information by the States makes matching the W-2 information with the State wage data difficult and diminishes the usefulness

of the information in the data base. Recently the SSA took the lead in establishing a standard for storage of name and social security information. Employers will begin using the new standards for W-2's issued in 1999 to report wages earned in 1998. Listed below are some agencies that HHS indicates may probably benefit as a result of implementation of the plan for the new standards:

- State child support agencies (parent locator systems)
- Treasury (debt collections)
- SSA (Supplemental Security Income, disability, and retirement overpayment detection)
- IRS (fraud detection, tax enforcement).
- States (fraud prevention and detection for UI, worker's compensation, Transitional Assistance for Needy Families, Foodstamps and Medicaid).

A system change of this magnitude will be very costly for some States to implement. Other States may already be using these or similar standards. The Office of Management and Budget, at the request of SSA asked the Department of Labor to include \$40 million in its Fiscal Year 2000 budget request for States to use in adopting the new standards in payroll reporting. Since the \$40 million is only a rough estimate of need, the Unemployment Insurance Service (UIS) must gather estimates from State Employment Security Agencies (SESAS) of the costs that States and their employers might expect to incur if they were to adopt the new standards. This information will produce a more accurate estimate of actual need in the event that all States implement this new standard. A survey form, which shows the standards, has been developed to assist in reporting these estimates. It is titled "Name Fields".

The survey also asks for an estimate of the cost a State agency and its employers might experience in gathering some new information concerning average wages, hours worked and the location of jobs. Having some knowledge of the potential cost of gathering this information will help in making future decisions on whether or not it is feasible to ask employers and States for this information. This second portion is titled "Labor Market Information".

II. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 (c)(2)(A)).

Agency: Employment and Training Administration, Department of Labor.

Title: Survey of the Costs to States and Employers to Convert Existing Reports to Accommodate the Standardization and Expansion of Payroll Reporting.

Affected Public: State governments (State Employment Security Agencies) and employers.

Total Respondents: Fifty three State governments and, possibly, SESA-selected samples of employers.

Frequency: One time only.

Total Responses: Fifty three.

Average Time Per Response: 90 hours for "Name Fields" portion of survey. To estimate how much extra equipment and staff it will take to gather and store the additional name fields characters, each State would have to consult with its data processing units about equipment needs and programming requirements. Estimates would have to be produced, detailed and discussed. To obtain the impact on the State's employers, some discussions would need to take place with a number of employers and their data processing staff as well.

The complete the more difficult portion of the survey, "Labor Market Information", 180 hours is estimated. States will have to consider costs involved in: training employers and staff to gather and report *new data* (e.g., hours worked, weeks worked, occupational codes and FIPS codes) that they are not accustomed to working with; bringing about compliance by hiring additional staff to answer employer questions, and calling and training employers who fail to comply; and fir the purchase of additional equipment, redesigning forms and software, and hiring staff to process, store and forward the new data.

Total survey response time is estimated at 270 hours.

Estimated Total Burden Hours: 14,310 hours for 53 States.

The survey would look as follows:

Section One—Survey Concerning the Standardization of Name Fields

Please fill in the following table showing your estimate of the cost (for both your State and the employers of your State) of converting your existing system to the new standards shown below. You should assume that your State will be utilizing magnetic media to make your reports to the National Directory of New Hires.

Field	SESA's current character capability	New SSA standards field type	State's initial cost to change *	State's ongoing annual cost **	Employer's initial cost *	Employer's ongoing annual cost **	Total cost for first year
First Name	15 characters alpha					
Middle Name	15 characters alpha					
Last Name	20 characters alpha					
Suffix ***	4 characters numeric					
SSN	9 characters numeric					

* Consider the cost of additional computer storage equipment and programming.
 ** Consider the ongoing costs of entering additional data each quarter and maintaining the additional volume of records.
 *** This is an optional field, for future use by SSA. It refers to Jr. or Sr. etc., after some names.

Section Two—Survey Concerning Collecting Labor Market Information

Some agencies have requested labor market information from UIS that is not currently available on most States' Contribution and Wage Reports. Your cost estimates for providing this information is requested to facilitate long term planning for labor market information needs. There are no immediate plans to begin requesting or utilizing this additional information.

Fields on the quarterly wage report	Anticipated characters needed	State's initial cost	State's ongoing annual cost	Employer's initial cost to add	Employer's ongoing annual cost	Total cost for first year
A column showing the quarterly hours worked per employee.	3 Characters.					
A column showing the weeks worked per employee ...	2 Characters.					
A column showing the occupational code of each employee.	6 Characters.					
A column showing the FIPS code or zip code of where each worker works.	5 Characters.					

Please use this space to make any comments or observations you wish to express about the survey.

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

Dated: March 23, 1999.

Grace A. Kilbane,
 Director, Unemployment Insurance Service.
 [FR Doc. 99-7777 Filed 3-29-99; 8:45 am]
 BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-02858 & 0258A]

The Pillsbury Company, Etc.; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on February 11, 1998, applicable to workers of The Pillsbury

Company, Haagen-Dazs Plant located in Woodbridge, New Jersey. The notice will be published soon in the **Federal Register**.

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at the Haagen-Dazs Warehouse Operation of The Pillsbury Company, Dayton, New Jersey when it closed in March, 1999. The Dayton, New Jersey location provided warehousing and distribution services for The Pillsbury Company, Haagen-Dazs's production facilities including Woodbridge, New Jersey. The workers are engaged in the production of ice cream products (gallons of ice cream, stick bars, pops and sorbet).

Accordingly, the Department is amending the certification to cover the workers of The Pillsbury Company, Haagen-Dazs Warehouse Operation, Dayton, New Jersey.

The intent of the Department's certification is to include all workers of The Pillsbury Company, Haagen-Dazs who were adversely affected by a shift of production to Canada.

The amended notice applicable to NAFTA-02858 is hereby issued as follows:

All workers of The Pillsbury Company, Haagen-Dazs Plant, Woodbridge, New Jersey (NAFTA-02858) and Haagen-Dazs

Warehouse Operation, Dayton, New Jersey (NAFTA-2858A) who became totally or partially separated from employment on or after December 21, 1997 through February 11, 2001 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 19th day of March, 1999.

Grant D. Beale,
 Acting Director, Office of Trade Adjustment Assistance.
 [FR Doc. 99-7734 Filed 3-29-99; 8:45 am]
 BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-02814]

Southwest Fashions, Inc. El Paso, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 19, 1999, applicable to all workers of Southwest Fashion, Inc., El Paso, Texas. The notice was published in the **Federal**

Register on January 29, 1999 (64 FR 4713).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce (cut) men's pants and some other apparel. New findings show that there was a previous certification covering the same worker group, NAFTA-01200, issued on October 23, 1996. That certification expired October 23, 1998. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from December 27, 1997 to October 24, 1998 for the workers of Southwest Fashion, Inc., El Paso Texas.

The amended notice applicable to NAFTA-02814 is hereby issued as follows:

All workers of Southwest Fashion, Inc., El Paso, Texas who became totally or partially separated from employment on or after October 24, 1998 through January 19, 2001 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade; Adjustment Assistance.

[FR Doc. 99-7711 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-2360, NAFTA-2360B and NAFTA-2360C]

VF Knitwear, Inc., Hillsville, VA Commerce Plant, Commerce, GA and Ferrum Plant, Ferrum, VA; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on June 8, 1998, applicable to workers of VF Knitwear, Inc., Hillsville, Virginia. The notice was published in the **Federal Register** on July 13, 1998 (63 FR 37591).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations occurred at the Commerce Plant, Commerce, Georgia and the Ferrum Plant, Ferrum, Virginia facilities of VF Knitwear, Inc. All workers will be separated from the Commerce, Georgia

and Ferrum, Virginia locations when they close permanently in June, 1999. The workers are engaged in the production of t-shirts and fleecewear.

The intent of the Department's certification is to include all workers of VF Knitwear, Inc. adversely affected by increased imports from Mexico. Accordingly, the Department is amending the certification to include workers of VF Knitwear, Inc., Commerce Plant, Commerce, Georgia and Ferrum Plant, Ferrum, Virginia.

The amended notice applicable to NAFTA-2360 is hereby issued as follows:

All workers of VF Knitwear, Inc., Hillsville, Virginia (NAFTA-2360), Commerce Plant, Commerce, Georgia (NAFTA-2360B) and Ferrum Plant, Ferrum, Virginia (NAFTA-2360C) who became totally or partially separated from employment on or after May 1, 1997 through June 8, 2000, are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of March, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99-7719 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL MEDIATION BOARD

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Application for Mediation Services, and Application for Investigation of Representation Dispute

ACTION: Notice.

SUMMARY: The National Mediation Board, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the National Mediation Board is soliciting comments concerning the proposed extension of the Application for Mediation Services, and the Application for Investigation of Representation Dispute.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before June 1, 1999.

Written comments should:

- 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 responses.

ADDRESSES: Send comments to Reba F. Streaker, Records Officer, National Mediation Board, 1301 K Street, N.W., Suite 250 East, Washington, DC 20572. Telephone No. (202) 692-5050 and FAX No. (202) 692-5086.

SUPPLEMENTARY INFORMATION:

A. Application for Mediation Services, NMB-2

I. Background

Section 5, First of the Railway Labor Act, 45 U.S.C., 155, First, provides that both, or either, of the parties to the labor-management dispute may invoke the mediation services of the National Mediation Board. Congress has determined that it is in the nation's best interest to provide for Governmental mediation as the primary dispute resolution mechanism to resolve labor-management disputes in the railroad and airline industries.

The Railway Labor Act is silent as to how the invocation of mediation is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.1, provides that applications for mediation services be made on printed forms which may be secured from the National Mediation Board. This section of the regulations provides that applications should be submitted in duplicate, show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, date and

copy of notice served by the invoking party to the other and date of final conference between the parties. The application should be signed by the highest officer of the carrier who has been designated to handle disputes under the Railway Labor Act or by the chief executive of the labor organization, whichever party files the application.

II. Current Actions

The extension of this form is necessary considering the information provided by the parties is used by the Board to structure a mediation process that will be productive to the parties and result in a settlement without resort to strike or lockout. The Board has been very successful in resolving labor disputes in the railroad and airline industries. Historically, some 97 percent of all NMB mediation cases have been successfully resolved without interruptions to public service. Since 1980, only slightly more than 1 percent of cases have involved a disruption of service. This success ratio would possibly be reduced if the Board was unable to collect the brief information that it does in the application for mediation services.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Agency: National Mediation Board.
Title of Form: Application for Mediation Services.

OMB Number: 3140-0001.

Agency Number: NMB-2.

Frequency: Daily.

Affected Public: Carrier and Union Officials, and employees of railroads and airlines.

Number of Respondents: 123 annually.

Estimated Time Per Respondent: The burden on the parties is minimal in completing the Application for Mediation Services. There is no improved technological method for obtaining this information.

Total Estimated Cost: \$1040.00.

Total Burden Hours: 43.

B. Application for Investigation of Representation Dispute, NMB-3

I. Background

Section 2, Fourth of the Railway Labor Act, 45 U.S.C. 152, Fourth, provides that railroad and airline employees shall have the right to organize and bargain collectively through representatives of their own choosing. When a dispute arises among the employees as to who will be their

bargaining representative, the National Mediation Board is required by Section 2, Ninth to investigate the dispute, to determine who is the authorized representative, if any, and to certify such representative to the employer. The Board's duties do not arise until its services have been invoked by a party to the dispute. The Railway Labor Act is silent as to how the invocation of a representation dispute is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.2 provides that requests to investigate representation disputes may be made on printed forms NMB-3. The application shows the name or description of the craft or class involved, the name of the invoking organization, the name of the organization currently representing the employees, if any, and the estimated number of employees in the craft or class involved. This basic information is essential to the Board in that it provides a short description of the particulars of dispute and the Board can begin determining what resources will be required to conduct an investigation.

II. Current Actions

The extension of this form is necessary considering the information is used by the Board in determining such matters as how many staff will be required to conduct an investigation and what other resources must be mobilized to complete our statutory responsibilities. Without this information, the Board would have to delay the commencement of the investigation, which is contrary to the intent of the Railway Labor Act.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Agency: National Mediation Board.
Title of Forms: Application for Investigation of Representation Dispute.
OMB Number: 3140-002.
Agency Number: NMB-3.
Frequency: Daily.

Affected Public: Union Officials, and employees of railroads and airlines.

Number of Respondents: 68 annually.
Estimated Time Per Respondent: The burden on the parties is minimal in completing the Application for Investigation of Representation Dispute. There is no improved technological method for obtaining this information.

Total Estimated Cost: \$517.00.

Total Burden Hours: 24.50.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of

Management and Budget approval of the information collection request, they will also become a matter of public record.

Reba Streaker,

Records Officer/Paperwork Clearance Officer.

[FR Doc. 99-7763 Filed 3-29-99; 8:45 am]

BILLING CODE 7550-01-P

NUCLEAR REGULATORY COMMISSION

[Docket 72-17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.82(e) to Portland General Electric Company (PGE). Exemption from 10 CFR 72.82(e) would release PGE from submitting the report of preoperational test acceptance criteria and test results concerning the operation of its independent spent fuel storage installation (ISFSI). The proposed ISFSI is to be located at the Trojan Nuclear Plant (Docket Nos. 72-17 and 50-344) in Columbia County, Oregon. The proposed ISFSI would store the spent nuclear fuel from the Trojan Nuclear Plant.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated February 10, 1998, PGE requested an exemption from the requirement of 10 CFR 72.82(e) to submit a report of the preoperational test acceptance criteria and test results at least 30 days prior to the receipt of spent fuel or high-level radioactive waste.

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from submitting a report to NRC in accordance with 10 CFR 72.82(e).

Need for the Proposed Action

The applicant is preparing to build and operate the Trojan ISFSI as described in its application and SAR, subject to approval of the pending licensing application. The exemption from 10 CFR 72.82(e) is necessary because PGE is preparing to transfer the spent nuclear fuel from its current location in the Trojan Nuclear Plant spent fuel pool to the Trojan ISFSI, immediately following the completion of the preoperational testing.

Environmental Impacts of the Proposed Action

Section 72.82(e) currently requires that a Part 72 licensee submit to NRC a report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into an ISFSI. As part of the review of the applicant's SAR, the staff determined that the scope of the preoperational testing was adequately described. In addition, the staff will be on site during the preoperational testing to both observe and conduct inspections. This allows the staff to conduct a direct observation and independent evaluation as to whether the applicant has developed, implemented, and evaluated preoperational testing activities. Therefore, the reports required by 10 CFR 72.82(e) are not necessary to provide a hold period for NRC staff review. Further, on September 14, 1998, the Commission issued a proposed rule (63 FR 49046) to eliminate 10 CFR 72.82(e). Applicants for a license are currently required to submit information on a preoperational test program as part of an SAR. The Commission's current practice is to maintain an extensive oversight (i.e., inspection) presence during the preoperational testing phase of the ISFSI; reviewing the acceptance criteria, preoperational test, and test results as they occur. In the proposed rule, the Commission states that it believes neither the report nor the 30-day hold period are needed for regulatory purposes and taking this action will relieve licensees from an unnecessary regulatory burden. A final rule to remove this regulation has not yet been issued by the Commission.

Alternative to the Proposed Action

Since there is no environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.82(e) exemption and require the report of preoperational test acceptance criteria and test results at least 30 days before the receipt of spent fuel into the ISFSI. This alternative would have the same environmental impact.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in

accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.82(e) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72-17. For further details with respect to this action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated February 10, 1998, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99-7760 Filed 3-29-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[DOCKET 72-17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.124(b) to Portland General Electric Company (PGE). Exemption from 10 CFR 72.124(b) would provide relief to PGE from the requirement to use positive means to verify the continued efficacy of neutron absorbing materials for spent fuel storage casks stored at an independent spent fuel storage installation (ISFSI) at the Trojan Nuclear Plant (Docket Nos. 72-17 and 50-344) in Columbia County, Oregon. The proposed ISFSI would store spent nuclear fuel from the Trojan Nuclear Plant.

Environmental Assessment (EA)

Identification of Proposed

By letter dated March 20, 1997, PGE requested an exemption from the

requirement in 10 CFR 72.124(b) which states: "When practicable the design of an ISFSI or MRS must be based on favorable geometry, permanently fixed neutron absorbing materials (poisons), or both. Where solid neutron absorbing materials are used [as a means for criticality control], the design shall provide for positive means to verify their continued efficacy." Specifically, PGE is requesting exemption from the requirement to provide a positive means to verify the continued efficacy of neutron absorbing materials.

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from the requirement to use positive means to verify the continued efficacy of neutron absorbing materials for spent fuel storage casks stored at an ISFSI in accordance with 10 CFR 72.124(a).

Need for the Proposed Action

The applicant is preparing to build and operate the Trojan ISFSI as described in its application and SAR, subject to approval of the pending licensing application. The exemption to 10 CFR 72.124(b) is necessary because, while this requirement is appropriate for wet spent fuel storage systems, it is not appropriate for dry spent fuel storage systems such as the one PGE plans to use for storage of spent fuel at the Trojan ISFSI. Periodic verification of neutron poison effectiveness is neither necessary nor practical for these casks.

Environmental Impacts of the Proposed Action

Section 72.124(b) currently requires that where the design of an ISFSI uses solid neutron absorbing material as a method of criticality control, the design of the ISFSI shall provide a positive means to verify the continued efficacy of the absorbing material. On June 9, 1998, the Commission issued a proposed rule (63 FR 31364) to revise 10 CFR 72.124(b). The Commission proposed that for dry spent fuel storage systems, the continued efficacy of neutron absorbing material may be confirmed by a demonstration and analysis before use, showing that significant degradation of the material cannot occur over the life of the facility. The Commission stated in the proposed rule that the potentially corrosive environment under wet storage conditions is not present in dry storage systems because an inert environment is maintained. Under these conditions, there is no mechanism to significantly degrade the neutron absorbing material. Consequently, a positive means for verifying the continued efficacy of the

material is not required. A final rule to revise this regulation has not yet been issued by the Commission.

The review of the applicant's SAR showed that credit was taken for only 75% of the original neutron absorbing material being present and that the neutron flux produced by the spent nuclear fuel would deplete only a small percentage of neutron absorbing material during the expected life of this facility. The neutron absorbing material (poison) is in a form that exposure to the ambient atmosphere of the basket interior will not cause a significant deterioration of the structural properties of the material over the expected life of the facility.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.124(b) exemption and, therefore, not allow elimination of the requirement to verify the continued efficacy of neutron absorbing materials. This alternative would have the same or greater environmental impacts.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.124(b) will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72-17. For further details with respect to this action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated March 20, 1997, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[DOCKET 72-17]

Portland General Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption From Certain Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from certain requirements of 10 CFR 72.70(a), to Portland General Electric Company (PGE). Exemption from portions of 10 CFR 72.70(a) would release PGE from submitting the final Safety Analysis Report (SAR) at least 90 days prior to the receipt of fuel at its independent spent fuel storage installation (ISFSI) at the Trojan Nuclear Plant (Docket Nos. 72-17 and 50-344) in Columbia County, Oregon.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated February 9, 1999, PGE requested an exemption from the requirement in 10 CFR 72.70(a) which states, in part, that the "... information submitted in the Safety Analysis Report shall be updated and submitted to the Commission "... with final Safety Analysis Report completion and submittal to the Commission at least 90 days prior to the planned receipt of spent fuel ..."

The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7 to release PGE from submitting the final SAR to NRC 90 days prior to receipt of spent fuel at the Trojan ISFSI in accordance with 10 CFR 72.70(a).

Need for the Proposed Action

The exemption from 10 CFR 72.70(a) is necessary because, while PGE has submitted all major changes to the SAR within the 90-day limit, a number of minor changes have been submitted in a timeframe that would not permit PGE to receive spent fuel at the ISFSI on its planned schedule if it must comply with the 90-day limit. A delay of 90 days to receive fuel at the Trojan ISFSI

would cause an unnecessary burden to PGE.

Environmental Impacts of the Proposed Action

PGE last submitted a major revision to the SAR on October 31, 1998. Since that time PGE has submitted several minor changes to the SAR. NRC staff has reviewed all SAR changes through March 11, 1999, in consideration for issuing PGE a license, pursuant to 10 CFR Part 72, to operate an ISFSI at Trojan Nuclear Plant. Therefore, the staff has concluded that a period of 90 days would not be required to review the final SAR. Based on the review of the Trojan ISFSI SAR as supplemented through March 11, 1999, the staff further concluded that a period of 5 days would be sufficient to review the final SAR and, if necessary, take additional regulatory action prior to PGE receiving fuel at the Trojan ISFSI. Accordingly, the Commission concludes that this proposed exemption will have no significant environmental impacts.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the 10 CFR 72.70(a) exemption and require the final SAR update at least 90 days before the receipt of spent fuel at the ISFSI. This alternative would also have no significant environmental impact.

Agencies and Persons Consulted

On March 1, 1999, Adam Bless from the Oregon Office of Energy was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing EA, granting an exemption from 10 CFR 72.70(a) to release PGE from submitting the final SAR at least 90 days prior to the receipt of fuel at its ISFSI at the Trojan Nuclear Plant and instead require the final SAR be submitted at least 5 days prior to the receipt of fuel at the Trojan ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission concludes that an environmental impact statement is not required for the proposed exemption.

This application was docketed under 10 CFR Part 72, Docket 72-17. For further details with respect to this

action, see the application for an ISFSI license dated March 26, 1996, and the request for exemption dated February 9, 1999, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the Portland State University, Branford Price Millar Library, 934 SW Harrison, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. NPF-42 that was issued to Wolf Creek Nuclear Operating Corporation (the licensee) for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will revise the current Technical Specifications (CTS) for WCGS in their entirety based on the guidance provided in NUREG-1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995, and in the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132). The proposed action is in accordance with the licensee's amendment request dated May 15, 1997, as supplemented by (1) the letters in 1998 dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, and (2) the letters in 1999 dated February 4 and March 5 (3 letters).

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would

benefit from an improvement and standardization of plant Technical Specifications (TS). The NRC's "Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants," (52 FR 3788) contained proposed criteria for defining the scope of TS. Later, the NRC's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36, "Technical Specifications." The "Final Rule" (60 FR 36953) codified criteria for determining the content of TS. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For WCGS, the Improved Standard Technical Specifications (ISTS) are in NUREG-1431. This document formed the basis for the WCGS Improved Technical Specifications (ITS) conversion. The NRC Committee to Review Generic Requirements (CRGR) reviewed the ISTS, made note of its safety merits, and indicated its support of the conversion by operating plants to the ISTS.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG-1431 and on guidance provided by the Commission in its Final Policy Statement. The objective of the changes is to completely rewrite, reformat, and streamline the CTS (i.e., to convert the CTS to the ITS). Emphasis is placed on human factors principles to improve clarity and understanding of the TS. The Bases section of the ITS has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG-1431, portions of the CTS were also used as the basis for the development of the WCGS ITS. Plant-specific issues (e.g., unique design features, requirements, and operating practices) were discussed with the licensee, and generic matters with Westinghouse and other OGs.

This conversion is a joint effort in concert with three other utilities: Pacific Gas & Electric Company for Diablo Canyon Power Plant, Units 1 and 2 (Docket Nos. 50-275 and 50-323); TU Electric for Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50-445 and 50-446); and Union Electric Company for Callaway Plant, Unit 1 (Docket No. 50-483). It was a goal of the four utilities to make the ITS for all the plants as similar as possible. This joint effort includes a common

methodology for the licensees in marking-up the CTS and NUREG-1431 specifications, and the NUREG-1431 Bases, that has been accepted by the staff.

This common methodology is discussed at the end of Enclosure 2, "Mark-Up of Current TS"; Enclosure 5a, "Mark-Up of NUREG-1431 Specifications"; and Enclosure 5b, "Mark-Up of NUREG-1431 Bases", for each of the 14 separate ITS sections that were submitted with the licensee's application. Each of the 14 ITS sections also includes the following enclosures:

- Enclosure 1, "Cross-Reference Table," provides the cross-reference table connecting each CTS specification (i.e., limiting condition for operation, required action, or surveillance requirement) to the associated ITS specification, sorted by both CTS and ITS specifications.
- Enclosures 3A and 3B, "Description of Changes to Current TS" and "Conversion Comparison Table," provides the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies.
- Enclosure 4, "No Significant Hazards Considerations," provides the no significant hazards consideration (NHSC) of 10 CFR 50.91 for the changes to the CTS. A description of the NSHC organization is provided, followed by generic NHSCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NHSCs for less restrictive changes.
- Enclosures 6A and 6B, "Differences From NUREG-1431" and "Conversion Comparison Table," provides the descriptions of the differences from NUREG-1431 specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies.

The common methodology includes the convention that, if the words in a CTS specification are not the same as the words in the ITS specification, but the CTS words have the same meaning or have the same requirements as the words in the ITS specification, then the licensees do not have to indicate or describe a change to the CTS. In general, only technical changes have been identified; however, some non-technical changes have also been identified. The portion of any specification which is being deleted is struck through (i.e., the deletion is annotated using the strike-out feature of the word processing computer program or crossed out by hand). Any text being added to a specification is shown by shading the text, placing a circle around the new

text, or by writing the text in by hand. The text being struck through or added is shown in the marked-up CTS and ISTS pages in Enclosures 2 (CTS pages) and 5 (ISTS and ISTS Bases pages) for each ITS section attachment to the application. Another convention of the common methodology is that the technical justifications for the less restrictive changes are in the NHSCs.

The proposed changes can be grouped into the following four categories: relocated requirements, administrative changes, less restrictive changes involving deletion of requirements, and more restrictive changes. These categories are as follows:

1. Relocated requirements (i.e., the licensee's "LG" or "R" changes) are items which are in the CTS but do not meet the criteria set forth in the Final Policy Statement. The Final Policy Statement establishes a specific set of objective criteria for determining which regulatory requirements and operating restrictions should be included in the TS. Relocation of requirements to documents with an established control program, controlled by the regulations or the TS, allows the TS to be reserved only for those conditions or limitations upon reactor operation which are necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety, thereby focusing the scope of the TS. In general, the proposed relocation of items from the CTS to the Updated Safety Analysis Report (USAR), appropriate plant-specific programs, station procedures, or ITS Bases follows the guidance of NUREG-1431. Once these items have been relocated to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC-approved control mechanisms, which provide appropriate procedural means to control changes by the licensee.

2. Administrative changes (i.e., the licensee's "A" changes) involve the reformatting and rewording of requirements, consistent with the style of the ISTS in NUREG-1431, to make the TS more readily understandable to station operators and other users. These changes are purely editorial in nature, or involve the movement or reformatting of requirements without affecting the technical content. Application of a standardized format and style will also help ensure consistency is achieved among specifications in the TS. During this reformatting and rewording process, no technical changes (either actual or interpretational) to the TS will be made unless they are identified and justified.

3. Less restrictive changes and the deletion of requirements involves portions of the CTS (i.e., the licensee's "LS" and "TR" changes) which (1) provide information that is descriptive in nature regarding the equipment, systems, actions, or surveillances, (2) provide little or no safety benefit, and (3) place an unnecessary burden on the licensee. This information is proposed to be deleted from the CTS and, in some instances, moved to the proposed Bases, USAR, or procedures. The removal of descriptive information to the Bases of the TS, USAR, or procedures is permissible because these documents will be controlled through a process that utilizes 10 CFR 50.59 and other NRC-approved control mechanisms. The relaxations of requirements were the result of generic NRC actions or other analyses. They will be justified on a case-by-case basis for the WCGS and described in the safety evaluation to be issued with the license amendment.

4. More restrictive requirements (i.e., the licensee's "M" changes) are proposed to be implemented in some areas to impose more stringent requirements than are in the CTS. In some cases, these more restrictive requirements are being imposed to be consistent with the ISTS. Such changes have been made after ensuring the previously evaluated safety analysis for the WCGS was not affected. Also, other more restrictive technical changes have been made to achieve consistency, correct discrepancies, and remove ambiguities from the TS. Examples of more restrictive requirements include: placing a Limiting Condition for Operation (LCO) on station equipment which is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

There are twenty-two other proposed changes to the CTS that may be included in the proposed amendment to convert the CTS to the ITS. These are beyond scope issues (BSIs) in that they are changes to both the CTS and the ISTS. For the WCNGS, these are the following:

1. Change 1-05-M (CTS Section 3/4.4). The change would add a note under CTS 3.4.1.2 (ITS 3.4.5) to establish secondary side temperature restrictions on starting an idle reactor coolant pump when below the low temperature overpressurization arming temperature of 368 degrees F. The change would also add similar notes to CTS 3.4.1.3 and 3.4.1.4.1 (ITS 3.4.6 and 3.4.7). The notes would help ensure the assumptions in the WCNGS low

temperature overpressurization event analysis remain valid.

2. Change 1-15-M (CTS Section 3/4.4). CTS Surveillance Requirements (SRs) 4.4.1.2.2 and 4.4.1.3.2 require steam generator (SG) levels to be periodically verified to be greater than or equal to 10 percent wide range water level. The proposed change would revise the SG level value to 6 percent narrow range water level. This change would help ensure that the SG level is sufficient to cover all SG tubes so that the SGs would provide an adequate heat sink for removal for decay heat. The proposed change would similarly revise CTS 3.4.1.4.b, which currently requires, for operational Mode 5, that the SG level be maintained greater than 10 percent wide range level. The change would increase this level value to greater than 66 percent wide range, which again would help ensure the SG tubes remain covered in Mode 5.

3. Change 7-10-LS-9 (CTS Section 3/4.6). The proposed change would add a note to CTS SRs 4.6.1.7.2 and 4.6.1.7.4 stating that containment purge valves with resilient seals are not required to be leak rate tested when the penetration flow path is isolated by leak-tested blank flange.

4. Change 2-20-A (2-20-A has two changes associated with it. This is the first of two.) (CTS Section 3/4.8). The proposed change would increase the minimum battery cell float voltages for DC sources in CTS Table 4.8-2 by 0.01 to 0.02 volts.

5. Change 2-20-A (Second change associated with 2-20-A) (CTS Section 3/4.8). A change would be made to decrease the total required battery terminal voltage for a DC subsystem in CTS SR 4.8.2.1. These proposed changes in minimum cell float voltage and corresponding total required battery voltage would reflect a recent design modification made by the licensee that replaced the Gould manufactured square cell batteries with AT&T manufactured round cell batteries.

6. Change 2-27-M (CTS Section 3/4.8). The proposed change would revise the battery performance discharge test acceptance criteria in CTS 4.8.2.1.e to reflect a recent design modification that replaced the Gould manufactured square cell batteries with AT&T manufactured round cell batteries.

The above six BSIs are given in the licensee's application. The remaining sixteen BSIs may have been revised by the licensee's responses to the NRC requests for additional information (RAIs). The format for the sixteen BSIs listed below is the associated change number, RAI number, RAI response

submittal date, and description of the change.

7. Change 1-22-M (CTS Section 3/4.3), question Q3.3-49, response letter dated November 24, 1998. The proposed change would add quarterly channel operational tests (COTs) to CTS Table 4.3-1 for the power range neutron flux-low, intermediate range neutron flux, and source range flux trip functions. The CTS only require a COT prior to startup for these functions. A new note (Note 19) would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P-10 for the power range and intermediate range instrumentation if not performed within the previous 92 days (P-10 is the dividing point marking the applicability for these trip functions). A new note (Note 20) would also be added requiring the P-6 and P-10 interlocks be verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

8. Change 1-7-LS-3 (CTS Section 3/4.3), question Q3.3-107, response letter dated December 2, 1998. The proposed changes would (1) extend the completion time for CTS Action 3.b from no time specified to 24 hours for intermediate range channel restoration or changing the power level to either below P-6 or above P-10, (2) reduce the applicability of the intermediate range neutron flux channels and delete CTS Action 3.a as being outside the revised applicability, and (3) add a less restrictive new action that requires immediate suspension of operations involving positive reactivity additions and a power reduction below P-6 within 2 hours, but no longer requires a reduction to Mode 3.

9. Change 1-9-A (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change would revise requirements concerning overtime control by replacing CTS 6.2.2.e with a reference to administrative procedures for the control of working hours.

10. Change 1-15-A (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change would revise CTS 6.2.2.G to eliminate the title of Shift Technical Advisor. The engineering expertise is maintained on shift, but a separate individual would not be required as allowed by a Commission Policy Statement.

11. Change 2-18-A (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change would revise the dose rate limits in the Radioactive Effluent Controls

Program for releases to areas beyond the site boundary would be revised to reflect 10 CFR Part 20 requirements.

12. Change 2-22-A (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change would revise the Radioactive Effluent Controls Program to include clarification statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are applicable to these activities.

13. Change 3-11-A (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. CTS provides alternative high radiation area access control alternatives pursuant to 10 CFR 20.203(c)(2). The proposed change would revise CTS 6.12 to meet the current requirements in 10 CFR Part 20 and the guidance in NRC Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants" for such access controls.

14. Change 3-18-LS-5 (CTS Section 6.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change would delete the CTS 6.9.1.8 requirement to provide documentation of all challenges to the power operated relief valves (PORVs) and safety valves on the reactor coolant system. This proposed change is based on Generic Letter 97-02, "Revised Contents of the Monthly Operating Report," which reduced the requirements for submitting such information to the NRC. GL 97-02 did not include these valves for information to be submitted.

15. Change 9-17-LS-24 (CTS Section 3/4.4), question Q3.4.12-5, response letter dated September 24, 1998. The proposed change would add four notes to CTS 3.4.9.3 to reflect CTS SR 4.5.3.2, LCO 3.5.4 actions, LCO 3.5.4 applicability notes and the accumulator action proposed under Change 9-10-M for CTS 3/4.4. Note 1 on centrifugal charging pump (CCP) swap operations would be a relaxation of the CTS because it would allow both CCPs to be capable of injecting into the RCS for up to 4 hours throughout low temperature protection applicability.

16. Change 10-20-LS-39 (CTS Section 3/4.7), question Q3.7.10-14, response letter dated October 16, 1998. The proposed change would revise and add an action to CTS LCOs 3.7.6 and 3.7.7 for ventilation system pressure envelope degradation that allows 24 hours to restore the control room pressure envelope through repairs before requiring the unit to perform an orderly shutdown. The new action has a longer allowed outage time than LCO

3.0.4 which the CTS would require to be entered immediately. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. This change recognizes that the ventilation trains associated with the pressure envelope would still be operable.

17. Change 4-8-LS-34 (CTS Section 3/4.4), question Q3.4.11-2, response letter dated September 24, 1998. The proposed change would limit the CTS SRs 4.4.4.1 and 4.4.4.2 requirements to perform the 92-day surveillance of the pressurizer PORV block valves and the 18-month surveillance of the pressurizer PORVs (i.e., perform one complete cycle of each valve) to only Modes 1 and 2.

18. Change 4-9-LS-36 (CTS Section 3/4.4), question Q3.4.11-4, response letter dated September 24, 1998. The proposed change would add a note to CTS LCO 3.4.4 Action (d) that would state that the action does not apply when the PORV block valves are inoperable as a result of power being removed from the valves in accordance with Actions (b) and (c) for an inoperable PORV.

19. Change 1-60-A (CTS Section 3/4.3), question TR3.3-0073.3, response letter dated December 21, 1998. The proposed change would revise the frequency for conducting the trip actuating device operational test (TADOT) for the turbine trip of the reactor trip instrumentation surveillance requirements in CTS Table 4.3-1 from "prior to reactor startup" to "prior to exceeding the P-9 interlock whenever the unit has been in Mode 3."

20. Change 1-70-M (CTS Section 3/4.8), question Q3.8.2-04, response letter dated December 17, 1998. The proposed change would add shutdown requirements (including actions) for the load shedder and emergency load sequencer (LSELS) to CTS LCO 3.8.1.2 and surveillance requirements in SR 4.8.1.2. These requirements would reflect current practice.

21. Change 2-25-LS-23 (CTS Section 3/4.8), question Q3.8.4-08, response letter dated December 17, 1998. The proposed change would allow substitution of the service test with a performance discharge test in CTS 4.8.2.1.

22. Change 14-9-M (CTS Section 3/4.7), question Q3.7.16-3, response letter dated February 4, 1999. The proposed change would provide a new LCO, Actions and SRs based on the ISTS to impose limitations on the boron concentration in the fuel storage pool. The BSI for the conversion to ITS is that a minimum value for boron concentration would be added that is currently not in the CTS, and the

Actions would be revised to reflect additional regions of fuel storage based on approval of reracking the spent fuel pool prior to issuance of the ITS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed conversion of the CTS to the ITS for WCGS, including the beyond scope issues discussed above. Changes which are administrative in nature have been found to have no effect on the technical content of the TS. The increased clarity and understanding these changes bring to the TS are expected to improve the operators' control of WCGS in normal and accident conditions.

Relocation of requirements from the CTS to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may then be made by the licensee under 10 CFR 50.59 and other NRC-approved control mechanisms which will ensure continued maintenance of adequate requirements. All such relocations have been found consistent with the guidelines of NUREG-1431 and the Commission's Final Policy Statement.

Changes involving more restrictive requirements have been found to enhance station safety.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place an unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the OG, and found to be acceptable for WCGS. Generic relaxations contained in NUREG-1431 have been reviewed by the NRC staff and found to be acceptable.

In summary, the proposed revisions to the TS were found to provide control of station operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

The proposed action will not increase the probability or consequences of accidents, will not change the quantity or types of any effluent that may be released offsite, and will not significantly increase the occupational or public exposure. Also, these changes do not increase the licensed power and allowable effluents for the station. The changes will not create any new or unreviewed environmental impacts that were not considered in the Final

Environmental Statement related to the operation of WCGS, NUREG-0878, dated June 1982. Therefore, there are no significant radiological impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action only involves features located entirely within the restricted area for the station defined in 10 CFR Part 20 and does not involve any historic sites. The proposed action does not affect non-radiological station effluents and has no other environmental impact. It does not increase any discharge limit for the station. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the licensee's application would result in no change in current environment 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 the Wolf Creek Generating Station dated June 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on March 22, 1999, the staff consulted with the Kansas State official, Mr. Vick Cooper, Kansas Department of Health and Environment, 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 licensee's application dated May 15, 1997, as supplemented by (1) the letters in 1998 dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, and (2) the letters in 1999 dated February 4

and March 5 (3 letters) which are 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 rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 24th day of March 1999.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV-1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-7756 Filed 3-29-99; 8:45 am]

BILLING CODE 7590-01-U

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of March 29, April 5, 12, and 19, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 29

There are no meetings scheduled for the Week of March 29.

Week of April 5—Tentative

There are no meetings scheduled for the Week of April 5.

Week of April 12—Tentative

Wednesday, April 14

9:00 a.m.—Briefing on Investigative Matters (Closed—Ex. 5 & 7).

11:00 a.m.—Briefing on Remaining Issues Related to Proposed Restart of Millstone Unit 2 (Public Meeting) (Contact: William Dean, 301-415-2240).

Thursday, April 15

2:00 p.m.—Briefing on Status of Uranium Recovery (Public Meeting) (Contact: King Stablein, 301-415-7238).

3:00 p.m.—Affirmation Session (Public Meeting) (If needed).

Friday, April 16

9:30 a.m.—Briefing on Rulemaking For Generally Licensed Devices (Public Meeting) (Contact: Patricia Holahan, 301-415-8125).

Week of April 19—Tentative

There are no meetings scheduled for the Week of April 19.

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

Contact person for more information: Bill Hill (301) 415-1661.

ADDITIONAL INFORMATION: By a vote of 5-0 on March 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Briefing on Millstone Independent Review Team" (Closed—Ex. 2, 5 & 7), be held on March 19, and on less than one week's notice to the public.

By a vote of 5-0 on March 23, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Hydro Resources, Inc.—ENDAUM's and SRIC's Petition For Interlocutory Review of Presiding Officer's Order Concerning Technical Qualifications (March 3, 1999)" (PUBLIC MEETING) be held on March 23, and on less than one week's notice to the public.

By a vote of 5-0 on March 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Briefing on Millstone Independent Review Team" (Closed—Ex. 2, 5 & 7), be held on March 25, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at:

<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301-415-1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: March 26, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99-7872 Filed 3-26-99; 2:27 pm]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a

proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG-1084 (which should be mentioned in all correspondence concerning this draft guide), is the Second Proposed Revision 3 of Regulatory Guide 1.8, "Qualification and Training of Personnel for Nuclear Power Plants." The guide will be in Division 1, "Power Reactors." This proposed revision is being developed to provide current guidance acceptable to the NRC staff regarding qualifications and training for nuclear power plant personnel. This regulatory guide would endorse an American Nuclear Society standard, ANSI/ANS-3.1-1993, "Selection, Qualification, and Training of Personnel for Nuclear Power Plants," with certain clarifications, additions, and exceptions.

The draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by May 20, 1999.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=rg_lib&file=). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@nrc.gov. For information about the draft guide and the related documents, contact Ms. I. Schoenfeld, (301)415-6778; e-mail ISS@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301)415-2289, or by e-mail to DISTRICTION@NRC.GOV. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 10th day of March 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99-7755 Filed 3-29-99; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Issuance of Transmittal Memorandum No. 19, amending OMB Circular No. A-76, "Performance of Commercial Activities."

SUMMARY: This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2000. In addition, the standard retirement cost factors for the weighted average CSRS/FERS pension and Federal retiree health cost numbers are revised.

DATES: All changes in the Transmittal Memorandum are effective immediately on March 30, 1999, and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

FOR FURTHER INFORMATION CONTACT: The Budget Analysis and Systems Division, NEOB Room 6002, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Tel. No. (202) 395-6104, FAX No. (202) 395-7230.

Availability

Copies of the current OMB Circular A-76 and the March 1996 OMB Circular A-76 Revised Supplemental Handbook may be obtained by contacting the Executive Office of the President, Office of Administration, Publications Office, Washington, DC 20503, at (202) 395-7332. These documents are also accessible on the OMB Home page. The online OMB Home page address (URL) is <http://www.whitehouse.gov/WH/EOP/omb>.

Jacob J. Lew,
Director.

Executive Office of the President,

Office of Management and Budget,
Washington, D.C. 20503

March 24, 1999.

Circular No. A-76 (Revised)
Transmittal Memorandum No. 19
To The Heads of Executive Departments and Agencies
Subject: Performance of Commercial Activities

This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2000.

The non-pay inflation factors are for purposes of A-76 cost comparison determinations only. They reflect the generic non-pay inflation assumptions used to develop the FY 2000 Budget baseline estimates required by law. The law requires that a specific inflation factor (GDP FY/FY chained price index) be used for this purpose. These inflation factors should not be viewed as estimates of expected inflation rates for major long-term procurement items or as an estimate of inflation for any particular agency's non-pay purchases mix.

Federal pay raise assumptions effective date	military/civilian (percent)
January 2000	4.4
January 2001	3.9
January 2002	3.9
January 2003	3.9
January 2004	3.9

Non-Pay Categories (Supplies and Equipment, etc.)
FY 1998—1.2%

FY 1999—1.3%
FY 2000—2.0%
FY 2001—2.1%
FY 2002—2.1%
FY 2003—2.1%
FY 2004—2.1%

Geographic pay differentials received in 1999 shall be included for the development of in-house personnel costs. The above pay raise factors shall be applied after consideration is given to the geographic pay differentials. The pay raise factors provided for 2000 and beyond shall be applied to all employees, with no assumption being made as to how they will be distributed between possible locality and ECI-based increases.

In addition, the standard retirement cost factors for the weighted average CSRS FERS pension and Federal retiree health cost numbers are reduced from those published in the March 1996 A-76 Supplemental Handbook. These numbers are being revised because of downward estimates in actuarial normal cost estimates, which more than offset the gradual shift toward FERS in the total. However, the post-retirement health cost was revised up by a full percentage point. The net result is that the cost factors provided at Part II, Chapter 2, paragraph B.6. f. 1.a., are up by 0.3 to 0.6 percentage points. In addition, the current benefit component for Federal employee insurance and health benefits at Part II, Chapter 2, paragraph 6. f. 1.b is revised up by 0.1 percentage points on the health side to 5.7 percent. The Medicare factor of 1.45 at Part II, Chapter 2, paragraph 6. f. 1.b and the cost of miscellaneous fringe benefits of 1.7 percent at Part II, Chapter 2, paragraph 6. f. 1.c., are unchanged.

Current Handbook—as printed in the March 1996 Revised Supplemental Handbook at Part II, Chapter 2, Paragraph 6.f.1.a (page 20):
23.7% Regular (19.6 pension + 4.1 retiree health)
32.3% Air Traffic Controllers (28.2 pension + 4.1 retiree health)
37.7% Law Enforcement (33.6 pension + 4.1 retiree health)

Revised Handbook—as provided by this Transmittal at Part II, Chapter 2, Paragraph 6.f.1.a (page 20):
24.0% Regular (18.9 pension + 5.1 retiree health)
33.0% Air Traffic Controllers (27.9 pension + 5.1 retiree health)
38.2% Law Enforcement (33.1 pension + 5.1 retiree health)

Other Current Benefits—as provided at Part II, Chapter 2, Paragraph 6.f.1.b (page 20):
Current Handbook (March 1996) 5.6%
Revised per this Transmittal 5.7%

These updates are effective as follows: all changes in the Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

Agencies are reminded that OMB Circular No. A-76, Transmittal Memoranda 1 through Transmittal Memorandum 14 are canceled. Transmittal Memorandum No. 15 provided the Revised Supplemental Handbook, and is dated March 27, 1996 (**Federal Register**, April 1, 1996, pages 14338-14346). Transmittal Memoranda No. 16, 17 and 18,

which provided the last three year's OMB Circular A-76 Federal pay raise and inflation factor assumptions are also canceled.

Sincerely,

Jacob J. Lew,

Director.

[FR Doc. 99-7666 Filed 3-29-99; 8:45 am]

BILLING CODE 3110-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-23750; File No. 812-11288]

Security Benefit Life Insurance Company, et al.

March 23, 1999.

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

ACTION: Notice of Application for Exemptions under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Security Benefit Life Insurance Company ("Security Benefit"), T. Rowe Price Variable Annuity Account ("Separate Account"), First Security Benefit Life Insurance and Annuity Company of New York ("Security Benefit-NY," together with Security Benefit, the "Insurers"), T. Rowe Price Variable Annuity Account of First Security Benefit Life Insurance and Annuity Company of New York ("Separate Account-NY," together with Separate Account, the "Separate Accounts") and T. Rowe Price Investment Services, Inc. ("Distributor") (collectively referred to herein as "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested under Section 6(c) of the 1940 Act from Sections 2(a)(32), 22(c), 27(i)(2)(A) and Rule 22c-1 thereunder and an amendment of an Order of Approval requested under Section 11 of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order on behalf of themselves, on behalf of any other person that may become a principal underwriter for contracts issued by the Insurers ("Future Underwriters") that are similar in all material respects to the flexible premium deferred or single premium immediate variable annuity contracts described in the Application (the "Contracts"), and on behalf of such other separate accounts as the Insurers shall establish in the future, which at any time may offer variable annuity contracts on a basis which is similar in all material respects to the arrangements described with respect to the Contracts ("Other Separate Accounts") (a) exempting such persons from the provisions of Sections 2(a)(32), 22(c)

and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder, to the extent necessary to assess a withdrawal charge, as described herein, against Contract owners and (b) amending an Order of Approval, granted on April 4, 1995, pursuant to Section 11 of the 1940 Act, to approve, to the extent necessary, the terms of a payment arrangement whereby purchasers of Contracts may apply redemption proceeds from shares of a registered open-end investment company for which the Distributor serves as principal underwriter (the "T. Rowe Price Public Funds") as a premium payment for a Contract, a conversely, to apply the proceeds of a withdrawal or annuity payment under the Contracts to the purchase of shares of a T. Rowe Price Public Funds(s).

FILING DATE: The application was filed on August 27, 1998, amended and restated on January 20, 1999, and amended and restated on March 19, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 16, 1999, 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 Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, c/o Amy J. Lee, Esq., Security Benefit Life Insurance Company, 700 Harrison Street, Topeka, Kansas 66636, and Darrell N. Braman, Esq., T. Rowe Price Investment Services, Inc., 100 E. Pratt Street, Baltimore, Maryland 21202. Copies to Keith T. Robinson, Esq., Dechert Price & Rhoads, 1775 Eye Street, N.W., Washington, D.C. 20006-2401.

FOR FURTHER INFORMATION CONTACT: Martha Peterson, Attorney, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission,

450 Fifth St., N.W., Washington, D.C. 20549-0609 (tel. (202) 942-8090).

Applicants' Representations

Background for Request for Exemptions From Certain Provisions of the 1940 Act

1. Security Benefit is a stock life insurance company organized under the laws of Kansas. Security Benefit is ultimately controlled by Security Benefit Mutual Holding Company, a Kansas mutual holding company. Security Benefit is licensed to conduct life insurance business in the District of Columbia and all state except New York.

2. Security Benefit—NY is a stock life insurance company organized under the laws of New York. Security Benefit—NY is a wholly owned subsidiary of Security Benefit Group, Inc., a financial services holding company which is wholly owned by Security Benefit. Security Benefit—NY offers the Contracts in New York and is admitted to do business in that state.

3. Each Separate Account is a unit investment trust and meets the definitions of "separate account" in Section 2(a)(37) under the 1940 Act. Each Separate Account is divided into subaccounts ("Subaccounts") that will invest exclusively in shares of the corresponding portfolio ("Portfolio") of one of the following mutual funds; (1) T. Rowe Price International Series, Inc.; (2) T. Rowe Price Equity Series, Inc. and (3) T. Rowe Price Fixed Income Series, Inc. (collectively the "Underlying Funds"). Each of the Underlying Funds is a Maryland corporation and is currently registered under the 1940 Act as an open-end management investment company.

4. The Distributor, a wholly-owned subsidiary of T. Rowe Price Associates, Inc., is the principal underwriter for the Contracts. The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and is a member of the National Association of Securities Dealers, Inc. (the "NASD"). Each Future Underwriter will be registered as a broker-dealer under the 1934 Act and will be a member of the NASD.

5. The Contracts consist of flexible premium deferred variable annuity contracts currently issued by Security Benefit and Security Benefit—NY (the "Deferred Contracts") and single premium immediate variable annuity contracts to be issued by Security Benefit and Security Benefit—NY (the "Immediate Contracts").

6. The Contracts are available for purchase as non-tax qualified retirement plans. The Contracts are also eligible for use in connection with tax qualified

retirement plans, including plans that meet the requirements of Section 408 of the Internal Revenue Code of 1986, as amended (the "Code").

7. The Deferred Contracts provide for accumulation of values on either a variable basis, a fixed basis or both during the accumulation phase of the Contracts. The Deferred and Immediate Contracts also provide several options for fixed or variable (or a combination of fixed and variable) annuity payments. Annuity payments are based on the annuity rates for the options provided. Payments made under fixed annuity options will be guaranteed by Security Benefit or Security Benefit—NY, as the case may be.

8. The net premium for Deferred and Immediate Contracts may be allocated to one or more of the Subaccounts of the Separate Account or Separate Account—NY, or the Insurer's general account, where such premium is credited with a fixed rate of interest. Each Subaccount of the Separate Account and Each Subaccount—NY of the Separate Account—NY, will invest exclusively in shares of the corresponding Portfolio of one of the Underlying Funds. Shares of each of the Portfolios are purchased by Security Benefit and Security Benefit—NY for the corresponding Subaccount or Subaccount—NY, respectively, at the Portfolio's net asset value per share, i.e., without any sales load. All dividends and capital gain distributions received from a Portfolio will be reinvested automatically in such Portfolio at net asset value per share, unless otherwise instructed by Security Benefit or Security Benefit—NY, as appropriate. Other insurance companies may invest in each Underlying Fund and Portfolio.

9. None of the Underlying Funds, the Portfolios or any investment adviser of a Portfolio is an affiliated person of Security Benefit or Security Benefit—NY, although it is possible that Security Benefit or Security Benefit—NY may be deemed to be an affiliated person of a Portfolios and an Underlying Fund at a future date by virtue of the Separate Account or Separate Account—NY's ownership of shares in Portfolio.

10. If any Owner (or Annuitant, if the Owner is not a natural person) dies during the accumulation phase under the Deferred Contracts, the Insurer will pay the death benefit proceeds to the Designated Beneficiary upon receipt of due proof of the Owner's death and instruction regarding payment of the Designated Beneficiary. The death benefit proceeds consist of the death benefit less any uncollected premium taxes. Under the Deferred and Immediate Contracts, in the event of the

Owner's death on or after the Annuity Payout Date, the death benefit is determined under the terms of the Annuity Option.

11. Under the Deferred Contracts, if the Annuitant dies during the Accumulation Period, the Owner may designate a new Annuitant within 30 days. If a new Annuitant is not named, the Issuer will designate the Owner as Annuitant.

12. The Contracts offer the following nine Annuity Options: Option 1—Life Income, Option 2—Life Income with Period Certain; Option 3—Life Income with Installment or Unit Refund; Option 4—Joint and Last Survivor; Option 5—Fixed Period; Option 6—Fixed Payment, Option 7—Age Recalculation; Option 8—Period Certain; and Option 9—Life Income with Liquidity; Annuity Options 1 through 4 and 8 are available as either a fixed or variable annuity; Option 9 is available only as a variable annuity; and Options 5 through 7 are available as a fixed annuity, a variable annuity or a combination fixed and variable annuity.

13. Under the Deferred Contracts, the Owner may select the Annuity Payout Date and Annuity Option at the time of application. If no Annuity Payout Date is selected, the Annuity Payout Date will be the later of the Annuitant's seventieth birthday or the tenth annual Contract anniversary. If no Annuity Option is selected, the Insurer will use Life Income with 10 years period certain. The Owner may change the Annuity Payout Date, Annuity Option or Annuitant prior to the Annuity Payout Date.

14. Under the Immediate Contracts, the owner selects the Annuity Payout Date and Annuity Option at the time of application. The Annuity Payout Date must be within 30 days of the issue date. The Owner may not change the Annuity Payout Date, Annuity Option or Annuitant under the Immediate Contracts.

15. If a variable annuity under Option 1 through 4, 8 or 9 is selected, annuity payments are calculated on the basis of payment units. The number of payment units used to calculate each annuity payment is determined as of the Annuity Payout Date Account Value as of the Annuity Payout Date of the Deferred contracts, or the initial premium for the Immediate Contracts, less any premium taxes, is divided by \$1,000 and the result is multiplied by the rate per \$1,000 set forth in the annuity tables specified in the Contracts to determine the initial annuity payment for a variable annuity.

16. The initial variable annuity payment is divided by the value as of the Annuity Payout Date of the payment

unit for the applicable Subaccount to determine the number of payment units to be used in calculating subsequent annuity payments. The number of payment units will remain constant for subsequent annuity payments, unless the Owner exchanges payment units among Subaccounts or makes a withdrawal under Option 8 or during the Liquidity Period under Option 9.

17. Subsequent annuity payments are calculated by multiplying the number of payment units allocated to a Subaccount by the value of the payment unit as of the date of the annuity payment. If the annuity payment is allocated to more than one Subaccount, the annuity payment is equal to the sum of the payment amount determined for each Subaccount. Annuity payments under Option 9 are made monthly, but the amount is reset only once each year on the 12-month anniversary of the Annuity Payout Date.

18. Option 9, designated the "Life Income with Liquidity Option," provides monthly annuity payments for the life of the annuitant or the lives of the annuitant and a joint annuitant with a period certain of 15 years (or a shorter period under certain circumstances).¹ Annuity payments under Option 9 are guaranteed never to be less than 80 percent of the initial annuity payment (the "Floor Payment"). The amount of annuity payments under Option 9 will remain level for 12-month intervals, subject to reset on each anniversary of the initial annuity payment. In the event of the death of a joint annuitant, annuity payments continue to the surviving joint annuitant at the level indicated at the time that Option is selected, which may be 100%, 75%, 66⅔%, or 50% of annuity payments.

19. Under Option 9, the Contract owner may allocate premium only to certain subaccounts of the relevant separate account, and no portion of the premium may be allocated to the Insurer's general account. The Contract owner may withdraw Account Value only during the Liquidity Period under Option 9. The Liquidity Period for the Immediate Contracts is the period from the date the Contract begins in force through the date preceding the 61st annuity payment. The Liquidity Period for the Deferred Contracts is the period from the Annuity Payout Date through the date preceding the 61st annuity payment.

20. Under the Deferred Contracts, full or partial withdrawals of Account Value

are allowed at any time during the accumulation phase. Under the Deferred and Immediate Contracts, full and partial withdrawals of Account Value are allowed on or after the Annuity Payout Date under Annuity Option 5, 6, or 7 and during the Liquidity Period under Option 9. If a variable annuity under Annuity Option 8 is selected, the Owner may withdraw the present value of future annuity payments commuted at the assumed interest rate. Withdrawals under Option 9 are subject to a Withdrawal Charge discussed below.

21. The Insurer will deduct a daily charge from the assets of the Separate Account or the Separate Account—NY for mortality and expense risks assumed by it under the Contracts. The mortality and expense risk under the Contracts during the accumulation phase of the Deferred Contracts and after the Annuity Payout Date for all options, except Option 9, is equal to an annual rate of 0.55% of the average daily net assets of each Subaccount or Subaccount—NY that funds the Contracts. The mortality and expense risk charge for Contracts that have annuitized under Option 9 is expected to be equal to an annual rate of 1.40% of the average daily net assets of each Subaccount or Subaccount—NY that funds such Contracts.

22. With respect to Option 9, the Insurer assumes the risks associated with guaranteeing that the annuity payment will never be less than the Floor Payment. The Insurer is entering into a reinsurance arrangement with an unaffiliated insurance company to support its guarantee of the Floor Payment, and the increased mortality and expense risk charge for Option 9 reflects the costs of such reinsurance. The reinsurer will charge the Insurer an asset-based charge equal to a certain percentage of assets allocated to Option 9 under the Contracts and the withdrawal charges imposed under the Contracts will also be paid to the reinsurer. The reinsurance cost will be based upon the reinsurer's estimate of the cost to purchase financial instruments to hedge against the risks assumed ("Hedge Costs"). The reinsurer also expects to profit from the reinsurance arrangement to the extent that it has accurately estimated the ongoing cost of hedging the risks assumed with respect to Option 9 under the Contracts. The reinsurer will agree to assume the risks, and not to increase the charges, during the life of any Contract issued under the arrangement. The Insurers may elect in the future to hedge the risks associated with Option

¹The period certain may not extend beyond the life expectancy of the annuitant(s) for Contracts issued in connection with tax-qualified retirement plans.

9 themselves in lieu of entering into the reinsurance arrangement.

23. Various states and municipalities impose a tax on premiums on annuity contracts received by insurance companies. The Insurer assesses a premium tax charge to reimburse itself for premium taxes that it incurs. This charge will be deducted upon annuitization or upon full or partial withdrawal if premium taxes are incurred; however, the Insurer reserves the right to deduct premium taxes when due. Premium tax rates currently range from 0% to 3.5%, but are subject to change by a government entity.

24. The Insurer will deduct a Withdrawal Charge from full or partial withdrawals made during the Liquidity Period under Option 9. The Withdrawal Charge does not apply to any of the other annuity options under the Contracts. The Withdrawal Charge is based upon the year in which the withdrawal is made measured from the Annuity Payout Date. The Withdrawal Charge is applied to the amount of the withdrawal at a rate of 5 percent in the first year from the Annuity Payout Date, decreasing to 0 percent in the sixth year from the Annuity Payout Date. A partial withdrawal and any associated Withdrawal Charge is deducted from the Subaccounts in the same proportion as the withdrawal is allocated. A partial withdrawal under Option 9 will result in a reduction of the annuity payment, Floor Payment and payment units used to calculate annuity payments in the same proportion as the withdrawal reduces Account Value.

25. The Withdrawal Charges collected by the Insurers will be paid to the reinsurer each month pursuant to a reinsurance agreement, in whole or in part (depending upon the Subaccount from which the withdrawal is made), for assuming the risk associated with the Floor Payment under Option 9. The reinsurer purchases financial hedging instruments to hedge against the potential losses resulting from the risk assumed. The reinsurer bears the risk that the amount of the Floor Payment will exceed the amount of the annuity payment based upon the performance of the underlying Subaccount(s) and will pay any such shortfall to the Insurers. The Withdrawal Charge is designed so that if a Contract owner surrenders a Contract or withdraws from Account Value under Option 9 prior to expiration of the Liquidity Period, the reinsurer may recover the costs incurred in purchasing such financial hedging instruments.

The Withdrawal charge may be more or less than the Hedge Costs actually incurred by the reinsurer.

26. Each of Security Benefit and Security Benefit—NY guarantees that the charge for mortality and expense risk charges and the Withdrawal Charge will not increase with respect to a Contract once it has been issued. The charge may be increased with respect to new issues of the Contract

Background For Request for Amended Order

27. An Order of Approval pursuant to Section 11 of the 1940 Act was granted to Applicants on April 4, 1995 approving the terms of a payment arrangement whereby purchasers of Deferred Contracts would direct the Distributor to redeem shares of a T. Rowe Price Public Fund(s) and forward redemption proceeds therefore to an Insurer as a premium payment for a Deferred Contract, and conversely, to apply the proceeds of a withdrawal or an annuity payment from the Deferred Contracts to the purchase of shares of a T. Rowe Price Public Fund(s).

28. The Distributor proposes to make the payment arrangement available to owners and purchasers of the Immediate Contracts and any substantially similar variable contracts to be offered by Applicants. Use of this arrangement would be entirely elective; no Contract owner or purchaser would be required to use the payment arrangement to purchase a Contract or shares of a T. Rowe Price Public Fund.

29. Because the T. Rowe Price Public Funds do not impose sales load charges and the Contracts do not impose any sales load charges, Applicants represent that there is no possibility that any sales load would be deducted in connection with the application of redemption proceeds from a T. Rowe Price Public Fund to premium payments on a Contract or the application of withdrawal proceeds or annuity payments from a Contract to the purchase of shares of T. Rowe Price Public Fund. The Withdrawal Charge applicable to withdrawal under Option 9 is designed to recover the Hedge Costs of the reinsurer in connection with the Floor Payment and other guarantees associated with Option 9. Any exchanges deemed to be made in connection with the payment arrangement would be effected at net asset value, except where the Withdrawal Charge or premium tax may be deducted.

Applicants' Legal Analysis

For Exemption From Certain Provisions of the 1940 Act

1. Section 6(c) authorizes the Commission, by order upon application,

to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the 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 1940 Act. Applicants state that because the provisions described below may be inconsistent with certain aspects of the Withdrawal Charge structure, Applicants are seeking exemptions from Sections 2(a)(32), 27(i)(2)(A) and 22(c) of the 1940 Act and Rule 22c-1 thereunder, to the extent necessary pursuant to Section 6(c) to assess the Withdrawal Charge against Contracts annuitized under Option 9 in the event of a surrender or partial withdrawal from the Contracts prior to expiration of the Liquidity Period. Applicants seek exemptions therefrom in order to avoid any questions concerning the Contracts' compliance with the 1940 Act and rules thereunder. Rule 6c-8 under the 1940 Act exempts a registered separate account and its depositor or principal underwriter from certain provisions of the Act to permit imposition of a deferred sales load on variable annuity contracts participating in such separate account. Applicants state that Rule 6c-8 was not available with respect to imposition of the Withdrawal Charge because it is a charge for an optional insurance benefit rather than a deferred sales load. For the reasons discussed below, Applicants assert that the deduction of the Withdrawal Charge is in the public interest and consistent with the protection of investors and purposes fairly intended by the 1940 Act. Applicants reserve the right to assert in any proceeding before the Commission or in any suit or action in any court that the Commission does not have authority to regulate such charges.

2. Section 2(a)(32) of the 1940 Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants state that a charge such as the Withdrawal Charge may not be contemplated by Section 2(a)(32), and thus may be deemed inconsistent with the foregoing provision, to the extent that the charge can be viewed as causing a Contract to be redeemed at a price based on less than the current net asset value that is next computed after surrender or after partial withdrawal from the Contract. Although Applicants do not concede that relief is necessary,

Applicants request relief from Section 2(a)(32) to permit the deduction of the Withdrawal Charge.

3. As discussed above, Applicants state that the Withdrawal Charge compensates the Insurers (and indirectly the reinsurer) for the risks assumed should a Contract owner who selects Option 9 surrender or partially withdraw from a Contract during the Liquidity Period. Applicants assert that the Floor Payment represents an optional insurance benefit for which each insurer is entitled to receive compensation. Applicants further assert that the Withdrawal charge is not assessed at redemption for administrative expenses,² and that no portion of the Withdrawal charge is paid to, or otherwise used to offset the expenses of the Underlying Funds, their advisers or any of their affiliates. Applicants state that the deduction of the Withdrawal Charge is a legitimate charge for an optional insurance benefit under the Contracts. In this manner, Applicants argue that the Withdrawal charge is similar to other charges made by insurers, and approved by the Commission, at redemption for optional insurance benefits, such as enhanced death benefits.³

4. Moreover, Applicants submit that although Section 2(a)(32) does not specifically contemplate the imposition of a charge at the time of redemption, such a charge is not necessarily inconsistent with the definition of "redeemable security." Indeed, a withdrawal charge is little different, for this purpose, from the "redemption" charge authorized in Section 10(d)(4) of the 1940 Act. Applicants argue that Congress obviously intended that such a redemption charge, which is expressly described as a "discount from net asset value," be deemed consistent with the concept of "proportionate share" under Section 2(a)(32).

5. Consistent with Section 2(a)(32), therefore, Applicants submit that the

² *John P. Reilly & Assoc.* (pub avail. July 12, 1979) ("a mutual fund may make a charge to cover administrative expenses associated with redemption, but if that charge should exceed 2 percent, its shares may not be considered redeemable").

³ *United Investors Life Ins. Co.*, Investment Company Act Release No. 22715 (June 18, 1997) (order), Investment Company Act Release No. 22680 (May 22, 1997) (notice) (prorated optional death benefit charge assessed at contract surrender); *Companion Life Ins. Co.*, Investment Company Act Release No. 21944 (May 8, 1996) (order), Investment Company Act Release No. 21887 (Apr. 10, 1996) (notice) (prorated enhanced death benefit charge assessed at contract surrender); *United of Omaha*, Investment Company Act Release No. 21205 (July 15, 1995) (order), Investment Company Act Release No. 21153 (June 20, 1995) (notice) (prorated enhanced death benefit charge assessed at contract surrender).

Contracts are "redeemable securities." The Contracts provide for surrender and partial withdrawal of Account Value. The Contracts and the prospectuses for the Contracts will disclose the contingent nature of the Withdrawal Charge. Accordingly, Applicants state that there will be no restriction on, or impediment to, surrender or partial withdrawal that should cause the Contracts to be considered other than redeemable securities within the meaning of the 1940 Act and rules thereunder. Upon surrender or partial withdrawal of a Contract for which the Contract owner has annuitized under Option 9, Applicants state that Contract owners will receive their "proportionate share" of the Separate Account or Separate Account—NY; namely, the amount of the premium reduced by the amount of all applicable charges and increased or decreased by the amount of investment performance credited to the Contract.

6. Section 22(c) of the 1940 Act empowers the Commission to "make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company." Rule 22c-1 under the 1940 Act imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time as of which such amount is calculated. Specifically, Rule 22c-1, in pertinent part, prohibits a registered investment company issuing a redeemable security and its principal underwriter from selling, redeeming, or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchase or sell such security. Although Applicants do not concede that relief from Section 22(c) and Rule 22c-1 is necessary, to the extent that the imposition of the Withdrawal Charge may be viewed as causing a Contract to be redeemed at a price that is computed at less than current net asset value, Applicants request relief from Section 22(c) and Rule 22c-1.

7. Applicants submit that the deduction of the Withdrawal Charge will comply with the requirements of such rule. Regarding the amount payable, Applicants submit (as discussed above) that the assessment of the Withdrawal Charge upon surrender or partial withdrawal of a Contract for which the Owner has annuitized under Option 9 does not alter a Contract owner's current net asset value. Furthermore, consistent with the

requirements of Rule 22c-1, Applicants will determine the net cash surrender value under a Contract in accordance with Rule 22c-1 on a basis next computed after receipt of a Contract owner's request for surrender or partial withdrawal. Accordingly, Applicants submit that they will comply with both the amount payable and timing requirement of Rule 22c-1.

8. In addition, Applicants assert that the deduction of the Withdrawal Charge is consistent with the policy behind Rule 22c-1. Applicants note that the Commission's purpose in adopting Rule 22c-1 was to minimize (i) dilution of the interest of other security holders and (ii) speculative trading practices that are unfair to such holders.⁴ Applicants state that the Withdrawal Charge will in no way have the dilutive effect that Rule 22c-1 is designed to prohibit, because a surrendering Contract owner will "receive" no more than an amount equal to the Account Value determined pursuant to the formula set out in the Contract after receipt of the Owner's withdrawal request. Furthermore, Applicants state that variable annuities, by nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c-1 was aimed against and, even if they could be so used, the Withdrawal Charge would discourage, rather than encourage, any such trading.

9. Applicants assert that the deduction of the Withdrawal Charge upon surrender or partial withdrawal from Contracts for which the Owner has annuitized under Option 9 will be advantageous to Contract owners for a number of reasons. First, a deferred charge structure has long been accepted as an appropriate feature of variable annuities. The existence of products with deferred charges provides investors a valuable choice, and the Commission and its staff have supported efforts to expand investor choice without sacrificing investor protection.⁵ In this context, Applicants state that a deferred charge structure also reinforces the intention that the product be held as a long-term investment.

10. Second, Applicants state that the amount of the Contract owners' premiums that will be allocated to the Separate Account or Separate Account—NY, and that will be available to earn a return for the Contract owners, will be greater than it would be if the charges were deducted from the premiums. Applicants note that the

⁴ Investment Company Act Rel. No. 5519 at 1 (Oct. 16, 1968).

⁵ See *Protecting Investors: A Half Century of Investment Company Regulation* (May 1992), Introduction of Richard C. Breeden, Chairman.

Commission recognized this in authorizing deferred sales charges for variable annuity contracts.⁶

11. Finally, Applicants state that the charge structure provides equitable treatment to all Contract owners who annuitize under Option 9. Applicants state the Option 9 charge structure was established so that an Insurer may recover its costs over the life of the Contract. If Contract owners who select Option 9 could surrender or partially withdraw from the Contracts prior to the Liquidity Period expiration date without the imposition of the Withdrawal Charge, the Insurer might not be able to fully recover its costs. Applicants note that the Insurers could have elected not to impose a Withdrawal Charge and simply to have imposed a higher mortality and expense risk charge. In this event the Insurer could be charging persisting Contract owners who choose Option 9 more than otherwise would be necessary to recover the costs attributable to such Contract owners. Accordingly, Applicants submit that the Contracts will satisfy the requirements of Rule 22c-1.

12. Applicants submit that the assessment of a Withdrawal Charge should not be construed as a restriction on redemption, and therefore, maintain that such contract is a redeemable security as required by Section 27(i)(2)(A) of the 1940 Act. Applicants also maintain that the Contracts for which Contract owners choose Option 9 are redeemable securities, and that the Withdrawal Charge upon surrender or partial withdrawal represents nothing more than the deduction of an insurance charge.

For an Amended Order

13. While Applicants do not concede that Commission approval is required for the payment arrangement described in its application, to avoid any possibility that questions may be raised as to the potential applicability of Section 11, the Applicants request that the Commission issue an amended order under Section 11, to the extent necessary, approving the terms of the payment arrangement summarized above. Applicants believe such approval is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policies and provisions of the 1940 Act.

14. Section 11 does not set forth any specific standards for Commission approval of exchange offers. Applicants submit that the public policy underlying Section 11 may be inferred from Section 1(b)(1) of the 1940 Act and the legislative history of the 1940 Act for guidance in determining whether to grant approval of an exchange offer pursuant to Section 11 of the 1940 Act.

15. With respect to the concern articulated in Section 1(b)(1) that offers of exchange offers may not receive sufficient disclosure, Applicants submit that investors for the Contracts will receive adequate, accurate and explicit information, fairly presented, concerning investment in the T. Rowe Price Public Funds and in the Contracts, and that the prospectus for the Contracts will disclose the principal tax consequences of the exchange offer. With respect to the concern reflected in the legislative history that exchange offers may be made to collect additional sales loads, Applicants assert that this concern is irrelevant to their circumstances. As noted above, the payment arrangement does not offer any opportunity for the imposition of any sales loads or other profits. The Withdrawal Charge applicable to withdrawals under Option 9 is designed to recover the Hedge Costs of the reinsurer in connection with the Floor Payment and other guarantees associated with Option 9; therefore, the Applicants do not derive any benefit or profit from the withdrawal charges. Accordingly, the Withdrawal Charge does not have the potential for abuse associated with a sales load.

16. Moreover, Applicants assert that the payment arrangement is designed for the convenience of investors—not to assess sales charges, the principal abuse at which Section 11 is directed. The payment arrangement offers Contract purchasers and owners the flexibility to make payments expeditiously with funds from any source chosen by them, including proceeds from redemptions of T. Rowe Price Public Fund share or under the Contracts. Applicants state that the payment arrangement is intended solely as an administrative convenience to allow those Contract purchasers and owners who from time to time are or become T. Rowe Price Public Fund shareholders to implement their investment decisions in accordance with their preferred methods.

17. Absent the payment arrangement, Applicants assert that investors would experience an investment delay. Investors who have already determined

that a Contract would provide valuable benefits should not be forced to delay investment. Applicants argue that the payment arrangement therefore serves the public interest because it offers those investors who are so interested a means of minimizing the potential loss of return on the investment of their assets due to the delay from processing the liquidation of one investment and purchase of another. As indicated above, the payment arrangement would be wholly elective on the investor's part.

18. Applicants submit that the payment arrangement complies with the general principles of Section 11(a) and Rules 11a-2 and 11a-3. Any exchanges deemed to be made in connection with the payment arrangement would be effected at net asset values, except where the Withdrawal Charge or premium tax may be deducted. In those transactions in which Withdrawal Charge or premium tax may be deducted, Applicants state that the exchange arguably may not be deemed to be made at relative net asset value. However, Applicants state that Rule 11a-2 and Rule 11a-3 permit administrative fees to be deducted upon an exchange and utilization of the payment arrangement would not cause a premium tax or Withdrawal Charge to be deducted that would not have been deducted if the Contract Owner had not elected to utilize the payment arrangement.

Class Relief

19. Applicants seek the relief requested in the application not only with respect to themselves and the Contracts described above, but also with respect to Other Separate Accounts and Future Underwriters. Applicants represent that the terms of the relief requested with respect to Other Separate Accounts and Future Underwriters are consistent with standards set forth in Section 6(c) of the 1940 Act. Applicants state that the Commission has granted comparable class relief in the past.

20. Applicants state that without the requested relief, the Distributor and the Insurer would have to request and obtain Commission approval for any Future Underwriters and Other Separate Accounts that may be established in the future to fund the Contracts. Applicants assert that these additional requests would present no issues under the 1940 Act not already addressed in this application. Applicants state that if the Distributor and Insurer were to repeatedly seek exemptive relief with respect to the same issues addressed in this application, investors would not receive additional protection or benefit, and investors and Insurers could be

⁶ Applicants state that the Commission has noted the argument that "a deferred sales load is more advantageous to investors than a front-end sales load because the amount of investors' money available for investment is not reduced as in the case of a front-end sales load." Investment Company Act Rel. NO. 13048 (Feb. 28, 1993) (proposing Rule 6c-8, subsequently adopted to permit contingent deferred sales loads in connection with variable annuity contracts).

disadvantaged by increased overhead costs. Applicants argue that the requested relief and order will promote competitiveness in the variable annuity market by obviating the filing of redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources and enhancing the Applicant's ability to effectively take advantage of business opportunities as such arise. Applicants submit, for all the reasons stated herein, that their request for approval 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 1940 Act, and that an order of the Commission should, therefore, be granted.

Conclusion

For the reasons stated above, Applicants request that the Commission issue an order granting the exemptions and an amended order as described above. Applicants believe that the requested exemptions and the amended order, in accordance with the standards of Section 6(c), are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Divisions of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-7685 Filed 3-29-99; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3017]

National Interest Determination and Waiver of Section 620(q) of the Foreign Assistance Act of 1961, as Amended, Relating to Assistance to Honduras

Pursuant to the authority vested in me by Section 620(q) of the Foreign Assistance Act of 1961, as amended, Executive Order 12163, and the Department of State Delegation of Authority No. 145, I hereby determine that furnishing assistance to Honduras is in the national interest and that the Section's prohibition on assistance is waived. This determination shall be reported to Congress as required by law. The determination shall also be published in the **Federal Register**.

Dated: February 19, 1999.

Strobe Talbott,

Deputy Secretary of State.

[FR Doc. 99-7768 Filed 3-29-99; 8:45 am]

BILLING CODE 4710-10-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99-12-C-00-CHO) To Impose a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 99-6937 beginning on Page 13841 in the issue of Monday, March 22, 1999, under Notice of Intent to Rule on Application, the correct number should read "99-12-00-CHO". Under **SUPPLEMENTARY INFORMATION**, second paragraph the second sentence should read "The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1999".

DATES: Comments must be received on or before April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Art Winder, Project Manager, Washington, Airports District Office, 23723 Air Freight Lane 3911 Hartzdale Dr., Suite 1, Camp Hill, PA 17011. (717) 730-2832.

Issued in Jamaica, New York on March 23, 1999.

Thomas Felix,

Manager, Planning and Programming Branch, AEA-610, Eastern Region.

[FR Doc. 99-7764 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Alternatives Analysis/Environmental Impact Statement of the Extension of Subway Service From Manhattan to LaGuardia Airport

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an alternatives analysis/environmental impact statement (AA/EIS).

SUMMARY: The Federal Transit Administration (FTA) and the

Metropolitan Transportation Authority (MTA) New York City Transit (NYC Transit) intend to prepare an Alternatives Analysis/Environmental Impact Statement (AA/EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements in the corridor between LaGuardia Airport and Lower and Midtown Manhattan. MTA NYC Transit will ensure that the AA/EIS also satisfies the requirements of the New York State Environmental Quality Review Act. The work being performed will also satisfy the FTA's alternatives analysis requirements and guidelines.

This effort will be performed in cooperation with the Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Port Authority of New York and New Jersey, the New York City Departments of Transportation and City Planning and the New York State Department of Transportation. Other interested agencies and elected officials or bodies include the New York State Office of the Governor, the New York City Office of the Mayor, the Office of the Borough President of Queens, the New York City Planning Commission, and the New York City Council.

Its proximity to Manhattan makes LaGuardia Airport ideally suited to the Manhattan-bound business traveler. However, travelers to LaGuardia must use frequently congested highways (Grand Central Parkway, Brooklyn-Queens Expressway, Long Island Expressway) and river crossings (e.g. Midtown Tunnel, Tri-borough Bridge). Peak period travel times between Manhattan and LaGuardia are frequently an hour or more, and uncertainty regarding travel times forces travelers to set aside even more time to avoid missing flights or appointments in Manhattan. Unless corrective actions are taken, these access limitations will reduce both the airport's appeal to travelers and the attractiveness of the city as a national and international center.

Many other major cities in this country and abroad have direct rail rapid transit access to their airports. In contrast, transit service to LaGuardia is infrequent or inconvenient, with relatively high fares and lengthy and unreliable travel times in peak periods (since the available transit modes depend on the same congested highways and local streets). However, many LaGuardia passengers have origins or destinations within the Manhattan Central Business District (CBD), which has an extensive existing rail rapid transit network with extensions into Queens. This

combination forms an established base from which an attractive transit link to the airport could potentially be built.

Given these problems, the AA/EIS will evaluate public transit improvements in the corridor between Lower and Midtown Manhattan and LaGuardia Airport in Queens, New York. In particular, the focus will be on proposed extensions of existing rail rapid transit (subway) lines that presently operate in Manhattan and Queens, and which would be extended along a selected alignment to provide service to the airport.

Scoping of the AA/DEIS will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, and through public meetings. See **SUPPLEMENTARY INFORMATION** below for details.

During the initial months of the AA/DEIS process, MTA NYC Transit will work with other agencies and with the general public to identify potentially feasible alternatives for providing prompt, reliable, dedicated access between Lower and Midtown Manhattan and LaGuardia Airport. These alternatives should take full advantage of the city's existing extensive public transit network, and provide travelers with a "single-seat ride" from points throughout the Manhattan CBD to the airport. Only those alternatives found to meet the project's needs, goals and objectives would receive detailed consideration in the AA/DEIS. In addition to possible new transit lines or services, the AA/DEIS will also evaluate a No-Build alternative and a Transportation System Management (TSM) alternative. See the Alternatives discussion under **SUPPLEMENTARY INFORMATION** below for details.

DATES: Comment Due Date: Written comments on the scope of alternatives and impacts to be considered should be sent to the MTA-NCY Transit offices by May 28, 1999. See **ADDRESSES** below.

Scoping Meetings: The public scoping meetings will be held on Tuesday, May 11, 1999 starting at 6PM (sign-in begins at 5PM) at the Steinway School (IS141) at 37-11 21st Avenue in Astoria, New York, and on Wednesday, May 12, 1999 starting at 6PM (sign-in begins at 5PM) at the Metropolitan Transportation Authority offices in Manhattan. See **ADDRESSES** below. People with special needs should contact Douglas Sussman at the Metropolitan Transportation Authority offices at the address below or by calling (212)-878-7483. Both meeting locations are accessible to people with disabilities. The Queens

location can be accessed by subway (Astoria "N" line at the Ditmars Boulevard Station), and by the Q19A and Q101 bus lines, which also connect to the E and F subway lines at the Queens Plaza station, and to the #7 subway line at the Queensboro Plaza station. Limited public parking is available near the site. The Manhattan location is within several blocks of the #4, 5, 6 and 7 subway lines (at the Grand Central station) and the B, D and F lines at 42nd Street at 6th Avenue, and to numerous local bus routes on Sixth, Fifth and Madison Avenues and along 42nd Street.

The meetings will be held in an "open house" format, and project representatives will be available to discuss the project throughout the time period given. Informational displays and written materials will also be available. In addition to written comment, which may be made at the meeting or as described below, a stenographer will be available at the meetings to record comments.

ADDRESSES: Written comments on the project scope should be sent to Mr. Thomas R. Jablonski, Project Manager, MTA-NCY Transit, 130 Livingston Street, Room 7068-D, Brooklyn, New York 11201. The scoping meetings will be held at the following locations: Steinway School (IS 141), 37-11 21st Avenue, Astoria, New York 11370, and the Metropolitan Transportation Authority, 5th Floor Board Room, 347 Madison Avenue, New York, NY 10017. **FOR FURTHER INFORMATION CONTACT:** Brian P. Sterman, Federal Transit Administration, One Bowling Green, Room 429, New York, New York 10004-1415. (212)-668-2201.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and MTA-NCY Transit invite interested individuals, organizations and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic or environmental issues related to the alternatives. Scoping comments may be made at the public scoping meeting or in writing. See **DATES** and **ADDRESSES** section above for locations and times. During scoping, comments should focus on identifying specific social, economic or environmental impacts to evaluate, and suggesting alternatives that are more cost effective or have less environmental impact while achieving the similar transportation goals and objectives.

Scoping materials will be available at the meetings or in advance of those

meetings by contacting Mr. Thomas Jablonski at MTA-NCY Transit as indicated above.

II. Description of Study Area and Project Need

The study area and travel corridors involved are wholly within New York and Queens Counties. They primarily include Lower and Midtown Manhattan (the Central Business District (CBD) of Manhattan) and those portion of northern and northwestern Queens through which passengers and employees pass on their way to and from LaGuardia Airport. The Manhattan CBD is one of the largest and most dense employment concentrations in the world, but also includes a major residential population. The involved areas of Queens include numerous commercial and industrial centers as well as major residential areas.

Existing transit service between the Manhattan CBD and LaGuardia Airport includes: (a) Gray Line bus service from various CBD locations; (b) ferry service from Lower Manhattan to LaGuardia's Marine Air Terminal (MAT); and (c) local bus lines connecting existing subway lines to the airport (e.g., the Q33 and Q47 bus routes connecting with the "E," "F" and "R" subway lines at the Roosevelt Avenue station, the Q48 bus route from the "7" subway service at Main Street-Flushing, and the M60 bus route from the "N" subway service at the Astoria Boulevard station). The available paratransit services in this travel market include medallion taxis, private car and limousine services, and private vans and mini-buses operated by hotels and other Manhattan operations.

As noted above in the Summary section, all transit and paratransit modes serving the airport (except the ferry service to the MAT) must use combinations of local streets, arterials, highways and bridges and tunnels, many of which are highly congested during the travel periods when airport demand is the greatest. In addition to traffic congestion and the associated air and noise pollution, travel by these existing highway-dependent modes is often unreliable—a fundamental problem for time-sensitive air travelers.

Given the need to address these airport access problems, the primary goals for the LaGuardia Airport Subway Access (LASA) project are to (a) provide convenient, reliable and safe public transit access for airport passengers and employees between Lower and Midtown Manhattan and LaGuardia Airport, (b) develop public transit options providing a "one-seat" (i.e., transfer-free) trip between Lower and Midtown Manhattan and multiple LaGuardia

Airport terminals, (c) improve the quality of public transit service and reduce the travel time within the study corridor from LaGuardia Airport to the Manhattan CBD, (d) reduce the use of congested highway, river crossings, local streets and arterials by LaGuardia Airport passengers and employees, thereby reducing areawide traffic congestion, (e) increase mobility by better serving the critical Manhattan CBD-to-LaGuardia Airport travel market, and by creating improved connections within the region to the Manhattan CBD, (f) attract new ridership to public transit through the initiation of additional service to LaGuardia Airport, (g) minimize impacts to airport operations during and after construction, and ensure that proposed alignments do not preclude other planned improvements on- or off-airport, (h) promote and reinforce economic development and the quality of life in New York, (i) more efficiently accommodate forecasted growth in LaGuardia Airport passenger trips, (j) conform to the New York State Air Quality Implementation Plan (SIP) as required by the Clean Air Act Amendments of 1990, (k) avoid, minimize and mitigate degradation of the natural environment, and (l) provide reliable transit service that is compatible with existing transit systems in the region.

Adherence to these goals should help identify new services that take full advantage of the city's extensive transit network in the Manhattan CBD and Queens, maximize the potential for a "single-seat" ride from Lower and Midtown Manhattan to LaGuardia, preserve the city's quality of life while supporting economic development, and minimize the degradation of the natural environment.

The objectives to be used to facilitate the process of selecting a locally preferred alternative are to (a) identify viable alternatives that address the corridor's transportation problems while meeting the project's goals; (b) develop criteria for screening and evaluating the alternatives based upon the project's goals; (c) identify the anticipated impacts for each alternative with potential mitigation strategies; (d) initiate the development of cost/benefit projections that are used for project considerations; and (e) identify the locally preferred alternative for study in the FEIS.

III. Alternatives

The AA/DEIS process will include a review of proposed alternatives that could potentially meet the project's goals and objectives, and the selection of those alternatives that warrant

detailed study in the AA/DEIS. This process will insure that all reasonable and feasible alternatives are considered. It is projected that the AA/DEIS will consider the following alternatives, at a minimum:

(1) *No Build Alternative*, representing future conditions in the travel corridors between the Manhattan CBD and LaGuardia Airport with no new transportation projects or services, other than those already committed to by local officials and agencies.

(2) *Transportation Systems Management (TSM) Alternative*, representing future conditions with the implementation of one or more lower-cost measures to improve the efficiency of existing transportation systems, rather than significantly expanding those systems (e.g., improvements to the existing express bus services, subway-to-bus connections to the airport, etc.).

(3) *Build Alternatives*, involving construction of facilities and implementation of associated transit services between the Manhattan CBD and LaGuardia Airport. In recent decades, the MTA, PANYNJ and other public agencies have performed extensive studies of possible transit connections to this airport. Based on those studies and on further studies by MTA NYC Transit of possible extensions of the BMT Broadway Astoria Line ("N" Train service), the following two subway alternatives are scheduled to be considered in the AA/DEIS. These are preliminary alignments for these alternatives, with further refinements expected throughout the AA/DEIS process in both the off- and on-airport sections:

- The 19th Avenue Alternative would be an extension of the BMT Broadway-Astoria Line ("N" Train service) beyond its present Ditmars Boulevard Terminus. From that point, the line would be extended northerly as a modern aerial transit guideway structure along the centerline of 31st Street up to 20th Avenue. From there, the alignment would curve easterly across the Con Edison property to 19th Avenue, where it would continue along the avenue. At 45th Street, the alignment would swing northerly and then enter a tunnel section, in which the alignment would remain as it crosses onto the airport property. After serving the Marine Air Terminal and passing around the runway at the airport's western end, the alignment would rise onto an aerial section, and extend to two other on-airport stations—one at the Central Terminal Building (CTB) and a second to jointly serve the USAir and Delta terminals.

- Sunnyside Yard Alternative would be a branch of the BMT Broadway-Astoria Line ("N" Train service) starting at the Queensboro Plaza Station in Long Island City. From that point, the alignment would extend as a modern aerial transit guideway structure along the northern side of the Sunnyside Yards, and would then pass over and run along the eastern side of AMTRAK's Northeast Corridor tracks. At approximately 30th Avenue, the alignment would turn east and run along the northern side of 30th Avenue before turning north along the Brooklyn-Queens Expressway (BQE). At that point, the alignment will enter a "depressed section" (where the tracks are below grade but in an "open cut" section rather than enclosed in a tunnel) as it travels along the southern side of the Grand Central Parkway (GCP). As it approaches the airport, the alignment would rise and cross over the GCP to enter the airport. On-airport stations are projected to be provided at the CTB and USAir/Delta terminals as noted above for the 19th Avenue Alternative.

(4) *Other Alternatives*. The FTA and MTA NYC Transit will review other possible Build alternatives that may be raised throughout the scoping process. Any other alternatives found to potentially meet the project's goals and objectives, as outlined above, would also be analyzed in the AA/DEIS.

IV. Probable Effects

The FTA and MTA NYC Transit plan to evaluate in the AA/DEIS all potentially significant social, economic and environmental impacts of the project alternatives. Impacts proposed for analysis include changes in the physical environment (air quality, noise, water quality, geology, visual); changes in the social environment (land use, residential, commercial or industrial displacement or disruption, changes in neighborhood character or cohesion); changes in traffic and pedestrian circulation (on local streets, highways and arterials, and at the airport) and associated changes in traffic congestion; impacts to parklands or historic sites; changes in transit service, mobility and patronage; capital, operating and maintenance costs for proposed transit services; and financial and fiscal implication. Impacts will be analyzed for both construction-period activities, and for long-term operation of the alternatives.

Construction-period impacts projected to be of importance for this project include noise and vibration, traffic diversions due to temporary roadway closures, temporary loss of on-street parking, and short-term

disruptions to subway service. Potential long-term impact of likely importance include traffic, parking and pedestrian flow impacts near stations (including on-airport locations), visual impacts due to the introduction or extension of transit lines into an area, noise impacts, and property acquisitions and residential or commercial displacement to provide space for alternatives' right-of-way or support facilities.

Each alternative will be analyzed for potential transportation, environmental, social, economic and financial impacts as required by current Federal (NEPA) and State (SEQRA) environmental laws and current Council on Environmental Quality (CEQ) and FTA guidelines and will be evaluated for its ability to meet the project's goals.

V. FTA Procedures

In accordance with federal transportation planning regulations 23 CFR part 450, the AA/DEIS will include a comprehensive alternatives selection process, which will assess each possible alternative's ability to meet the project's goals and objectives, and determine those alternatives that warrant detailed analysis. Upon completion of the AA/DEIS, the MTA NYC Transit, in concert with other agencies and elected officials and bodies, will select a locally preferred alternative.

Then the MTA NYC Transit, as the project sponsor, will seek to continue the further engineering and preparation of the Final EIS. After consideration of the results of the FEIS, the FTA and MTA NYC Transit and the FAA will prepare required environmental decisions and Records of Decision (RODs). The publication of these RODs will clear the way for the final design and construction of the finally selected alternative.

Issued on March 25, 1999.

Letitia Thompson,

Regional Administrator, Federal Transit Administration.

[FR Doc. 99-7779 Filed 3-29-99; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Sunshine Act Meeting; Corrected Notice¹

TIME AND DATE: 10:00 a.m. Thursday, March 25, 1999.

EX PARTE NO. 333: Meetings of the Board.

¹ This corrects the notice serviced March 19, 1999, to include Finance Docket No. 33556 Sub Nos. 2 and 3.

PLACE: Hearing Room, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423.

STATUS: The Board will meet to discuss among themselves the agenda item listed below. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Finance Docket No. 33556, Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad; Finance Docket No. 33556 (Sub-No. 1), Canadian National Railway Company, Illinois Central Railroad Company, The Kansas City Southern Railway Company, and Gateway Western Railway Company—Terminal Trackage Rights—Union Pacific Railroad Company and Norfolk & Western Railway Company; STB Finance Docket No. 33556 (Sub-No. 2), Responsive Application—Ontario Michigan Rail Corporation; and, Finance Docket No. 33556 (Sub-No. 3), Responsive Application—Canadian Pacific Railway Company and St. Lawrence & Hudson Railway Company Limited.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565-1594, TDD: (202) 565-1695.

Dated: March 22, 1999.

Vernon A. Williams,

Secretary.

[FR Doc. 99-7759 Filed 3-26-99; 11:58 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33723]

San Joaquin Valley Railroad Company—Acquisition and Operation Exemption—Tulare Valley Railroad Company

San Joaquin Valley Railroad Company (SJVR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Tulare Valley Railroad Company (TVR) seven railroad line segments. The lines to be acquired and operated by SJVR are as follows: (1) on the Arvin Subdivision, TVR's undivided one-half interest in the line between milepost 316.78, at Magunden, and milepost 333.83, at Arvin, a distance of 17.05 miles in Kern County, CA; (2) on the Oil City Subdivision, TVR's undivided one-half

interest in the line between milepost 308.09, at Oil Junction, and milepost 312.55, at Maltha, a distance of 4.46 miles in Kern County, CA; (3) on the Porterville Subdivision, the line between milepost 38.9, at Exeter, and milepost 47.2, at Lindsay, a distance of 8.3 miles in Tulare County, CA; (4) on the Visalia Subdivision, the line between milepost 23.8, at Visalia, and milepost 20.2, at Loma, a distance of 3.6 miles in Tulare County, CA; (5) on the Visalia Subdivision, the line between milepost 51.0, at Lacjac, and milepost 49.8, at Reedley, a distance of 1.2 miles in Tulare County, CA; (6) on the Cameo Rail Spur, the line between milepost 0.03+160, at Fresno, and milepost 6.0, near Fresno, a distance of about 5.97 miles in Fresno County, CA; and (7) on the Landco Spur, the line between milepost 113.70, near Bakersfield, and milepost 111.76, near Bakersfield, a distance of 1.94 miles in Kern County, CA.

Because the projected revenues of the rail lines to be operated will exceed \$5 million, SJVR certified to the Board, on March 9, 1999, that the required notice of its acquisition had been posted at the workplace of the employees on the affected lines. On March 10, 1999, SJVR certified to the Board that it had served a copy of the notice on the national offices of the labor unions with employees on the affected lines. See 49 CFR 1150.42(e). The transaction is scheduled to be consummated on or after May 10, 1999.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33723, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW, Suite 750 West, Washington, DC 20005-3934.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: March 23, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99-7557 Filed 3-29-99; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 8815**

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 8815, Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989.

DATES: Written comments should be received on or before June 1, 1999 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: Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989.

OMB Number: 1545-1173.

Form Number: 8815.

Abstract: If an individual redeems series I or series EE U.S. savings bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds may be excludable from income. Form 8815 is used by the individual to figure the amount of savings bond interest that is excludable.

Current Actions: The title of Form 8815 is being changed to "Exclusion of Interest From Certain U.S. Savings Bonds Issued After 1989". This change is due to the issuance of the new series I U.S. savings bonds, and is effective for 1999. Form 8815 will be used to compute the exclusion of interest for both series EE savings bonds and the new series I savings bonds.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 2 hr., 2 min.

Estimated Total Annual Burden Hours: 50,920.

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: March 17, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7672 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 2441**

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 2441, Child and Dependent Care Expenses.

DATES: Written comments should be received on or before June 1, 1999 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: Child and Dependent Care Expenses.

OMB Number: 1545-0068.

Form Number: 2441.

Abstract: Internal Revenue Code section 21 allows a credit for certain child and dependent care expenses to be claimed on Form 1040 (reduced by employer-provided day care benefits excluded under Code section 129). Day care provider information must be reported to the IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that day care provider information is reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,519,859.

Estimated Time Per Respondent: 2 hr., 19 min.

Estimated Total Annual Burden Hours: 15,060,874.

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:

- 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;
- the accuracy of the agency's estimate of the burden of the collection of information;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- 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
- estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7673 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8848

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 8848, Consent to Extend the Time To Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and (c). **DATES:** Written comments should be received on or before June 1, 1999 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: Consent To Extend the Time To Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and (c).

OMB Number: 1545-1407.

Form Number: 8848.

Abstract: Form 8848 is used by foreign corporations that have (a) completely terminated all of their U.S. trade or business within the meaning of temporary regulations section 1.884-2T(a) during the tax year or (b) transferred their U.S. assets to a domestic corporation in a transaction described in Code section 381(a), if the foreign corporation was engaged in a U.S. trade or business at that time.

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.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 5 hr., 46 min.

Estimated Total Annual Burden Hours: 28,800.

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:

- 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;
- the accuracy of the agency's estimate of the burden of the collection of information;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- 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: March 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7674 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8804, 8805, and 8813

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 8804, Annual Return for Partnership Withholding Tax (Section 1446), Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax, and Form 8813, Partnership Withholding Tax Payment (Section 1446).

DATES: Written comments should be received on or before June 1, 1999 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: Annual Return for Partnership Withholding Tax (Section 1446) (Form 8804), Foreign Partner's Information Statement of Section 1446 Withholding Tax (Form 8805), and Partnership Withholding Tax Payment (Section 1446) (Form 8813).

OMB Number: 1545-1119.

Form Number: 8804, 8805, and 8813.

Abstract: Internal Revenue Code section 1446 requires partnerships that

are engaged in the conduct of a trade or business in the United States to pay a withholding tax if they have effectively connected taxable income that is allocable to foreign partners. The partnerships use Form 8813 to make payments of withholding tax to the IRS. They use Forms 8804 and 8805 to make annual reports to provide the IRS and affected partners with information to assure proper withholding, crediting to partners' accounts and compliance.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 24hr., 14 min.

Estimated Total Annual Burden Hours: 121,200.

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; 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: March 11, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7675 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 940-EZ

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 940-EZ, Employer's Annual Federal Unemployment (FUTA) Tax Return.

DATES: Written comments should be received on or before June 1, 1999 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(s) and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Federal Unemployment (FUTA) Tax return.

OMB Number: 1545-1110.

Form Number: Form 940-EZ.

Abstract: Form 940-EZ is a simplified version of Form 940 that most employers with uncomplicated tax situations (e.g., only paying unemployment contributions to one state and paying them on time) can use to pay their FUTA tax. Most small businesses and household employers use the form.

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, and farms.

Estimated Number of Respondents: 4,089,000.

Estimated Time Per Respondent: 7 hours, 50 minutes.

Estimated Total Annual Burden Hours: 32,075,163.

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: March 24, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7677 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form CT-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

CT-1, Employer's Annual Railroad Retirement Tax Return.

DATES: Written comments should be received on or before June 1, 1999 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(s) and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Railroad Retirement Tax Return.

OMB Number: 1545-0001.

Form Number: Form CT-1.

Abstract: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) taxes. Form CT-1 is used for this purpose. The IRS uses the information to insure that the employer has paid the correct tax.

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: Businesses or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 2,387.

Estimated Time Per Respondent: 21 hours, 3 minutes.

Estimated Total Annual Burden Hours: 50,245.

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: March 23, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7678 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Forms 941c and 941cPR

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 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

DATES: Written comments should be received on or before June 1, 1999 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 forms and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

OMB Number: 1545-0256.

Form Number: Forms 941c and 941cPR.

Abstract: Form 941c (or Form 941cPR for use in Puerto Rico to correct FICA tax only) is used by employers to correct previously reported FICA or income tax data. The forms may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not-for profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 958,050.

Estimated Time Per Respondent: 9 hours, 7 minutes.

Estimated Total Annual Burden Hours: 8,728,727.

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: March 22, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-7682 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Brooklyn District.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday, April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin McKeon at 1-888-912-1227 or 718-488-3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, April 9, 1999, 6 p.m. to 9 p.m. at 10 MetroTech Center, 6th Floor, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference space, notification of intent to attend the meeting must be made with Kevin McKeon. Mr. McKeon can be reached at 1-888-912-1227 or 718-488-3555. The public is invited to make oral comments from 7 p.m. to 8 p.m. on Friday April 9, 1999. Individual comments will be limited to 5 minutes.

If you would like to have the CAP consider a written statement, please call 1-888-912-1227 or 718-488-3555, or write Kevin McKeon, CAP Office, P.O. Box R, Brooklyn, NY, 11202.

The Agenda will include the following: initial start up issues and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 22, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99-7680 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Midwest District.

SUMMARY: An open meeting of the Midwest District Citizen Advocacy Panel will be held in Omaha, Nebraska.

DATES: The meeting will be held Thursday, April 22, 1999 and Friday, April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy McQuin at 1-888-912-1227 or 414-297-1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, April 22, 1999 12:00 noon to 8:00 p.m. and Friday, April 23, 1999 from 9:00 am to 2:00 p.m., in the, Best Western Central Executive Center, 3650 South 72nd Street @I-80, Omaha, Nebraska. Due to limited conference space, notification of intent to attend the meeting must be made with Sandy McQuin. Ms. McQuin can be reached at 1-888-912-1227 or 414-297-1604.

The Agenda will include the following: Establishing priority on sources of issues to be considered, discussion of issues presented to panel, and setting parameters for open public meeting to solicit comments from citizens.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 23, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99-7681 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Pacific-Northwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Pacific-Northwest District.

SUMMARY: An open meeting of the Pacific-Northwest District Citizen

Advocacy Panel will be held in Portland, Oregon.

DATES: The meeting will be held Saturday, April 24, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah A. Diamond at 1-888-912-1227 or 206-220-6099.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Saturday, April 24, 1999, 9 a.m. to 5 p.m. at the Riverside Inn, Columbia Room, 50 SW Morrison Street, Portland, OR 97204. Due to limited conference space, notification of intent to attend the meeting must be made with Deborah Diamond. Ms. Diamond can be reached at 1-888-912-1227 or 206-220-6099. The public is invited to make oral comments from 10 a.m. to 11 a.m. on Saturday, April 24, 1999. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1-888-912-1227 or 206-220-6099, or write Deborah Diamond, CAP Office, 915 2nd Avenue; M/S W-406, Seattle, WA 98174.

The Agenda will include the following: initial start up issues and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 10, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99-7679 Filed 3-29-99; 8:45 am]

BILLING CODE 4830-01-P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: "Degas and New Orleans: A French Impressionist in America"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Degas and New Orleans: A French Impressionist in America," imported from abroad for the

temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at The New Orleans Museum of Art, New Orleans, LA, from on or about May 1, 1999, to on or about August 29, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects and for further information, contact Ms. Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619-6982. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547-0001.

Dated: March 24, 1999.

Les Jin,
General Counsel.

[FR Doc. 99-7738 Filed 3-29-99; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held Tuesday, June 8 and

Wednesday, June 9, 1999, at the Department of Veterans Affairs Headquarters, Room 230, 810 Vermont Avenue, NW., Washington, DC 20420. This will be the committee's second meeting of Fiscal Year 1999.

The purpose of the committee is to review the administration of VA's cemeteries and burial benefits program. The meeting will convene on Tuesday, June 8, at 8:15 a.m. (EDT) and adjourn at 5:30 p.m. (EDT). On Wednesday, June 9, the meeting will reconvene at 8:15 a.m. (EDT) and adjourn at 5:00 p.m. (EDT).

On Tuesday, June 8, the Committee will be updated on National Cemetery Administration (NCA) issues. Members will be briefed on operations at Quantico National Cemetery, and the NCA Operations Support Center, which is the location of the Systems Integration Center and the Centralized Contracting Division. Additionally, members will tour the cemetery and the NCA Operations Support Center.

On Wednesday, June 9, the Committee will reconvene for updates and reports on military honors, cemetery focus groups, the Visitor Comment Card survey, legislation on doubly marked graves and eligibility, cremation gardens and construction and dedications of new cemeteries.

The meeting will be open to the public. Individuals wishing to attend the meeting should contact Ms. Paige Lowther, National Cemetery Administration, [phone (202) 273-5164] no later than 12 noon (EDT), May 31, 1999.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Acting Under Secretary for Memorial Affairs, National Cemetery Administration (40), at 810 Vermont Avenue, NW, Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization, association or person(s) they represent. In addition, to the extent practicable, letters should indicate the subject matter to be discussed. Oral presentations should be limited to 10 minutes in duration. Individuals wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Acting Under Secretary for Memorial Affairs, National Cemetery Administration.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Acting Under Secretary for Memorial Affairs, National Cemetery Administration, by 12 noon (EDT), May 31, 1999. Oral statements will be heard between 1:00 p.m. and 1:30 p.m. (EDT), June 9, 1999, at Department of Veterans Affairs Headquarters, Room 230, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: March 23, 1999.

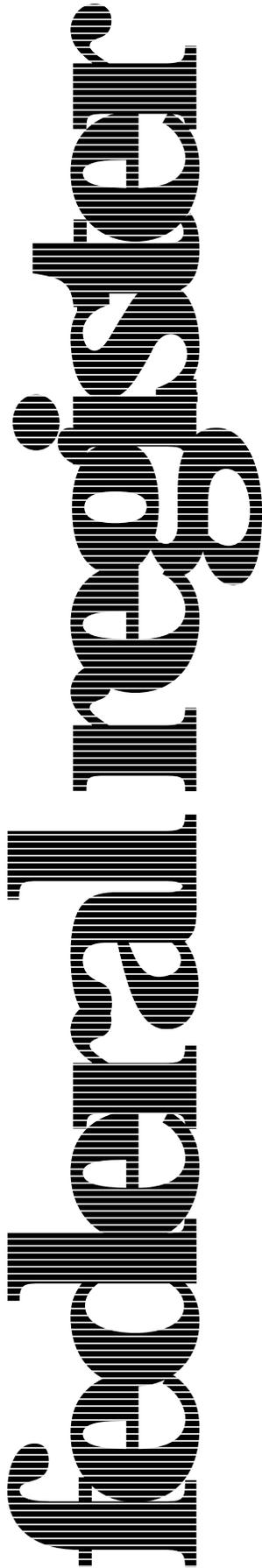
By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99-7707 Filed 3-29-99; 8:45 am]

BILLING CODE 8320-01-M



Tuesday
March 30, 1999

Part II

**Environmental
Protection Agency**

40 CFR Part 90

**Phase 2 Emission Standards for New
Nonroad Spark-Ignition Nonhandheld
Engines At or Below 19 Kilowatts; Final
Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 90

[FRL-6308-6]

RIN 2060-AE29

Phase 2 Emission Standards for New Nonroad Spark-Ignition Nonhandheld Engines At or Below 19 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is finalizing a second phase of emission regulations to control emissions from new nonroad spark-ignition nonhandheld engines at or below 19 kilowatts (25 horsepower). These engines are used principally in lawn and garden equipment in applications such as lawnmowers and garden tractors. The standards will result in an estimated 59 percent reduction of emissions of hydrocarbons plus oxides of nitrogen from those achieved under the current Phase 1 standards applicable to nonhandheld engines. The standards will result in important reductions in emissions which contribute to excessively high ozone levels in many areas of the United States.

In compliance with the Paperwork Reduction Act, this document announces that the information collection requirements contained in this final rule have not been submitted to the Office of Management and Budget for approval.

DATES: The amendments to 40 CFR part 90 are effective June 1, 1999.

ADDRESSES: Materials relevant to this final rule, including the Final Regulatory Impact Analysis are contained in Public Docket A-96-55, located at room M-1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

For further information on electronic availability of this final rulemaking, see **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Robert Larson, U.S. EPA, Engine Programs and Compliance Division, (734) 214-4277, larson.robert@epamail.epa.gov.

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Regulated Entities

Entities potentially regulated by this action are those that manufacture or introduce into commerce new nonhandheld small spark-ignition nonroad engines or equipment. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers or importers of new nonroad small (at or below 19 kW) spark-ignition nonhandheld engines and equipment.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria in section § 90.1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Electronic Copies of the Regulatory Documents

The preamble, regulatory language and Final Regulatory Impact Analysis (Final RIA) are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost already incurred for Internet connectivity. The electronic version of this final rule is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes **Federal Register** notices and related documents on the secondary Web site listed below.

1. <http://www.epa.gov/docs/fedrgstr/EPA-AIR/>
(either select desired date or use Search feature)

2. <http://www.epa.gov/OMSWWW/>
(look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

I. Introduction

A. Background

On January 27, 1998, EPA issued a Notice of Proposed Rulemaking (NPRM) proposing a second phase of regulations to control emissions from new handheld and nonhandheld nonroad SI engines at or below 19 kilowatts (25 horsepower) ("small SI engines") (63 FR 3950). This action was preceded by a March 27, 1997, Advanced Notice of Proposed Rulemaking (62 FR 14740). EPA solicited comment on virtually all aspects of the NPRM. EPA held a public hearing on February 6, 1998, and the public comment period for the NPRM closed March 13, 1998. Today's action finalizes this rulemaking activity for nonhandheld engines in adopting a Phase 2 set of emission standards and compliance program requirements for Class I and Class II nonhandheld engines. EPA is not at this time finalizing a Phase 2 program for handheld engines, as described in more detail below. EPA will further address the Phase 2 program for handheld engines in future **Federal Register** notices.

Today's action is taken in response to Section 213(a)(3) of the Clean Air Act which requires EPA's standards for nonroad engines and vehicles to achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available, giving appropriate consideration to cost, lead time, noise, energy and safety factors. The standards and other compliance program requirements being adopted today satisfy this Clean Air Act mandate.

The NPRM contained lengthy discussion of the proposed standards, the expected costs of their implementation, and the potential costs and benefits of adopting more stringent standards such as those that were then under consideration by the California Air Resources Board (ARB). In the NPRM, EPA explicitly asked for comment regarding the level of the proposed standards and the impacts and

timing for implementing more stringent standards, so as to allow it to establish the most appropriate standards in the final rule. In particular, EPA requested comment on the impacts and timing for implementing emission standards that would require the same types of technology as anticipated by proposed rules under consideration at that time by the California ARB.

After the close of the comment period and upon reviewing the information supplied during the comment period, EPA determined that it was desirable to get further details regarding the technological feasibility, cost and lead time implications of meeting standards more stringent than those contained in the NPRM. EPA's NPRM already contained estimates of the costs and feasibility of more stringent standards. Some commenters had charged that, based on these discussions, EPA's proposed standards would not be stringent enough to satisfy the stringency requirements of Clean Air Act Section 213(a)(3). For the purpose of gaining additional information on feasibility, cost and lead time implications of more stringent standards, EPA had several meetings, phone conversations, and written correspondence with specific engine manufacturers, with industry associations representing engine and equipment manufacturers, with developers of emission control technologies and suppliers of emission control hardware, with representatives of state regulatory associations, and with members of Congress. EPA also sought information relating to the impact on equipment manufacturers, if any, of changes in technology potentially required to meet more stringent standards than were contained in the NPRM. Additionally, EPA received numerous comments on the NPRM requesting closer harmonization with the compliance program provisions adopted by the State of California. In some cases, EPA also discussed these harmonization issues with manufacturers and industry association representatives to improve the Agency's understanding of the needs and benefits to the industry of such harmonization.

As EPA has stated on prior occasions, in adopting this final rule EPA wished to consider all relevant information that became available during the rule development process. This includes information received during the comment period on the NPRM, and, to the extent possible, important information which became available after the formal NPRM comment period had concluded. To the extent that post-NPRM information has expanded or

updated the knowledge of the Agency regarding technological feasibility, production lead time estimates for incorporating improved designs, costs to manufacturers, costs to consumers and similar factors, it is reasonable to expect that the improved information may result in changing assessments of how a pending rule can best achieve regulatory goals compared to what had been expected at the time of the NPRM. This is especially true in the case of a rulemaking concerning an industry, like small SI engines, that is undergoing relatively rapid technological innovation.

EPA published a Notice of Availability highlighting the additional information gathered in response to the NPRM (see 63 FR 66081, December 1, 1998). After analyzing this information, the Agency concluded that more stringent standards for Class I nonhandheld engines, used in applications such as residential lawn mowers, consistent with those adopted by California are indeed achievable on the national scale. This final rule for nonhandheld engines adopts emission standards considerably more stringent than those proposed for Class I nonhandheld engines. The technologies (principally conversion of side-valve engines to clean overhead valve designs) that EPA anticipates will be used in achieving compliance with the Class I standard are well known and were discussed in the NPRM.

However, since the publication of the NPRM, there have been rapid advances in emission reduction technologies for handheld engines. EPA has received information which could potentially support handheld standards much more stringent than those proposed in the NPRM. In light of this new information, and in the interest of providing an opportunity for public comment on this new technology and on more stringent levels for handheld engine emission standards, EPA intends to address Phase 2 regulations for handheld engines (such as trimmers, brush cutters, and chainsaws) in a separate Supplemental Notice of Proposed Rulemaking (SNPRM) in June of 1999, with a final rule in March of 2000.

The reader is referred to the Notice of Availability, the NPRM itself, as well as to the docket for this rulemaking, for the range of additional information upon which the Agency has relied in adopting this final program for small SI nonhandheld engines.

B. Overview of Final Program

The following provides an overview of the provisions in these Phase 2 rules for nonhandheld engines. Additional

detail explaining the program as well as discussion of information and analyses which led to the adoption of these requirements is contained in subsequent sections.

As proposed and consistent with Phase 1 rules, these Phase 2 rules

distinguish between engines used in handheld equipment and those used in nonhandheld equipment. In today's action, Phase 2 emission standards are set for distinct engine size categories referred to as "engine classes" within the nonhandheld engine equipment

designation. The following table summarizes the HC+NO_x emission standards for Class I and Class II nonhandheld engines and when these standards take effect for each engine class.

TABLE 1.—PHASE 2 HC +NO_x EMISSION STANDARDS FOR CLASS I AND CLASS II

Engine class	NPRM		FRM	
	HC+NO _x (g/kW-hr)	Time line	HC+NO _x (g/kW-hr)	Time line
Class I	25.0	2001	16.1	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II	12.1	2001–2005	12.1	

As indicated in this table, the emission standards being finalized for Class I engines are considerably more stringent than the base emission levels included in the proposal. This reflects the Agency's analysis of the information EPA received in direct response to the questions posed in the NPRM concerning the desirability and feasibility of more stringent standards than the base levels proposed, as well as other information made available to the Agency before and since the proposal. The level of these standards will result in an estimated 59 percent annual reduction in combined hydrocarbon and oxides of nitrogen (HC+NO_x) emissions from these small SI nonhandheld engines compared to the Phase 1 emission requirements for these engines when the effects of this Phase 2 rule are fully phased in.

Another feature of the Phase 2 nonhandheld standards is that they are phased in over a number of years, allowing the manufacturers an orderly and efficient transition of engine designs and technologies from those complying with the existing Phase 1 standards to those necessary to meet the Phase 2 requirements. Thus, for example, the manufacturers of Class II engines are required to meet a gradually decreasing standard on average for this segment of their product line during model years 2001 through 2005. During this time frame, EPA anticipates that such a manufacturer would continue to change more and more of its Class II engines designs to designs capable of meeting the final 12.1 g/kW-hr standards, averaging emission performance with older designs and thus meeting on average the declining standard in effect for that model year (see preamble Section II.A.2). Finally, by 2005 in this example, the manufacturer would have had sufficient

time and resources to change the designs and production tooling to meet the 12.1 g/kW-hr standard on average for all its Class II engines. Similarly, a two-stage schedule has been developed to uniquely meet the industry needs for converting the Class I engines. For these nonhandheld classes, EPA has concluded that the phased-in and two-stage implementation schedules are necessary in order to make the ultimate standards achievable through the application of the specific technologies that EPA analyzed for nonhandheld engines.

These standards and the other compliance program elements being adopted today also consider expected in-use deterioration. In contrast to the Phase 1 rules which only regulate the emission performance of engines when new, the Phase 2 standards being adopted today also reflect expected deterioration in emission performance as an engine is used. Manufacturers will be required to evaluate the emission deterioration performance of their engine designs and certify their designs to meet these standards after anticipated emission deterioration of a typical in-use engine over its useful life. Different useful life ranges have been adopted based on the type of engine and equipment in which the engine is installed. For example, a Class II nonhandheld engine will be certified for from 250 to 1000 hours of use based on design features and the intended use of the installation (a high priced piece of industrial equipment would more likely be equipped with an engine with design features intended to make it most durable and thus certified to the emission standards assuming 1000 hours of in-use operation, for example).

The certification program requires that the manufacturer determine an appropriate methodology for

accumulating hours of operation to "age" an engine in a manner which duplicates the same type of wear and other deterioration mechanisms expected under typical consumer use which could affect emission performance. EPA expects bench testing will be used to conduct this aging operation because this can save time and perhaps money, but actual in-use operation (e.g., cutting grass) will also be allowed. Emission tests will be conducted when the engine is new and when it has finished accumulating the equivalent of its useful life. The engine must pass standards both when it is new and at the end of its designated useful life to qualify for certification. Additionally, the new engine and fully aged engine emission test levels are compared to determine the expected deterioration in emission performance for other engines of this design; such engines may be tested as they come off the end of a production line, in which case their new engine emission levels are adjusted by the deterioration factor determined from the certification engine to predict useful life emission performance.

Selection of engines for testing as they come off the production line will be conducted according to the provisions of the Production Line Testing (PLT) program. This program is explained in more detail in a following section but, briefly, its intent is to allow a sampling of engines as produced throughout the production period to be tested for emission performance to assure that the design intent as certified prior to production has been successfully transferred by the manufacturer to mass production in a production line setting. The volume of PLT testing required by the manufacturer depends on how close the test results from the initial engines tested are to the standards; if these test

engines indicate the design is particularly low emitting, few engines need be tested, while those designs with emission levels very close to the standards will need additional tests to make sure the design is being produced with acceptable emission performance.

While this compliance program will not require the manufacturer to conduct any in-use testing to verify continued satisfactory emission performance in the hands of typical consumers, an optional program for such in-use testing is being provided. EPA believes it is important for manufacturers to conduct in-use testing to assure the success of their designs and to factor back into their design and/or production process any information suggesting emission problems in the field. While not mandating such a program, EPA encourages such testing by allowing a manufacturer to avoid the cost of the PLT program for a portion of its product line by instead supplying data from in-use engines. Under this voluntary in-use testing program, up to twenty percent of the engine families certified in a year can be designated for in-use testing by the manufacturer. For these families, no PLT testing will be required for two model years including that model year. Instead, the manufacturer will select a minimum of three engines off the assembly line or from another source of new engines and emission test them when aged to at least 75 percent of their useful life under typical in-use operating conditions for this engine. The information relating to this in-use testing program will be shared with EPA. If any information derived from this program indicates a substantial in-use emission performance problem, EPA anticipates the manufacturer will seek to determine the nature of the emission performance problem and what corrective actions might be appropriate. EPA will offer its assistance in analysis of the reasons for unexpectedly high in-use emission performance and what actions might be appropriate for reducing these high emissions. Whether or not a manufacturer chooses to conduct such a voluntary in-use testing program, EPA may choose to conduct its own in-use compliance program. If EPA were to determine that an in-use noncompliance investigation was appropriate, the Agency expects it would conduct its own in-use testing program, separate from this voluntary manufacturer testing program, to determine whether a specific class or category of engines is complying with applicable in-use standards.

All these general provisions of this compliance program are also expected to become part of California's

compliance program for these classes of small engines.¹ Importantly, the testing and data requirements, engine family descriptors, compliance statements and similar testing and information requirements of these federal Phase 2 nonhandheld regulations are, to the best of EPA's knowledge, the same general compliance program requirements adopted by the California ARB. This is advantageous to manufacturers marketing the same product designs in California as in the other states, as they need prepare only one set of certification application information, supplying one copy to the ARB for certification in the State of California and one copy to EPA for federal certification. This similar treatment under the regulations also extends to the PLT program and the optional in-use testing program, such that any test data and related information developed for the ARB should also satisfy the federal regulatory requirements being adopted today.

In addition to the regulatory provisions outlined above, this rule adopts special provisions for small volume engine manufacturers, small volume engine families produced by other engine manufacturers, and small volume equipment manufacturers who rely on other manufacturers to supply them with these small SI nonhandheld engines. These special small volume provisions lessen the demonstration requirements and in some cases delay the effective dates of the standards so as to smooth the transition to these Phase 2 requirements. This is especially important for these small volume applications since the eligible manufacturers involved may not have the resources to ensure that engines complying with these Phase 2 standards will be available under the time frames otherwise established under these regulations. Since these provisions are limited to small volume applications, the risk to air quality is negligible. However, without these provisions, the economic impacts to small volume manufacturers could be increased and the possibility of reduced product offering would be great, especially for those products intended to serve niche markets which satisfy special needs. These flexibilities are explained more fully in section II.B. and are detailed in the regulations.

¹ While the voluntary in-use test program may not be codified in the California ARB Tier 2 rules for these engines, the ARB has agreed to adopt this same voluntary in-use test program and allow for the same decreased PLT testing.

II. Content of the Final Rule

The following sections provide additional detail on the provisions of the final rule outlined above.

A. Emission Standards and Related Provisions

1. Class Structure

This final rule maintains the same basic class structure as implemented in the Phase 1 regulations for these nonhandheld engines. The Phase 1 rules established separate classes based on engine size in recognition of the greater difficulty in controlling emissions from smaller displacement engines compared to larger displacement engines. That rule also separated engine classes into those intended for use in equipment typically carried by the operator during its use such as chain saws or string trimmers (referred to as handheld equipment) and those engines normally used in equipment which is not carried by the operator including, for example, lawnmowers and generators (this equipment being referred to as nonhandheld). These usage distinctions seemed appropriate because the small engine industry is for the most part split between these two categories, with very few manufacturers making both handheld engines and nonhandheld engines, and because the nature of these two industry segments is quite different with, for example, the handheld engine manufacturers for the most part producing engines specifically for use in their own equipment (i.e., engine and equipment manufacturers) while nonhandheld engine manufacturers typically do not also make equipment but rather are suppliers of engines to the equipment industry; other characteristics important to regulatory analysis also differ between these two industry segments. Thus, it still seems appropriate to consider these industries separately, and thus the class structure adopted today maintains the distinction between handheld and nonhandheld classes, with today's rule establishing the Phase 2 program for nonhandheld Class I and Class II. In addition, as discussed above, a Phase 2 program for handheld engines is not being adopted in today's action, but will be addressed in future **Federal Register** notices.

2. HC+NO_x Emission Standards

More stringent HC+NO_x emission standards are being finalized for Class I engines than were proposed, and the HC+NO_x emission standards for Class II engines are being adopted as proposed. The Clean Air Act at section 213 (a) (3) requires the Agency to adopt standards that result in the greatest emission

reductions achievable through the application of technology which the Administrator determines will be available, giving appropriate consideration to cost, lead time, noise, energy and safety factors. As a result of information now available, much of it in the form of comments received during the NPRM comment period, EPA has determined that standards more

stringent than those proposed for Class I engines are feasible during the next decade. With the adoption of these Class I and Class II standards, emissions will be reduced an estimated 59 percent compared to the Phase 1 nonhandheld engines. The standards being adopted today reach the goal of maximum achievable reductions for nonhandheld engines under section 213 of the Clean

Air Act. The nation should continue to benefit from improved emission performance for this category of engines at least through 2010 as these standards take effect and fleet turnover to cleaner engines occurs.

The following table compares the proposed levels of standards and the final levels of standards being adopted today.

TABLE 2.—PHASE 2 HC +NO_x EMISSION STANDARDS FOR CLASS I AND CLASS II

Engine Class	NPRM		FRM	
	HC+NO _x (g/kW-hr)	Time line	HC+NO _x (g/kW-hr)	Time line
Class I	25.0	2001	16.1	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II	12.1	2001–2005	12.1	2001–2005.

For Class I, the NPRM acknowledged that a standard of the level being adopted today was technically feasible. Indeed, one of the technology changes available to achieve these standards (adopting an overhead valve configuration) has already been done on some Class I engines and is also anticipated to be a primary choice for manufacturers of Class II engines to meet their Phase 2 emission levels. The issues impacting a decision on the most appropriate Class I standards, rather, concerned the lead time necessary for the industry to convert their Class I designs and production facilities to meet these standards, the cost of this conversion, and the subsequent potential adverse impact on sales of any such increase in cost passed along to consumers. Both the industry and EPA now have an improved understanding of the lead time necessary to convert Class I engines to designs capable of meeting these low emission standards and the costs that would result. While the manufacturers' uncertainties regarding consumer acceptance may not be fully resolved, EPA believes the anticipated price increases resulting from this action will not have a significant adverse impact on sales, principally due to the fact that once fleet turnover becomes significant and Class I overhead valve engine products do not have to compete with side-valve engine products, consumer acceptance of overhead valve engines should no longer be an issue. Furthermore, major manufacturers of Class I engines support the adoption of these standards in the time frame required². Specifically, Class

I engines must all meet the 16.1 g/kW-hr HC+NO_x standard starting with engines produced on or after August 1, 2007. Additionally, all new engine families first produced on or after August 1, 2003 will also need to comply with this standard. This latter provision recognizes that manufacturers adopting new engine designs in a time frame so close to the 2007 production requirement to meet the standard should be anticipating meeting that standard in their design strategy. Furthermore, sufficient time exists between now and August 1, 2003 to allow for new designs to meet the Phase 2 standard. Finally, EPA expects the manufacturers will take advantage of this production window between August 2003 and August 2007 to smooth the transition to a fully complying product line by August 2007 by phasing in production of Phase 2 engines during these four years. Thus, the environment should benefit by the early introduction of complying engines, and the manufacturers will benefit by the flexibility to introduce engines during this transition period in a manner and schedule which best fits their individual needs.

This standard for Class I engines is identical to the standard adopted by the State of California as part of its Tier 2 regulations for this class of small spark-ignition engines. However, these federal regulations tend to allow additional time in consideration of the need to convert perhaps additional designs not targeted, at least initially, for the California market, and of the significantly greater cost and logistical

burden of converting production facilities to meet the much larger federal sales volumes. Nevertheless, this alignment in standards should assist the industry in targeting production and distribution of engines since, when fully implemented, an engine meeting California standards will also meet federal standards (and vice versa); such an engine can be sold anywhere in the United States.

While EPA anticipates manufacturers may choose to meet the Class I Phase 2 standard by converting their engines to OHV designs (similar to the case for Class II engines as explained in the NPRM), other options are also available such as the adoption of improved fuel metering and/or the use of a catalytic converter. The standards adopted today do not rely on only one technology, nor do they mandate use of any specific technology.

As proposed, the final rule adopts standards of 12.1 g/kW-hr HC+NO_x for Class II engines, phased in over the 2001 through 2005 model years. Again, when coupled with the actions being taken with regard to Class I engines, this standard and phase in schedule is technically feasible and provides sufficient lead time for changing engine designs and production facilities.

3. NMHC+NO_x Standards for Class I and II Natural Gas Fueled Engines

As proposed, EPA is adopting separate optional standards for small SI nonhandheld engines fueled by natural gas. For typical gasoline-fueled engines, the methane portion is around 5 to 10 percent of total hydrocarbons. However, for engines fueled with natural gas, the methane portion can be around 70 percent. The methane from these

² See docket A-96-55, memorandum IV-E-68, entitled "Meeting with Tecumseh Products

Company, Briggs & Stratton and Latham & Watkins".

engines has a very low ozone forming potential compared to the other hydrocarbons in the engine's exhaust. Therefore, from an ozone forming potential perspective, it is appropriate to provide an alternative set of emission

standards for engines fueled with natural gas. These standards have been adjusted to provide equivalent stringency to the HC+NO_x standards for gasoline-fueled engines as are being adopted today. Aside from these

standards, all other aspects of this rule pertain equally to engines fueled with natural gas as those fueled with gasoline.

TABLE 3.—PHASE 2 NMHC +NO_x EMISSION STANDARDS FOR CLASS I AND II

Engine Class	NMHC+NO _x (g/kW-hr)	Time line
Class I	14.8	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.
Class II1	11.3	2001–2005.

4. CO Emission Standards

This final rule adopts the CO emission standards contained in the proposal for Class I and Class II engines (e.g., 610 g/kW-hr), and thereby maintains the same CO emission standard as in the Phase 1 rules (e.g., 519 g/kW-hr), when adjusted for deterioration. At this time, it does not appear that additional reductions in CO emissions from these engines will be needed to allow most areas of the country to attain the CO ambient air quality standard. However, it should be noted that many of the emission control techniques likely to be adopted to meet the Phase 2 HC+NO_x standards, in particular the conversion from side-valve to clean overhead valve designs, improved fuel metering, and combustion chamber improvements, should also result in lower CO emissions. So, although the final CO standard remains the same as the proposed standard, EPA expects some CO emission reduction will occur as a result of the technology adopted to comply with the more stringent HC+NO_x standards. EPA is not able at this time, however, to quantify the expected level of CO reductions to a sufficiently precise degree that the Agency can confidently set a more stringent standard than was proposed.

5. Useful Life Categories

Along with adopting a more stringent numerical standard for Class I engines, the minimum certification demonstration useful life has also been extended from 66 hours to 125 hours. The higher useful life designation is technically appropriate; the lower 66 hour value was proposed as a means of saving the industry cost during certification demonstration (see discussion in the NPRM, at 63 FR 3969). However, the extra cost is relatively small while the higher hours of operation provide an improved

opportunity to assess emission deterioration. Additionally, the 125 hour designation is aligned with California's requirements. Thus, a manufacturer intending to sell Class I engines in both the State of California and federally (the vast majority of engines) would have to accumulate 125 hours of service during certification to meet the California requirement; in this case, no extra burden is placed on the manufacturer by adopting this requirement federally. The minimum certification demonstration useful life for Class II engines is 250 hours, as proposed.

6. Selection of Useful Life Category

EPA proposed that the engine manufacturers would be responsible for assuring that the correct useful life was used for certification demonstration and labeling purposes (see proposed 90.105(a)). Specific criteria were proposed which the manufacturers could use in documenting their determinations of useful life category selection. Comments received suggested such a requirement was overly rigid and unnecessary. EPA remains very concerned that the manufacturers select the most appropriate useful life category for each engine to assure it is properly evaluated during certification and to assure that any averaging, banking and trading program which allows the exchange of emission credits across engine families in different useful life categories is also fair and environmentally sound. However, so as not to add potentially unnecessary burden on the industry, these rules adopt a less rigid methodology for determining useful life categories. The proposal provided for EPA intervention in the selection of the appropriate useful life category for an engine. This potential intervention would have the effect of adding uncertainty for the manufacturer, and of limiting its ability

to fully plan and execute in a timely fashion its product certification program. The program being adopted today rests the responsibility with the industry to make their best, most conscientious selection. We expect that manufacturers of Class I and II engines will have a good idea of the types of equipment their engines are typically used in and, from their marketing information, a reasonably accurate projection of the relative volumes in such typical applications. Additionally, based on design features these manufacturers build into their engines, they have a good idea of the expected useful life in such applications. Relying on this information, manufacturers should be able to make good selections of appropriate useful life categories for their engines. While these final rules leave that responsibility to the manufacturer, EPA expects to periodically review the manufacturers' decisions to assure ourselves that this regulation is being properly implemented and to determine whether modifications to these rules are appropriate. We note that this approach results in the same regulatory requirement as the State of California, eliminating any extra burden in this regard due to federal rules.

7. Emission Standards Feasibility at Longer Useful Life

In response to the NPRM, some commenters suggested the standard should be proportionately higher for engines certified to higher useful life ages. The reasoning given was that since engines are expected to have emissions deterioration with accumulation of hours of use, the more the hours of use the higher the amount of deterioration and thus the higher should be the standards. However, this presumes no design difference between an engine intended for a useful life of, for example, 250 hours versus one designed

for a useful life of 1000 hours. This is not the case. Engines designed for higher useful life markets have superior design features (such as advance fuel metering designs including fuel injection) which should result in an ability to calibrate for lower emissions when the engine is new and also have a lower rate of emission deterioration during service accumulation. The combined impact of such trends will allow engines designed for a high useful life to meet the same standards as engines designed for a shorter useful life. Thus, these final rules adopt the same standard for all engines in a nonhandheld class regardless of their intended useful life.

B. Averaging, Banking, and Trading

In this final rule, EPA is establishing a certification averaging, banking, and trading (ABT) program for Phase 2 nonroad SI nonhandheld engines at or below 19 kW. Averaging means the exchange of emission credits among engine families within a given engine manufacturer's product line. Averaging allows a manufacturer to certify one or more engine families to Family Emissions Limits (FELs) above the applicable emission standard. However, the increased emissions would have to be offset by one or more engine families certified to FELs below the same emission standard, such that the average emissions in a given model year from all of the manufacturer's families (weighted by various parameters including engine power, useful life, and number of engines produced) are at or below the level of the emission standard. Banking means the retention of emission credits by the engine manufacturer generating the credits for use in future model year averaging or trading. Trading means the exchange of emission credits between engine manufacturers which then can be used for averaging purposes, banked for future use, or traded to another engine manufacturer.

The new program would be the first ABT program for nonroad SI engines, since the Phase 1 rule did not include an ABT program. EPA believes this new program is an important element in making the stringent Phase 2 emissions standards adopted in this final rule achievable with regard to technological feasibility, lead time, and cost. The new ABT program is intended to enhance the flexibility offered to engine manufacturers that will be needed in changing their entire product lines to meet the stringent HC+NO_x standards being adopted. The ABT program also encourages the early introduction of cleaner engines certified under the

Phase 2 requirements, thus securing earlier emission benefits.

EPA believes that the new ABT program is consistent with the statutory requirements of section 213 of the Clean Air Act. Although the language of section 213 is silent on the issue of averaging, it allows EPA considerable discretion in determining what regulations are most appropriate for implementing section 213. The statute does not specify that a specific standard or technology must be implemented, and it requires EPA to consider costs, lead time, and other factors in making its determination of "the greatest degree of emissions reduction achievable through the application of technology which the Administrator determines will be available." Section 213(a)(3) also indicates that EPA's regulations may apply to nonroad engine classes in the aggregate, and need not apply to each nonroad engine individually. Finally, EPA believes the ABT program is consistent with the statutory requirements of the Clean Air Act.

The ABT program being finalized with today's action is similar in many ways to the program proposed for nonhandheld engines. Changes to the proposed program have been made in response to comments received on the proposal and the revised standards for Class I engines. The following discussion summarizes the main provisions of the ABT program being finalized and explains the main differences from the proposed ABT program.

As noted above, the ABT program will apply to Phase 2 small SI nonhandheld engines. The ABT program will be available for HC+NO_x emissions but will not be available for CO emissions. The ABT program will also apply to natural gas-fueled engines. All credits for natural gas-fueled engines will be determined against the applicable NMHC+NO_x standards. In addition, manufacturers will be allowed to freely exchange NMHC+NO_x credits from engines fueled by natural gas with HC+NO_x credits from engines fueled by fuels other than natural gas in the ABT program.

Cross-class exchange of ABT credits between nonhandheld engine families will not be restricted. EPA had proposed restricting using credits from Class I engines in determining compliance of Class II engines since the standard proposed for Class I engines was considerably less stringent than that proposed for Class II engines; it would have been quite easy to generate credits in Class I and use them to offset FELs above the standard for Class II engines. However, because of the tighter

standards being adopted for Class I engines and the one restriction (discussed below) regarding generation of credits from Class II engines, EPA is far less concerned that credits from Class I could result in delays in technology improvement for Class II, and does not believe that any cross-class restrictions for nonhandheld engines are necessary. Therefore, all restrictions on cross-class credit exchanges for small SI nonhandheld engines have been eliminated.

As part of the ABT program, EPA is setting upper limits on the FEL values that may be declared by manufacturers under the Phase 2 standards. (The FEL is established by the manufacturer and takes the place of the emission standard for all compliance determinations.) The proposed FEL upper limits were based on the previous set of standards (i.e., the Phase 1 standards) for nonhandheld engines after accounting for in-use deterioration, which is typically how EPA establishes such limits. Therefore, EPA is adopting HC+NO_x FEL upper limits of 32.2 g/kW-hr for Class I engines and 26.8 g/kW-hr for Class II engines as proposed, even though the HC+NO_x emission standard adopted for Class I engines is more stringent than originally proposed.

EPA is finalizing one limitation that applies to Class II engines only. As proposed, because of concerns over the potential to generate significant credits from existing Phase 1 engines against the Phase 2 standards, EPA is requiring that a manufacturer's production-weighted average of HC+NO_x FELs for Class II engines may not exceed 13.6 g/kW-hr in model year 2005, 13.1 g/kW-hr in model year 2006, and 12.6 g/kW-hr in model years 2007 and later. This calculation is based strictly on the FELs and does not allow the manufacturer to factor in the use of credits, as is done when a manufacturer demonstrates compliance with the HC+NO_x standard of 12.1 g/kW-hr. EPA believes this approach will ensure that Class II engines are converted to OHV or OHV-comparable technology in a reasonable time frame while still encouraging the early introduction of cleaner, more durable technology and ensuring that manufacturers have the flexibility provided by an ABT program to comply with the new standards. For Class I, EPA does not have a similar concern since the standards being adopted are expected to provide only limited opportunity to generate large amounts of credits from existing engines.

All credits will be calculated based on the difference between the manufacturer-established FEL and the Phase 2 HC+NO_x standard for the

applicable model year using the following equation.

$$\text{Credits} = (\text{Standard} - \text{FEL}) \times \text{Production} \times \text{Power} \times \text{Useful life} \times \text{Load Factor}$$

At the time of certification, manufacturers must also supply information to EPA on the terms used in the above noted equation. "Production" represents the manufacturer's U.S. production of engines for the given engine family, excluding exported engines and engines that will be sold in California. "Power" represents the maximum modal power of the certification test engine over the certification test cycle. "Useful Life" is the regulatory useful life established by the manufacturer for the given engine family. "Load Factor" is a constant that is dependent on the test cycle over which the engine is certified.

Under the new ABT program for small SI nonhandheld engines, credits will have an unlimited credit life and will not be discounted in any manner.

The equation being adopted for credit calculation in today's action has been revised from the proposal in two ways. First, EPA proposed that manufacturers use the 49-state sales of an engine family instead of 49-state production levels. However, because of the non-integrated nature of the nonroad small SI market, EPA believes it would be very difficult for manufacturers to determine actual sales. EPA believes that production levels should provide an appropriately accurate estimate of sales. Second, EPA proposed that manufacturers use a sales-weighted average maximum modal power for all of the engine configurations within an engine family as opposed to the maximum modal power of the certification test engine. Because a large fraction of engine families include multiple configurations, EPA believes it would create unnecessary burden on engine manufacturers to determine the maximum modal power of every engine configuration. Using a consistent approach for estimating the maximum modal power based on the certification test engine simplifies the program for manufacturers. At the same time, it should not have any significant impact on the relative number of credits generated under the program from engines with FELs below the standards versus engines with FELs above the standards.

Under the new ABT program, manufacturers of small SI nonhandheld engines will be allowed to use portions of the ABT program prior to implementation of the Phase 2 standards to provide an incentive to

accelerate introduction of cleaner technologies into the marketplace. The Agency believes that making bankable credits available prior to the effective date of the new standards will reward those manufacturers who take on the responsibility of complying with the Phase 2 requirements sooner than required and will result in early environmental benefits. Under the early banking provisions for small SI engines, manufacturers will be allowed to begin using the averaging and banking portions of the ABT program beginning with the 1999 model year for engines certified to the Phase 2 requirements and produced after the effective date of this action. However, as was the case with certain provisions included in the proposal, the ability of a manufacturer to generate early credits also is being limited by the regulatory provisions being adopted today. The protocols adopted in these regulations assure that a manufacturer will only generate credits from engines cleaner than those otherwise anticipated to be available. In this way, manufacturers are rewarded for the extra effort of designing and producing lower emitting engines and the environment benefits from this extra effort. The regulatory provisions adopted today assure that the amount of credits received for the early introduction of a low emitting engine are appropriate considering both the current designs of engines and the changes in emission performance necessary to meet the Phase 2 standards as well as the degree to which the industry and consumers would benefit from the opportunity to generate early credits.

For Class I and Class II engines, manufacturers may generate early credits to be used for averaging or banking purposes from only those engine families certified with FELs at or below the final Phase 2 standard (i.e., 16.1 g/kW-hr HC+NO_x for Class I engines, and 12.1 g/kW-hr HC+NO_x for Class II engines (or 14.8 g/kW-hr NMHC+NO_x for Class I and 11.3 g/kW-hr NMHC+NO_x for Class II natural gas-fueled engines)). As proposed, all early credits for Class II engines will be calculated against the initial Phase 2 HC+NO_x standard of 18.0 g/kW-hr. For Class I engines, because the Phase 2 standards initially only apply to new engine family designs produced for the first time on or after August 1, 2003, EPA will allow manufacturers to generate early credits from any other Class I engines (i.e., those produced before August 1, 2003) if they are certified with an FEL at or below 16.1 g/kW-hr; the amount of the credit will

be determined by the difference between the engine family's FEL and a HC+NO_x level of 20.5 g/kW-hr. The manufacturer may continue generating early credits from such Class I engine families for as long as it continues producing the engine family until August 1, 2007 since, at that time, all Class I engine families are subject to the Phase 2 standards. The 20.5 g/kW-hr level is based on the same assumption as the initial Class II phase-in standard that half of the engines are at the Phase 1 Class I standard and the other half are at the Phase 2 Class I standard adopted today. (Any Class I engine family for which a manufacturer wishes to start generating credits for the first time after August 1, 2003, will not be eligible for early credits. Such families will be eligible to generate credits under the standard provisions of the ABT program against the Phase 2 standard of 16.1 g/kW-hr.)

All engines for which the manufacturer generates early credits must comply with all requirements for Phase 2 engines (e.g., the Production Line Testing program requirements). Manufacturers of nonhandheld engines will not be allowed to trade their early engine credits to other manufacturers until the first effective model year of the Phase 2 standards for the applicable engine class.

To be eligible for early credits for an engine family, EPA had originally proposed that a nonhandheld engine manufacturer would have to certify and comply with the initial Phase 2 standards for its entire production line in the class containing that family. EPA proposed this requirement as a means of limiting the ability of the manufacturer to generate inappropriately large amounts of early credits. However, because EPA is adopting significantly tighter standards for Class I engines than originally proposed, the ability of the manufacturer of Class I engines to easily generate large amounts of early credits is greatly diminished. Additionally, EPA believes all current manufacturers of Class II engines would meet this requirement with their currently certified Phase 1 engines, in which case the proposed restriction would have no effect. Therefore, EPA is not adopting such a requirement in today's action.

In establishing the set of declining standards for Class II engines, EPA assumed a certain phase-in of OHV or comparably clean and durable technology during the transition years. In order to encourage manufacturers to meet the assumed phase-in schedule, EPA proposed to limit the use of credits in two situations that were dependent on whether the manufacturer met the

assumed OHV phase in schedule. First, manufacturers would only be allowed to trade credits from Class II engines to Class I engines if they met the assumed phase-in schedule. Second, manufacturers would only be allowed to use early banked Class II credits beginning in 2001 or later if they met the OHV or comparably clean engine production phase-in schedule estimates for that model year. Because EPA is finalizing significantly tighter Class I standards and because EPA is adopting caps on the long term levels of FELs, EPA does not believe that the proposed limits on the use of credits which were tied to whether a manufacturer was meeting the assumed OHV technology phase in are necessary. These aspects of the final rule should eliminate EPA's concern that introduction of OHV or comparably clean engine technology could be delayed. Therefore, EPA is not finalizing the limits on the use of credits that were dependent on a manufacturer showing compliance with the assumed OHV phase-in schedule for Class II engines.

As discussed in section II.E. of today's notice, EPA is finalizing several compliance flexibility provisions for engine manufacturers and equipment manufacturers that allow the limited use of Phase 1 engines in the Phase 2 time frame. Phase 1 engines sold by engine manufacturers under the flexibility provisions will be excluded from the ABT program. In other words, engine manufacturers will not have to use credits to certify Phase 1 engines used for the flexibility provisions even though they would likely exceed the newly adopted Phase 2 standards.

Another flexibility provision described in section II.E. of today's notice allows engine manufacturers to certify Class II side-valve engine families with annual sales of 1,000 units or less to an HC+NO_x cap of 24.0 g/kW-hr starting with the 2010 model year. For such engine families, the ABT program allows manufacturers to exclude such engine families for the 2010 model year and later. As noted in section II.E., EPA is dropping the portion of the proposed flexibility for small volume Class II SV engine families for model years 2001 through 2009 that would have allowed them to meet the 24.0 g/kW-hr HC plus NO_x level and be included in the ABT program (for model years 2001 through 2004) if they exceeded this level. In its place, the Agency is adopting a flexibility that allows small volume engine families to meet the Phase 1 requirements for model years 2001 through 2009. Class II SV engine families taking advantage of this

flexibility during the 2001 to 2009 model years would be excluded from the ABT program.

As noted elsewhere in today's notice, EPA is adopting a number of provisions that address post-certification compliance aspects of the new standards for nonhandheld engines. In one specific case, EPA is allowing manufacturers to use credits from the certification ABT program to address excess emissions situations determined after the time of certification. As noted in the discussion on compliance, EPA does not believe that the typical type of enforcement action that could be taken when a substantial nonconformity is identified (i.e., an engine family recall order) would generally be workable for small SI engines given the nature of the market. Instead, for the purposes of implementing the PLT program, EPA is adopting provisions to allow manufacturers to use engine certification ABT credits to offset limited emission performance shortfalls for past production of engines determined through the PLT program as described in section II.D. of today's notice. Under the adopted provisions, manufacturers are allowed to use all engine credits available to them to offset such emission performance shortfalls without any cross-class restrictions.

EPA is not allowing manufacturers to automatically use ABT credits to remedy a past production nonconformance situation in the Selective Enforcement Audit (SEA) program. As described in today's action, EPA expects to primarily rely on the PLT program to monitor the emissions performance of production engines. However, EPA expects that SEAs may be conducted in certain cases. Therefore, as discussed in section II.D., if EPA determines that an engine family is not complying with the standards as the result of an SEA, EPA plans to work with the manufacturer on a case-by-case basis to determine an appropriate method for dealing with the nonconformity. The option(s) agreed upon by EPA and the engine manufacturer may, or may not, include the use of ABT credits to make up for any "lost" emission benefits uncovered by the SEA.

C. Test Procedures

The test procedure being adopted for the Phase 2 nonhandheld program is the steady state procedure currently used in Phase 1, with several modifications. These test procedure modifications were proposed for the reasons contained in the proposal (63 FR at 3976-77). No adverse comment was received on these proposals. First, engines equipped with

an engine speed governor must use the governor to control engine speed during the test cycle modes with the exception of Mode 1 or Mode 6. Second, the proposed test procedure for NMHC is being adopted. This test procedure will allow proper measurement of methane emissions from spark-ignition engines and permit appropriate determination of the NMHC emission for natural gas-fueled engines. Additionally, several cycle operational modifications have also been adopted as recommended by EMA (see section 4 of the Summary and Analysis of Comments).

Finally, one comment was received in regards to special test procedures accepted by EPA during the Phase 1 rulemaking and their continued use into Phase 2. EPA will continue to accept special test procedures during Phase 2 (including those approved under Phase 1) as long as they continue to result in emission compliance determinations expected to be equivalent to those resulting from use of the Phase 2 test procedures. Under this approach, manufacturers who test their engines using fuel satisfying California's requirements are allowed, as under Phase 1 rules, to adjust their test results in a manner which EPA determines would yield the same emission levels had the engines been tested using the test fuels meeting the specifications in the federal regulations.

D. Compliance Program

The compliance program being adopted today for Phase 2 nonhandheld engines is comprised of three parts: a pre-production certification program during which the manufacturer evaluates the expected emission performance of the engine design including the durability of that emission performance; an assembly line test program which samples product coming off the assembly line to assure the design as certified continues to have acceptable emission performance when put into mass production; and a voluntary in-use test program during which participating manufacturers evaluate the in-use emission performance of their product under typical operating conditions. Standards have been set for each class. The manufacturer divides its product offering based upon specific design criteria which have a potential for significantly different emission performance; these subdivisions are called engine families. Each engine family is required to meet the standard applicable for the class in which that engine resides unless the manufacturer chooses to participate in the ABT program also being adopted today.

The ABT program has already been described (see section II.B. for discussion of the ABT program). The other provisions of the compliance program are explained in more detail below. In all cases, to the best of EPA's knowledge, the requirements of this federal compliance program are sufficiently similar to the requirements of the California Air Resources Board program for these engines such that for engine families sold in both the State of California and federally, the engines selected for testing, the test procedures under which they are tested and the data and other information required to be supplied by regulations will be the same under both programs. Thus, we expect that a manufacturer will compile one application for certification satisfying the information needs of both programs and thus saving the manufacturer time and expense. Similarly, the EPA and California compliance programs are expected to share information such that any production line testing or in-use testing conducted for one program will satisfy the similar needs of the other program, again minimizing the burden on the manufacturers.

1. Certification

This section addresses the certification program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the certification program at 63 FR 3981. Several comments were submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The certification process as required in the Act is an annual process and requires that manufacturers demonstrate that regulated engines will meet appropriate standards throughout their useful lives. The Act prohibits the sale, importation or introduction into commerce of regulated engines when not covered by a certificate.

The proposal would have required nonhandheld engine manufacturers to estimate the in-use deterioration of their engine families by different methods depending on the type of engine technology (see 63 FR 3981). For manufacturers of nonhandheld side valve (SV) engines or engines with aftertreatment (i.e., catalysts), the proposal would have required that one engine from each engine family be either field aged or bench aged to its full useful life to demonstrate compliance. If a manufacturer were to choose the

bench aging option, the emission results would have had to be adjusted using the field/bench adjustment program. The field/bench adjustment program was described in the proposal at 63 FR 3977. These results, either the field aged or adjusted bench aged, would have been used to calculate a deterioration factor which would then be applied to the results of testing done on new engines in the certification, PLT or SEA programs. For manufacturers of nonhandheld engines with overhead valve technology, the proposal would have allowed manufacturers to use an industry-wide assigned deterioration factor for certification. Manufacturers of overhead valve nonhandheld engines would have also been allowed under the proposal to establish their own deterioration factors by field aging a minimum of three engines per family to their full useful lives, provided they established deterioration factors for all of their engine families within a useful life category. Manufacturers of overhead valve engines would have been required to participate in an industry-wide Field Durability and In-use Performance Demonstration Program. This program is described in the proposal at 63 FR 3989 and its primary purpose was to verify whether the industry-wide assigned deterioration factors were appropriate.

EPA received a significant number of comments regarding the complexity of the proposed certification program, the inappropriateness of an assigned deterioration factor for all useful life categories for nonhandheld engines with overhead valve technology, the prohibitive expense of field aging engines, and the advantages of harmonizing EPA's final certification program with that of the California Air Resources Board. EPA now believes the complexity of the proposed program would make it difficult to manage and organize the certification program for both industry and the Agency. EPA also believes that harmonizing its programs with the California Air Resources Board will allow the industry to more efficiently comply with the final emission standards and requirements. Additionally, EPA is concerned the field/bench adjustment program may not be statistically reliable enough to establish appropriate deterioration factors (in an effort to control the cost of this program, only a minimum amount of data was proposed to be required; this small amount of data hurts the statistical reliability of any resulting decision).

Based on comments received and EPA's further evaluation of the proposed certification program, EPA is finalizing the certification program with

the following significant changes to the proposal. These changes, and other less significant changes, are also discussed in the Summary and Analysis of Comments document. In today's final rule, EPA is adopting a significantly less complex certification program that harmonizes with the certification program adopted by the California Air Resources Board as part of its Tier 2 regulations. In this program, manufacturers of nonhandheld engines of all technologies are required to demonstrate that their regulated engines comply with appropriate emission standards throughout the engines' useful lives. To account for emission deterioration over time, manufacturers must establish deterioration factors for each regulated pollutant for each engine family. The final rule allows manufacturers to establish deterioration factors by using bench aging procedures which appropriately predict the in-use emission deterioration expected over the useful life of an engine or an in-use evaluation which directly accounts for this deterioration. As is the case with many EPA mobile source regulations, multiplicative deterioration factors may not be less than one. Additionally, where appropriate and with suitable justification, deterioration factors may be carried over from one model year to another and from one engine family to another.

Today's final rule also provides flexibility for small volume engine manufacturers and small volume engine families, allowing manufacturers to optionally use assigned deterioration factors established by the Agency. The deterioration factors, either assigned or generated, are used to determine whether an engine family complies with each emission standard in the certification program, the production line testing program, and the Selective Enforcement Auditing program.

As in Phase 1, manufacturers can submit certification applications to the Agency electronically, either on a computer disk or through electronic mail, making the certification application process efficient for both manufacturers and the Agency. Also, EPA and the California Air Resources Board will have a common application format allowing manufacturers to more easily apply for certification.

2. Production Line Testing—Cumulative Summation Procedure

This section addresses the production line testing (PLT) program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the PLT program at 63 FR 3984–89. Several comments were

submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The PLT program adopted in today's rule requires manufacturers to conduct manufacturer-run testing programs using the Cumulative Summation Procedure (CumSum).³ EPA is finalizing the program as proposed with the following significant modifications. These changes, and other less significant changes, are also discussed in the Summary and Analysis document. The proposal would have required manufacturers of handheld engine families to participate in the PLT program while allowing nonhandheld manufacturers the option of participating in the PLT program or electing to remain eligible for traditional Selective Enforcement Audits. EPA received comments both in favor of finalizing this option for nonhandheld manufacturers and removing this option and requiring all manufacturers, handheld and nonhandheld, to participate in the PLT program. Because the SEA program can only provide a single snapshot of a manufacturer's production, while the PLT program has the ability to evaluate a manufacturer's production throughout the model year, EPA believes that the PLT program provides a better evaluation of a manufacturer's production than the SEA program. Further, the PLT program does not disrupt a manufacturer's normal day to day activities. Therefore, the proposed option for nonhandheld manufacturers to elect to continue to rely on Selective Enforcement Audits is not being finalized, and nonhandheld manufacturers are required to conduct PLT programs using the CumSum approach in today's final rule.

The PLT proposal also included an opportunity for the Agency to approve alternative methods to the CumSum approach if those alternative methods met certain statistical criteria, including: the alternative methods produce substantially the same levels of producer and consumer risk as CumSum, provide for continuous sampling, and include an appropriate decision mechanism for determining noncompliance. EPA received

comments in support of the proposal to allow manufacturers to submit alternative test schemes for PLT, but also suggesting that the above criteria were too restrictive and would result in a program so closely aligned with CumSum that, by implication, the manufacturer would have no reason to pursue the alternative. Therefore, these commenters recommended EPA should either make the criteria less restrictive, or remove the specific criteria altogether. EPA believes that the proposed criteria would be crucial to developing any alternative production line testing program, and that the Agency could not approve an alternative program with less restrictive criteria. EPA also believes the CumSum procedure is an accurate and appropriate production line testing program for those manufacturers covered by the production line testing requirements. Therefore, in response to industry comments suggesting that there would be little utility in being able to seek approval of alternate methods under EPA's proposed criteria, EPA is not adopting the proposed option that would have allowed manufacturers to apply for alternative PLT methods.

The CumSum program, as finalized, requires manufacturers to conduct testing on each of their engine families (except where relieved of this requirement under provisions granting small volume flexibility). The maximum sample size that could be required for each engine family is 30 engines or 1 percent of a family's projected production, and the number of tests ultimately required is determined by the results of the testing. EPA and the California ARB have harmonized their PLT programs and both will require manufacturers to use the CumSum procedure for testing production engines. Manufacturers will be able to submit PLT reports to the Agency electronically, either on a computer disk or through electronic mail, which will save both the industry and EPA time and money.

As mentioned in the discussion on ABT, above, manufacturers may, for a limited amount of production, use ABT credits to offset the estimated excess emission of previously produced noncomplying engine designs as determined in the PLT program. For future production, the manufacturer would be expected to correct the noncompliance problem causing the emission noncompliance either by changing the production process, changing the design (which would require recertification) or raising the FEL to compensate for the higher emissions (also requiring

recertification). In the event a manufacturer raises an FEL as a result of a PLT failure, it may do so for future production as well as past production. EPA expects few instances in which the manufacturer will correct a PLT failure through raising the FEL since that would imply the manufacturer incorrectly set the initial FEL levels for that family; frequent use of this remedy would suggest the manufacturer was incapable of correctly setting the FELs for its product, in which case EPA would have to reconsider allowing a manufacturer to participate in the ABT program at its option. It should also be noted that, as proposed, compliance with the standards will be required of every covered engine. Thus, every engine that failed a PLT test would be considered in noncompliance with the standards and must be brought into compliance. EPA's rules allowing the use of the average of tests to determine compliance with the PLT program is intended only as a tool to decide when it is appropriate to suspend or revoke the certificate of conformity for that engine family, and is not meant to imply that not all engines have to comply with the standards or applicable FEL.

Under the flexibilities section, we also note that small volume manufacturers and small volume engine families need not be included in the PLT program at the manufacturer's option. Finally, EPA proposed that exceptionally low emitting engines could also be exempted from PLT testing at the manufacturer's option, however, they would also not be able to generate ABT credits. Manufacturers have indicated that they would much rather have the credits available from a low emitting engine design than the alternative of reduced PLT testing. Therefore, this proposed option has not been adopted.

3. Selective Enforcement Auditing

The proposal discussed Selective Enforcement Auditing (SEA) at 63 FR 3987-88. The SEA program is not the Agency's preferred production line testing program for small nonhandheld engines, and the CumSum approach is being finalized as the PLT program that manufacturers will conduct. Specific comments submitted regarding SEA, and EPA's responses, are discussed in the Summary and Analysis of Comments document at section 5. The SEA program is included in today's final rule as a "backstop" to the CumSum program and would be used in cases where there is evidence of improper testing or of a nonconformity that is not being addressed by the CumSum program. The SEA program, as finalized, will also apply to engine

³The CumSum procedure has been promulgated for marine engines in EPA's spark-ignition marine rule at 40 CFR Part 91 (61 FR 52088, October 4, 1996). In this section, "PLT" refers to the manufacturer-run CumSum procedure. "PLT" does not include Selective Enforcement Auditing (SEA), which is addressed separately in Section II.D.3 of this preamble.

families optionally certified to the small volume manufacturer provisions and the small volume engine family provisions, in cases where manufacturers elect not to conduct PLT testing for such families. However, as for other families, EPA does not expect families certified under the small volume provisions will be routinely tested through an SEA program.

In contrast to the PLT program, manufacturers who fail an SEA will not have the automatic option of using ABT credits to remedy noncomplying engines already introduced into commerce. The PLT program was designed to allow a manufacturer to continually evaluate its entire production and quickly respond to the results throughout the model year. EPA believes that allowing a manufacturer to use credits, for a limited amount of engines, to remedy past production emission failures is consistent with the continual evaluation provided by the PLT program. The SEA program, in contrast, is designed to be a one time, unannounced inspection of a manufacturer's production line with definitive passing or failing results. EPA believes that is this type of a compliance program, where at most only a few engine families might be tested each year, manufacturers must place more emphasis on the transition from certification to the production line and must set initial FELs accurately. To encourage accurate FEL settings at the time of certification, the SEA program does not allow manufacturers to automatically remedy SEA failures by retroactively adjusting FELs. Remedies for the SEA failure are best determined on a case-by-case basis which might include the use of ABT credits if agreeable to both EPA and the manufacturers.

4. Voluntary In-Use Testing

This section addresses the voluntary in-use testing program finalized today for nonhandheld engine manufacturers. The proposed rule discussed the in-use testing program at 63 FR 3989. Several comments were submitted in response to the proposal. EPA addresses these comments and provides detailed explanations of why the Agency retained provisions as proposed or changed the proposed provisions in the Summary and Analysis of Comments document at section 5. The proposal would have required manufacturers of nonhandheld engines manufactured with overhead valve technology to conduct up to a total of 24 emissions tests on engines that were field aged to their full useful lives. The primary function of these in-use tests was to

verify that the industry-wide deterioration factors predicted for the overhead valve engines were appropriate. Based on industry comments regarding the prohibitive expense of conducting field aged in-use tests, EPA is not adopting the proposed in-use programs in today's rule.

However, EPA still desires meaningful in-use data so that it can more appropriately assess the actual emissions inventory of this industry. Therefore, EPA is adopting a voluntary in-use testing program. The voluntary in-use testing program gives nonhandheld engine manufacturers the option of using a portion of their PLT resources to generate field aged emissions data. At the start of each model year, manufacturers may elect to place up to 20 percent of their engine families in this voluntary program. For those families in this program, manufacturers would not be required to conduct PLT for two model years, the current year and the subsequent year (the California Air Resources Board has indicated that they would also exempt families in this in-use testing program from their PLT requirements). Instead, manufacturers would place a minimum of three randomly selected production engines in existing consumer owned, independently owned, or manufacturer owned fleets. Manufacturers would install the engines in equipment that represents at least 50 percent of the production for an engine family and age the engine/equipment combination in actual field conditions to at least 75 percent of each engine's useful life. Once an engine in this program has been sufficiently field aged, the manufacturer would conduct an emissions test on that engine. Manufacturers would have three calendar years from the date they notified the Agency of their intent to include a family in the program to complete testing.

While this compliance program will not require the manufacturer to conduct any in-use testing to verify continued satisfactory emission performance in the hands of typical consumers, an optional program for such in-use testing is being provided. EPA believes it is important for manufacturers to conduct in-use testing to assure the success of their designs and to factor back into their design and/or production process any information suggesting emission problems in the field. If any information derived from this program indicates a substantial in-use emission performance problem, EPA anticipates the manufacturer will seek to determine the nature of the emission performance problem and what corrective actions

might be appropriate. EPA will offer its assistance in analysis of the reasons for unexpectedly high in-use emission performance and what actions might be appropriate for reducing these high emissions. Whether or not a manufacturer chooses to conduct such a voluntary in-use testing program, EPA may choose to conduct its own in-use compliance program. If EPA were to determine that an in-use noncompliance investigation was appropriate, the Agency expects it would conduct its own in-use testing program, separate from this voluntary manufacturer testing program, to determine whether a specific class or category of engines is complying with applicable in-use standards.

Although EPA is not finalizing the mandatory in-use testing programs proposed, the Agency is finalizing the in-use noncompliance provisions as proposed (see 63 FR 4026: Subpart I 90.808). Under these provisions, if the Agency determines that a substantial number of engines within an engine family, although properly used and maintained, do not conform to the appropriate emission standards, the manufacturer will be required to remedy the problem and conduct a recall of the noncomplying engine family as required by CAA section 207. However, we also recognize the practical difficulty in implementing an effective recall program as it would likely be impossible to properly identify the owners of equipment using small engines (there is no national requirement to register the ownership of such equipment), and it is also highly questionable whether owners or operators of such equipment would respond to an emission-related recall notice. Therefore, under the final program EPA's intent is to allow manufacturers to nominate alternative remedial measures to address potential non-compliance situations, as the proposed rulemaking notice discussed (see 63 FR 3992). EPA expects that, if successfully implemented, the use of these alternatives should obviate the need for the Agency to make findings of substantial nonconformity. In evaluating these alternatives, EPA would consider those alternatives which (1) represent a new initiative that the manufacturer was not otherwise planning to perform at that time and that has a nexus to the emission problem demonstrated by the subject engine family; (2) cost substantially more than foregone compliance costs and consider the time value of the foregone compliance costs and the foregone environmental benefit of the subject family; (3) offset at least

100 percent of the exceedance of the standard or FEL; and (4) are able to be implemented effectively and expeditiously and completed in a reasonable time. These criteria would function as ground rules for evaluating projects to determine whether their nature and burden is appropriate to remedy the environmental impact of the nonconformity while providing assurance to the manufacturer that EPA would not require excessive projects.

In addition to being evaluated according to the above criteria, alternatives would be subject to a cost cap. EPA would apply a cost cap of 75 percent above and beyond the foregone costs adjusted to present value, provided the manufacturer can appropriately itemize and justify these costs. EPA believes that this is an appropriate value which is both "substantial" and sufficient to encourage manufacturers to produce emission durable engines.

Given the important role that alternative remedial measures may play, EPA intends to develop guidance regarding alternative remedial measures. EPA will seek the input of the regulated industry, as well as other concerned stakeholders, in developing such guidance.

E. Flexibilities

In the NPRM, EPA proposed a number of flexibilities to ease the transition from the Phase 1 to the Phase 2 program, to ensure that the Phase 2 standards are cost-effective and achievable, and to reduce the compliance burden while maintaining the environmental benefits of the rule. Several comments were received on the flexibilities proposed, some supporting the proposals and others offering recommended changes. In addition, the need for modifications to the proposed set of flexibilities evolved out of the investigations which led to other changes to the proposal including the adoption of more stringent Class I standards than were proposed. The following is a summary of the revised flexibilities for this rulemaking.

1. Carry-Over Certification

Consistent with other mobile source emission certification programs, EPA will allow a manufacturer to use test data and other relevant information from a previous model year certification program to satisfy the same requirements for the existing model year certification program as long as the data and other information are still valid. Such "carry-over" of data and information is common in mobile source programs where the engine family being certified in the current

model year is identical to the engine family previously certified.

2. Small Volume Engine Manufacturer Definition

EPA proposed a number of flexibilities for engine manufacturers defined as small volume engine manufacturers; these flexibilities are identified in section II.E.4, below. While supporting these flexibilities, EMA and OPEI, on behalf of their members, commented that revisions to the definitions of small volume equipment manufacturer and small volume engine manufacturer were appropriate to protect the interests of engine manufacturers who would or would not meet the proposed definition. Specifically, EMA and OPEI recommended eliminating the "small engine manufacturer" definition altogether, and relying instead on an expanded definition of small volume engine family to meet the goal of assuring an adequate supply of engines for niche equipment applications, especially as produced by small volume equipment manufacturers. According to EMA and OPEI, providing any additional relief to small volume engine manufacturers would put these manufacturers at an unfair competitive advantage over engine manufacturers whose production volumes were too large to qualify for this relief.

The issue of the small volume engine family definition is discussed in the subsequent section. Regarding the availability of flexibilities targeted specifically for the small volume engine manufacturers, EPA remains convinced that the relatively small technical and production resources available to the smallest engine manufacturers makes their job of complying with Phase 2 emission standards significantly more difficult than for larger manufacturers with comparably greater technical and financial resources available to apply toward solving this problem. Consequently, without some additional flexibilities under these regulations, the small volume manufacturer would be much less likely to produce engines complying with the Phase 2 regulations or, if able to make the necessary design changes, would only be able to spread the cost of such changes over considerably fewer production engines. In such a case, not only would small volume engine manufacturers be financially stressed compared to their larger competitors, but they might need to pass along to their consumers a higher per unit price increase in an attempt to recover at least part of their cost of compliance. Higher price increases would make their product less

competitive. In the extreme, either due to pricing pressures or simply due to the limitations in technical capability, without additional flexibilities, small volume engine manufacturers might not be able to continue providing engines to their customers. The engine manufacturers could go out of business and their customers could suffer from a lack of engine supply. This potential for loss in engine availability would more likely fall on the shoulders of small equipment manufacturers who provide niche products and who are the more typical customers of the small volume engine manufacturers.

EPA continues to believe flexibilities aimed at the small volume engine manufacturer are appropriate and is retaining the definition of small volume engine manufacturers as proposed. As proposed, to qualify as a small volume engine manufacturer a nonhandheld engine manufacturer may produce no more than 10,000 engines annually.

3. Small Volume Engine Family Definition

EPA proposed that manufacturers of small volume nonhandheld engine families (those families with annual production of 1000 units or less) be provided cost saving flexibilities. These flexibilities are described in section II.E.4. Without such flexibilities, the cost and other difficulties of modifying these small volume engine families to comply with the Phase 2 standards may be difficult enough that the manufacturer might either be unable to complete the modification of the engine design in time or may choose for economic reasons to discontinue production of the small volume engine family. The impact of such a scenario would of course fall on the engine manufacturer through reduced engine sales, but would also fall perhaps even more significantly on small volume equipment applications, the most typical use for these small volume engine families. Due to the unique character of these small volume equipment applications, it is quite possible the equipment manufacturer might not be able to find a suitable replacement engine. In such case, the equipment manufacturer would also be significantly impacted through lost sales, and consumers would be harmed through the loss in availability of the equipment.

As noted in the prior section, EMA and OPEI commented that EPA should redefine the small volume family production volume limit from the 1000 unit maximum proposed for nonhandheld engine families to a level of less than 5,000 units. Tecumseh

requested the addition of an option of 1 percent of a manufacturer's total production as the upper limit for determining small volume engine families.

EPA has re-examined the production limits for small volume engine families and has determined that the interests of preserving the availability of small volume families would be better served by raising the small volume engine family definition to 5,000 for nonhandheld engine families. A larger number of niche equipment applications will now be served and the risk of loss in engine availability reduced. At the same time, the potential for adverse emission impacts remains very small. Given this provision 99 percent of nonhandheld engines will still be covered by the full compliance program and subject to the earliest practical implementation of the rule.

The recommendation by Tecumseh to base the small volume definition optionally on a varying scale equal to one percent (1 percent) of the engine manufacturer's sales volume is rejected as departing from the basis that absolute size of the family dictates whether it is a niche application. Furthermore, a small volume engine definition based on the total production volume of the manufacturer would disproportionately benefit the largest manufacturers who, in all other respects, tend to be in the best position to comply with the Phase 2 regulations.

4. Flexibilities for Small Volume Engine Families and Small Volume Engine Manufacturers

The flexibilities proposed for small volume engine manufacturers and small volume engine families received general support in comments to the NPRM. One modification to the proposed flexibilities is being adopted. To provide additional time to convert the many small volume engine families to designs complying with the Phase 2 standards and to provide additional lead time for small volume manufacturers, EPA is now adopting a provision that would allow the use of Phase 1 engines through model year 2009. Therefore, all manufacturers will have until 2010 to certify small volume nonhandheld engine families to Phase 2 requirements. Similarly, small volume engine manufacturers will have until 2010 to certify all of their Class I and Class II engine families to Phase 2 requirements.

EPA proposed allowing small volume engine families and small volume engine manufacturers to continue producing Phase 1 engines until the last year of the phase in of the Phase 2 standard applicable to the engine's

class. However, since the Class I standards being adopted today are significantly more stringent than the standards upon which this proposed flexibility was based, the number of engine families required to be modified and, especially, the degree of modification necessary has increased. This adds significantly to the technical and resource burden on the engine manufacturer. As anticipated in the proposal, EPA expects the major engine manufacturers will choose to modify their small volume engine families last as these represent niche markets. Additionally, these niche applications may represent some of the more difficult engine applications due to their unique requirements. The experience gained in designing, producing and getting in-use feedback on their larger engine family designs should be helpful in minimizing the cost and assuring the performance of the small volume engines. The design challenges for the small volume engine manufacturer have similarly increased suggesting more time to accomplish the transition to Phase 2 standards would be warranted. EPA expects manufacturers will take advantage of the extra time being adopted today to smooth the transition to Phase 2 standards by bringing the small volume engines into compliance throughout this time period. Due to the fact that the circumstances vary greatly from one manufacturer to another, it would be inappropriate to mandate a percent phase-in schedule or some other mandatory rate of phase-in for these small volume engine families and small volume manufacturers. Therefore, only a final compliance requirement of model year 2010 is being adopted. EPA has also considered the air quality impact of this flexibility and determined that one percent of the total small engine production is likely to take advantage of this option to delay compliance with the Phase 2 standards with a negligible impact on the emission benefits expected from this rule.

The following summarizes the flexibilities available to manufacturers of small volume engine families and small volume engine manufacturers for these engines.

- a. Can certify to Phase 1 standards and regulations until 2010 for eligible engine families; these engine families are excluded from ABT;
- b. Can certify using assigned deterioration factors;
- c. Can elect to not participate in PLT; SEA is still applicable.

Regarding the exclusion from ABT of engine families which take advantage of delaying implementation of the Phase 2 standards, this provision is being adopted to protect against a situation in

which a manufacturer may choose to redesign and produce a small volume engine family with low emissions (e.g., meeting the Phase 2 standards) but still certify it under these small volume provisions and generate credits all the way up to the Phase 1 standards level. Since this flexibility is intended to provide small volume manufacturers and manufacturers of small volume engine families the flexibility to delay implementation of the Phase 2 standard if necessary, it would be inappropriate and unfair to other manufacturers to also allow them to generate extra credits even after redesigning their product.

5. Flexibilities for Small Volume Equipment Manufacturers and Small Volume Equipment Models

EPA proposed flexibilities based upon equipment manufacturer needs aimed at assuring the continued supply under the Phase 2 regulations of engines for unique, typically small volume applications. These flexibilities included allowing the small volume equipment manufacturer to continue using Phase 1 compliant engines up until the third year after phase-in of the final Phase 2 standards for that engine class if the equipment manufacturer was unable to find a suitable Phase 2 engine before then. Second, EPA proposed to allow individual small volume equipment models to continue using Phase 1 compliant engines throughout the time period the Phase 2 regulation is in effect if no suitable Phase 2 engine was available and the equipment was in production at the time these Phase 2 rules were adopted. Finally, EPA proposed a hardship provision that would allow any equipment manufacturer for any of its applications to continue using a Phase 1 engine for up to one more year beyond the last phase-in of the final standard for that engine class if the requirement to otherwise use a Phase 2 compliant engine would cause substantial financial hardship.

In this final rule, EPA is adopting flexibilities which can be exercised by small volume equipment manufacturers. These flexibilities were supported by comments to the proposal and are adopted as proposed except that the criteria for determining whether someone is a small volume equipment manufacturer has been revised (see discussion in the following section II.E.6). Specifically, as proposed and for the reasons described in the proposal, the small volume equipment manufacturer will be allowed to use Phase 1 engines for up to three years beyond the last phase-in year for the standard applicable to that engine class

(or engine class and equipment category combination in the case of Class III and IV engines) if they demonstrate to EPA that no suitable Phase 2 engine is available. Secondly, small volume equipment models will be allowed to use Phase 1 compliant engines throughout the time the Phase 2 rule is in effect as long as that piece of equipment is in production as of the effective date of this rule and the manufacturer demonstrates to EPA that no suitable Phase 2 engine is available. Finally, EPA is adopting the hardship provision which will allow equipment manufacturers an additional year beyond the final phase-in of a standard to start using a Phase 2 compliant engine if they can demonstrate that earlier use would cause a significant financial hardship.

6. Small Volume Equipment Manufacturer Definition

EPA proposed that small volume equipment manufacturers would be defined as those whose annual production for sale in the U.S. across all models would be 2500 or fewer nonhandheld engines.

EMA and OPEI commented that the Small Business Administration definition of a small manufacturer should be used instead of the definition proposed by EPA for small volume equipment manufacturers. Under this definition, according to EMA and OPEI, equipment manufacturers who employed fewer than 500 persons would all be eligible for the small volume flexibilities. Alternatively, EMA and OPEI recommended that the small volume equipment manufacturer definition be expanded to include all equipment manufacturers using nonhandheld engines who produce 5000 or fewer units annually.

EPA has considered the recommendations received in comments to the NPRM and analyzed the production data available to the Agency. As explained in the proposal, opting to use a definition of 500 or fewer employees as recommended by EMA and OPEI would capture a group of equipment manufacturers with a wide-range of equipment production volumes including some who produce up to 700,000 units annually. It would also include a group of equipment manufacturers with a wide range of financial capabilities, including some which have much larger revenue streams compared to those that would be covered by the proposed definition. EPA believes the impact of this rule is more closely tied to the volume of units produced by the manufacturer (for example, if the equipment needed to be

modified to accommodate a Phase 2 engine, the impact would best be analyzed as a per unit impact) than to the number of persons employed by a firm. Therefore, establishing flexibilities under these emission rules should be based on the production volume of the manufacturer, not the number of employees. However, EPA agrees there would be advantages in expanding the definition of small volume equipment manufacturer to include slightly larger manufacturers who are still, compared to the rest of the industry, amongst the smallest. Therefore, EPA is adopting a small volume equipment definition of 5000 or fewer annual production for equipment using nonhandheld engines. This limit covers approximately two percent of the annual sales in each category. Providing the flexibilities outlined above in section II.E.5 allows significant relief to these smallest equipment manufacturers while at the same time assuring the vast majority of equipment uses the lowest emitting engines available.

7. Small Volume Equipment Model Definition

The small volume equipment model definition proposed would cover nonhandheld models of 500 or less annual production. As proposed, such small volume equipment models can use Phase 1 engines throughout Phase 2 if the manufacturer of these equipment models can demonstrate no Phase 2 compliant engine is available for existing models; if the equipment is "significantly modified" then this exemption ends, since during this modification design accommodations could be made to accept an engine meeting Phase 2 standards. This provision was proposed to permit unnecessary equipment redesign when the emission benefit from such a redesign would be negligible.

Comments were received from EMA and OPEI recommending raising the production limit to 5000 units for nonhandheld applications rather than the 500 annual production limit proposed. EPA's analysis of production data indicates that the 500 cutoff would exempt less than approximately one percent of annual sales from required use of Phase 2 engines but approximately 73 percent of the equipment models, thus providing substantial relief to many small volume applications without compromising the air quality benefits of this final rule. In contrast, a level such as 5000 for the cutoff of a small volume equipment model definition would benefit more equipment manufacturers (up to 87 percent of the equipment models) but at

a significant air quality loss, as up to six percent of the units sold could be exempt. This is too great of an emissions penalty and therefore this option is rejected. EPA is adopting as proposed a definition of small volume equipment model as 500 or fewer units annual production for nonhandheld equipment.

8. Hardship provision

EMA commented that manufacturers should not have to demonstrate a major impact on company solvency and that substantial negative economic impact or loss of market share should be enough in order to qualify for relief under the proposed hardship provision.

This hardship provision is intended to cover those extreme and unanticipated circumstances which, despite the equipment manufacturer's best efforts, place it in a situation where a lack of Phase 2 complying engines will cause such great harm to the company that the ability of the company to stay in business is at stake. It is not intended to protect an equipment manufacturer against any financial harm or potential loss of market share. EPA believes the original intent of this provision is reasonable and that the proposed criteria are reasonable. Equipment manufacturers in less dire situations may benefit from the other flexibilities being adopted today. The rules for this hardship provision are being adopted as proposed.

F. Nonregulatory Programs

EPA discussed a voluntary "green" labeling program and a voluntary fuel spillage and evaporative emission reduction program in the preamble to the NPRM. These programs are discussed in this section of the preamble. The particulate matter (PM) and hazardous air pollutant (HAP) testing program for handheld engines discussed in the NPRM will be addressed in the upcoming SNPRM for handheld engines.

1. Voluntary "Green" Labeling Program

EPA discussed the concept of a voluntary program for labeling engines with superior emission performance as a way of providing public recognition and also allowing consumers to easily determine which engines have especially clean emission performance. EPA discussed a threshold of around 50 percent of the proposed standard (e.g., around 12.5 g/kW-hr for Class I engines) as the level below which engines would qualify for "green" labeling. EPA requested comment on all aspects of the program, as well as indication of interest on the part of consumer groups, engine and

equipment manufacturers, and others in working with the Agency to develop and implement the program.

EPA received support for the voluntary "green" labeling program concept from several commenters, as well as suggestions for the design of such a program. Other commenters argued that a green labeling program is inconsistent with ABT, and still others supported a mandatory comprehensive labeling program to identify emissions levels above and below standards.

EPA remains committed to promoting clean technology, and is interested in developing a green labeling program for small SI engines in a way that does not confuse consumers or undermine environmental goals of the Phase 2 regulations. In the design of a program, it would be necessary to review appropriate levels for a green label, given the increased stringency of Class I standards in the final program, as well as to consider the appropriate interface between a green labeling program and the ABT program that is being finalized for nonhandheld engines. EPA will continue to pursue the development of voluntary green labeling program for small SI engines as a nonregulatory program.

2. Voluntary Fuel Spillage and Evaporative Emission Reduction Program

In the preamble to the NPRM, EPA discussed interest in involving stakeholders in the design of a voluntary fuel spillage and evaporative emission reduction program specifically for the small engine industry and its customers. EPA requested comment on the proposed voluntary partnership program, and indication of interest in participating in the partnership. Comments on this concept included both disappointment that EPA has not done more in these areas, as well as a willingness on the part of several commenters to work with EPA. EPA remains committed to developing voluntary programs to address fuel spillage and evaporative emission reductions, but these programs are not part of the regulations being adopted today. At this time, EPA has not been able to determine the technical feasibility of substantially controlling fuel spillage and evaporative emissions from the small engine equipment sector and therefore has not been able to determine that a program mandating such controls would be achievable for this industry.

G. General Provisions and Recommendations

In the NPRM for the Phase 2 program, EPA discussed a number of general provisions impacting Phase 2 engines, including: model year and annual production period flexibilities, definition of handheld engines, small displacement nonhandheld engine class, liquefied petroleum gas fueled indoor power equipment, dealer responsibility, engines used in recreational equipment, engines used in rescue and emergency equipment, and replacement engines. EPA received comments on several of these issues, as well as recommendations on other general issues. These general provisions and other recommendations and issues are discussed in this section of the preamble. See Section 8 of the Summary and Analysis of Comments for additional discussion of these issues.

1. Model Year Definition and Annual Production Period Flexibilities

The final program includes the same model year definition as was in effect for Phase 1, and annual production period flexibilities which were established under Phase 1 only for Class II engines. While EPA is finalizing the model year definition in effect for the Phase 1 program for the Phase 2 program, and is also finalizing flexibilities similar to those in Phase 1 for the start-up of the Phase 2 program for Class II nonhandheld engines, EPA is also clarifying in this final rule the standards to which Class II Phase 2 engine would be subject at the start-up of the program. Under the final rule, Class II engine families are required to be certified to the Phase 2 program by September 1, 2001. In addition, engine families first certified to the Phase 2 program on or before August 31, 2001, and designated as "2001 model year" families, are required to meet the 2001 emission standards (e.g., 18.0 g/kW-hr HC+NO_x). These engine families are also required to re-certify for the 2002 model year by January 1, 2002. Engine families first certified to the Phase 2 program on or before August 31, 2001, and designated as "2002 model year" families, are required to meet the 2002 model year standards (e.g., 16.6 g/kW-hr HC+NO_x).

2. Definition of Handheld Engine

EPA is finalizing the same definition for handheld engine as was in effect for Phase 1. Commenters suggested a displacement cutoff to determine which engines would meet less stringent "handheld" standards, but EPA is not adopting this suggestion. In response to

comments from Honda and others, in a separate regulatory action, EPA intends to propose modifications to criteria for determining whether an engine could be classified as handheld that, if finalized, would be applicable for the remainder of Phase 1 and also apply for the Phase 2 program. The expected proposed modification would permit a manufacturer to exceed the weight limits (14 kg for generators or pumps, or 20 kg for one-person augers) in cases where the manufacturer could demonstrate that the extra weight was the result of using a four stroke engine or other technology cleaner than the otherwise currently allowed two stroke engine.

3. Small Displacement Nonhandheld Engine Class

EPA is not adopting a small displacement nonhandheld Class in today's rule. As discussed in the preamble to the NPRM, although EPA had considered establishing a new class for the smallest nonhandheld engines, such a class and separate standards for the class were not proposed. Rather, EPA requested comment on the need for such a class and what size engines should be included. Comments and additional information were received on this issue, some of which supported setting standards equivalent to the handheld standards for engines of the same displacement. EPA believes that the appropriate standards for these smallest nonhandheld engine classes should be considered in context with the standards adopted for similar size engines used in handheld applications. Therefore, EPA is deferring a decision on this issue and will reconsider it as part of the previously mentioned planned supplementary proposal for handheld engines.

4. Liquefied Petroleum Gas Fueled Indoor Power Equipment

As proposed, the final Phase 2 program is applicable to manufacturers of liquefied petroleum gas (LPG) fueled indoor power equipment. Comments to the NPRM on this issue included a suggestion that EPA exempt from regulation small manufacturers of propane-powered spark-ignited engines used solely for indoor applications and subject to OSHA indoor air quality standards and objections to EPA's assertion of jurisdiction over such equipment. The commenters suggested that since OSHA sets permissible exposure limits for indoor air toxins and since these particular pieces of equipment are designed solely for use indoors, EPA has neither the need nor the right to regulate such equipment. In

response, however, OSHA does not set equipment emission standards; EPA has that responsibility. Additionally, the emissions from this equipment can be effectively controlled through the EPA regulations being adopted today. While many of the manufacturers of propane-powered spark-ignition engines are small volume manufacturers, the regulations being adopted today also minimize the regulatory burden on these manufacturers.

Comments were also received requesting EPA regulations allow the testing and reporting of emission on a concentration basis rather than a mass basis. Measurement of concentration of emissions can be less expensive than mass emissions and EPA understands that at least some manufacturers of propane-powered spark-ignition engines are already using such equipment to check the performance of their engines after they have been converted to run on propane. However, while concentration measurements can give an indication of the emission performance of an engine, it is a far less adequate test than the mass-based emission test adopted with the Phase 1 rules and being continued with today's action.

Another comment came from a supplier of gasoline engines whose engines have been used in propane-powered equipment after conversion to run on this alternative fuel. This manufacturer is concerned that, even though it is not responsible for the changes made to the engine to allow use of propane, its name nevertheless remains on the engine after the conversion and it may be subject to warranty claims which result from the conversion and are therefore not the fault of the original engine manufacturer. Thus this original engine manufacturer requested EPA mandate that all companies which convert gasoline-fueled engines to run on propane be required to declare themselves engine manufacturers and satisfy the certification and other compliance responsibilities of this rule including emission warranty. Such persons or companies currently engaged in making these conversions have the option of not declaring themselves a manufacturer or certifying if they can assure themselves and EPA that the conversions they are making do not increase the emissions of the engine⁴. However, in making these

modifications, the modifier also assumes responsibility for any emission-related problems due to the modification; such emission-related problems would not be the responsibility of the original engine manufacturer. While sympathetic toward the original engine manufacturer's concern of potentially increased warranty burden, EPA is retaining the policy of allowing modifications to certified engines so long as the modifier has good reason to believe such modifications do not increase emissions. Under such a policy, no emission increase should occur. Requiring the modifier to re-certify, in this case, would have no expected emission benefit but would add greatly to the burden on the modifier.

5. Dealer Responsibility

The preamble to the proposed Phase 2 program clarified that the Phase 2 program adds no additional responsibilities for dealers. As in the NPRM, the final rule contains no new constraints or responsibilities for dealers and repair facilities beyond those contained in the Phase 1 rule.

6. Engines Used in Recreational Vehicles and Applicability of the Small SI Regulations to Model Airplanes

EPA is not adopting any revisions to the provisions relating to engines used in recreational vehicles established in the Phase 1 program. No revisions were proposed by the Phase 2 NPRM. EPA does intend to address recreational vehicle issues in a separate regulatory action. This separate rulemaking will address the applicability of the small SI regulations to engines used in model airplane applications, and EPA expects to propose to consider engines that serve "only to propel a flying vehicle * * * through air" to be recreational engines provided they also meet the other existing criteria that apply to that term. As "recreational" engines they would be effectively excluded from the small SI program.

7. Engines Used in Rescue and Emergency Equipment

EPA is finalizing the provision, as proposed, that for the remainder of Phase 1 as well as for Phase 2, exempts engines which are used exclusively in emergency and rescue equipment from compliance with any standards if the equipment manufacturer can demonstrate that no certified engine is available to power the equipment as safely and practically. No comments were received on this proposal.

8. Replacement Engines

EPA proposed to continue replacement engine provisions from the August 7, 1997 rulemaking (62 FR 42638), which amended the Phase 1 rule to allow engine manufacturers to sell uncertified engines from replacement purposes subject to certain controls designed to prevent abuse. In addition, the Phase 2 proposal contained additional safeguards and reporting and record keeping requirements to further ensure against abuse.

The final Phase 2 program for replacement engines goes beyond the August 7, 1997 rule in one area. It includes the amendment which permits uncontrolled engines to be sold for pre-regulatory equipment, and Phase 1 engines to be sold for equipment built with Phase 1 engines, subject to the above constraints (90.1003(b)(5)(iv)). The final rule does not include other provisions from the Phase 2 proposal that were added to the August 7, 1997 rule. Based on comments from manufacturers, and an assessment that eliminating these provisions will result in no loss of environmental benefits, EPA has decided to eliminate these other requirements in interest of reducing the record keeping and reporting burden on manufacturers. Note that EPA intends to propose minor modifications to the replacement engine regulations in a separate regulatory action in order to clarify the responsibilities of importers.

9. Record keeping and Information Requirements

The ICRs have been revised for final rule and estimate the average annual public reporting burden for the collection of information required under the rule for a typical engine manufacturer (see section V.C. of preamble). In addition, EPA has significantly streamlined the compliance program requirements for final rule.

10. Engine Labeling

EPA proposed two alternatives for engine labeling. These alternatives differed only in the treatment of useful life hours. As indicated in the preamble to the NPRM, EPA believes inclusion of the number of hours of emission compliance for which the engine is properly certified would provide an important tool to consumers in making their purchase decisions between competing engines. EPA anticipates manufacturers will use the useful life hours of the engine as a marketing tool. For example a manufacturer might advertise that an engine family is

⁴ See EPA publications "Mobile Source Enforcement Memorandum No. 1A" (6-25-74); "Addendum to Mobile Source Enforcement Memorandum 1A" (9-4-97); and, "Revision to Addendum to Mobile Source Enforcement Memorandum 1A" (6-1-98), docket A-96-55, items IV-B-02, IV-B-03 and IV-B-04 respectively.

certified as emissions durable to 1000 hours. Thus, inclusion of meaningful useful life hours would have the potential of providing a market place mechanism regarding manufacturers who design engines for longer useful life periods.

The two alternatives for designating useful life on the engine label were to (1) simply state the useful life hours or (2) use a designator of useful life hours, for example, A, B, or C, and then adding words on the label to direct the consumer to the owner's label for an explanation of the meaning of A, B and C. This latter option was proposed only for nonhandheld engines and was based on the concern expressed by nonhandheld engine manufacturers during the development of the Statement of Principles for these engines that consumers could be confused by the meaning of the useful life period if the specific number of hours was included on the label. However, as indicated in the preamble to the NPRM, EPA was concerned that an "A, B, C" designation may not provide the same useful information to the consumer as directly including the useful hours on the label and specifically requested comment on this issue.

In their comments on the proposal, EMA and OPEI indicated they remained concerned that consumers might believe the emissions compliance period could mean something else, for example, the expected life for which the engine would provide satisfactory product performance to the consumer. EMA and OPEI indicated "(c)onsumer purchasers are not sophisticated enough to understand the difference between the EPA term of art "useful life" and the expected time of ownership of their newly purchased lawnmower. Nor will they understand the difference between emission performance and product performance." Therefore, they recommended adopting an option whereby the engine manufacturer could indicate A, B, or C on its required engine label, make reference to the owner's manual for additional explanation and explain in the owner's manual the meaning of A, B, and C where it would be easier to provide an adequate explanation of the meaning behind an emission performance period. In contrast, the North American Equipment Dealers Association (NAEDA) commented that a buyer would not know the meaning of useful life designations such as A, B, or C prior to the purchase of the equipment since the explanation of these designations would only appear in the owner's manual which is not normally

accessible to the consumer prior to purchase. Also, Honda commented specifically that engine labeling requirements should be harmonized between California and federal rules to allow an engine to be labeled for different standards and different classes. This recommendation from Honda aligns with numerous other general comments on the importance of harmonization between California and federal rules.

EPA remains concerned that an "A, B, C" designation of useful life may not be as informative of the expected emission performance period as a direct listing of the certified hours. Especially in light of NAEDA's comment, EPA is concerned about the ability of consumers to use such designations to make informed purchase decisions if their only source of explanation is the owner's manual. However, it is also not clear that including the hours listing directly on the label is the optimum alternative since, as suggested by EMA and OPEI comments, consumers may not fully understand the meaning of the emissions performance useful life hours listing and could instead, for example, believe the hours refer to perhaps a parts warranty period for the equipment in which the engine is installed. EPA is also aware of labeling options being considered by California that would allow removing the actual hours of operation from the engine label and including additional information on the product, perhaps not permanently affixed to the engine, which would satisfy the need to properly inform consumers. Allowing such labeling would also serve the goal of harmonization as supported by Honda.

Therefore, EPA is finalizing regulations which, as proposed, allow the manufacturer to use an engine label which includes the actual emissions period useful life as certified by the engine manufacturer or a label which includes an "A, B or C" designation and refers to the owners manual for further information. Based on conversations with both EMA and OPEI representatives, EPA also expects to work in partnership with the industry in developing consumer outreach material to better inform consumers of the emission improvements available through purchase of equipment using Phase 2 engines. EPA expects such outreach material will better serve the informational needs of consumers than the just relying on either of these labeling options. Additionally, the rules allow other labeling options which the Administrator determines satisfies the information intent of the label. This option is intended to allow for the

nationwide use of the California labeling system. In evaluating the adequacy of an alternative label, EPA would consider the extent to which the manufacturer's alternative engine label combined with other readily accessible consumer information adequately informs the consumer of the emission performance of the engine.

11. Emission Warranty

As proposed, EPA is not adopting revisions to the base emission performance warranty period of two years of engine use from the date of sale for this nonhandheld program. EPA will address comments from handheld manufacturers that relate specifically to whether additional flexibility is needed for some handheld products in the supplemental proposal for the Phase 2 handheld program. In addition, EPA is not adopting the proposed separate Phase 1 and Phase 2 provisions which would have required differing warranty statements. The final provisions specifying what manufacturers must warrant, therefore, remains unchanged from the existing rule.

12. Other Issues

A number of other of issues were considered in the development of this final rule, based on comments received on the proposal. These include defect reporting requirements, aftermarket provisions, closed crankcase provisions and exclusion from HC+NO_x standards for engines used exclusively in the wintertime, CO adjustments for open crankcase breathers, NO_x converter placement during testing, usage meters, and metric units. Comments received on these issues, and EPA's response to those comments, can be found in Section 8 of the Summary and Analysis of Comments document.

III. Projected Impacts

A. Environmental Benefit Assessment

National Ambient Air Quality Standards (NAAQS) have been set for criteria pollutants which adversely affect human health, vegetation, materials and visibility. Concentrations of ozone (O₃) are impacted by HC and NO_x emissions. Ambient concentrations of CO are, of course, impacted by CO emissions. EPA believes that the standards set in this rule would reduce emissions of HC and NO_x and help most areas of the nation in their progress towards compliance with the NAAQS for ozone. The following provides a summary of the roles of HC and NO_x in ozone formation, the estimated emissions impact of this rule, and the health and welfare effects of ozone, CO,

hazardous air pollutants, and particulate matter. Much of the evaluation of the health and environmental effects related to HC, NO_x and CO found in this section is also discussed in the Regulatory Impact Analysis (RIA).

1. Roles of HC and NO_x in Ozone Formation

Both HC and NO_x contribute to the formation of tropospheric ozone through a complex series of reactions. In a 1991 report, researchers emphasize that both HC and NO_x controls are needed in most areas of the United States.⁵ EPA's primary reason for controlling emissions from small SI nonhandheld engines is the role of their HC emissions in forming ozone. Of the major air pollutants for which NAAQS have been designated under the CAA, the most widespread problem continues to be ozone, which is the most prevalent photochemical oxidant and an important component of smog. The primary ozone NAAQS represents the maximum level considered protective of public health by the EPA. Ozone is a product of the atmospheric chemical reactions involving oxides of nitrogen and volatile organic compounds. These reactions occur as atmospheric oxygen and sunlight interact with hydrocarbons and oxides of nitrogen from both mobile and stationary sources.

A critical part of this problem is the formation of ozone both in and downwind of large urban areas. Under certain weather conditions, the combination of NO_x and HC has resulted in urban and rural areas exceeding the national ambient ozone standard by as much as a factor of three. Thus it is important to control HC over wider regional areas if these areas are to come into compliance with the ozone NAAQS.

2. Health and Welfare Effects of Tropospheric Ozone

Ozone is a powerful oxidant causing lung damage and reduced respiratory function after relatively short periods of exposure (approximately one hour). The oxidizing effect of ozone can irritate the nose, mouth, and throat causing coughing, choking, and eye irritation. In addition, ozone can also impair lung function and subsequently reduce the respiratory system's resistance to disease, including bronchial infections such as pneumonia.

Elevated ozone levels can also cause aggravation of pre-existing respiratory

conditions such as asthma.⁶ Ozone can cause a reduction in performance during exercise even in healthy persons. In addition, ozone can also cause alterations in pulmonary and extra pulmonary (nervous system, blood, liver, endocrine) function.

The newly revised primary NAAQS⁷ for ozone based on an 8-hour standard of 0.08 parts per million (ppm) is set at a level that, with an adequate margin of safety, is protective of public health. EPA also believes attainment of the new primary standard will substantially protect vegetation. Ozone effects on vegetation include reduction in agricultural and commercial forest yields, reduced growth and decreased survivability of tree seedlings, increased tree and plant susceptibility to disease, pests, and other environmental stresses, and potential long-term effects on forests and ecosystems.

High levels of ozone have been recorded even in relatively remote areas, since ozone and its precursors can travel hundreds of miles and persist for several days in the lower atmosphere. Ozone damage to plants, including both natural forest ecosystems and crops, occurs at ozone levels between 0.06 and 0.12 ppm.⁸ Repeated exposure to ozone levels above 0.04 ppm can cause reductions in the yields of some crops above ten percent.⁹ While strains of some crops are relatively resistant to ozone, many crops experience a loss in yield of 30 percent at ozone concentrations below the pre-revised primary NAAQS.¹⁰ The value of crops lost to ozone damage, while difficult to estimate precisely, is on the order of \$2 billion per year in the United States.¹¹ The effect of ozone on complex ecosystems such as forests is even more difficult to quantify. However, there is evidence that some forest types are negatively affected by ambient levels of ozone.¹² Specifically, in the San Bernadino Mountains of southern California, ozone is believed to be the agent responsible for the slow decline

and death of ponderosa pine trees in these forests since 1962.¹³

Finally, by trapping energy radiated from the earth, tropospheric ozone may contribute to heating of the earth's surface, thereby contributing to global warming (that is, the greenhouse effect),¹⁴ although tropospheric ozone is also known to reduce levels of UVB radiation reaching the earth's surface, the increase of which is expected to result from depletion of stratospheric ozone.¹⁵

3. Estimated Emissions Impact of the Final Regulation

The emission standards set by today's action should reduce average in-use exhaust HC+NO_x emissions from small SI nonhandheld engines approximately 59 percent beyond Phase 1 standards for nonhandheld engines by year 2027, by which time a complete fleet turnover is realized. This translates into an annual nationwide reduction of roughly 395,000 tons of exhaust HC+NO_x in year 2027 over that expected from Phase 1. Reductions in CO beyond Phase 1 levels, due to improved technology, are also to be expected by year 2027.

Along with the control of all hydrocarbons, these standards should be effective in reducing emissions of those hydrocarbons considered to be hazardous air pollutants (HAPs), including benzene and 1,3-butadiene. However, the magnitude of reduction would depend on whether the control technology reduces the individual HAPs in the same proportion as total hydrocarbons.

These emission reduction estimates are based on in-use population projections using growth estimates, engine attrition (scrappage), activity indicators and new and in-use engine emission factors. Data on activity indicators were based on the Phase 1 small SI regulation. Estimates of engine populations were based on population data available from the PSR databases¹⁶ and data provided by Engine and Equipment manufacturers and on a study done for the California Air Resources Board by Booz Allen & Hamilton (BAH). Population projections into the future are based on a linear growth assumption. Attrition rates (based on the probability that an engine remains in service into a specific calendar year) for all engines included in this analysis are developed on the

⁶United States Environmental Protection Agency, Review of the National Ambient Air Quality Standards for Ozone—Assessment of Scientific and Technical Information: OAQPS Staff Paper, EPA-450/2-92-001, June 1989, pp. VI-11 to 13.

⁷See 62 FR 38896, Friday, July 18, 1997.

⁸U.S. EPA, *Review of NAAQS for Ozone*, p. X-10.

⁹U.S. EPA, *Review of NAAQS for Ozone*, p. X-10.

¹⁰See 62 FR 38856, Friday, July 18, 1997.

¹¹U.S. EPA, *Review of NAAQS for Ozone*, p. X-22.

¹²U.S. EPA, *Review of NAAQS for Ozone*, p. X-27.

¹³U.S. EPA, *Review of NAAQS for Ozone*, p. X-29.

¹⁴NRC, *Rethinking the Ozone Problem*, p. 22.

¹⁵*The New York Times*, September 15, 1992, p. C4.

¹⁶Power Systems Research, Engine Data and Parts Link data bases, St. Paul, Minnesota, 1992.

⁵National Research Council, *Rethinking the Ozone Problem in Urban and Regional Air Pollution*, National Academy Press, 1991.

assumption that the equipment attrition function may be represented by a cumulative Normal distribution function. The in-use emission factor is based on a multiplicative deterioration factor which is a function of the square root of hours of equipment usage. 1992.

For the analysis summarized in Table 4, emission inventories were developed using EPA's NONROAD Model for the

two regulated nonhandheld engine classes as well as for all pieces of equipment using engines covered by this rule. The total annual nationwide HC, NO_x and CO emissions from small SI nonhandheld engines included in this rule were estimated for both the baseline (that is, with Phase 1 controls applied) and controlled (Phase 2) scenarios.

For the controlled scenario, EPA assumed all nonhandheld engines would be converted to overhead valve technology. As for deterioration factors, they were determined in some cases using manufacturer-supplied confidential in-use emission data and for others EPA depended on relevant information from EPA's certification data base.

TABLE 4: PROJECTED ANNUAL NATIONWIDE EXHAUST HC+NO_x Emissions [Tons/year]

Year	Without proposed controls (Phase 1)	With proposed controls	Tons reduced from Phase 1 baseline	Percentage reduction
2000	427,063	427,063		
2005	453,129	347,065	106,064	23.4
2010	499,648	242,370	257,278	51.5
2015	547,514	226,571	320,943	58.6
2020	596,343	243,118	353,225	59.2
2025	651,818	269,871	381,947	59.3

4. Health and Welfare Effects of CO Emissions

Carbon monoxide (CO) is a colorless, odorless gas which can be emitted or otherwise enters into ambient air as a result of both natural processes and human activity. Although CO exists as a trace element in the troposphere, much of human exposure resulting in elevated levels of carboxyhemoglobin (COHb) in the blood is due to incomplete fossil fuel combustion, as occurs in small SI engines.

The concentration and direct health effect of CO exposure are especially important in small SI nonhandheld engines because the operator of a small SI engine application is typically near the equipment as it functions. In some applications, the operator must be adjacent to the exhaust outlet and is in the direct path of the exhaust as it leaves the engine. According to numbers published in the Nonroad Engine and Vehicle Emission Study (NEVES), a 4-stroke, 2.9 kW lawnmower engine emits 1051.1 g/hr CO.

The toxicity of CO effects on blood and tissues, and how these effects manifest themselves as organ function changes, have also been topics of substantial research efforts. Such studies provided information for establishing the National Ambient Air Quality Standard for CO. The current primary and secondary NAAQS for CO are 9 parts per million for the one-hour average and 35 parts per million for the eight-hour average.

5. Health and Welfare Effects of Hazardous Air Pollutant Emissions

The focus of today's action is reduction of HC emissions as part of the solution to the ozone nonattainment problem. However, direct health effects are also a reason for concern due to direct human exposure to emissions from small SI nonhandheld engines during operation of equipment using such engines. Of specific concern is the emission of hazardous air pollutants (HAPs). In some applications, the operator must be adjacent to the exhaust outlet and is in the direct path of the exhaust as it leaves the engine. Today's regulatory action should be effective in reducing HAPs such as benzene and 1,3-butadiene, in so far as these are components of the HC emissions being reduced by the Phase 2 standards.

Benzene is a clear, colorless, aromatic hydrocarbon which is both volatile and flammable. Benzene is present in both exhaust and evaporative emissions. Health effects caused by benzene emissions differ based on concentration and duration of exposure. The International Agency for Research on Cancer (IARC), classified benzene as a Group I carcinogen, namely an agent carcinogenic to humans. Occupational studies continue to provide the bulk of evidence of benzene's carcinogenicity. Workers are exposed at much higher levels than is the general public. Human epidemiologic studies of highly exposed occupational cohorts have demonstrated that exposure to benzene can cause acute nonlymphocytic leukemia and other blood disorders, that is, preleukemia and aplastic anemia.

Additionally, changes in blood and bone marrow consistent with hematotoxicity are recognized in humans and experimental animals. Benzene has also been linked with genetic changes in humans and animals.

1,3-butadiene is a colorless, flammable gas at room temperature. This suspected human carcinogen is insoluble in water and its two conjugated double bonds make it highly reactive. 1,3-butadiene is formed in internal combustion engine exhaust by the incomplete combustion of the fuel and is assumed not present in evaporative and refueling emissions. The Health Risk Assessment of 1,3-Butadiene (EPA/600/P-98/001A, February 1998), concludes that 1,3-butadiene is a known human carcinogen, based on three types of evidence: (1) Excess leukemia in workers occupationally exposed to 1,3-butadiene (by inhalation), (2) occurrence of a variety of tumors in mice and rats by inhalation, and (3) evidence in animals and humans that 1,3-butadiene is metabolized into genotoxic metabolites. Other health effects due to very high levels of exposure include heart, blood and lung diseases.

Since air toxic levels generally decrease in proportion to overall emissions once emission control technology is applied, the amount of benzene and 1,3-butadiene produced by new small SI engines should diminish after this rule becomes effective. Consequently, exposure to HAPs from new nonhandheld engines would be reduced, as would associated health and

environmental effects. Although there is little data on direct health effects of small SI engines, the Swedish study concludes benzene emissions from chain saw engines as being rather high. No study has been conducted involving the health effects of HAP emissions specifically from nonhandheld engines.

6. Particulate Matter

Particulate matter, a term used for a mixture of solid particles and liquid droplets found in the air, has been linked to a range of serious respiratory health problems. These fine particles are of health concern because they easily reach the deepest recesses of the lungs. Batteries of scientific studies have linked particulate matter, especially fine particles (alone or in combination with other air pollutants), with a series of significant health problems including premature death, aggravated asthma and chronic bronchitis and increased hospital admissions. EPA has recently (July 1997) announced new NAAQS standards for particulate matter (PM), by adding two new primary PM_{2.5} standards set at concentrations of 15 micrograms per cubic meter ($\mu\mu\text{m}^3$), annual arithmetic mean, and 65 $\mu\mu\text{m}^3$, 24-hour average, to provide increased protection against the PM-related health effects found in community studies.

B. Cost and Cost-Effectiveness

EPA has calculated the cost-effectiveness of this rule by estimating costs and emission benefits for these engines. EPA made best estimates of the combination of technologies that an engine manufacturer might use to meet the new standards, best estimates of

resultant changes to equipment design, engine manufacturer compliance program costs and engine fuel savings in order to assess the expected economic impact of the Phase 2 emission standards. Emission benefits are taken from the results of the environmental benefit assessment (see section III.A, above). The cost-effectiveness result of this rule is \$852 per ton of HC+NO_x when fuel savings are not taken into account. When fuel savings are also considered, the cost-effectiveness calculation results in—\$507 per ton of HC+NO_x. This section describes the background and analysis behind these results.

The analysis for this rulemaking is based on data from engine families certified to EPA's Phase 1 standards, as of September 1998, and information on the latest technology development and related emission levels since the publication of the NPRM. The analysis does not include any production volumes that are covered by California ARB's standards. California ARB will implement emission standards for many of these engines prior to the federal Phase 2 regulations. Therefore, this rule only accounts for costs for each engine sold outside California and those engines sold in California that are not covered by the California ARB rules, such as those used in farm and construction equipment. Although EPA expects that engines already designed to meet California ARB's current standards would incur no additional design cost to meet federal standards, no effort was made to estimate which models would be sold in California and subject to

California "Tier 1" standards.¹⁹ Rather, for the purpose of this final rule, any Phase 1 engine design that would need to be modified to meet Phase 2 standards was assumed to incur the full cost of that modification, including design cost. Similarly, the cost to equipment manufacturers was assumed to be fully attributed to this federal rule even if an equipment manufacturer would have to make the same modifications in response to the California ARB regulation. The details of EPA's cost and cost-effectiveness analyses can be found in Chapters 4 and 7 of the Final Regulatory Impact Analysis (RIA) for this rule.

1. Engine Technologies

Table 5 lists the changes in technology, compared to Phase 1 engines, that have been considered in the cost estimation for this rulemaking. As discussed in section IV.A of this preamble, the standards would require different engine improvements amongst the nonhandheld and handheld engines and engine designs within those classes. For example, Class I and II side valve (SV) design engines are expected to require conversion to clean overhead valve (OHV) designs to reduce new engine out emissions and increase emission durability. Some OHV engine families in Class I and II are expected to decrease emissions through the use of enleanment, increased cooling and internal redesign such as piston ring design improvements. Additional detail regarding the impact of these modifications can be found in Chapters 3 and 4 for the Final RIA.

TABLE 5.—POTENTIAL TECHNOLOGY IMPROVEMENTS PER CLASS AND ENGINE DESIGN

Class	Engine design	Technologies
I	4 stroke—SV	Clean OHV or other innovative fuel system technologies.
I	4 stroke—OHV	Carburetor Improvements. Combustion Chamber Improvements and Intake System. Improved Oil Consumption (Piston oil control rings, valve stem seals).
I	2 stroke	Conversion to 4-stroke and clean OHV.
II	4 stroke—SV	Conversion to clean OHV.
II	4 stroke—OHV	Carburetor Improvements. Combustion Chamber Improvements and Intake System. Improved Oil Consumption (Piston oil control rings, valve stem seals).

¹⁹ For purposes of analyzing small engine and equipment manufacturer impacts of this rule, including the benefits of the small volume flexibilities being adopted, EPA considered that those manufacturers who are located in California

are likely to be marketing their engines and equipment in California and thus will be directly impacted by California's rules, not EPA's Phase 2 rules; this assumption, however, was not used in the development of the overall cost and cost

effectiveness of EPA's Phase 2 rules. Therefore, these industry cost values are slightly overstated and the cost effectiveness numbers are slightly overstated.

2. Engine Costs

The engine cost increase is based on incremental purchase prices for new engines and is comprised of variable costs (for hardware, assembly time and compliance programs), and fixed costs (for R&D and retooling). Variable costs were applied on a per engine basis and fixed costs were amortized at seven percent over five years. Engine technology cost estimates were based on the study by ICF and EF&EE in October 1996 entitled "Cost Study for Phase Two Small Engine Emission Regulations" and confidential cost estimates provided by industry. Details of the assumed costs and analysis can be found in Chapters 4 and 7 of the RIA.

Analysis of the EPA Phase 1 certification database, as of September 1998, was conducted to determine a potential impact of the Phase 2 standards on each manufacturer assuming use of the ABT program available to engine manufacturers. While ABT is permitted across classes, this analysis considered only ABT within each class since some manufacturers produce substantially in only one nonhandheld class. The choice of technologies for emission improvement of these engine families was based on the engine family that would be most influential in reducing a manufacturer's overall average emission level within that class. In addition, costs in the NPRM for conversion from SV to OHV were updated based on a letter received from one major engine manufacturer which asserted the NPRM cost estimates were incomplete. The cost analysis was updated with consideration of confidential cost information from several engine manufacturers in order to most accurately reflect expected costs.

For Class I, review of the September 1998 EPA Phase 1 database showed that 31 percent of the engine families, 8 SV engine families and 11 Class I OHV engine families, will need to incorporate at least some of the technologies listed in Table 5. For Class II, review of the September 1998 EPA Phase 1 certification database shows that 17 percent of the engine families, 4 Class II SV engine families and 22 OHV engine families, will need to incorporate emission improvements from amongst those listed in Table 5. The incorporation of such technologies will require both variable and fixed expenditures.

The Phase 2 emission standards for this diverse industry will impact companies differently depending on a company's current product offering and related deteriorated emission

characteristics used in establishing FELs for use in averaging emissions across engine families. Some large companies may improve the emission characteristics of their large volume engine families to provide credits for their smaller volume families. These companies may also improve a few engine families notably or all of their engine families slightly. The real world impact on engine manufacturers will be influenced by many factors including their ability to reduce the emissions from their major impact engine family in light of competition with others in the marketplace.

3. Equipment Costs

While equipment manufacturers would bear no responsibility for meeting emission standards, they may need to make changes in the design of their equipment models to accommodate the Phase 2 engines. EPA's treatment of the impacts of the program therefore includes an analysis of costs for equipment manufacturers. The 1996 PSR EOLINK database was utilized as the source of information for equipment manufacturers, with models and sales estimates covering all classes. The costs for equipment conversion for nonhandheld equipment was derived from the ICF/EF&EE cost study²⁰ and improved through the work by ICF and EPA on the small business impact analyses for this rulemaking. For Class I EPA conducted its own analysis using PSR estimated production data and employment and financial information from Dunn and Bradstreet. Full details of EPA's cost analysis can be found in Chapter 4 of the RIA. EPA has assumed that capital costs would be amortized at seven percent over ten years.

This rulemaking assumes that the majority of Class I engines will be converted from SV to OHV design in order to meet the emission standards. The major equipment types that use Class I engines are lawnmowers, generator sets, pumps, and tillers. For lawnmowers, it is assumed that the Class I engine redesign would have a minimal impact on equipment redesign for small volume manufacturers and a potential impact on larger volume manufacturers. This understanding is based on several factors. First, it is EPA's understanding that the smaller volume, and some larger volume, equipment manufacturers for niche markets allow space for a variety of engines to be used on their equipment.

Therefore these equipment manufacturers will have nearly no equipment impacts. Second, it is EPA's understanding that some larger equipment manufacturers may have incorporated close packaging around the engine in order to be unique in the marketplace. However, the conversion from SV to OHV is not required until August 1, 2007 (except for new engine models initially produced on or after August 1, 2003) and therefore it is assumed that this long lead time will provide equipment manufacturers the time to incorporate equipment redesigns and replace tooling dies prior to this date and within the cycle of equipment redesign and/or tooling replacements. The same assumptions have been made for the applications of generator sets, pumps and tillers.

The Class II engine change from SV to OHV design will have a large impact on equipment changes. Review of the PSR database for equipment manufacturers that utilize Class II SV engines reveals that the majority (90 percent) of small engine equipment is produced from 32 companies with the remaining 353 companies representing only 10 percent of the overall production. EPA's work analyzing small business impacts, as summarized in the work with ICF Incorporated,²¹ indicates that many of the small businesses, indicated by the PSR database to use SV Class II engines, have already converted or are in the process of converting to using OHV engine design due to market forces or changes in their engine manufacturer's offerings. These companies tend to produce professional or commercial equipment and competition has driven the use of OHV engines. The study also revealed that at least one equipment manufacturer that produces a large volume of equipment has already switched its lines from SV to OHV. For this analysis, EPA assumed that, except for this one large manufacturer, all other manufacturers will convert their engines to the use of OHV designs in direct response to this rule with all such cost attributable to this rule. EPA has assumed that any switch from SV to OHV engines by equipment manufacturers is a cost incurred due to this rulemaking. The cost estimates were based on equipment application (garden tractor, tiller, commercial turf, etc.) and in the case of the commercial turf equipment, on the power of the engine within that application.

²⁰ ICF and Engine, Fuel and Emissions Engineering, Incorporated; "Cost Study for Phase Two Small Engine Emission Regulations", Draft Final Report, October 25, 1996, in EPA Air Docket A-93-29, Item #II-A-04.

²¹ "Small Business Impact Analysis of New Emission Standards for Small Spark-Ignition Nonroad Engines and Equipment", ICF Incorporated, September 1997, located in EPA Air Docket A-96-55, Item#II-A-01.

4. Operating Costs

The total life-cycle operating costs for this rulemaking include any expected decreases in fuel consumption. Life cycle costs have been calculated per class using the NONROAD emission model. The model calculates fuel savings from the years of implementation to 2027 and takes into account factors including equipment scrappage, projected yearly sales increase per equipment type and engine power. Details on the assumptions and calculations on fuel savings are included in Chapter 4 and 7 of the RIA.

A fuel consumption savings of 15 percent has been assumed from Class I and Class II SV engines as they are converted to OHV design. OHV designs are expected to result in improved fuel economy since data show that OHV engines can run at leaner air-to-fuel ratios than SV engines.

5. Cost Per Engine and Cost-Effectiveness

a. Cost Per Engine

Total costs for this rulemaking vary per year as engine families are phased-in to compliance with the Phase 2 standards over several years, capital costs are recovered and compliance programs are conducted. The term "uniform annualized cost" is used to

express the cost of this rulemaking over the years of this analysis.

The methodology used for estimating the uniform annualized cost per engine is as follows. Cost estimates from 1995 to 1997, for technology and compliance programs respectively, were estimated and calculated to 1998 dollars through multiplication of the estimates by the applicable GDP implicit price deflators. The Phase 1 database was then analyzed, using ABT per manufacturer, to determine (1) the number of engine families per class, (2) the total number of engines per engine design, and (3) the year of technology implementation. The total estimated variable and capital costs per year were then calculated by multiplying the number of engine families and corresponding production volume by the fixed and variable costs per technology grouping, respectively. For compliance program costs, the costs for certification bench aging were estimated based on the number of families in the 1998 database and the expected certification date in the phase in. The variable costs are marked up to estimate cost to the consumer. Markups include 16 percent by the engine manufacturer, 5 percent by the equipment manufacturer and 5 percent by the mass merchandiser. All costs per year were then discounted seven percent to the first year of Phase 2 regulation per class, 2007 for Class I and

2001 for Class II. A uniform annualized cost was then calculated. Costs per engine are calculated from the uniform annualized cost for the first full year of implementation of the Phase 2 standard, 2007, and the last year of this analysis, 2027. The average cost per engine is calculated from these two values and the results are presented in Table 6 in 1998 dollars.

The yearly fuel savings (tons/yr) per class were calculated using the NONROAD model. The yearly fuel savings (tons/yr) from 2001–2027 were converted to savings (\$) through conversion to gallons per year multiplied by \$0.794 (a 1995 average refinery price to end user, without taxes adjusted to 1998 dollars). The yearly fuel savings were then discounted by 7 percent to the first year of Phase 2 regulation, for each Class. The yearly results were totaled and then divided by an annualized factor to yield the uniform annualized fuel savings. The fuel savings for each engine class was calculated for the production years of 2010 and 2025. The average of these two values was utilized as the average fuel savings per engine per class per year as is shown in Table 6.

The average resultant cost per engine class is calculated by subtracting the average fuel savings from the average cost, see Table 6. See Chapter 7 of the RIA for more details of this analysis.

TABLE 6.—ENGINE YEARLY FUEL SAVINGS AND RESULTANT COST PER ENGINE, ENGINE COSTS BASED ON UNIFORM ANNUALIZED COSTS [1998\$]

Class	Cost per engine	Savings per engine	Resultant cost per engine
I	\$19.63	\$14.22	\$5.41
II	12.64	55.72	(\$43.08)

b. Cost-Effectiveness

EPA has estimated the cost-effectiveness (i.e., the cost per ton of emission reduction) of the HC+NO_x standard over the typical lifetime of the nonhandheld equipment that would be covered by today's rule. EPA has examined the cost-effectiveness by performing a nationwide cost-

effectiveness analysis in which the net present value of the cost of compliance per year is divided by the fleet turnover. The resultant cost-effectiveness is \$852 cost/ton HC+NO_x without fuel savings and –\$507 with fuel savings. Chapter 7 of the RIA contains a more detailed discussion of the cost-effectiveness analysis.

The overall cost-effectiveness of this rule on HC+NO_x emission reductions, with fuel savings, is shown in Table 7. Table 7 contains the cost effectiveness of other nonroad rulemakings, which reflect fuel savings, to which the cost-effectiveness of this rulemaking can be compared.

TABLE 7.—COST-EFFECTIVENESS OF THE PHASE 2 STANDARDS WITH FUEL SAVINGS COMPARED TO OTHER NONROAD RULES

Standard	NPV cost/NPV ton (With fuel savings)	Pollutants
Phase 2 Small SI Nonhandheld Engines <19 kW Phase 2	–\$507	HC+NO _x
Small SI Engines <19 kW Phase 1	217	HC+NO _x
Spark Ignition Marine Engines	1000	HC

TABLE 7.—COST-EFFECTIVENESS OF THE PHASE 2 STANDARDS WITH FUEL SAVINGS COMPARED TO OTHER NONROAD RULES—Continued

Standard	NPV cost/NPV ton (With fuel savings)	Pollutants
Nonroad CI Tier 2/3 Standards	410–650	HC+NO _x

Note: Not all in the same year dollars Cost Per Engine and Cost-Effectiveness.

IV. Public Participation

The process for developing this final rule provided several opportunities for formal public comment. EPA published an Advance Notice of Proposed Rulemaking (ANPRM) in March 1997 (see 62 FR 14740, March 27, 1997) which announced the signing of two Statements of Principles (SOPs) with the small engine industry and several other interested parties. The ANPRM and included SOPs outlined programs which would increase the stringency of the small engine regulations compared to Phase 1 rules. Comments were received in response to this ANPRM which, in combination with the programs outlined in the ANPRM, formed the basis of the Notice of Proposed Rulemaking (NPRM) which was published in January 1998 (63 FR 3950, January 27, 1998). A public hearing was held on February 11, 1998 during which oral testimony was received on the proposal. Written comments were received during the formal comment period for the proposal and some additional written comments were received after the formal comment period closed. To expand upon comments received during the comment period and to address specific questions EPA had of the industry regarding technical feasibility and cost of some options for the final standards, EPA also solicited and received additional information after the close of the formal comment period and participated in a number of phone conversations and meetings with industry representatives for this purpose. All of this information including documentation of phone calls and meetings has been included in the docket for this final rule. Since considerable information was received after the formal comment period closed, a notice of availability of this supplemental information was also published on December 1, 1998 (63 FR 66081) alerting interested parties to the availability of this supplemental information. All information received, regardless of the date of receipt, was, to the maximum extent possible, considered in the development of this final rule. EPA has prepared a detailed

Summary and Analysis of Comments document which describes the comments received since the publication of the NPRM and presents the Agency's response to each of these comments. The Summary and Analysis of Comments document is available in the docket for this rule.

V. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866, the Agency must assess whether this regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order (58 FR 51735, Oct. 4, 1993). The order defines "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rulemaking is a "significant regulatory action" because the new standards and other regulatory provisions, are expected to have an annual effect on the economy in excess of \$100 million. A Regulatory Impact Analysis has been prepared and is available in the docket associated with this rulemaking. This action was submitted to OMB for review as required by Executive Order 12866. Any written comments from OMB are in the public docket for this rulemaking.

B. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The Agency has also determined that this rule will not have a "significant impact on a substantial number of small entities."

EPA has identified industries that are subject to this rule and has contacted small entities and small entity representatives to gain a better understanding of potential impacts of the Phase 2 program on their businesses. This information was useful in estimating potential impacts of this rule on affected small entities, the details of which are more fully discussed in Chapter 8 of the Final RIA. Small not-for-profit organizations and small governmental jurisdictions are not expected to be impacted by this proposal. Thus EPA's impact analysis focuses on small businesses. For purposes of the impact analysis, "small business" is defined by number of employees, according to published Small Business Administration (SBA) definitions.

The Agency desires to minimize, to the extent appropriate, impacts on those companies which may be adversely affected, and to ensure that the emissions standards are achievable. Thus, flexibility provisions for the rule (discussed in section II.E.) were developed based on analysis of information gained through discussions with potentially affected small entities as well as analysis of other sources of information, as detailed in Chapter 8 of the Final RIA. Many of the flexibilities in today's rule should benefit both engine and equipment manufacturers qualifying as small.

The economic impact of the final rule on small engine and equipment manufacturers was evaluated using a "sales test" approach which calculates annualized compliance costs as a function of sales revenue. The ratio is an indication of the severity of the potential impacts. EPA expects that, at worst, four small engine manufacturers and 70 small equipment manufacturers would be impacted by more than one percent of their sales revenue. EPA

guidance provides that if fewer than 100 small entities are affected by more than one percent of their annual sales income, this does not amount to a "significant impact on a substantial number" of small entities. This base case analysis assumes that no manufacturers take advantage of the flexibilities being offered and that there would be no passthrough of costs in price increases, and can therefore be characterized as depicting worst-case impacts. Thus, EPA expects today's rule to have a minimal impact on small business entities.

However, EPA is finalizing a number of flexibilities to further reduce the burden of compliance on small-volume engine or equipment manufacturers and small-volume product lines. The Agency received a number of comments from engine manufacturers which were generally supportive of the flexibilities initially proposed, but which suggested changes in production caps and other provisions. EPA has incorporated many of these suggested changes to the extent possible, keeping in mind equity and air quality considerations. Given the flexibilities being afforded to the engine and equipment manufacturers, the results of the analysis suggest that of those small entities analyzed, only three small business engine manufacturers and three small business equipment manufacturers would likely experience an impact of greater than one percent of their sales revenue. These six companies represent only about three percent of the total number of small business manufacturers on which the analysis was based. Other outreach activities have also indicated that the impact of today's rule can be minimized given sufficient lead time to incorporate the new technology with normal model changes. Again, the Agency has not attempted to quantify the beneficial impact on small business manufacturers of the lead time provided (which can include delaying the impact of these rules up until the 2010 model year).

Some, but not all, of the flexibility provisions were considered in the

impact assessment on small entities (see Chapter 8 of the Final RIA). Those flexibilities not considered include a hardship relief provision (described in section II.E.), which was developed to further ensure the standards can be achieved. Although it is difficult to project utilization of such a provision, EPA expects that it could further reduce the economic impact of the rule.

The results of the impact analysis show minimal impacts on small businesses. EPA expects that such impacts will be negligible if small companies take advantage of the above mentioned flexibilities, and if companies are able to pass through most of their costs through to customers, as was considered likely by most small companies contacted. Many of these entities are involved in filling niche markets, and are thus in a better position to pass these costs along to the ultimate consumers. Furthermore, EPA's outreach activities with small entities indicated that many engine and equipment manufacturers have already begun the switch from side-valve engine technology to producing or using overhead valve engine technology for reasons other than today's rule. They should therefore not incur substantial additional costs as a result of this program. The ample lead time being afforded by today's rule should also allow for an orderly transition to the more advanced technology.

C. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, DC 20460, by e-mail at farmer.sandyepa@mail.epa.gov, or by calling (202) 260-2740. A copy may also

be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

The information planned to be collected via this final rule is necessary to assure that the engine manufacturers required to seek certification of their engines have fulfilled all the essential requirements of these regulations. In particular, this information will document the design of the engine for which certification is sought, the type(s) of equipment in which it is intended to be used and the emission performance of these engines based upon testing performed by or on behalf of the engine manufacturer. Additional, essential information is necessary to document the results of testing performed by the manufacturer under a mandated production line testing program to determine that the engines, as manufactured continue to have acceptable emission performance. Finally, if the manufacturer elects to conduct testing of in-use engines under a voluntary in-use testing program adopted in these final regulations, information is necessary to document the results of that in-use testing program.

Table 8 provides a listing of this rulemaking's information collection requirements along with the appropriate information collection request (ICR) numbers. The cost of this burden has been incorporated into the cost estimate for this rule. The Agency has estimated that the public reporting burden for the collection of information required under this rule would average approximately 156,816 hours annually for the industry at an estimated annual cost of \$9,489,386. The hours spent by an individual manufacturer on information collection activities in any given year would be highly dependent upon manufacturer specific variables, such as the number of engine families, production changes, emission defects etc.

Table 8: Public Reporting Burden

Type of information	OMB Control No.
Certification	2060-0338
Averaging, banking and trading	2060-0338
Production line testing	N/A
Pre-certification and testing exemption	2060-0007
Engine exclusion determination	2060-0124
Emission defect information	2060-0048
Importation of nonconforming engines	2060-0294

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local and tribal governments or the private sector of greater than \$100 million in any one year, the Agency has prepared a budgetary impact statement and has addressed the selection of the least costly, most cost-effective or least burdensome alternative. While this rule

does not impose enforceable obligations on state, local, and tribal governments, which do not produce small SI nonhandheld engines or equipment, EPA has estimated the rule to cost the private sector an annualized cost of \$230 million per year. However, the Agency has appropriately considered cost issues in developing this rule as required by section 213(a)(3) of the Clean Air Act, and has designed the rule such that it will in EPA's view be a cost-effective program. Because small governments would not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

The unfunded mandates statement under section 202 must include: (1) A citation of the statutory authority under which the rule is adopted; (2) an assessment of the costs and benefits of the rule including the effect of the mandate on health, safety and the environment; (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry; (4) where relevant, an estimate of the effect on the national economy; and (5) a description of the EPA's consultation with state, local, and tribal officials. Since this rule is estimated to impose costs to the private sector in excess of \$100 million per year, it is considered a significant regulatory action. Therefore, EPA has prepared the following statement with respect to UMRA sections 202 through 205.

1. Statutory Authority

This rule establishes standards for emissions of HC+NO_x and CO from small nonroad SI nonhandheld engines pursuant to section 213 of the Clean Air Act. Section 216 defines the terms "nonroad engine" and "nonroad vehicle." Section 213(a)(3) requires these standards to achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. Section 213(b) requires the standards to take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety. Section 213(d)

provides that the standards shall be subject to sections 206, 207, 208 and 209 of the CAA, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. Therefore, the statutory authority for this rule is as follows: sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended. Moreover, this rule is being issued pursuant to a court order entered in *Sierra Club v. Browner*, No. 93-0124 and consolidated cases (D.D.C.).

2. Social Costs and Benefits

The social costs and benefits of this rule are discussed in detail in sections III.A. and III.B. of this notice, and in Chapters 3 through 8 of the Final RIA. Those discussions are incorporated into this statement by reference.

3. Effects on the National Economy

As stated in the UMRA, macroeconomic effects tend to be measurable, in nationwide economic models, only if the economic effect of the regulation reaches 0.25 to 0.5 percent of gross domestic product (in the range of \$15 billion to \$30 billion). A regulation with a smaller aggregate effect is highly unlikely to have any measurable impact in macroeconomic terms unless it is highly focused on a particular geographic region or economic sector. Because the economic impact of the small SI nonhandheld engine Phase 2 rule is far less than these thresholds, no estimate of this rule's effect on the national economy has been conducted.

4. Consultation with Government Officials

Today's rule does not create a mandate on state, local or tribal governments, since it does not impose any enforceable duties on these entities which do not produce small SI nonhandheld engines or equipment. Thus, EPA did not consult with state, local or tribal governments in the context of discussing mandated costs that would apply to such governments. However, EPA did consult with state governmental representatives, and with representatives of associations representing state air regulatory agencies, in the contexts of developing the most stringent achievable regulations and of addressing state ozone attainment needs. The consulted entities include the California ARB, the Wisconsin DNR, and NESCAUM. These consultations are documented in the

record for this rule, and are reflected and discussed in the SOPs, the ANPRM, the NPRM, the Notice of Availability, and today's final rulemaking notice.

5. Regulatory Alternatives Considered

The Clean Air Act requires that standards under section 213(a)(3) result in the greatest degree of emission reductions achievable from available technology, considering costs, lead time, noise, energy and safety factors. While EPA has substantial discretion to weigh these different factors in setting standards under section 213(a)(3), EPA may not simply select the least costly, most cost-effective, or least burdensome method of achieving the objectives of the rule if such method does not obtain the greatest achievable emission reduction. In order to ensure the cost-effectiveness of this rule and still fulfill the intent of the Clean Air Act, EPA has adopted numerous flexibility provisions that reduce the burden of the Phase 2 program for small volume manufacturers and manufacturers of small volume models and families. These provisions are discussed in section II.E. of today's notice. Moreover, the technological options considered for the rule's standards and related provisions are discussed in section II.A. of the notice. Section II.B. discusses the ABT program adopted for the final rule, and section II.D. discusses the compliance program for Phase 2 nonhandheld engines. In EPA's view, these discussions demonstrate that the Agency is adopting the most cost-effective rule allowed under section 213(a)(3) for nonhandheld Phase 2 engines, and the Agency incorporates them into this statement.

E. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 1, 1999.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule involves technical standards. While commenters suggested the use of ISO 8178 test procedures for measuring emissions, the Agency has decided not to rely on the ISO procedures in this rulemaking. The Agency has determined that these procedures would be impractical because they rely too heavily on reference testing conditions. Since the test procedures in these regulations need to be used not only for certification, but also for production line testing, selective enforcement audits, and in-use testing, they must be broadly based. In-use testing is best done outside tightly controlled laboratory conditions so as to be representative of in-use conditions. EPA has determined that the ISO procedures are not sufficiently broadly usable in their current form for this program, and therefore cannot be adopted by reference. EPA has instead chosen to continue to rely on the procedures outlined in 40 CFR Part 90. EPA is hopeful that future ISO test procedures will be developed that are usable for the broad range of testing needed, and that such procedures could then be adopted by reference.

G. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Was initiated after April 21, 1997 or for which a Notice of Proposed Rulemaking was published after April 21, 1998; (2) is determined to be "economically significant" as defined under Executive Order 12866; and (3) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If

the regulatory action meets all three criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045, because substantive actions were initiated before April 21, 1997 and EPA published a Notice of Proposed Rulemaking before April 21, 1998. Moreover, this rulemaking does not involve risk assessments in which EPA would consider risks to infants and children. This is because today's rule is intended to result in the greatest achievable emissions reductions that are technically feasible, rather than to achieve a threshold of protecting public health and the environment. Therefore, EPA does not have reason to believe this action involves environmental health and safety risks that present a disproportionate risk to children.

H. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities, which do not produce small SI nonhandheld engines or equipment. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected tribal governments and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments because it imposes no enforceable obligations on them. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VI. Statutory Authority

Authority for the actions set forth in this rule is granted to EPA by sections 202, 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

List of Subjects in 40 CFR Part 90

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Nonroad source pollution, Reporting and record keeping requirements, Research, Warranties.

Dated: March 3, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 90—CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

Subpart A—General

2. Section 90.1 is amended by removing the period at the end of paragraph (b)(5)(iv) and by adding a semicolon in its place and adding paragraphs (b)(6) and (d) and by revising paragraph (c) to read as follows:

§ 90.1 Applicability.

* * * * *

(b) * * *

(6) Engines that are used exclusively in emergency and rescue equipment where no certified engines are available to power the equipment safely and practically, but not including generators, alternators, compressors or pumps used to provide remote power to a rescue tool. The equipment manufacturer bears the responsibility to ascertain on an annual basis and maintain documentation available to the Administrator that no appropriate certified engine is available from any source.

(c) Engines subject to the provisions of this subpart are also subject to the provisions found in subparts B through M of this part, except that subparts C, H, and M of this part apply only to Phase 2 engines as defined in this subpart.

(d) Certain text in this part is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

3. Section 90.3 is amended by adding the following definitions in alphabetical order to read as follows:

§ 90.3 Definitions.

* * * * *

Aftertreatment means the passage of exhaust gases through a device or system such as a catalyst whose purpose is to chemically alter the gases prior to their release to the atmosphere.

* * * * *

DF or *df* means deterioration factor.

Eligible production or *U.S. production* means Phase 2 engines produced for purposes of being used in the United States, and includes any engine

exported and subsequently imported in a new piece of equipment, but excludes any engine introduced into commerce, by itself or in a piece of equipment, for use in a state that has established its own emission requirements applicable to such engines pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

Equipment manufacturer means a manufacturer of equipment using engines covered by the provisions of this Part who does not also manufacture engines covered by the provisions of this Part.

* * * * *

Family Emission Limit or *FEL* means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for the purposes of certification, production line testing, and Selective Enforcement Auditing for engines participating in the averaging, banking and trading program. A declared FEL will also serve in lieu of an emission standard where the manufacturer elects to perform voluntary in-use testing under this part. An FEL must be expressed to the same number of decimal places as the applicable emission standard.

* * * * *

HC+NO_x means total hydrocarbons plus oxides of nitrogen.

* * * * *

New Class I engine family means any group of engines that employ a design that is different from engine families that the engine manufacturer has previously certified, and does not include any engine family certified on the basis of carryover data or any engine family that differs from another engine family solely as a result of a running change.

NMHC+NO_x means nonmethane hydrocarbons plus oxides of nitrogen.

* * * * *

Overhead valve engine means an otto-cycle, four stroke engine in which the intake and exhaust valves are located above the combustion chamber within the cylinder head. Such engines are sometimes referred to as "valve-in-head" engines.

Phase 1 engine means any handheld or nonhandheld engine, that was produced under a certificate of conformity issued under the regulations in this part to the standard levels defined for Phase 1.

Phase 2 engine means any nonhandheld engine that was produced under a certificate of conformity under the regulations in this part to the standards defined for Phase 2 engines.

* * * * *

Round, rounded or rounding means, unless otherwise specified, that numbers will be rounded according to ASTM-E29-93a, which is incorporated by reference in this part pursuant to § 90.7.

* * * * *

Side valve engine means an otto-cycle, four stroke engine in which the intake and exhaust valves are located to the side of the cylinder, not within the cylinder head. Such engines are sometimes referred to as "L-head" engines.

Small volume engine family means any nonhandheld engine family whose eligible production in a given model year are projected at the time of certification to be no more than 5,000 engines.

Small volume engine manufacturer means, for nonhandheld engines, any engine manufacturer whose total eligible production of nonhandheld engines are projected at the time of certification of a given model year to be

no more than 10,000 nonhandheld engines.

Small volume equipment manufacturer means, for nonhandheld equipment, any equipment manufacturer whose production of nonhandheld equipment subject to regulation under this part or powered by engines regulated under this part, does not exceed 5,000 pieces for a given model year or annual production period excluding that equipment intended for introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

Small volume equipment model means, for nonhandheld equipment, any unique model of equipment whose production subject to regulations under this part or powered by engines regulated under this part, does not exceed 500 pieces for a given model year or annual production period excluding that equipment intended for

introduction into commerce for use in a state that has established its own emission requirements applicable to such equipment or engines in such equipment, pursuant to a waiver granted by EPA under section 209(e) of the Clean Air Act.

* * * * *

Subpart B—Emission Standards and Certification Provisions

4. Section 90.103 is amended by revising paragraph (a) introductory text, and paragraphs (a)(3) and (a)(5) and by adding paragraphs (a)(6) through (a)(8) to read as follows:

§ 90.103 Exhaust emission standards.

(a) Exhaust emissions for new Phase 1 and Phase 2 nonroad spark ignition engines at or below 19 kilowatts (kW), shall not exceed the following levels. Throughout this part, NMHC+NO_x standards are applicable only to natural gas fueled engines at the option of the manufacturer, in lieu of HC+NO_x standards.

TABLE 1.—PHASE 1 EXHAUST EMISSION STANDARDS
[Grams per kilowatt-hour]

Engine displacement class	Hydrocarbons+oxides of nitrogen (HC+NO _x)	Hydrocarbons	Carbon monoxide	Oxides of nitrogen (NO _x)
I	16.1	.....	519	.....
II	13.4	.....	519	.....
III .....	.....	295	805	5.36
IV .....	.....	241	805	5.36
V .....	.....	161	603	5.36

TABLE 2.—PHASE 2 CLASS I ENGINE EXHAUST EMISSION STANDARDS
[grams per kilowatt-hour]

Engine class	HC+NO _x	NMHC+NO _x	CO	Effective date
I	16.1	14.8	610	August 1, 2007; in addition, any Class I engine family initially produced on or after August 1, 2003 must meet the Phase 2 Class I standards before they may be introduced into commerce.

TABLE 3.—PHASE 2 CLASS II ENGINE EXHAUST EMISSION STANDARDS BY MODEL YEAR
[grams per kilowatt-hour]

Engine Class	Emission requirement	Model Year				
		2001	2002	2003	2004	2005 and later
II	HC +NO _x	18.0	16.6	15.0	13.6	12.1
	NMHC+NO _x	16.7	15.3	14.0	12.7	11.3
	CO	610	610	610	610	610

* * * * *

(3) Notwithstanding paragraph (a)(2) of this section, two stroke engines used to power lawnmowers or other nonhandheld equipment may meet Phase 1 Class III, IV or V standards and

requirements, as appropriate, through model year 2002 subject to the provisions of § 90.107(e), (f) and (h). Such engines shall not be included in any computations of Phase 2 averaging,

banking, or trading credits or eligible production.

* * * * *

(5) Notwithstanding paragraph (a)(2) of this section, engines used exclusively to power products which are used

exclusively in wintertime, such as snowthrowers and ice augers, at the option of the engine manufacturer, need not certify to or comply with standards regulating emissions of HC, NO_x, HC+NO_x or NMHC+NO_x, as applicable. If the manufacturer exercises the option to certify to standards regulating such emissions, such engines must meet such standards. If the engine is to be used in any equipment or vehicle other than an exclusively wintertime product such as a snowthrower or ice auger, it must be certified to the applicable standard regulating emissions of HC, NO_x, HC+NO_x or NMHC+NO_x as applicable.

(6) In lieu of certifying to the applicable Phase 2 standards, small volume engine manufacturers as defined in this part may, at their option, certify their engines families as Phase 1 engines until the 2010 model year. Such engines shall not exceed the applicable Phase 1 standards and are excluded from the averaging, banking and trading program and any related credit calculations. Beginning with the 2010 model year, these engines must meet the applicable Phase 2 standards.

(7) In lieu of certifying to the applicable Phase 2 standards, manufacturers of small volume engine families, as defined in this part may, at their option, certify their small volume engine families as Phase 1 engines until the 2010 model year. Such engines shall not exceed the applicable Phase 1 standards and are excluded from the

averaging, banking and trading program and any related credit calculations. Beginning with the 2010 model year, these engines must meet the applicable Phase 2 standards.

(8) Notwithstanding the standards shown in Table 3 of this section, the HC+NO_x (NMHC+NO_x) standard for Phase 2 Class II side valve engine families with annual production of 1000 or less shall be 24.0 g/kW-hr (22.0 g/kW-hr) for model years 2010 and later. Engines produced subject to this provision may not exceed this standard and are excluded from the averaging, banking and trading program and any related credit calculations.

* * * * *

5. Section 90.104 is amended by adding introductory text and adding paragraphs (d) through (h) to read as follows:

§ 90.104 Compliance with emission standards.

Paragraphs (a) through (c) of this section apply to Phase 1 engines only. Paragraphs (d) through (h) of this section apply only to Phase 2 engines.

* * * * *

(d) The exhaust emission standards (FELs, where applicable) for Phase 2 engines set forth in this part apply to the emissions of the engines for their full useful lives as determined pursuant to § 90.105.

(e) For all Phase 2 engines, if all test engines representing an engine family have emissions, when properly tested

according to procedures in this part, less than or equal to each Phase 2 emission standard (FEL, where applicable) in a given engine class and given model year, when multiplicatively adjusted by the deterioration factor determined in this section, that family complies with that class of emission standards for purposes of certification. If any test engine representing an engine family has emissions adjusted multiplicatively by the deterioration factor determined in this section, greater than any one emission standard (FEL, where applicable) for a given displacement class, that family does not comply with that class of emission standards.

(f) Each engine manufacturer must comply with all provisions of the averaging, banking and trading program outlined in subpart C of this part for each engine family participating in that program.

(g)(1) Small volume engine manufacturers and small volume engine families may, at their option, take deterioration factors for HC+NO_x (NMHC+NO_x) and CO from Table 1 of this section, or they may calculate deterioration factors for HC+NO_x (NMHC+NO_x) and CO according to the process described in paragraph (h) of this section. For technologies that are not addressed in Table 1 of this section, the manufacturer may ask the Administrator to assign a deterioration factor prior to the time of certification.

(2) Table 1 follows:

TABLE 1: NONHANDHELD ENGINE HC+NO_x (NMHC+NO_x) AND CO ASSIGNED DETERIORATION FACTORS FOR SMALL VOLUME MANUFACTURERS AND SMALL VOLUME ENGINE FAMILIES

Engine class	Side valve engines		Overhead valve engines		Engines with aftertreatment
	HC+NO _x (NMHC+NO _x)	CO	HC+NO _x (NMHC+NO _x)	CO	
Class I	2.1	1.1	1.5	1.1	Dfs must be calculated using the formula in § 90.104(g)(3).
Class II	1.6	1.1	1.4	1.1	

(3) Formula for calculating deterioration factors for engines with aftertreatment:

$$DF = [(NE * EDF) - (CC * F)] / (NE - CC)$$

Where:

DF = deterioration factor

NE = new engine emission levels prior to the catalyst (g/kW-hr)

EDF = deterioration factor for engines without catalyst as shown in Table 1

CC = amount converted at 0 hours in g/kW-hr

F = 0.8 for HC (NMHC) and 0.0 for NO_x for Class I and II engines

F = 0.8 for CO for all classes of engines

(h)(1) Manufacturers shall obtain an assigned df or calculate a df, as appropriate, for each regulated pollutant for all Phase 2 engine families. Such dfs shall be used for certification, production line testing, and Selective Enforcement Auditing.

(2) For engines not using assigned dfs from Table 1 of this section, dfs shall be determined as follows:

(i) On at least one test engine representing the configuration chosen to be the most likely to exceed HC+NO_x (NMHC+NO_x) emission standards, (FELs where applicable), and

constructed to be representative of production engines pursuant to § 90.117, conduct full Federal test procedure emission testing pursuant to the regulations of subpart E of this part at the number of hours representing stabilized emissions pursuant to § 90.118. If more than one engine is tested, average the results and round to the same number of decimal places contained in the applicable standard, expressed to one additional significant figure;

(ii) Conduct such emission testing again following aging the engine. The aging procedure should be designed to

allow the manufacturer to appropriately predict the in-use emission deterioration expected over the useful life of the engine, taking into account the type of wear and other deterioration mechanisms expected under typical consumer use which could affect emissions performance. If more than one engine is tested, average the results and round to the same number of decimal places contained in the applicable standard, expressed to one additional significant figure;

(iii) Divide the full useful life emissions (average emissions, if applicable) for each regulated pollutant by the stabilized emissions (average emissions, if applicable) and round to two significant figures. The resulting number shall be the df, unless it is less than 1.0, in which case the df shall be 1.0.

(iv) At the manufacturer's option additional emission test points can be scheduled between the stabilized emission test point and the full useful life test period. If intermediate tests are scheduled, the test points must be evenly spaced over the full useful life period (plus or minus 2 hours) and one such test point shall be at one-half of full useful life (plus or minus 2 hours). For each pollutant HC+NO_x (NMHC+NO_x) and CO, a line must be fitted to the data points treating the initial test as occurring at hour zero, and using the method of least-squares. The deterioration factor is the calculated emissions durability period divided by the calculated emissions at zero hours.

(3) EPA may reject a df if it has evidence that the df is not appropriate for that family within 30 days of receipt from the manufacturer. The manufacturer must retain actual emission test data to support its choice of df and furnish that data to the Administrator upon request. Manufacturers may request approval by the Administrator of alternate procedures for determining deterioration. Any submitted df not rejected by EPA within 30 days shall be deemed to have been approved.

(4) Calculated deterioration factors may cover families and model years in addition to the one upon which they were generated if the manufacturer submits a justification acceptable to the Administrator in advance of certification that the affected engine families can be reasonably expected to have similar emission deterioration characteristics.

(5) Engine families that undergo running changes need not generate a new df if the manufacturer submits a justification acceptable to the Administrator concurrent with the

running change that the affected engine families can be reasonably expected to have similar emission deterioration characteristics.

6. Section 90.105 is revised to read as follows:

§ 90.105 Useful life periods for Phase 2 engines.

(a) Manufacturers shall declare the applicable useful life category for each engine family at the time of certification as described in this section. Such category shall be the category which most closely approximates the expected useful lives of the equipment into which the engines are anticipated to be installed as determined by the engine manufacturer. Manufacturers shall retain data appropriate to support their choice of useful life category for each engine family. Such data shall be furnished to the Administrator upon request.

(1) For nonhandheld engines: Manufacturers shall select a useful life category from Table 1 of this section at the time of certification.

(2) Table 1 follows:

TABLE 1: USEFUL LIFE CATEGORIES FOR NONHANDHELD ENGINES [HOURS]

Class I	125	250	500
Class II	250	500	1000

(3) [Reserved]

(4) [Reserved]

(5) Data to support a manufacturer's choice of useful life category, for a given engine family, may include but are not limited to:

(i) Surveys of the life spans of the equipment in which the subject engines are installed;

(ii) Engineering evaluations of field aged engines to ascertain when engine performance deteriorates to the point where usefulness and/or reliability is impacted to a degree sufficient to necessitate overhaul or replacement;

(iii) Warranty statements and warranty periods;

(iv) Marketing materials regarding engine life;

(v) Failure reports from engine customers; and

(vi) Engineering evaluations of the durability, in hours, of specific engine technologies, engine materials or engine designs.

(b) [Reserved]

7. Section 90.106 is amended by revising paragraph (a) and adding new paragraph (b)(3) to read as follows:

§ 90.106 Certificate of conformity.

(a)(1) Except as provided in § 90.2(b), every manufacturer of new engines

produced during or after model year 1997 must obtain a certificate of conformity covering such engines; however, engines manufactured during an annual production period beginning prior to September 1, 1996 are not required to be certified.

(2) Except as required in paragraph (b)(3) of this section, Class II engines manufactured during an annual production period beginning prior to September 1, 2000 are not required to meet Phase 2 requirements.

(b) * * * (3) Manufacturers who commence an annual production period for a Class II engine family between January 1, 2000 and September 1, 2000 must meet Phase 2 requirements for that family only if that production period will exceed 12 months in length.

* * * * * 8. Section 90.107 is amended by removing the period at the end of paragraph (d)(5) and adding a semicolon in its place, by removing "and" at the end of paragraph (d)(9), by removing the period at the end of paragraph (d)(10) and adding a semicolon in its place, and by adding new paragraph (d)(11) to read as follows:

§ 90.107 Application for certification.

* * * * *

(d) * * *

(11) This paragraph (d)(11) is applicable only to Phase 2 engines.

(i) Engine manufacturers participating in the averaging, banking and trading program as described in subpart C of this part shall declare the applicable Family Emission Limit (FEL) for HC+NO_x (NMHC+NO_x).

(ii) Provide the applicable useful life as determined under § 90.105.

* * * * *

9. Section 90.108 is amended by adding paragraphs (c) and (d) to read as follows:

§ 90.108 Certification.

* * * * *

(c) For certificates issued for engine families included in the averaging, banking and trading program as described in subpart C of this part:

(1) Failure to comply with all applicable averaging, banking and trading provisions in this part will be considered to be a failure to comply with the terms and conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio*.

(2) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was granted were satisfied or waived.

(d) The Administrator may, upon request by a manufacturer, waive any requirement of this part otherwise necessary for the issuance of a certificate. The Administrator may set such conditions in a certificate as he or she deems appropriate to assure that the waived requirements are either satisfied or are demonstrated, for the subject engines, to be inappropriate, irrelevant or met by the application of a different requirement under this chapter. The Administrator may indicate on such conditional certificates that failure to meet these conditions may result in suspension or revocation or the voiding *ab initio* of the certificate.

10. Section 90.113 is amended by revising the section heading and adding two sentences to the beginning of paragraph (a) to read as follows:

§ 90.113 In-use testing program for Phase 1 engines.

(a) This section applies only to Phase 1 engines. In-use testing provisions for Phase 2 engines are found in subpart M of this part. * * *

* * * * *

11. Section 90.114 is amended by removing "and" at the end of paragraph (c)(9), by removing the period at the end of paragraph (c)(10) and adding a semicolon in its place and by adding new paragraphs (c)(11) and (f) to read as follows:

§ 90.114 Requirement of certification—engine information label.

* * * * *

(c) * * *

(11) For Phase 2 engines, the useful life category as determined by the manufacturer pursuant to § 90.105. Such useful life category shall be shown by one of the following statements to be appended to the statement required under paragraph (c)(7) of this section:

- (i) "EMISSIONS COMPLIANCE PERIOD: [useful life] HOURS"; or
- (ii) "EMISSIONS COMPLIANCE PERIOD: CATEGORY [fill in C, B or A as indicated and appropriate from the tables in § 90.105], REFER TO OWNER'S MANUAL FOR FURTHER INFORMATION";

* * * * *

(f) Manufacturers electing to use the labeling language of paragraph (c)(11)(ii) of this section must provide in the documents intended to be conveyed to the ultimate purchaser, the statement:

(1) For nonhandheld engines: The Emissions Compliance Period referred to on the Emissions Compliance label indicates the number of operating hours for which the engine has been shown to meet Federal emission requirements. For engines less than 225 cc

displacement, Category C=125 hours, B=250 hours and A=500 hours. For engines of 225 cc or more, Category C=250 hours, B=500 hours and A=1000 hours.

(2) [Reserved]

(3) The manufacturer must provide, in the same document as the statement in paragraph (f)(1) of this section, a statement of the engine's displacement or an explanation of how to readily determine the engine's displacement. The Administrator may approve alternate language to the statement in paragraph (f)(1) of this section, provided that the alternate language provides the ultimate purchaser with a clear description of the number of hours represented by each of the three letter categories for the subject engine's displacement.

12. Section 90.116 is amended by revising paragraph (d)(6) and (d)(7) and adding paragraphs (d)(8) through (d)(10) to read as follows:

§ 90.116 Certification procedure—determining engine displacement, engine class, and engine families.

* * * * *

(d) * * *

(6) The location of valves, where applicable, with respect to the cylinder (e.g. side valves or overhead valves);

(7) The number of catalytic converters, location, volume and composition;

(8) The thermal reactor characteristics;

(9) The fuel required (e.g. gasoline, natural gas, LPG); and

(10) The useful life category.

* * * * *

13. Section 90.117 is amended by revising paragraph (a) to read as follows:

§ 90.117 Certification procedure—test engine selection.

(a) For Phase 1 engines, the manufacturer must select, from each engine family, a test engine that the manufacturer determines to be most likely to exceed the emission standard. For Phase 2 engines, the manufacturer must select, from each engine family, a test engine of a configuration that the manufacturer determines to be most likely to exceed the HC+NO_x (NMHC+NO_x) Family Emission Limit (FEL), or HC+NO_x (NMHC+NO_x) standard if no FEL is applicable.

* * * * *

14. Section 90.118 is amended by revising the section heading and adding a new paragraph (e) to read as follows:

§ 90.118 Certification procedure—service accumulation and usage of deterioration factors.

* * * * *

(e) For purposes of establishing whether Phase 2 engines comply with applicable exhaust emission standards or FELs, the test results for each regulated pollutant as measured pursuant to § 90.119 shall be multiplied by the applicable df determined under § 90.104 (g) or (h). The product of the two numbers shall be rounded to the same number of decimal places contained in the applicable standard, and compared against the applicable standard or FEL, as appropriate.

15. Section 90.120 is amended by adding paragraph (c) to read as follows:

§ 90.120 Certification procedure—use of special test procedures.

* * * * *

(c) Optional procedures approved during Phase 1 can be carried over to Phase 2, following advance approval by the Administrator, to the extent the alternate procedure continues to yield results equal to the results from the specified test procedures in subpart E of this part.

16. Section 90.122 is amended by revising the first sentence of paragraph (a) and adding paragraph (d)(4) as follows:

§ 90.122 Amending the application and certificate of conformity.

(a) The engine manufacturer must notify the Administrator when either an engine is to be added to a certificate of conformity, an FEL is to be changed, or changes are to be made to a product line covered by a certificate of conformity.

* * * * *

(d) * * *

(4) If the Administrator determines that a revised FEL meets the requirements of this subpart and the Act, the appropriate certificate of conformity will be amended, or a new certificate will be issued to reflect the revised FEL. The certificate of conformity is revised conditional upon compliance with § 90.207(b).

* * * * *

17. Subpart C, which was formerly reserved, is added to part 90 to read as follows:

Subpart C—Certification Averaging, Banking, and Trading Provisions

Sec.	
90.201	Applicability.
90.202	Definitions.
90.203	General provisions.
90.204	Averaging.
90.205	Banking.
90.206	Trading.
90.207	Credit calculation and manufacturer compliance with emission standards.
90.208	Certification.

- 90.209 Maintenance of records.
 90.210 End-of-year and final reports.
 90.211 Request for hearing.

Subpart C—Certification Averaging, Banking, and Trading Provisions

§ 90.201 Applicability.

The requirements of this subpart C are applicable to all Phase 2 spark-ignition engines subject to the provisions of subpart A of this part except as provided in § 90.103(a). These provisions are not applicable to any Phase 1 engines. Participation in the averaging, banking and trading program is voluntary, but if a manufacturer elects to participate, it must do so in compliance with the regulations set forth in this subpart. The provisions of this subpart are applicable for HC+NO_x (NMHC+NO_x) emissions but not for CO emissions.

§ 90.202 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart:

Averaging means the exchange of emission credits between engine families within a given manufacturer's product line.

Banking means the retention of emission credits by the manufacturer generating the emission credits or obtaining such credits through trading, for use in future model year averaging or trading as permitted in this part.

Emission credits represent the amount of emission reduction or exceedance, by an engine family, below or above the applicable HC+NO_x (NMHC+NO_x) emission standard, respectively. FELs below the standard create "positive credits," while FELs above the standard create "negative credits." In addition, "projected credits" refer to emission credits based on the projected applicable production volume of the engine family. "Reserved credits" are emission credits generated within a model year waiting to be reported to EPA at the end of the model year. "Actual credits" refer to emission credits based on actual applicable production volume as contained in the end-of-year reports submitted to EPA. Some or all of these credits may be revoked if EPA review of the end-of-year reports or any subsequent audit action(s) reveals problems or errors of any nature with credit computations.

Trading means the exchange of emission credits between manufacturers.

§ 90.203 General provisions.

(a) The certification averaging, banking, and trading provisions for HC+NO_x and NMHC+NO_x emissions

from eligible engines are described in this subpart.

(b) An engine family may use the averaging, banking and trading provisions for HC+NO_x and NMHC+NO_x emissions if it is subject to regulation under this part with certain exceptions specified in paragraph (c) of this section. HC+NO_x and NMHC+NO_x credits shall be interchangeable subject to the limitations on credit generation, credit usage, and other provisions described in this subpart.

(c) A manufacturer shall not include in its calculation of credit generation and may exclude from its calculation of credit usage, any new engines:

(1) Which are intended to be exported, unless the manufacturer has reason or should have reason to believe that such engines have been or will be imported in a piece of equipment; or

(2) Which are subject to state engine emission standards pursuant to a waiver granted by EPA under section 209(e) of the Act, unless the manufacturer demonstrates to the satisfaction of the Administrator that inclusion of these engines in averaging, banking and trading is appropriate.

(d) For an engine family using credits, a manufacturer may, at its option, include its entire production of that engine family in its calculation of credit usage for a given model year.

(e)(1) A manufacturer may certify engine families at Family Emission Limits (FELs) above or below the applicable emission standard subject to the limitation in paragraph (f) of this section, provided the summation of the manufacturer's projected balance of credits from all credit transactions for all engine classes in a given model year is greater than or equal to zero, as determined under § 90.207.

(2) A manufacturer of an engine family with an FEL exceeding the applicable emission standard must obtain positive emission credits sufficient to address the associated credit shortfall via averaging, banking, or trading.

(3) An engine family with an FEL below the applicable emission standard may generate positive emission credits for averaging, banking, or trading, or a combination thereof.

(4) In the case of a Selective Enforcement Audit (SEA) failure, credits may be used to cover subsequent production of engines for the family in question if the manufacturer elects to recertify to a higher FEL. Credits may not be used to remedy a nonconformity determined by an SEA, except that the Administrator may permit the use of credits to address a nonconformity determined by an SEA where the use of

such credits is one component of a multi-part remedy for the previously produced engines and the remedy, including the use of credits and the quantity of credits being used, is such that the Administrator is satisfied that the manufacturer has strong and lasting incentive to accurately verify its new engine emission levels and will set or reset its FELs for current and future model years so that production line compliance is assured.

(5) In the case of a production line testing (PLT) failure pursuant to subpart H of this part, a manufacturer may revise the FEL based upon production line testing results obtained under subpart H of this part and upon Administrator approval pursuant to § 90.122(d). The manufacturer may use credits to cover both past production and subsequent production of the engines as needed as allowed under § 90.207(c).

(f) No Phase 2 engine family may have a HC + NO_x FEL that is greater than 32.2 g/kW-hr for Class I engines and 26.8 g/kW-hr for Class II engines.

(g)(1) Credits generated in a given model year by an engine family subject to the Phase 2 emission requirements may only be used in averaging, banking or trading, as appropriate, for any other engine family for which the Phase 2 requirements are applicable. Credits generated in one model year may not be used for prior model years, except as allowed under § 90.207(c).

(2) For the 2005 model year and for each subsequent model year, manufacturers of Class II engines must provide a demonstration that the production weighted average FEL for HC+NO_x (including NMHC+NO_x FELs), for all of the manufacturer's Class II engines, will not exceed 13.6 g/kW-hr for the 2005 model year, 13.1 g/kW-hr for the 2006 model year and 12.6 g/kW-hr for the 2007 and each subsequent Phase 2 model year. Such demonstration shall be subject to the review and approval of the Administrator, shall be provided at the time of the first Class II certification of that model year and shall be based on projected eligible production for that model year.

(h) Manufacturers must demonstrate compliance under the averaging, banking, and trading provisions for a particular model year by 270 days after the end of the model year. Except as provided in § 90.207(c), an engine family generating negative credits for which the manufacturer does not obtain or generate an adequate number of positive credits by that date from the same or previous model year engines will violate the conditions of the

certificate of conformity. The certificate of conformity may be voided *ab initio* pursuant to § 90.123 for this engine family.

§ 90.204 Averaging.

(a) Negative credits from engine families with FELs above the applicable emission standard must be offset by positive credits from engine families having FELs below the applicable emission standard, as allowed under the provisions of this subpart. Averaging of credits in this manner is used to determine compliance under § 90.207(b).

(b) Cross-class averaging of credits is allowed across all classes of nonroad spark-ignition nonhandheld engines at or below 19 kW.

(c) Credits used in averaging for a given model year may be obtained from credits generated in the same model year by another engine family, credits banked in previous model years, or credits of the same or previous model year obtained through trading. The restrictions of this paragraph notwithstanding, credits from a given model year may be used to address credit needs of previous model year engines as allowed under § 90.207(c).

(d) The use of credits generated under the early banking provisions of § 90.205(b) is subject to regulations under this subpart.

§ 90.205 Banking.

(a)(1) Beginning August 1, 2007, a manufacturer of a Class I engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading. For new Class I engine families initially produced during the period starting August 1, 2003 through July 31, 2007, a manufacturer of a Class I engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading.

(2) [Reserved]

(3) Beginning with the 2001 model year, a manufacturer of a Class II engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading.

(4) [Reserved]

(5) [Reserved]

(6) Negative credits may be banked only according to the requirements under § 90.207(c).

(b)(1) For Class I engine families initially produced during the period beginning with the 1999 model year and prior to August 1, 2003, a manufacturer may bank early credits for engines with HC + NO_x FELs below 16.1 g/kW-hr. All early credits for such Class I engines shall be calculated against a HC + NO_x level of 20.5 g/kW-hr and may continue to be calculated against the 20.5 g/kW-hr level until August 1, 2007.

(2) Beginning with the 1999 model year and prior to the applicable date listed in paragraph (a) of this section for Class II engines, a manufacturer may bank early credits for all Class II engines with HC+NO_x FELs below 12.1 g/kW-hr. All early credits for Class II engines shall be calculated against a HC+NO_x level of 18.0 g/kW-hr.

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

(6) Engines certified under the early banking provisions of this paragraph are subject to all of the requirements of this part applicable to Phase 2 engines.

(c) A manufacturer may bank actual credits only after the end of the model year and after EPA has reviewed the manufacturer's end-of-year reports. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for trading or averaging in the end-of-year report and final report.

(d) Credits declared for banking from the previous model year that have not been reviewed by EPA may be used in averaging or trading transactions. However, such credits may be revoked at a later time following EPA review of the end-of-year report or any subsequent audit actions.

§ 90.206 Trading.

(a) An engine manufacturer may exchange emission credits with other engine manufacturers in trading.

(b) Credits for trading can be obtained from credits banked in previous model years or credits generated during the model year of the trading transaction.

(c) Traded credits can be used for averaging, banking, or further trading transactions.

(d) Traded credits are subject to the limitations on use for past model years, as set forth in § 90.204(c).

(e) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases involving fraud. Certificates of all engine families participating in a negative trade may be voided *ab initio* pursuant to § 90.123.

§ 90.207 Credit calculation and manufacturer compliance with emission standards.

(a) For each engine family, HC+NO_x [NMHC+NO_x] certification emission credits (positive or negative) are to be calculated according to the following equation and rounded to the nearest gram. Consistent units are to be used throughout the equation.

$$\text{Credits} = \text{Production} \times (\text{Standard} - \text{FEL}) \times \text{Power} \times \text{Useful life} \times \text{Load Factor}$$

Where:

Production = eligible production as defined in this part. Annual production projections are used to project credit availability for initial certification. Eligible production volume is used in determining actual credits for end-of-year compliance determination.

Standard = the current and applicable Small SI engine HC+NO_x (NMHC+NO_x) emission standard in grams per kilowatt hour as determined in § 90.103 or, for early credits, the applicable emission level as specified in § 90.205(b).

FEL = the family emission limit for the engine family in grams per kilowatt hour.

Power = the maximum modal power of the certification test engine, in kilowatts, as calculated from the applicable federal test procedure as described in this part.

Useful Life = the useful life in hours corresponding to the useful life category for which the engine family was certified.

Load Factor = 47 percent (i.e., 0.47) for Test Cycle A and Test Cycle B. For approved alternate test procedures, the load factor must be calculated according to the following formula:

$$\sum_{i=1}^n (\% \text{MTT mode}_i) \times (\% \text{MTS mode}_i) \times (\text{WF mode}_i) S$$

Where:

%MTT mode_i = percent of the maximum FTP torque for mode i.

%MTS mode_i = percent of the maximum FTP engine rotational speed for mode i.

WF mode_i = the weighting factor for mode i.

(b) Manufacturer compliance with the emission standards is determined on a corporate average basis at the end of each model year. A manufacturer is in compliance when the sum of positive and negative emission credits it holds is greater than or equal to zero, except that the sum of positive and negative credits may be less than zero as allowed under paragraph (c) of this section.

(c) If, as a result of production line testing as required in subpart H of this part, an engine family is determined to be in noncompliance pursuant to § 90.710, the manufacturer may raise its FEL for past and future production as necessary. Further, a manufacturer may carry a negative credit balance (known also as a credit deficit) for the subject class and model year and for the next three model years. The credit deficit may be no larger than that created by the nonconforming family. If the credit deficit still exists after the model year following the model year in which the nonconformity occurred, the manufacturer must obtain and apply credits to offset the remaining credit deficit at a rate of 1.2 grams for each gram of deficit within the next two model years. The provisions of this paragraph are subject to the limitations in paragraph (d) of this section.

(d) Regulations elsewhere in this part notwithstanding, if an engine manufacturer experiences two or more production line testing failures pursuant to the regulations in subpart H of this part in a given model year, the manufacturer may raise the FEL of previously produced engines only to the extent that such engines represent no more than 10 percent of the manufacturer's total eligible production for that model year, as determined on the date when the FEL is adjusted. For any additional engine families determined to be in noncompliance, the manufacturer must conduct offsetting projects approved in advance by the Administrator.

(e) If, as a result of production line testing under this subpart, a manufacturer desires to lower its FEL it may do so subject to § 90.708(c).

(f) Except as allowed at paragraph (c) of this section, when a manufacturer is not in compliance with the applicable emission standard by the date 270 days after the end of the model year,

considering all credit calculations and transactions completed by then, the manufacturer will be in violation of the regulations in this part and EPA may, pursuant to § 90.123, void *ab initio* the certificates of engine families for which the manufacturer has not obtained sufficient positive emission credits.

§ 90.208 Certification.

(a) In the application for certification a manufacturer must:

(1) Submit a statement that the engines for which certification is requested will not, to the best of the manufacturer's belief, cause the manufacturer to be in noncompliance under § 90.207(b) when all credits are calculated for the manufacturer's engine families.

(2) Declare an FEL for each engine family for HC+NO_x (NMHC+NO_x). The FEL must have the same number of significant digits as the emission standard.

(3) Indicate the projected number of credits generated/needed for this family; the projected applicable eligible annual production volume, and the values required to calculate credits as given in § 90.207.

(4) Submit calculations in accordance with § 90.207 of projected emission credits (positive or negative) based on annual production projections for each family.

(5) (i) If the engine family is projected to have negative emission credits, state specifically the source (manufacturer/engine family or reserved) of the credits necessary to offset the credit deficit according to projected annual production.

(ii) If the engine family is projected to generate credits, state specifically (manufacturer/engine family or reserved) where the projected annual credits will be applied.

(iii) The manufacturer may supply the information required by this section in the form of a spreadsheet detailing the manufacturer's annual production plans and the credits generated or consumed by each engine family.

(b) All certificates issued are conditional upon manufacturer compliance with the provisions of this subpart both during and after the model year of production.

(c) Failure to comply with all provisions of this subpart will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio* pursuant to § 90.123.

(d) The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the conditions

upon which the certificate was issued were satisfied or waived.

(e) Projected credits based on information supplied in the certification application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Administrator.

§ 90.209 Maintenance of records.

(a) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine family:

(1) EPA engine family identification code;

(2) Family Emission Limit (FEL) or FELs where FEL changes have been implemented during the model year;

(3) Maximum modal power for the certification test engine;

(4) Projected production volume for the model year; and

(5) Records appropriate to establish the quantities of engines that constitute eligible production as defined in § 90.3 for each FEL.

(b) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on an annual basis for each such engine family:

(1) The engine family;

(2) The actual applicable production volume;

(3) The values required to calculate credits as given in § 90.207;

(4) The resulting type and number of credits generated/required;

(5) How and where credit surpluses are dispersed; and

(6) How and through what means credit deficits are met.

(c) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy or reduced to microfilm, ADP diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(d) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records, or submit information not specifically required by this section, if otherwise permitted by law.

(e) Pursuant to a request made by the Administrator, the manufacturer must submit to the Administrator the information that the manufacturer is required to retain.

(f) EPA may, pursuant to § 90.123, void *ab initio* a certificate of conformity

for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

§ 90.210 End-of-year and final reports.

(a) End-of-year and final reports must indicate the engine family, the engine class, the actual production volume, the values required to calculate credits as given in § 90.207, and the number of credits generated/required.

Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report must include a calculation of credit balances to show that the credit summation for all engines is equal to or greater than zero (or less than zero in cases of negative credit balances as permitted in § 90.207(c)). For model year 2005 and later, the report must include a calculation of the production weighted average HC+NO_x (including NMHC+NO_x) FEL for Class II engine families to show compliance with the provisions of § 90.203(g)(2).

(b) The calculation of eligible production for end-of-year and final reports must be based on engines produced for the United States market, excluding engines which are subject to state emission standards pursuant to a waiver granted by EPA under section 209(e) of the Act. Upon advance written request, the Administrator will consider other methods to track engines for credit calculation purposes that provide high levels of confidence that eligible production or sales are accurately counted.

(c)(1) End-of-year reports must be submitted within 90 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, Washington, DC 20460.

(2) Unless otherwise approved by the Administrator, final reports must be submitted within 270 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, Washington, DC 20460.

(d) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for any engines subject to regulation under this part is a violation of § 90.1003(a)(2) and section 213(d) of the Clean Air Act for each engine.

(e) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable

specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(f) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report.

(g) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to EPA under this section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by EPA.

(h) If EPA review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, EPA shall restore the credits for use by the manufacturer.

§ 90.211 Request for hearing.

An engine manufacturer may request a hearing on the Administrator's voiding of the certificate under §§ 90.203(h), 90.206(e), 90.207(f), 90.208(c), or 90.209(f), pursuant to § 90.124. The procedures of § 90.125 shall apply to any such hearing.

Subpart D—Emission Test Equipment Provisions

18. Section 90.301 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 90.301 Applicability.

(a) This subpart describes the equipment required in order to perform exhaust emission tests on new nonroad spark-ignition engines and vehicles subject to the provisions of subpart A of this part. Certain text in this subpart is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

* * * * *

(d) For Phase 2 Class I, and Phase 2 Class II natural gas fueled engines, the following sections from 40 CFR Part 86 are applicable to this subpart. The requirements of these sections which pertain specifically to the measurement and calculation of non-methane hydrocarbon (NMHC) exhaust emissions from otto cycle heavy-duty engines must

be followed when determining the NMHC exhaust emissions from Phase 2 Class I, and Phase 2 Class II natural gas fueled engines. Those sections are: 40 CFR 86.1306–90 Equipment required and specifications; overview, 40 CFR 86.1309–90 Exhaust gas sampling system; otto-cycle engines, 40 CFR 86.1311–94 Exhaust gas analytical system; CVS bag sampling, 40 CFR 86.1313–94(e) Fuel Specification—Natural gas-fuel, 40 CFR 86.1314–94 Analytical gases, 40 CFR 86.1316–94 Calibrations; frequency and overview, 40 CFR 86.1321–94 Hydrocarbon analyzer calibration, 40 CFR 86.1325–94 Methane analyzer calibration, 40 CFR 86.1327–94 Engine dynamometer test procedures, overview, 40 CFR 86.1340–94 Exhaust sample analysis, 40 CFR 86.1342–94 Calculations; exhaust emissions, 40 CFR 86.1344–94(d) Required information—Pre-test data, 40 CFR 86.1344–94(e) Required information—Test data.

19. Section 90.302 is revised to read as follows:

§ 90.302 Definitions.

The definitions in § 90.3 apply to this subpart. The following definitions also apply to this subpart.

Intermediate speed means the engine speed which is 85 percent of the rated speed.

Natural gas means a fuel whose primary constituent is methane.

Rated speed means the speed at which the manufacturer specifies the maximum rated power of an engine.

20. Section 90.308 is amended by revising paragraph (c) to read as follows:

§ 90.308 Lubricating oil and test fuels.

* * * * *

(c) *Test fuels—service accumulation and aging.* Unleaded gasoline representative of commercial gasoline generally available through retail outlets must be used in service accumulation and aging for gasoline-fueled spark-ignition engines. As an alternative, the certification test fuels specified under paragraph (b) of this section may be used for engine service accumulation and aging. Leaded fuel may not be used during service accumulation or aging.

21. Section 90.329 is amended by adding paragraph (c) to read as follows:

§ 90.329 Catalyst thermal stress test.

* * * * *

(c) *Phase 2 engines.* The catalyst thermal stress test is not required for engine families certified to the Phase 2 standards.

Subpart E—Gaseous Exhaust Test Procedures

22. Section 90.401 is amended by adding paragraphs (c) and (d) to read as follows:

§ 90.401 Applicability.

* * * * *

(c) Certain text in this subpart is identified as pertaining to Phase 1 or Phase 2 engines. Such text pertains only to engines of the specified Phase. If no indication of Phase is given, the text pertains to all engines, regardless of Phase.

(d) For Phase 2 Class I, and Phase 2 Class II natural gas fueled engines, the following sections from 40 CFR part 86 are applicable to this subpart. The requirements of these sections which pertain specifically to the measurement and calculation of non-methane hydrocarbon (NMHC) exhaust emissions from otto cycle heavy-duty engines must be followed when determining the NMHC exhaust emissions from Phase 2 Class I, and Phase 2 Class II natural gas fueled engines. Those sections are: 40 CFR 86.1327–94 Engine dynamometer test procedures, overview, 40 CFR 86.1340–94 Exhaust sample analysis, 40 CFR 86.1342–94 Calculations; exhaust emissions, 40 CFR 86.1344–94(d) Required information—Pre-test data, and 40 CFR 86.1344–94(e) Required information—Test data.

23. Section 90.404 is amended by adding a sentence after the first sentence of paragraph (b) to read as follows:

§ 90.404 Test procedure overview.

* * * * *

(b) * * * For Phase 2 Class I and Phase 2 Class II natural gas fueled engines the test is also designed to determine the brake-specific emissions of non-methane hydrocarbons. * * *

* * * * *

24. Section 90.409 is amended by revising paragraph (a)(3) to read as follows:

§ 90.409 Engine dynamometer test run.

(a) * * *

(3) For Phase 1 engines, at the manufacturer's option, the engine can be run with the throttle in a fixed position or by using the engine's governor (if the engine is manufactured with a governor). In either case, the engine speed and load must meet the requirements specified in paragraph (b)(12) of this section. For Phase 2 Class I and Phase 2 Class II engines equipped with an engine speed governor, the governor must be used to control engine speed during all test cycle modes except for Mode 1 or Mode 6, and no external

throttle control may be used that interferes with the function of the engine's governor; a controller may be used to adjust the governor setting for the desired engine speed in Modes 2–5 or Modes 7–10; and during Mode 1 or Mode 6 fixed throttle operation may be used to determine the 100 percent torque value.

* * * * *

25. Section 90.410 is amended by revising paragraph (b) to read as follows:

§ 90.410 Engine test cycle.

* * * * *

(b) For Phase 1 engines and Phase 2 Class I and II engines not equipped with an engine speed governor, during each non-idle mode, hold both the specified speed and load within ± five percent of point. During the idle mode, hold speed within ± ten percent of the manufacturer's specified idle engine speed. For Phase 2 Class I and II engines equipped with an engine speed governor, during Mode 1 or Mode 6 hold both the specified speed and load within ± five percent of point, during Modes 2–3, or Modes 7–8 hold the specified load with ± five percent of point, during Modes 4–5 or Modes 9–10, hold the specified load within the larger range provided by +/– 0.27Nm (+/– 0.2 lb-ft), or +/– ten (10) percent of point, and during the idle mode hold the specified speed within ± ten percent of the manufacturer's specified idle engine speed (see Table 1 in Appendix A to subpart E of this part for a description of test Modes). The use of alternative test procedures is allowed if approved in advance by the Administrator.

* * * * *

26. Section 90.427 is amended by revising paragraph (a) to read as follows:

§ 90.427 Catalyst thermal stress resistance evaluation.

(a) The purpose of the evaluation procedure specified in this section is to determine the effect of thermal stress on catalyst conversion efficiency for Phase 1 engines. The thermal stress is imposed on the test catalyst by exposing it to quiescent heated air in an oven. The evaluation of the effect of such stress on catalyst performance is based on the resultant degradation of the efficiency with which the conversions of specific pollutants are promoted. The application of this evaluation procedure involves the several steps that are described in the following paragraphs.

* * * * *

Subpart F—Selective Enforcement Auditing

27. Section 90.503 is amended by revising paragraphs (f)(3) and (f)(4) to read as follows:

§ 90.503 Test orders.

* * * * *

(f) * * *

(3) Any SEA test order for which the family or configuration, as appropriate, fails under § 90.510 or for which testing is not completed will not be counted against the annual limit.

(4) When the annual limit has been met, the Administrator may issue additional test orders to test those families or configurations for which evidence exists indicating nonconformity, or for which the Administrator has reason to believe are not being appropriately represented or tested in Production Line Testing conducted under subpart H of this part, if applicable. An SEA test order issued pursuant to this provision will include a statement as to the reason for its issuance.

28. Section 90.509 is amended by revising paragraph (b) to read as follows:

§ 90.509 Calculation and reporting of test results.

* * * * *

(b)(1) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding to the same number of decimal places contained in the applicable standard. For Phase 2 engines only, this result shall be expressed to one additional significant figure.

(2) Final deteriorated test results (for Phase 2 test engines only) are calculated by applying the appropriate deterioration factors, from the certification process for the engine family, to the final test results, and rounding to the same number of decimal places contained in the applicable standard.

* * * * *

29. Section 90.510 is amended by revising paragraph (b) to read as follows:

§ 90.510 Compliance with acceptable quality level and passing and failing criteria for selective enforcement audits.

* * * * *

(b) For Phase I engines, a failed engine is an engine whose final test results pursuant to § 90.509(b), for one or more of the applicable pollutants exceed the emission standard. For Phase 2 engines, a failed engine is an engine whose final deteriorated test results pursuant to

§ 90.509(b), for one or more of the applicable pollutants exceed the emission standard (FEL, if applicable).

* * * * *

30. Section 90.512 is amended by revising paragraph (b) to read as follows:

§ 90.512 Request for public hearing.

* * * * *

(b) The manufacturer's request shall be filed with the Administrator not later than 15 days after the Administrator's notification of his or her decision to suspend, revoke or void, unless otherwise specified by the Administrator. The manufacturer shall simultaneously serve two copies of this request upon the Director of the Engine Programs and Compliance Division and file two copies with the Hearing Clerk of the Agency. Failure of the manufacturer to request a hearing within the time provided constitutes a waiver of the right to a hearing. Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his or her discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension, revocation or voiding.

* * * * *

Subpart G—Importation of Nonconforming Engines

31. Section 90.612 is amended by revising paragraph (g) to read as follows:

§ 90.612 Exemptions and exclusions.

* * * * *

(g) Applications for exemptions and exclusions provided for in paragraphs (b), (c), and (e) of this section are to be mailed to: U.S. Environmental Protection Agency, Office of Mobile Sources, Engine Compliance Programs Group (6403-J), Washington, D.C. 20460, Attention: Imports.

32. Subpart H, which was previously "reserved", is added to part 90 to read as follows:

Subpart H—Manufacturer Production Line Testing Program

Sec.

90.701 Applicability.

90.702 Definitions.

90.703 Production line testing by the manufacturer.

90.704 Maintenance of records; submission of information.

90.705 Right of entry and access.

90.706 Engine sample selection.

90.707 Test procedures.

90.708 Cumulative Sum (CumSum) Procedure.

90.709 Calculation and reporting of test results.

90.710 Compliance with criteria for production line testing.

90.711 Suspension and revocation of certificates of conformity.

90.712 Request for public hearing.

90.713 Administrative procedures for public hearing.

Subpart H—Manufacturer Production Line Testing Program

§ 90.701 Applicability.

(a) The requirements of this subpart are applicable to all Phase 2 nonroad nonhandheld engines families subject to the provisions of subpart A of this part unless otherwise exempted in this subpart.

(b) The procedures described in this subpart are optional for small volume engine manufacturers and small volume engine families as defined in this part. Small volume engine manufacturers and small volume engine families for which the manufacturer opts not to conduct testing under this subpart pursuant to this paragraph shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

(c) Engine families for which the manufacturer opts to conduct in-use testing pursuant to subpart M of this part are exempt from this subpart, but shall remain subject to the Selective Enforcement Auditing procedures of subpart F of this part.

§ 90.702 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions also apply to this subpart.

Configuration means any subclassification of an engine family which can be described on the basis of gross power, emission control system, governed speed, injector size, engine calibration, and other parameters as designated by the Administrator.

Test sample means the collection of engines selected from the population of an engine family for emission testing.

§ 90.703 Production line testing by the manufacturer.

(a) Manufacturers of small SI engines shall test production line engines from each engine family according to the provisions of this subpart.

(b) Production line engines must be tested using the test procedure specified in subpart E of this part except that the Administrator may approve minor variations that the Administrator deems necessary to facilitate efficient and economical testing where the manufacturer demonstrates to the satisfaction of the Administrator that such variations will not significantly impact the test results. Any adjustable engine parameter must be set to values or positions that are within the range recommended to the ultimate purchaser,

unless otherwise specified by the Administrator. The Administrator may specify values within or without the range recommended to the ultimate purchaser.

§ 90.704 Maintenance of records; submission of information.

(a) The manufacturer of any new small SI engine subject to any of the provisions of this subpart must establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* A description of all equipment used to test engines in accordance with § 90.703. Subpart D of this part sets forth relevant equipment requirements in §§ 90.304, 90.305, 90.306, 90.307, 90.308, 90.309, 90.310 and 90.313.

(2) *Individual records.* These records pertain to each production line test conducted pursuant to this subpart and include:

(i) The date, time, and location of each test;

(ii) The number of hours of service accumulated on the test engine when the test began and ended;

(iii) The names of all supervisory personnel involved in the conduct of the production line test;

(iv) A record and description of any adjustment, repair, preparation or modification performed prior to and/or subsequent to approval by the Administrator pursuant to § 90.707(b)(1), giving the date, associated time, justification, name(s) of the authorizing personnel, and names of all supervisory personnel responsible for the conduct of the repair;

(v) If applicable, the date the engine was shipped from the assembly plant, associated storage facility or port facility, and the date the engine was received at the testing facility;

(vi) A complete record of all emission tests performed pursuant to this subpart (except tests performed directly by EPA), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof, in accordance with the record requirements specified in §§ 90.405 and 90.406; and

(vii) A brief description of any significant events during testing not otherwise described under paragraph (a)(2) of this section, commencing with the test engine selection process and including such extraordinary events as engine damage during shipment.

(3) The manufacturer must establish, maintain and retain general records, pursuant to paragraph (a)(1) of this section, for each test cell that can be

used to perform emission testing under this subpart.

(b) The manufacturer must retain all records required to be maintained under this subpart for a period of one year after completion of all testing required for the engine family in a model year. Records may be retained as hard copy (i.e., on paper) or reduced to microfilm, floppy disk, or some other method of data storage, depending upon the manufacturer's record retention procedure; provided, that in every case, all the information contained in the hard copy is retained.

(c) The manufacturer must, upon request by the Administrator, submit the following information with regard to engine production:

(1) Projected production or actual production for each engine configuration within each engine family for which certification has been requested and/or approved;

(2) Number of engines, by configuration and assembly plant, scheduled for production or actually produced.

(d) Nothing in this section limits the Administrator's discretion to require a manufacturer to establish, maintain, retain or submit to EPA information not specified by this section and otherwise permitted by law.

(e) All reports, submissions, notifications, and requests for approval made under this subpart must be addressed to: Manager, Engine Compliance Programs Group (6403J), U.S. Environmental Protection Agency, Washington, DC 20460.

(f) The manufacturer must electronically submit the results of its production line testing using EPA's standardized format. The Administrator may exempt manufacturers from this requirement upon written request with supporting justification.

§ 90.705 Right of entry and access.

(a) To allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart or other subparts of this part, one or more EPA enforcement officers may enter during operating hours and upon presentation of credentials any of the following places:

(1) Any facility, including ports of entry, where any engine to be introduced into commerce or any emission-related component is manufactured, assembled, or stored;

(2) Any facility where any test conducted pursuant to this or any other subpart or any procedure or activity connected with such test is or was performed;

(3) Any facility where any test engine is present; and

(4) Any facility where any record required under § 90.704 or other document relating to this subpart or any other subpart of this part is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA enforcement officers are authorized to perform the following inspection-related activities:

(1) To inspect and monitor any aspect of engine manufacture, assembly, storage, testing and other procedures, and to inspect and monitor the facilities in which these procedures are conducted;

(2) To inspect and monitor any aspect of engine test procedures or activities, including test engine selection, preparation and service accumulation, emission test cycles, and maintenance and verification of test equipment calibration;

(3) To inspect and make copies of any records or documents related to the assembly, storage, selection, and testing of an engine; and

(4) To inspect and photograph any part or aspect of any engine and any component used in the assembly thereof that is reasonably related to the purpose of the entry.

(c) EPA enforcement officers are authorized to obtain reasonable assistance without cost from those in charge of a facility to help the officers perform any function listed in this subpart and they are authorized to request the manufacturer to make arrangements with those in charge of a facility operated for the manufacturer's benefit to furnish reasonable assistance without cost to EPA.

(1) Reasonable assistance includes, but is not limited to, clerical, copying, interpretation and translation services; the making available on an EPA enforcement officer's request of personnel of the facility being inspected during their working hours to inform the EPA enforcement officer of how the facility operates and to answer the officer's questions; and the performance on request of emission tests on any engine which is being, has been, or will be used for production line or other testing.

(2) By written request, signed by the Assistant Administrator for Air and Radiation, and served on the manufacturer, a manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA enforcement officer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be

accompanied, represented, and advised by counsel.

(d) EPA enforcement officers are authorized to seek a warrant or court order authorizing the EPA enforcement officers to conduct the activities authorized in this section, as appropriate, to execute the functions specified in this section. EPA enforcement officers may proceed *ex parte* to obtain a warrant or court order whether or not the EPA enforcement officers first attempted to seek permission from the manufacturer or the party in charge of the facility(ies) in question to conduct the activities authorized in this section.

(e) A manufacturer must permit an EPA enforcement officer(s) who presents a warrant or court order to conduct the activities authorized in this section as described in the warrant or court order. The manufacturer must also cause those in charge of its facility or a facility operated for its benefit to permit entry and access as authorized in this section pursuant to a warrant or court order whether or not the manufacturer controls the facility. In the absence of a warrant or court order, an EPA enforcement officer(s) may conduct the activities authorized in this section only upon the consent of the manufacturer or the party in charge of the facility(ies) in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit an EPA enforcement officer(s) to conduct the activities authorized in this section if the officer(s) appears without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions where local law does not prohibit an EPA enforcement officer(s) from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed local foreign law prohibits.

§ 90.706 Engine sample selection.

(a) At the start of each model year, the small SI engine manufacturer will begin to randomly select engines from each engine family for production line testing at a rate of one percent of the projected production of that family. Each engine will be selected from the end of the assembly line.

(1) *For newly certified engine families:* After two engines are tested, the manufacturer will calculate the required sample size for the model year for each pollutant (HC+NO_x(NMHC+NO_x) and CO) according to the Sample Size

Equation in paragraph (b) of this section.

(2) *For carry-over engine families:* After one engine is tested, the manufacturer will combine the test with the last test result from the previous model year and then calculate the required sample size for the model year for each pollutant according to the Sample Size Equation in paragraph (b) of this section.

(b)(1) Manufacturers will calculate the required sample size for the model year for each pollutant for each engine family using the Sample Size Equation in this paragraph. N is calculated for each pollutant from each test result. The higher of the two values for the number N indicates the number of tests required for the model year for an engine family.

N is recalculated for each pollutant after each test. Test results used to calculate the variables in the following Sample Size Equation must be final deteriorated test results as specified in § 90.709(c).

$$N = \left[\frac{(t_{95} * \sigma)^2}{(x - FEL)} \right] + 1$$

Where:

N = required sample size for the model year.

t₉₅ = 95% confidence coefficient. It is dependent on the actual number of tests completed, n, as specified in the table in paragraph (b)(2) of this section. It defines one-tail, 95% confidence intervals.

σ = actual test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

x_i = emission test result for an individual engine.

x = mean of emission test results of the actual sample.

FEL = Family Emission Limit or standard if no FEL.

n = The actual number of tests completed in an engine family.

(2) The following table specifies the Actual Number of Tests (n) & 1-tail Confidence Coefficients (t₉₅):

n	t ₉₅	n	t ₉₅	n	t ₉₅
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

(3) A manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N, evenly throughout the remainder of the model year.

(4) After each new test, the required sample size, N, is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

(5) A manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (b)(1) through (b)(4) of this section until a decision is made to stop testing as described in paragraph (b)(6) of this section or a noncompliance decision is made pursuant to § 90.710(b).

(6) If, at any time throughout the model year, the calculated required sample size, N, for an engine family is less than or equal to the actual sample size, n, and the sample mean, x, for HC + NO_x (NMHC+NO_x) and CO is less than or equal to the FEL or standard if no FEL, the manufacturer may stop testing that engine family.

(7) If, at any time throughout the model year, the sample mean, x, for HC + NO_x (NMHC+NO_x) or CO is greater than the FEL or standard if no FEL, the manufacturer must continue testing that

engine family at the appropriate maximum sampling rate.

(8) The maximum required sample size for an engine family (regardless of the required sample size, N, as calculated in paragraph (b)(1) of this section) is the lesser of thirty tests per model year or one percent of projected annual production for that engine family for that model year.

(9) Manufacturers may elect to test additional engines. Additional engines, whether tested in accordance with the testing procedures specified in § 90.707 or not, may not be included in the Sample Size and Cumulative Sum equation calculations as defined in paragraph (b)(1) of this section and § 90.708(a), respectively. However, such additional test results may be used as appropriate to "bracket" or define the boundaries of the production duration of any emission nonconformity determined under this subpart. Such additional test data must be identified and provided to EPA with the submittal of the official CumSum results.

(c) The manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(d) No quality control, testing, or assembly procedures shall be used on

any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Administrator approves the modification in production or assembly procedures in advance.

§ 90.707 Test procedures.

(a)(1) For small SI engines subject to the provisions of this subpart, the prescribed test procedures are specified in subpart E of this part.

(2) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures other than those specified in paragraph (a)(1) of this section for any small SI engine the Administrator determines is not susceptible to satisfactory testing using procedures specified in paragraph (a)(1) of this section.

(b)(1) The manufacturer may not adjust, repair, prepare, or modify any test engine and may not perform any emission test on any test engine unless this adjustment, repair, preparation, modification and/or test is documented in the manufacturer's engine assembly and inspection procedures and is actually performed by the manufacturer on every production line engine or unless this adjustment, repair,

preparation, modification and/or test is required or permitted under this subpart or is approved in advance by the Administrator.

(2) The Administrator may adjust or cause to be adjusted any engine parameter which the Administrator has determined to be subject to adjustment for certification, Production Line Testing and Selective Enforcement Audit testing, to any setting within the physically adjustable range of that parameter, as determined by the Administrator, prior to the performance of any test. However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator may not adjust it or require that it be adjusted to any setting which causes a lower engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter if the manufacturer had accumulated 12 hours of service on the engine under paragraph (c) of this section, all other parameters being identically adjusted for the purpose of the comparison. The manufacturer may be requested to supply information necessary to establish an alternate minimum idle speed. The Administrator, in making or specifying these adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emission performance characteristics as well as the likelihood that similar settings will occur on in-use engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and information from similar in-use engines.

(c) *Service accumulation.* (1) Unless otherwise approved by the Administrator, prior to performing exhaust emission production line testing, the manufacturer may accumulate up to 12 hours of service on each test engine. For catalyst-equipped engines, the manufacturer must accumulate a number of hours equal to the number of hours accumulated to represent stabilized emissions on the engine used to obtain certification.

(2) Service accumulation must be performed in a manner using good engineering judgment to obtain emission results representative of production line engines.

(d) Unless otherwise approved by the Administrator, the manufacturer may not perform any maintenance on test engines after selection for testing.

(e) If an engine is shipped to a remote facility for production line testing, and an adjustment or repair is necessary

because of shipment, the engine manufacturer must perform the necessary adjustment or repair only after the initial test of the engine, except in cases where the Administrator has determined that the test would be impossible or unsafe to perform or would permanently damage the engine. Engine manufacturers must report to the Administrator, in the quarterly report required by § 90.709(e), all adjustments or repairs performed on test engines prior to each test.

(f) If an engine cannot complete the service accumulation or an emission test because of a malfunction, the manufacturer may request that the Administrator authorize either the repair of that engine or its deletion from the test sequence.

(g) *Testing.* A manufacturer must test engines with the test procedure specified in subpart E of this part to demonstrate compliance with the applicable FEL (or standard where there is no FEL). If alternate or special test procedures pursuant to regulations at § 90.120 are used in certification, then those alternate procedures must be used in production line testing.

(h) *Retesting.* (1) If an engine manufacturer reasonably determines that an emission test of an engine is invalid because of a procedural error, test equipment problem, or engine performance problem that causes the engine to be unable to safely perform a valid test, the engine may be retested. A test is not invalid simply because the emission results are high relative to other engines of the family. Emission results from all tests must be reported to EPA. The engine manufacturer must also include a detailed explanation of the reasons for invalidating any test in the quarterly report required in § 90.709(e). If a test is invalidated because of an engine performance problem, the manufacturer must document in detail the nature of the problem and the repairs performed in order to use the after-repair test results for the original test results.

(2) Routine retests may be conducted if the manufacturer conducts the same number of tests on all engines in the family. The results of these tests must be averaged according to procedures of § 90.709.

§ 90.708 Cumulative Sum (CumSum) procedure.

(a) (1) Manufacturers must construct separate CumSum Equations for each regulated pollutant (HC+NO_x (NMHC+NO_x) and CO) for each engine family. Test results used to calculate the variables in the CumSum Equations must be final deteriorated test results as

defined in § 90.709(c). The CumSum Equation is constructed as follows:

$$C_i = \max[0, OR(C_{i-1} + X_i - (FEL + F))]$$

Where:

C_i = The current CumSum statistic.

C_{i-1} = The previous CumSum statistic.
Prior to any testing, the CumSum statistic = 0 (i.e. $C_0 = 0$).

X_i = The current emission test result for an individual engine.

FEL = Family Emission Limit (the standard if no FEL).

$F = .25 \times \sigma$.

(2) After each test pursuant to paragraph (a)(1) of this section, C_i is compared to the action limit, H, the quantity which the CumSum statistic must exceed, in two consecutive tests, before the engine family may be determined to be in noncompliance for a regulated pollutant for purposes of § 90.710.

Where:

H = The Action Limit. It is $5.0 \times \sigma$, and is a function of the standard deviation, σ .

σ = is the sample standard deviation and is recalculated after each test.

(b) After each engine is tested, the CumSum statistic shall be promptly updated according to the CumSum Equation in paragraph (a) of this section.

(c)(1) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122(a) by performing an engine family modification (i.e. a change such as a running change involving a physical modification to an engine, a change in specification or setting, the addition of a new configuration, or the use of a different deterioration factor) with no changes to the FEL (where applicable), all previous sample size and CumSum statistic calculations for the model year will remain unchanged.

(2) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122 (a) by modifying its FEL (where applicable) for future production, as a result of an engine family modification, the manufacturer must continue its calculations by inserting the new FEL into the sample size equation as specified in § 90.706(b)(1) and into the CumSum equation in paragraph (a) of this section. All previous calculations remain unchanged. If the sample size calculation indicates that additional tests are required, then those tests must be performed. CumSum statistic calculations must not indicate that the family has exceeded the action limit for two consecutive tests. Where applicable,

the manufacturer's final credit report as required by § 90.210 must break out the credits that result from each FEL and corresponding CumSum analysis for the set of engines built to each FEL.

(3) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in § 90.122 (a) (or for an affected part of the year's production in cases where there were one or more mid-year engine family modifications), by modifying its FEL (where applicable) for past and/or future production, without performing an engine modification, all previous sample size and CumSum statistic calculations for the model year must be recalculated using the new FEL. If the sample size calculation indicates that additional tests are required, then those tests must be performed. The CumSum statistic recalculation must not indicate that the family has exceeded the action limit for two consecutive tests. Where applicable, the manufacturer's final credit report as required by § 90.210 must break out the credits that result from each FEL and corresponding CumSum analysis for the set of engines built to each FEL.

§ 90.709 Calculation and reporting of test results.

(a) Initial test results are calculated following the applicable test procedure specified in § 90.707 (a). The manufacturer rounds these results to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure.

(b) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(c) The final deteriorated test results for each test engine are calculated by applying the appropriate deterioration factors, derived in the certification process for the engine to the final test results, and rounding to the same number of decimal places contained in the applicable standard.

(d) If, at any time during the model year, the CumSum statistic exceeds the applicable action limit, H, in two consecutive tests for any regulated pollutant, (HC+NO_x (NMHC+NO_x) or CO) the engine family may be determined to be in noncompliance and the manufacturer must notify EPA by contacting its official EPA certification representative within ten working days

of such exceedance by the CumSum statistic.

(e) Within 45 calendar days of the end of each quarter, each engine manufacturer must submit to the Administrator a report which includes the following information:

(1) The location and description of the manufacturer's or other's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section;

(2) Total production and sample sizes, N and n, for each engine family;

(3) The FEL (standard, if no FEL) against which each engine family was tested;

(4) A description of the process to obtain engines on a random basis;

(5) A description of the test engines;

(6) For each test conducted:

(i) A description of the test engine, including:

(A) Configuration and engine family identification;

(B) Year, make, and build date;

(C) Engine identification number; and

(D) Number of hours of service accumulated on engine prior to testing;

(ii) Location where service accumulation was conducted and description of accumulation procedure and schedule;

(iii) Test number, date, test procedure used, initial test results before and after rounding, final test results before and after rounding and final deteriorated test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

(iv) A complete description of any adjustment, modification, repair, preparation, maintenance, and/or testing which was performed on the test engine, was not reported pursuant to any other paragraph of this subpart, and will not be performed on all other production engines;

(v) A CumSum analysis, as required in § 90.708, of the production line test results for each engine family; and

(vi) Any other information the Administrator may request relevant to the determination whether the new engines being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued;

(7) For each failed engine as defined in § 90.710(a), a description of the remedy and test results for all retests as required by § 90.711(g);

(8) The date of the end of the engine manufacturer's model year production for each engine family; and

(9) The following signed statement and endorsement by an authorized representative of the manufacturer:

This report is submitted pursuant to Sections 213 and 208 of the Clean Air Act.

This production line testing program was conducted in complete conformance with all applicable regulations under 40 CFR Part 90. No emission-related changes to production processes or quality control procedures for the engine family tested have been made during this production line testing program that affect engines from the production line. All data and information reported herein is, to the best of (Company Name) knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act and the regulations thereunder. (Authorized Company Representative.)

§ 90.710 Compliance with criteria for production line testing.

(a) A failed engine is one whose final deteriorated test results pursuant to § 90.709(c), for HC+NO_x (NMHC+NO_x) or CO exceeds the applicable Family Emission Limit (FEL) or standard if no FEL.

(b) An engine family shall be determined to be in noncompliance, if at any time throughout the model year, the CumSum statistic, C_i, for HC+NO_x (NMHC+NO_x) or CO, is greater than the action limit, H, for that pollutant, for two consecutive tests.

§ 90.711 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any engine failing pursuant to § 90.710(a) effective from the time that testing of that engine is completed.

(b) The Administrator may suspend the certificate of conformity for an engine family which is determined to be in noncompliance pursuant to § 90.710(b). This suspension will not occur before thirty days after the engine family is determined to be in noncompliance and the Administrator has notified the manufacturer of its intent to suspend. During this thirty day period the Administrator will work with the manufacturer to achieve appropriate production line changes to avoid the need to halt engine production, if possible. The Administrator will approve or disapprove any such production line changes proposed to address a family that has been determined to be in noncompliance under this subpart within 15 days of receipt. If the Administrator does not approve or disapprove such a proposed change within such time period, the proposed change shall be considered approved.

(c) If the results of testing pursuant to the regulations in this subpart indicate that engines of a particular family produced at one plant of a manufacturer do not conform to the regulations in this part with respect to which the certificate of conformity was issued, the Administrator may suspend the

certificate of conformity with respect to that family for engines manufactured by the manufacturer at all other plants.

(d) Notwithstanding the fact that engines described in the application for certification may be covered by a certificate of conformity, the Administrator may suspend such certificate immediately in whole or in part if the Administrator finds any one of the following infractions to be substantial:

(1) The manufacturer refuses to comply with any of the requirements of this subpart.

(2) The manufacturer submits false or incomplete information in any report or information provided to the Administrator under this subpart.

(3) The manufacturer renders inaccurate any test data submitted under this subpart.

(4) An EPA enforcement officer is denied the opportunity to conduct activities authorized in this subpart and a warrant or court order is presented to the manufacturer or the party in charge of the facility in question.

(5) An EPA enforcement officer is unable to conduct activities authorized in § 90.705 because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities.

(e) The Administrator shall notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part, except that the certificate is immediately suspended with respect to any failed engines as provided for in paragraph (a) of this section.

(f) The Administrator may revoke a certificate of conformity for an engine family after the certificate has been suspended pursuant to paragraph (b) or (c) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change or changes to the engine and/or emission control system as described in the application for certification of the affected engine family.

(g) Once a certificate has been suspended for a failed engine, as provided for in paragraph (a) of this section, the manufacturer must take the following actions before the certificate is reinstated for that failed engine:

(1) Remedy the nonconformity;

(2) Demonstrate that the engine conforms to the applicable standards (FELs, where applicable) by retesting the engine in accordance with these regulations; and

(3) Submit a written report to the Administrator, described in § 90.709(e)(7), after successful

completion of testing on the failed engine, which contains a description of the remedy and test results for each engine in addition to other information that may be required by this part.

(h) Once a certificate for a failed engine family has been suspended pursuant to paragraph (b) or (c) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating the certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(2) Demonstrate that the engine family for which the certificate of conformity has been suspended does in fact comply with the regulations of this part by testing as many engines as needed so that the CumSum statistic, as calculated in § 90.708(a), falls below the action limit. Such testing must comply with the provisions of this part. If the manufacturer elects to continue testing individual engines after suspension of a certificate, the certificate is reinstated for any engine actually determined to be in conformance with the Family Emission Limits (or standards if no FEL) through testing in accordance with the applicable test procedures, provided that the Administrator has not revoked the certificate pursuant to paragraph (f) of this section.

(i) Once the certificate has been revoked for an engine family, if the manufacturer desires to continue introduction into commerce of a modified version of that family, the following actions must be taken before the Administrator may issue a certificate for that modified family:

(1) If the Administrator determines that the proposed change(s) in engine design may have an effect on emission performance deterioration, the Administrator shall notify the manufacturer within five working days after receipt of the report in paragraph (h)(1) of this section whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or changes or whether additional testing will be required;

(2) After implementing the change or changes intended to remedy the nonconformity, the manufacturer must demonstrate that the modified engine family does in fact conform with the regulations of this part by testing as

many engines as needed from the modified engine family so that the CumSum statistic, as calculated in § 90.708(a) using the newly assigned FEL if applicable, falls below the action limit; and

(3) When the requirements of paragraphs (i)(1) and (i)(2) of this section are met, the Administrator shall reissue the certificate or issue a new certificate, as the case may be, to include that family. As long as the CumSum statistic remains above the action limit, the revocation remains in effect.

(j) At any time subsequent to a suspension of a certificate of conformity for a test engine pursuant to paragraph (a) of this section, but not later than 15 days (or such other period as may be allowed by the Administrator) after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraph (b), (c), or (f) of this section, a manufacturer may request a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(k) Any suspension of a certificate of conformity under paragraph (d) of this section shall:

(1) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §§ 90.712 and 90.713; and

(2) Not apply to engines no longer in the possession of the manufacturer.

(l) After the Administrator suspends or revokes a certificate of conformity pursuant to this section and prior to the commencement of a hearing under § 90.712, if the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend or revoke the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(m) To permit a manufacturer to avoid storing non-test engines while conducting subsequent testing of the noncomplying family, a manufacturer may request that the Administrator conditionally reinstate the certificate for that family. The Administrator may reinstate the certificate subject to the following condition: the manufacturer must commit to performing offsetting measures that remedy the nonconformity at no expense to the owners, and which are approved in advance by the Administrator for all engines of that family produced from the time the certificate is conditionally reinstated if the CumSum statistic does not fall below the action limit.

§ 90.712 Request for public hearing.

(a) If the manufacturer disagrees with the Administrator's decision to suspend or revoke a certificate or disputes the basis for an automatic suspension pursuant to § 90.711(a), the manufacturer may request a public hearing.

(b) The manufacturer's request shall be filed with the Administrator not later than 15 days after the Administrator's notification of his or her decision to suspend or revoke, unless otherwise specified by the Administrator. The manufacturer shall simultaneously serve two copies of this request upon the Manager of the Engine Compliance Programs Group and file two copies with the Hearing Clerk for the Agency. Failure of the manufacturer to request a hearing within the time provided constitutes a waiver of the right to a hearing. Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his or her discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension or revocation.

(c) A manufacturer shall include in the request for a public hearing:

(1) A statement as to which engine configuration(s) within a family is to be the subject of the hearing; and

(2) A concise statement of the issues to be raised by the manufacturer at the hearing, except that in the case of the hearing requested under § 90.711(j), the hearing is restricted to the following issues:

(i) Whether tests have been properly conducted (specifically, whether the tests were conducted in accordance with applicable regulations under this part and whether test equipment was properly calibrated and functioning);

(ii) Whether sampling plans and statistical analyses have been properly applied (specifically, whether sampling procedures and statistical analyses specified in this subpart were followed and whether there exists a basis for distinguishing engines produced at plants other than the one from which engines were selected for testing which would invalidate the Administrator's decision under § 90.711(c));

(3) A statement specifying reasons why the manufacturer believes it will prevail on the merits of each of the issues raised; and

(4) A summary of the evidence which supports the manufacturer's position on each of the issues raised.

(d) A copy of all requests for public hearings will be kept on file in the Office of the Hearing Clerk and will be made available to the public during Agency business hours.

§ 90.713 Administrative procedures for public hearing.

The administrative procedures for a public hearing requested under this subpart shall be those procedures set forth in the regulations found at §§ 90.513 through 90.516. References in § 90.513 to § 90.511(j), § 90.512(c)(2), § 90.511(e), § 90.512, § 90.511(d), § 90.503, § 90.512(c) and § 90.512(b) shall be deemed to mean § 90.711(j), § 90.712(c)(2), § 90.711(e), § 90.712, § 90.711(d), § 90.703, and § 90.712(c) and § 90.712(b), respectively. References to "test orders" in § 90.513 are not applicable.

33. Subpart I is amended by revising the subpart heading to read as follows:

Subpart I—Emission-related Defect Reporting Requirements, Voluntary Emission Recall Program, Ordered Recalls

34. Section 90.801 is amended by designating the existing text as paragraph (a) and adding paragraphs (b), (c), (d), (e), (f) and (g) to read as follows:

§ 90.801 Applicability.

* * * * *

(b) Phase 2 engines subject to provisions of subpart B of this part are subject to recall regulations specified in 40 CFR part 85, subpart S, except as otherwise provided in this section.

(c) Reference to section 214 of the Clean Air Act in 40 CFR 85.1801(a) is deemed to mean section 216 of the Clean Air Act.

(d) Reference to section 202 of the Act in 40 CFR 85.1802(a) is deemed to mean section 213 of the Act.

(e) Reference to "family particulate emission limits" as defined in part 86 promulgated under section 202 of the Act" in 40 CFR 85.1803(a) and 85.1805(a)(1) is deemed to mean "family emission limits" as defined in subpart C of this part 90 promulgated under section 213 of the Act".

(f) Reference to "vehicles or engines" throughout 40 CFR part 85, subpart S is deemed to mean "Phase 2 nonroad small SI engines at or below 19 kW."

(g) In addition to the requirements in 40 CFR 85.1805(a)(9) for Phase 2 engines include a telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

35. Section 90.802 is amended by adding a sentence at the end of the introductory text to read as follows:

§ 90.802 Definitions.

* * * The definitions of 40 CFR 85.1801 also apply to this part.

* * * * *

36. Section 90.803 is amended by revising paragraph (c) to read as follows:

§ 90.803 Emission defect information report.

* * * * *

(c) The manufacturer must submit defect information reports to EPA's Engine Compliance Programs Group not more than 15 working days after an emission-related defect is found to affect 25 or more engines manufactured in the same certificate or model year. Information required by paragraph (d) of this section that is either not available within 15 working days or is significantly revised must be submitted to EPA's Engine Compliance Programs Group as it becomes available.

* * * * *

37. Section 90.805 is amended by revising paragraph (a) to read as follows:

§ 90.805 Reports, voluntary recall plan filing, record retention.

(a) Send the defect report, voluntary recall plan, and the voluntary recall progress report to: Group Manager, Engine Compliance Programs Group, (6403-J), Environmental Protection Agency, Washington, D.C. 20460.

* * * * *

38. A new § 90.808 is added to subpart I read as follows

§ 90.808 Ordered recall provisions.

(a) Effective with respect to Phase 2 small SI engines:

(1) If the Administrator determines that a substantial number of any class or category of engines, although properly maintained and used, do not conform to the regulations prescribed under section 213 of the Act when in actual use throughout their useful life (as defined under § 90.105), the Administrator shall immediately notify the manufacturer of such nonconformity and require the manufacturer to submit a plan for remedying the nonconformity of the engines with respect to which such notification is given.

(i) The manufacturer's plan shall provide that the nonconformity of any such engines which are properly used and maintained will be remedied at the expense of the manufacturer.

(ii) If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing, the Administrator withdraws such determination of nonconformity, the Administrator shall, within 60 days after the completion of

such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (a)(2) of this section. The manufacturer shall comply in all respects with the requirements of this subpart.

(2) Any notification required to be given by the manufacturer under paragraph (a)(1) of this section with respect to any class or category of engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as required in subparts I and M of this part.

(3)(i) Prior to an EPA ordered recall, the manufacturer may perform a voluntary emissions recall pursuant to regulations at § 90.804. Such manufacturer is subject to the reporting and recordkeeping requirements of § 90.805.

(ii) Once EPA determines that a substantial number of engines fail to conform with the requirements of section 213 of the Act or this part, the manufacturer will not have the option of a voluntary recall.

(b) The manufacturer bears all cost obligation a dealer incurs as a result of a requirement imposed by paragraph (a) of this section. The transfer of any such cost obligation from a manufacturer to a dealer through franchise or other agreement is prohibited.

(c) Any inspection of an engine for purposes of paragraph (a)(1) of this section, after its sale to the ultimate purchaser, is to be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any state or local inspection program.

Subpart J—Exclusion and Exemption of Nonroad Engines From Regulations

39. Section 90.905 is amended by revising paragraph (f) to read as follows:

§ 90.905 Testing exemption.

* * * * *

(f) A manufacturer of new nonroad engines may request a testing exemption to cover nonroad engines intended for use in test programs planned or anticipated over the course of a subsequent one-year period. Unless otherwise required by the Director, Engine Programs and Compliance Division, a manufacturer requesting such an exemption need only furnish the information required by paragraphs (a)(1) and (d)(2) of this section along with a description of the recordkeeping and control procedures that will be employed to assure that the engines are used for purposes consistent with § 90.1004(b).

40. Section 90.906 is amended by revising paragraphs (a) introductory text and (a)(3) introductory text to read as follows:

§ 90.906 Manufacturer-owned exemption and precertification exemption.

(a) Any manufacturer owned nonroad engine, as defined by § 90.902, is exempt from § 90.1003, without application, if the manufacturer complies with the following terms and conditions:

* * * * *

(3) Unless the requirement is waived or an alternative procedure is approved by the Director, Engine Programs and Compliance Division, the manufacturer must permanently affix a label to each nonroad engine on exempt status. This label should:

* * * * *

41. Section 90.909 is amended by revising paragraph (c) to read as follows:

§ 90.909 Export exemptions.

* * * * *

(c) EPA will maintain a list of foreign countries that have in force nonroad emission standards identical to U.S. EPA standards and have so notified EPA. This list may be obtained by writing to the following address: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403-J), Environmental Protection Agency, Washington, D.C. 20460. New nonroad engines exported to such countries must comply with U.S. EPA certification regulations.

* * * * *

42. Section 90.911 is revised to read as follows:

§ 90.911 Submission of exemption requests.

Requests for exemption or further information concerning exemptions and/or the exemption request review procedure should be addressed to: Group Manager, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J), Environmental Protection Agency, Washington, D.C. 20460.

Subpart K—Prohibited Acts and General Enforcement Provisions

43. Section 90.1003 is amended by revising paragraphs (a)(2), (a)(4)(i), (b)(4), and (b)(5) and by redesignating paragraphs (a)(4)(iii) and (a)(4)(iv) as paragraphs (a)(4)(iv) and (a)(4)(v) respectively, and by adding new paragraphs (a)(4)(iii) and (b)(6) to read as follows:

§ 90.1003 Prohibited acts.

(a) * * *

(2) (i) For a person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under § 90.1004.

(ii) For a person to fail or refuse to permit entry, testing or inspection authorized under §§ 90.126, 90.506, 90.705, 90.1004, or 90.1207.

(iii) For a person to fail or refuse to perform tests or to have tests performed as required under §§ 90.119, 90.504, 90.703, 90.1004, 90.1204.

(iv) For a person to fail to establish or maintain records as required under §§ 90.209, 90.704, 90.805, or 90.1004.

(v) For a person to fail to submit a remedial plan as required under § 90.808.

* * * * *

(4) * * *

(i) To sell, offer for sale, or introduce or deliver into commerce, a nonroad engine unless the manufacturer has complied with the requirements of § 90.1103.

* * * * *

(iii) To fail or refuse to comply with the requirements of § 90.808.

* * * * *

(b) * * *

(4) Certified nonroad engines shall be used in all equipment or vehicles that are self-propelled, portable, transportable, or are intended to be propelled while performing their function, unless the manufacturer of the equipment or vehicle can prove that the vehicle or equipment will be used in a manner consistent with paragraph (2) of the definition of *Nonroad engine* in § 90.3. Nonroad vehicle and equipment manufacturers may continue to use noncertified nonroad engines built prior to the applicable implementation date of the Phase 1 rule until noncertified engine inventories are depleted; further after the applicable implementation of the Phase 2 regulations in this part, nonroad vehicle and equipment manufacturers may continue to use Phase 1 engines until Phase 1 engine inventories are depleted. Stockpiling (i.e., build up of an inventory of uncertified engines or Phase 1 engines beyond normal business practices to avoid or delay compliance with the Phase 1 or Phase 2 regulations in this part, respectively) will be considered a violation of this section.

(5) A new nonroad engine, intended solely to replace an engine in a piece of nonroad equipment that was originally produced with an engine manufactured prior to the applicable implementation date as described in §§ 90.2, 90.103 and 90.106, or with an engine that was

originally produced in a model year in which less stringent standards under this part were in effect, shall not be subject to the requirements of § 90.106 or prohibitions and provisions of paragraphs (a)(1) and (b)(4) of this section provided that:

(i) The engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this subpart, is available with the appropriate physical or performance characteristics to repower the equipment; and

(ii) The engine manufacturer or its agent takes ownership and possession of the old engine in partial exchange for the replacement engine; and

(iii) The replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Administrator: THIS ENGINE DOES NOT COMPLY WITH FEDERAL NONROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE IN A NONROAD VEHICLE OR PIECE OF NONROAD EQUIPMENT WHOSE ORIGINAL ENGINE WAS NOT CERTIFIED, OR WAS CERTIFIED TO LESS STRINGENT EMISSION STANDARDS THAN THOSE THAT APPLY TO THE YEAR OF MANUFACTURE OF THIS ENGINE, IS A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY; and

(iv) Where the replacement engine is intended to replace an engine built after the applicable implementation date of regulations under this part, but built to less stringent emission standards than are currently applicable, the replacement engine shall be identical in all material respects to a certified configuration of the same or later model year as the engine being replaced.

(6)(i) Regulations elsewhere in this part notwithstanding, for three model years after the phase-in of Class I and Class II Phase 2 standards; i.e. through August 1, 2010 for Class I engines and through model year 2008 for Class II engines, small volume equipment manufacturers as defined in this part may continue to use, and engine manufacturers may continue to supply, engines certified to Phase 1 standards (or identified and labeled by their manufacturer to be identical to engines previously certified under Phase 1 standards), provided the equipment manufacturer has demonstrated to the satisfaction of the Administrator that no certified Phase 2 engine is available

with suitable physical or performance characteristics to power a piece of equipment in production prior to the initial effective date of Phase 2 standards, as indicated in 90.103(a). The equipment manufacturer must also certify to the Administrator that the equipment model has not undergone any redesign which could have facilitated conversion of the equipment to accommodate a Phase 2 engine.

(ii) Regulations elsewhere in this part notwithstanding, for the duration of the Phase 2 rule in this part, equipment manufacturers who certify to the Administrator that annual eligible production of a particular model of equipment will not exceed 500 for a Class I model in production prior to August 1, 2007 or a Class II model in production prior to the 2001 model year, may continue to use in that model, and engine manufacturers may continue to supply, engines certified to Phase 1 requirements, (or identified and labeled by their manufacturer to be identical to engines previously certified under Phase 1 standards). To be eligible for this provision, the equipment manufacturer must have demonstrated to the satisfaction of the Administrator that no certified Phase 2 engine is available with suitable physical or performance characteristics to power the equipment. The equipment manufacturer must also certify to the Administrator that the equipment model has not undergone any redesign which could have facilitated conversion of the equipment to accommodate a Phase 2 engine.

(iii) An equipment manufacturer which is unable to obtain suitable Phase 2 engines and which can not obtain relief under any other provision of this part, may, prior to the date on which the manufacturer would become in noncompliance with the requirement to use Phase 2 engines, apply to the Administrator to be allowed to continue using Phase 1 engines, through August 1, 2008 for Class I engines and through the 2006 model year for Class II engines, subject to the following criteria:

(A) The inability to obtain Phase 2 engines is despite the manufacturer's best efforts and is the result of an extraordinary action on the part of the engine manufacturer that was outside the control of and could not be reasonably foreseen by the equipment manufacturer; such as canceled production or shipment, last minute certification failure, unforeseen engine cancellation, plant closing, work stoppage or other such circumstance; and

(B) the inability to market the particular equipment will bring

substantial economic hardship to the equipment manufacturer resulting in a major impact on the equipment manufacturer's solvency.

(iv) The written permission from the Administrator to the equipment manufacturer shall serve as permission for the engine manufacturer to provide such Phase 1 engines required by the equipment manufacturers under this paragraph (b)(6) of this section. As Phase 1 engines, these engines are exempt from Production Line Testing requirements under subpart H of this part and in-use testing provisions under subpart M of this part, and are excluded from the certification averaging, banking and trading program of subpart C of this part.

Subpart L—Emission Warranty and Maintenance Instructions

44. Section 90.1103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.1103 Emission warranty, warranty period.

(a) Warranties imposed by this subpart shall be for the first two years of engine use from the date of sale to the ultimate purchaser.

(b) The manufacturer of each new nonroad engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is designed, built and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and the engine is free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

* * * * *

45. Section 90.1104 is amended by adding paragraph (e) to read as follows:

§ 90.1104 Furnishing of maintenance instructions to ultimate purchaser.

* * * * *

(e) If a manufacturer includes in an advertisement a statement respecting the cost or value of emission control devices or systems, the manufacturer shall set forth in the statement the cost or value attributed to these devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his or her representatives, has the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Act.

46. A new subpart, Subpart M is added to part 90 to read as follows:

Subpart M—Voluntary In-Use Testing

Sec.

- 90.1201 Applicability.
 90.1202 Definitions.
 90.1203 Voluntary Manufacturer In-use testing program.
 90.1204 Maintenance, aging and testing of engines.
 90.1205 In-use test program reporting requirements.
 90.1206 Reserved.
 90.1207 Entry and access.
 90.1208—90.1249 [Reserved]

Subpart M—Voluntary In-Use Testing**§ 90.1201 Applicability.**

The provisions of this subpart from § 90.1201 through § 90.1249 are applicable to all nonhandheld Phase 2 engines subject to the provisions of subpart A of this part.

§ 90.1202 Definitions.

For the purposes of this subpart, except as otherwise provided, the definitions in subparts A and C of this part apply to this subpart.

§ 90.1203 Voluntary Manufacturer In-Use Testing Program.

(a) Manufacturers may elect to participate in the voluntary in-use testing program by notifying the Administrator in writing of their intent to conduct emissions testing on in-use engines prior to the beginning of each model year. The notification must include a list of engine families the manufacturer has selected to include in the testing program.

(b) Each engine family included in the voluntary in-use testing program is exempted from the Production Line Testing requirements according to § 90.701(c) for two model years, the current model year and the subsequent model year. Manufacturers may only include up to twenty percent of their eligible engine families in this in-use testing program each model year.

(c) The manufacturer must randomly select or procure a minimum of three engines, from each family included in the voluntary program, for emissions testing. These three engines may be selected or procured from:

- (1) Existing consumer or independently owned fleets,
- (2) Existing manufacturer owned fleets, or
- (3) The production line and placed into either manufacturer or consumer owned fleets. Although a minimum of three engines must be emissions tested from each engine family in this testing program, a manufacturer may elect to emissions test more than three engines per family.

(d) The manufacturer or the manufacturer's designee must:

- (1) Age the selected engines in equipment representing the top 50 percent, by production, of available equipment for the engine family.
- (2) Age the selected engines to at least 75 percent of each engines' useful life as determined pursuant to § 90.105.
- (3) Age the engine/equipment combination in actual field conditions encountered with typical use of the equipment as described in the owner's manual or other literature sold with the equipment or engine.

(e) Documents obtained in the procurement or aging process must be maintained as required in § 90.121.

(f) The manufacturer must complete testing within three calendar years from the time they notified the Administrator of their intent to participate in the voluntary in-use testing program, unless otherwise approved by the Administrator; the Administrator will give such approval upon acceptance of documentation demonstrating that appropriate in-use testing will take a longer period of time.

§ 90.1204 Maintenance, aging and testing of engines.

(a) Prior to aging the engines and after appropriate stabilization, manufacturers may optionally conduct emissions testing on the engines, according to the test procedures described in subpart E of this part. These tests to serve as baseline references.

(b) Manufacturers must obtain information regarding the accumulated usage, maintenance, operating conditions, and storage of the test engines.

(1) The manufacturer may take reasonable measures to assure that the engines and equipment were properly used and maintained during the field aging process, but additional maintenance to that indicated in the owners manual or other literature sold with the equipment or engine is prohibited.

(2) Unless otherwise approved by the Administrator, once a manufacturer begins aging and/or testing an engine, the manufacturer may not remove that engine from the selected sample unless that engine experiences catastrophic mechanical failure or safety concerns requiring major engine repair.

(c) The manufacturer may perform minimal set-to-spec maintenance on components of a test engine that are not subject to parameter adjustment. Components subject to parameter adjustment must be sealed and tamperproof and may not be adjusted for testing. Unless otherwise approved

by the Administrator, maintenance to any test engine may include only that which is listed in the owner's instructions for engines with the amount of service and age of the test engine.

(d) After aging each engine to at least 75 percent of the engine's useful life as determined pursuant to § 90.105, at least one valid emission test, according to the test procedure outlined in subpart E of this part, is required for each test engine. Data from other emission testing or performance testing performed on a test engine must be supplied to EPA, and may not be used for the purpose of determining the need for maintenance on an engine.

(e) Documents obtained in the procurement, aging, maintenance, or testing process must be maintained as required in § 90.121.

§ 90.1205 In-use test program reporting requirements.

(a) The manufacturer shall submit to the Administrator within ninety (90) days of completion of testing for a given model year's engines, all emission testing results generated from the voluntary in-use testing program. The following information must be reported for each test engine:

- (1) Engine family;
- (2) Model;
- (3) Application;
- (4) Engine serial number;
- (5) Date of manufacture;
- (6) Hours of use;
- (7) Date and time of each test attempt;
- (8) Results (if any) of each test attempt;
- (9) Schedules, descriptions and justifications of all maintenance and/or adjustments performed;
- (10) Schedules, descriptions and justifications of all modifications and/or repairs; and

(11) A listing of any test engines that were deleted from the aging process or testing process and technical justifications to support the deletion.

(b) All testing reports and requests for approvals made under this subpart shall be addressed to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, Washington, D.C. 20460.

§ 90.1206 [Reserved]**§ 90.1207 Entry and access.**

(a) To allow the Administrator to determine whether a manufacturer is complying with the provisions under this subpart, EPA enforcement officers or their authorized representatives, upon presentation of credentials, shall be permitted entry, during operating hours, into any of the following places:

(1) Any facility where engines undergo or are undergoing aging, maintenance, repair, preparation for aging, selection for aging or emission testing.

(2) Any facility where records or documents related to any of activities described in paragraph (a)(1) of this section are kept.

(3) Any facility where any engine that is being tested or aged, was tested or aged or will be tested or aged is present.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA enforcement officers or EPA authorized representatives are authorized to perform those activities set forth in § 90.705 (b) and also to inspect and make copies of records

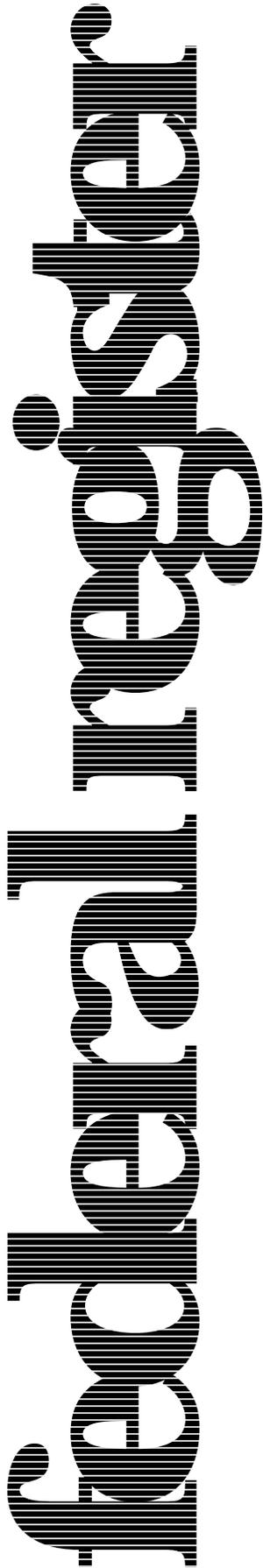
related to engine aging (service accumulation) and maintenance.

(c) The provisions of § 90.705(c), (d), (e), (f) and (g) also apply to entry and access under this subpart.

§§ 90.1208—90.1249 [Reserved]

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**Tuesday
March 30, 1999**

Part III

**Department of
Agriculture**

**Cooperative State Research, Education,
and Extension Service**

**Request for Proposals (RFP): Special
Research Grants Program, Potato
Research; Notice**

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****Request for Proposals (RFP): Special
Research Grants Program, Potato
Research**

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Proposals and Request for Input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Special Research Grants Program, Potato Research for fiscal year (FY) 1999. Subject to the availability of funds, the anticipated amount available for support of this program in FY 1999 is \$1,216,279.

This notice sets out the objectives for these projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Potato Research Project grant.

By this notice, the Cooperative State Research, Education, and Extension Service additionally solicits stakeholder input from any interested party regarding the FY 1999 request for proposals for the Special Research Grants Program, Potato Research, for use in the development of the next request for proposals for this program.

DATES: Applications must be received on or before May 14, 1999. Proposals received after May 14, 1999, will not be considered for funding.

ADDRESSES: Written comments regarding stakeholder input should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA-CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding.

FOR FURTHER INFORMATION CONTACT: Dr. James Parochetti; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2220; telephone: (202) 401-4354; Internet: jparochetti@reeusda.gov.

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Part I—General Information*A. Legislative Authority*

The authority for this program is contained in section (c)(1)(B) of the Competitive, Special, and Facilities Research Grant Act, in section 2 of Pub. L. No. 89-106, as amended (7 U.S.C. 450i(c)(1)(B)). The administrative regulations at 7 CFR part 3400 for Special Grants Programs awarded under the authority of section 2(c)(1)(A) of this Act (7 U.S.C. 450i(c)(1)(A)) do not apply

to grants solicited and awarded under this RFP.

In accordance with the statutory authority, grants awarded under this program will be for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—(i) promote excellence in research on a regional and national level; (ii) promote the development of regional research centers; (iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and (iv) facilitate coordination and cooperation of research among States through regional research grants.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) Administrator means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved may be delegated.

(2) Authorized departmental officer means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) Authorized organizational representative means the president, chief executive officer or functional equivalent of the applicant organization or the official, designated by the president, chief executive officer or functional equivalent of the applicant organization, who has the authority to commit the resources of the organization.

(4) Budget period means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) Department or USDA means the United States Department of Agriculture.

(6) Grantee means the entity designated in the grant award document as the responsible legal entity to which a grant is awarded.

(7) Peer review panel means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields.

(8) Principal Investigator/Project Director means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the

direction and management of the project. Note that a proposal may have multiple secondary co-principal investigators/project directors but only one principal investigator/project director.

(9) Prior approval means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(10) Project means the particular activity within the scope of the program supported by a grant award.

(11) Project period means the total length of time that is approved by the Administrator for conducting the research project, as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

(12) Scientific peer review means an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work.

(13) Secretary means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved may be delegated.

C. Eligibility

Proposals may be submitted by State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, as amended (16 U.S.C. 582a *et seq.*), and accredited schools or colleges of veterinary medicine. The proposals must be directly related to potato varietal development/testing. Although an applicant may be eligible based on its status as one of these entities, other factors may exclude an applicant from receiving Federal assistance under this program (e.g., debarment or suspension, a determination of non-responsibility based on submitted organizational management information).

Part II—Program Description

A. Purpose of the Program

Proposals are invited for competitive grant awards under the Special Research Grants Program, Potato Research for FY 1999. The purpose of this grant program is to support potato research that focuses on varietal development/testing. As used herein, varietal development/testing is research using traditional and biotechnological genetics to develop improved potato variety(ies). Aspects of evaluation, screening and testing must

support or complement the development of improved varieties. This program is administered by CSREES of USDA.

B. Available Funds and Award Limitations

Funds will be awarded on a competitive basis to support regional research projects that are composed of potato research that focuses on varietal development/testing. For purposes of this program, regional research means research having application beyond the immediate State in which the awardee resides and performs the project. The total amount of funds available in FY 1999 for support of this program is approximately \$1,216,279. Each proposal submitted in FY 1999 shall request funding for a period not to exceed one year. Funding for additional years will depend upon the availability of funds and progress toward objectives. FY 1999 awardees would need to recompile in future years for additional funding.

Under this program, and subject to the availability of funds, the Secretary may make grant awards for the support of research projects available for up to three years to further the program.

C. Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. § 450i(c)), as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 ("1998 Act"), Pub. L. No. 105-185, requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement currently are the subject of a proposed rule making (64 FR 14347, March 24, 1999). The statute requires promulgation of a final rule prior to award of a grant under this program. The proposed rule would impose the following requirements for scientific peer review by applicants of proposed research projects:

1. *Credible and independent.* Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA

employees, but should not be conducted solely by USDA employees.

2. *Notice of completion and retention of records.* A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

4. *Scientific Peer Review.* Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

Because of the nature of the rule making process, these requirements are subject to change based upon the comments received. Applicants whose proposals are recommended for funding must comply with the review requirements as promulgated in the final rule as a condition precedent to receiving an award under this RFP.

Part III—Content of a Proposal

All applications should be typed on 8 1/2" x 11" white paper, single-spaced, and on one side of the page only. It would be helpful if the name of the submitting institution were typed at the top of each page for easy identification in the event the proposal becomes disassembled while being reviewed. All proposals must contain the following forms and narrative information to assist CSREES personnel during the review and award processes:

A. Application for Funding (Form CSREES-661)

Each copy of each grant proposal must contain an Application for Funding, (Form CSREES-661). One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed principal investigator or co-principal investigator whose signature does not appear on Form CSREES-661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the Application for Funding form.

Form CSREES-661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

1. *Title of Project (Block 6)*. The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as "investigation of" or "research on" should not be used.

2. *Program to Which You Are Applying (Block 7)*. "Special Research Grants Program, Potato Research" should be inserted in this block. You may ignore the reference to a **Federal Register** announcement.

3. *Program Area and Number (Block 8)*. The name of the program area, "Potato Research," should be inserted in this block. You should ignore references to the program number and the **Federal Register** announcement.

4. *Type of Award Request (Block 13)*. If the project being proposed is a renewal of a grant that has been supported under the same program at any time during the previous five fiscal years, it is important that you show the latest grant number assigned to the project by CSREES.

5. *Principal Investigator(s) (Block 15)*. The designation of excessive numbers of co-principal investigators creates problems during final review and award processes. Listing multiple co-principal investigators, beyond those required for genuine collaboration, is therefore discouraged.

6. *Type of Performing Organization (Block 18)*. A check should be placed in

the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box "03" should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15 a.

7. *Other Possible Sponsors (Block 22)*. List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES program manager as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided.

B. Table of Contents

For consistency and ease of locating information, each proposal submitted should contain a Table of Contents.

C. Objectives

Clear, concise, complete, and logically arranged statement(s) of the specific aims of the proposed effort must be included in all proposals. For renewal applications, a restatement of the objectives outlined in the active grant also should be provided.

D. Progress Report

If the proposal is a renewal of an existing project supported under the same program, include a clearly identified summary progress report describing the results to date. The progress report should contain the following information:

1. A comparison of actual accomplishments with the goals established for the active grant;
2. The reasons for slippage if established goals were not met;
3. Other pertinent information, including, when appropriate, cost analysis and explanation of cost overruns or unexpectedly high unit costs.

E. Procedures

The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

1. A description of the proposed investigations and/or experiments in the sequence in which it is planned to carry them out;
2. Techniques to be employed, including their feasibility;
3. Kinds of results expected;
4. Means by which data will be analyzed or interpreted;
5. Pitfalls which might be encountered; and
6. Limitations to proposed procedures.

F. Justification

This section should include in-depth information on the following, when applicable:

1. Estimates of the magnitude of the problem and its relevance to ongoing State-Federal food and agricultural research programs;
2. Importance of starting the work during the current fiscal year; and
3. Reasons for having the work performed by the proposing institution.

G. Cooperation and Institutional Units Involved

Cooperative and multi-state applications are encouraged. Identify each institutional unit contributing to the project. Identify each State in a multiple-state proposal and designate the lead State. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional unit of the project team, if applicable.

H. Literature Review

A summary of pertinent publications with emphasis on their relationship to the effort being proposed should be provided and should include all important and recent publications from other institutions, as well as those from the applicant institution. The citations themselves should be accurate, complete, and written in an acceptable journal format.

I. Current Work

Current unpublished institutional activities to date in the program area under which the proposal is being submitted should be described.

J. Facilities and Equipment

All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. Any potentially hazardous materials, procedures, situations, or activities, whether or not directly related to a particular phase of the effort, must be explained fully, along with an outline of

precautions to be exercised. Examples include work with toxic chemicals and experiments that may put human subjects or animals at risk.

All items of major instrumentation available for use or assignment to the proposed project also should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

K. Project Timetable

The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

L. Personnel Support

All senior personnel who are expected to be involved in the effort must be clearly identified. For each person, the following should be included:

1. An estimate of the time commitment involved;
2. Vitae of the principal investigator(s), senior associate(s), and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings; and

3. A chronological listing of the most representative publications during the past five years. This listing must be provided for each professional project member for whom a vita appears. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

M. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with other individuals or organizations, such arrangements should be fully explained and justified. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements should be explained and justified in this section. A proposed statement of work, a curriculum vitae and a budget for each arrangement

involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR Part 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from 7 CFR Part 3019 Sections 40–48 (Procurement Standards) and Appendix A (Contract Provisions) should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension. This latter requirement is explained further under subsection Q of these guidelines.

N. Budget (Form CSREES-55)

Each proposal must contain a detailed budget (Form CSREES-55) for up to 12 months of support. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is sought is allowable under the enabling legislation and the applicable Federal cost principles and can be identified as necessary and reasonable for the successful conduct of the project.

The following guidelines should be used in developing your proposal budget:

1. **Salaries and Wages.** Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution and with OMB Circular No. A-21, Cost Principles for Educational Institutions. Administrative and Clerical salaries are normally classified as indirect costs. (See Item 9.

below.) However, if requested under A.2.e., they must be fully justified.

Note: In accordance with Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, tuition remission is not an allowable cost under Section 2(c)(1)(B) projects, and no funds will be approved for this purpose.

2. **Fringe Benefits.** Funds may be requested for fringe benefit costs if the usual accounting practices of your institution provide that institutional contributions to employee benefits (social security, retirement, etc.) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project. See OMB Circular No. A-21, Cost Principles for Educational Institutions, for further guidance in this area.

3. **Nonexpendable Equipment.** Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

Note: For projects awarded under the authority of Sec. 2(c)(1)(B) of Pub. L. No. 89-106, no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

4. **Materials and Supplies.** The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs.

5. **Travel.** The type and extent of travel and its relationship to project objectives should be specified. Funds may be requested for field work or for travel to professional meetings. In the budget narrative, for both domestic and foreign travel, provide the purpose, the destination, method of travel, number of persons traveling, number of days, and estimated cost for each trip. If details of each trip are not known at the time of proposal submission, provide the basis for determining the amount requested.

Travel and subsistence should be in accordance with organizational policy. Irrespective of the organizational policy, allowances for airfare will not normally exceed round trip jet economy air accommodations. Please note that 7 CFR Part 3015.205 is applicable to air travel.

6. *Publication Costs/Page Charges.*

Anticipated costs of preparing and publishing results of the research being proposed (including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) may be estimated and charged against the grant.

7. *Computer (ADPE) Costs.*

Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. *All Other Direct Costs.* Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified on a separate sheet of paper attached to Form CSREES-55. This applies to revised budgets as well, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, charges for consulting services, telephone, facsimile, e-mail, shipping costs, and fees for necessary laboratory analyses. You are encouraged to consult the "Instructions for Completing Form CSREES-55, Budget," of the Application Kit for detailed guidance relating to this budget category.

9. *Indirect Costs.* Pursuant to Section 1473 of the National Agriculture Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3319, indirect costs are not allowable costs under Section 2(c)(1)(B) projects, and no funds will be approved for this purpose. Further, costs that are a part of an institution's indirect cost pool (e.g., administrative or clerical salaries) may not be reclassified as direct costs for the purpose of making them allowable.

10. *Cost-sharing.* Cost-sharing is encouraged; however, cost-sharing is not required nor will it be a direct factor in the awarding of any grant.

O. *Current and Pending Support (Form CSREES-663)*

All proposals must contain Form CSREES-663 listing this proposal and any other current or pending support to which key project personnel have committed or are expected to commit portions of their time, whether or not salary support for the person(s) involved is included in the budget. This proposal should be identified in the pending section of this form.

P. *Assurance Statement(s) (Form CSREES-662)*

A number of situations encountered in the conduct of projects require special assurance, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will include the following:

1. *Recombinant DNA or RNA Research.* As stated in 7 CFR Part 3015.205(b)(3), all key personnel identified in the proposal and all signatory officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. If your project proposes to use recombinant DNA or RNA techniques, the application must so indicate by checking the "yes" box in Block 19 of Form CSREES-661 (Application for Funding) and by completing Section A of Form CSREES-662 (Assurance Statement(s)). For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

2. *Animal Care.* Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel and all signatory officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1996, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3 and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals or activities, you must check the "yes" box in Block 20 of Form CSREES-661 and complete Section B of Form CSREES-662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

3. *Protection of Human Subjects.* Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in

the National Research Act, Pub. L. No. 93-348, as amended, and implementing regulations established by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the "yes" box in Block 21 of Form CSREES-661 and complete Section C of Form CSREES-662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

Q. *Certifications*

Note that by signing the Application for Funding form the applicant is providing the required certifications set forth in 7 CFR Part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The certification forms are included in this application package for informational purposes only. These forms should not be submitted with your proposal since by signing the Form CSREES-661 your organization is providing the required certifications.

If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD-1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

R. *Compliance With the National Environmental Policy Act*

As outlined in 7 CFR Part 3407 (CSREES's implementing regulations of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*)), environmental data or documentation for the proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA, which includes determining whether the project requires an Environmental Assessment or an Environmental Impact Statement or whether it can be excluded from this requirement on the basis of several categorical exclusions. To assist CSREES in this determination, the applicant should review the categories defined for exclusion to ascertain whether the proposed project may fall within one of the exclusions.

Form CSREES-1234, NEPA Exclusions Form (copy in Application Kit), indicating the applicant's opinion of whether or not the project falls within one or more categorical exclusions, along with supporting documentation, must be included in the proposal. The information submitted in association with NEPA compliance should be

identified in the Table of Contents as "NEPA Considerations" and Form CSREES-1234 and supporting documentation should be placed after the Form CSREES-661, Application for Funding, in the proposal.

The following Categorical Exclusions apply:

(1) USDA Categorical Exclusions (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law

enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSREES Categorical Exclusions (7 CFR 3407.6(a)(2))
Based on previous experience, the following categories of CSREES actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

Even though the applicant considers that a proposed project may fall within

a categorical exclusion, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for a proposed project if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

S. Additions to Project Description

Each project description is expected to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in Part V(A) below. Each set of such materials must be identified with the title of the project and the name(s) of the principal investigator(s)/project director(s) as they appear on the "Application for Funding." Examples of additional materials include photographs that do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the body of the proposal.

Part IV—How To Obtain Application Materials

Copies of this solicitation and the Application Kit may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., S.W.; Washington D.C. 20250-2245; Telephone: (202) 401-5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program, Potato Research.

These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov which states that you want a copy of the application materials for the FY 1999 Special Research Grants Program, Potato Research. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Part V—Submission of a Proposal

A. What To Submit

An original and three copies of each grant proposal must be submitted. Proposals should contain all requested information when submitted. Each proposal should be typed on 8½" x 11" white paper, single-spaced, and on one side of the page only. Please note that

the text of the proposal should be prepared using no type smaller than 12 point font size and one-inch margins. Staple each copy of the proposal in the upper left-hand corner. Please do not bind copies of the proposal.

B. Where and When To Submit

Proposals must be received on or before May 14, 1999, and submitted to the following mailing address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Ave., SW.; Washington, DC 20250-2245; Telephone: (202) 401-5048.

Note: Hand-delivered proposals or those delivered by overnight express service should be brought to the following address: Special Research Grants Program, Potato Research; c/o Proposal Services Unit, Office of Extramural Programs; CSREES/USDA; Room 303, Aerospace Center; 901 D Street, SW.; Washington, DC 20024. The telephone number is (202) 401-5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged in writing and this acknowledgment will contain a proposal identification number. Once your proposal has been assigned an identification number, please cite that number in future correspondence.

Part VI—CSREES Selection Process and Evaluation Criteria

A. Selection Process

Applicants should submit fully developed proposals that meet all the requirements set forth in this request for proposals.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure that it meets the requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a scientific peer review panel.

The individual panel members will be selected from among those persons recognized as specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of the proposals being reviewed. The individual views of the panel members will be used to determine which proposals should be recommended to the Administrator (or his designee) for final funding decisions.

There is no commitment by CSREES to fund any particular proposal or to make a specific number of awards. Care

will be taken to avoid actual and potential conflicts of interest among reviewers. Evaluations will be confidential to CSREES staff members, peer reviewers, and the proposed principal investigator(s), to the extent permitted by law.

B. Evaluation Criteria

1. Overall scientific and technical quality of the proposal—10 points.
2. Scientific and technical quality of the approach—10 points.
3. Relevance and importance of proposed research to solution of specific areas of inquiry, and application of expected results for States beyond the State in which the grantee resides and will perform the work—30 points.
4. Feasibility of attaining objectives; adequacy of professional training and experience, facilities and equipment; the cooperation and involvement of multiple institutions or states—50 points.

Part VII—Supplementary Information

A. Access to CSREES Scientific Peer Review Information

After final decisions have been announced, CSREES will, upon request, inform the principal investigator of the reasons for its decision on a proposal.

B. Grant Awards

1. General: Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program area and procedures set forth in this request for proposals. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (Parts 3015, and 3019, of 7 CFR).

2. Organizational Management Information: Specific management information relating to an applicant shall be submitted on a one-time basis

as part of the responsibility determination prior to the award of a grant if such information has not been provided previously under this or another program for which the sponsoring agency, CSREES, is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by CSREES as part of the pre-award process.

3. Grant Award Document: The grant award document shall include at a minimum the following:

- a. Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under this program;
- b. Title of Project;
- c. Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;
- d. Grant identification number assigned by the Department;
- e. Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;
- f. Total amount of Departmental financial assistance approved by the Administrator during the project period;
- g. Legal authority(ies) under which the grant is awarded;
- h. Approved budget plan for categorizing project funds to accomplish the stated purpose of the grant award; and
- i. Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

4. Notice of Grant Award: The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

5. CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without any guarantee of additional support at a future date.

C. Use of Funds; Changes

Unless otherwise stipulated in the terms and conditions of the grant award, the following provisions apply:

1. Delegation of Fiscal Responsibility: The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

2. Changes in Project Plans:

- a. The permissible changes by the grantee, principal investigator(s), or

other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer for a final determination.

- b. Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Authorized Departmental Officer prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

- c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

- d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Authorized Departmental Officer prior to effecting such transfers.

- e. Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the Authorized Departmental Officer determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the Authorized Departmental Officer, unless prescribed otherwise in the terms and conditions of a grant.

- f. Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the authorized departmental officer prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal costs principles, Departmental regulations, or in the grant award document.

D. Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3, implementation of OMB Circular No. A-129 regarding debt collection.

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A-21, and A-122) and incorporating provisions of 31 U.S.C. 6301-6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95-224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052, 62 FR 45947—USDA implementation of OMB Circular No. A-133, Audits of States, Local Governments, and Nonprofit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National

Environmental Policy Act of 1969, as amended.

29 U.S.C. 794, section 504 of the Rehabilitation Act of 1973, and 7 CFR Part 15B (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal.

The original copy of a proposal that does not result in a grant will be retained by CSREES for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope

of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524-0022.

G. Stakeholder Input

CSREES is soliciting comments regarding this request for proposals from any interested party. These comments will be considered in the development of the next request for proposals for the program as needed. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105-185). This section requires the Secretary to solicit and consider input on a current request for proposals from persons who conduct or use agricultural research, education, or extension for use in formulating the next year's request for proposals for an agricultural research program funded on a competitive basis.

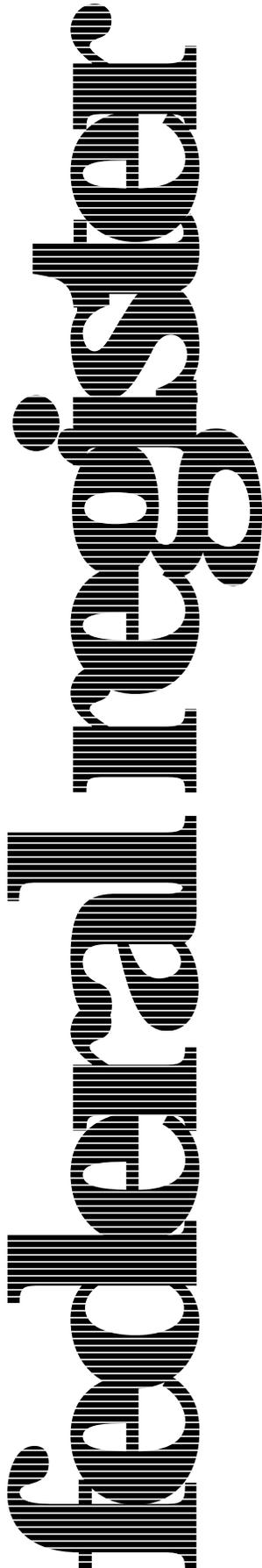
In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding. Comments are requested within six months from the issuance of the request for proposals. Comments received after that date will be considered to the extent practicable.

Done at Washington, D.C., this 19th day of March, 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.
[FR Doc. 99-7686 Filed 3-29-99; 8:45 am]

BILLING CODE 3410-22-P



Tuesday
March 30, 1999

Part IV

**Department of
Agriculture**

Cooperative State Research, Education,
and Extension Service

**Special Research Grants Program—Pest
Management Alternatives Research:
Special Program Addressing Food Quality
Protection Act Issues for Fiscal Year
1999; Request for Proposals; Notice**

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****Special Research Grants Program—
Pest Management Alternatives
Research: Special Program
Addressing Food Quality Protection
Act Issues for Fiscal Year 1999;
Request for Proposals**

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of availability of grant funds, request for proposals and request for input.

SUMMARY: Proposals are invited for competitive grant awards under the Special Research Grants Program titled "Pest Management Alternatives Program: Addressing Food Quality Protection Act Issues for Fiscal Year 1999." This program addresses anticipated changes in pest management on food, feed, livestock, and ornamental commodities resulting from implementation of the Food Quality Protection Act of 1996 (FQPA).

The goals of this program are to: (1) Develop and demonstrate alternatives and possible mitigation strategies to ensure that crop producers have reliable methods of managing pests; and (2) Develop crop profiles that summarize production practices, pesticide use/usage data, and available pest management alternatives for pesticides considered a high priority for tolerance reassessment under FQPA.

By this notice, the Cooperative State Research, Education, and Extension Service (CSREES) additionally solicits stakeholder input from any interested party regarding the FY 1999 solicitation of applications for use in the development of the next request for proposals for this program.

DATES: Proposals are due June 1, 1999.

ADDRESSES: Written comments regarding stakeholder input should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA-CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding.

FOR FURTHER INFORMATION CONTACT: Steve Yaninek, Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture;

Mail Stop 2220; 1400 Independence Avenue, SW; Washington, D.C. 20250-2220. Telephone: (202) 401-6702; fax number: (202) 401-6869; e-mail address: syaninek@reeusda.gov.

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Authority and Eligibility

This program is administered by CSREES, United States Department of Agriculture (USDA). The authority is contained in section (c)(1)(A) of the Competitive, Special, and Facilities Research Grant Act, in section 2 of Pub. L. No. 89-106, as amended (7 U.S.C. 450i(c)(1)(A)). Under this authority, subject to the availability of funds, the Secretary may make grants, for periods not to exceed three years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States.

Proposals from scientists affiliated with non-United States organizations are not eligible for funding nor are scientists who are directly or indirectly engaged in the development of pest management tactics for profit; however, their collaboration with funded projects is encouraged.

The Pest Management Alternatives Program was established to support the development and implementation of pest management alternatives when regulatory action by the Environmental Protection Agency (EPA) or voluntary cancellation by the registrant results in the unavailability of certain agricultural pesticides or pesticide uses. These activities pertain to pesticides identified for possible regulatory action under section 210 of the FQPA, Pub. L. No. 104-170, which amends the Federal Insecticide, Fungicide, and Rodenticide Act. The program has been developed

pursuant to the Memorandum of Understanding (MOU) between USDA and EPA signed August 15, 1994, and amended April 18, 1996, which establishes a coordinated framework for these two agencies to support programs that make alternative pest management materials available to agricultural producers. In this MOU, USDA and EPA agreed to cooperate in conducting the research, technology transfer, and registration activities necessary to address pest management alternatives needed in agriculture. Because of the importance of FQPA, USDA created the Office of Pest Management Policy (OPMP) in 1997 to coordinate FQPA activities within the Department. OPMP found significant gaps in the information available on pesticide use/usage and requested help in developing crop profiles. This program responded in 1998 by linking up with the National Agricultural Pesticide Impact Assessment Program (NAPIAP) to help develop urgently needed crop profiles while continuing the development of critical mitigation strategies. This effort continues in 1999, but will be phased out in the future as the urgency declines and NAPIAP assumes primary responsibility for the profiles.

Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. § 450i(c)), as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 ("1998 Act"), Pub. L. No. 105-185, requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement currently are the subject of a proposed rule making (64 FR 14347, March 24, 1999). The statute requires promulgation of a final rule prior to award of a grant under this program. The proposed rule would impose the following requirements for scientific peer review by applicants of proposed research projects:

1. *Credible and independent.* Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA

employees, but should not be conducted solely by USDA employees.

2. *Notice of completion and retention of records.* A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

4. *Scientific Peer Review.* Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be selected from an applicant organization or from outside the organization, but shall not include principal or co-principal investigators, collaborators or others involved in the preparation of the application under review.

Because of the nature of the rule making process, these requirements are subject to change based upon the comments received. Applicants whose proposals are recommended for funding must comply with the review requirements as promulgated in the final rule as a condition precedent to receiving an award under this RFP.

Available Funding

The amount available for support of this program in fiscal year (FY) 1999 is approximately \$1,500,000. It is anticipated that EPA will also provide support to the program. Section 711 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 1999, section 101(a) of Pub. L. No. 105-277, prohibits CSREES from paying indirect costs on competitively awarded research grants that exceed 14 percent of total Federal funds provided for each award under this program.

Applicable Regulations

This program is subject to the administrative provisions for the Special Research Grants Program found in 7 CFR Part 3400, which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the processes regarding the awarding of grants, and regulations relating to the post-award administration of such grants. However, where there are differences between this RFP and the administrative provisions, this RFP shall take precedence to the extent that the administrative provisions authorize such deviations. Other Federal statutes and regulations apply to grant proposals considered for review or to grants awarded under this program. These include, but are not limited to:

7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and 7 CFR Part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Program Description

This competitive grants program supports efforts to modify existing pest management approaches or develop new methods that address needs created by the implementation of FQPA. The program also addresses the need for collection of information for regulatory decision making and for prioritization of research and education needs. This information includes crop profiles, pesticide use and usage on commodities (including livestock and ornamentals), potential alternatives for pesticides on EPA's priority list (see Appendix I), integrated pest management programs, pesticide resistance management strategies, and potential mitigation strategies for reducing dietary risk.

In FY 1999, CSREES will provide funding for projects that: (1) Identify and develop replacement or mitigation technologies for pesticides included on EPA's priority list (Appendix I) and/or (2) Develop crop profiles summarizing practices for specific commodities (including livestock and ornamentals) (see Appendix II). Proposals may develop replacement or mitigation technologies (Objective 1), develop crop profiles (Objective 2), or develop both replacement or mitigation technologies and crop profiles. Applicants that address only replacement or mitigation technologies are not restricted to the crops listed in Appendix II, but must document that a crop profile has been or is being developed, or provide

compelling evidence otherwise as to the importance of their proposed research.

Proposals will show evidence that producers, commodity groups, and other affected user groups are involved in project design and will be supportive of the project if funded. Public-private partnerships and matching resources from non-Federal sources, including producer or commodity groups, are encouraged. Proposals should show potential for commercialization (including product registration if necessary) of any new technologies that are developed. Applicants are strongly encouraged to collaborate with staff involved in university Pesticide Impact Assessment Programs (PIAP) and Integrated Pest Management programs to develop crop profiles. The two objectives are described below.

I. Replacement or Mitigation Technologies

The focus should be on modification of existing approaches or introduction of new methods, especially biologically based methods, that can be rapidly brought to bear on pest management challenges resulting from implementation of FQPA. Durability and practicality of the proposed pest management option(s) or mitigation procedure(s), and compatibility with integrated pest management systems, are critical. Both technological and economic feasibility should be considered. Pest management alternatives or risk mitigation options identified should address various risk concerns including dietary, occupational and non-occupational exposure, ground and surface water, and other ecological risks. Applicants must document that a crop profile has been or is being developed for the crop targeted in the proposal, or provide compelling evidence otherwise as to the importance of their proposed research.

II. Crop Profiles

Profiles are needed for commodities (see Appendix II) that depend heavily on pesticides included on EPA's priority list (see Appendix I). Profiles should document the importance of priority pesticides to pest management on the commodities addressed by the proposal. Profiles should describe the production process and provide data on pesticide use (how, why, what, when and where pesticides are used) and usage (how much is used, e.g., percentage crop treated) patterns, pest management practices used by growers, and pest management practices ready for implementation but not yet widely used. Profiles should also indicate whether pesticides on the priority list

(Appendix I) are important to integrated pest management programs or to strategies to manage resistance to other pesticides, and whether there are any potential labeled or unlabeled alternatives (chemical or nonchemical) to replace priority list pesticides on a specific commodity. Alternatives can include other pesticides, biological controls, pest resistant varieties, or cultural practices. In addition, practices or procedures that have the potential to mitigate dietary risk from priority list pesticides should be described. Crop profiles should follow the format presented in Appendix III. Potentially affected growers or commodity groups must be involved in the development of crop profiles. While priority will be given to proposals addressing one or more commodities (see Appendix II) that depend heavily on pesticides included on EPA's priority list (see Appendix I), proposals addressing commodities not included in the list will be considered. Consult the website listed at the end of either Appendix II & III for a current list of crop profiles that are either completed or in progress to avoid duplicate efforts. Profiles must be completed within twelve months after receipt of funding.

Note: The development of replacements for methyl bromide is being supported by other agencies (e.g. see the USDA/ARS website: http://www.ars.usda.gov/is/cgi-bin/ffp.pl/is/np/mba/oct96/epa.htm?methyl+bromide+alternatives+grants#first_hit) and will not be supported by the Pest Management Alternatives Program.

Proposal Format

Each project description shall be complete in itself. The administrative provisions governing the Special Research Grants Program, 7 CFR Part 3400, set forth instructions for the preparation of grant proposals. The following requirements deviate from those contained in section 3400.4(c). The following provisions of this solicitation shall apply. Proposals should adhere to the format requirements for the specific objective addressed by the proposal format below. Items three through six should be no more than 12 pages in length, numbered, and single-spaced with text on one side of the page using a 12 point (10 cpi) type font size and one-inch margins.

(1) *Application for Funding (Form CSREES-661)*. All proposals must contain an Application for Funding (Form CSREES-661), which must be signed by the proposed principal investigator(s) and by the cognizant Authorized Organizational Representative who possesses the

necessary authority to commit the applicant's time and other relevant resources. Principal investigators who do not sign the proposal cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent the major emphasis of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(2) *Table of Contents*. For ease in locating information, each proposal must contain a detailed table of contents just after the proposal cover page. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(3) *Executive Summary*. Describe the project in terms that can be understood by a diverse audience of university personnel, producers, various public and private groups, budget staff, and the general public. This should be on a separate page, no more than one page in length and have the following format: Name(s) of principal investigator(s) and institutional affiliation, project title, key words, and project summary.

(4) *Problem Statement*. Identify the pest management problem addressed, its significance, and options for solution. Identify the commodity(ies) (from the commodity list for crop profiles, Appendix II) and the pesticides (from the priority list, Appendix I) that will be addressed by the proposed project. Proposals can address commodities not listed in Appendix II as long as priority pesticides are used in the production system. Describe the production area addressed (including acreage), frequency and severity of losses to pests controlled with priority pesticides (Appendix I), and the potential applicability to other production regions (if the proposal addresses Objective 1). For crop profiles, provide sources of data and other information on pesticide use, usage patterns, and pest management practices. As appropriate, proposals should address issues as they relate to current integrated pest management and crop production practices, technologic and economic feasibility of potential new practices, and their potential durability.

(5) *Objectives*. Provide clear, concise, complete, and logically arranged statements of the specific aims of the proposed effort.

(6) *Research, Education, and Technology Transfer Plan*. This section is only needed if the proposed project includes development of replacement or mitigation technologies (Objective 1). Proposals should provide a detailed plan for the research, education, and technology transfer required to implement the alternative solution in the field, and should identify milestones.

(7) *Literature Cited*. A concise list of key references cited in the proposal should be included in this section.

(8) *User Involvement*. Describe role of producers, commodity groups, and other end-users in identifying the need for the work being proposed, and their anticipated involvement in the project if funded. Competitive proposals will demonstrate involvement of affected user groups in project design, implementation, and funding.

(9) *Facilities and Equipment*. All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully complete the proposed project should be listed with the amount and justification for each item.

(10) *Collaborative Arrangements*. If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Funding contributions by collaborators that will be used to accomplish the stated objectives should be identified. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(11) *Personnel Support*. To assist peer reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be clearly identified. For each principal investigator involved, and for all senior associates and other professional personnel who are expected to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary.

(ii) Curriculum vitae. The curriculum vitae should be limited to a presentation

of academic and research credentials, or commodity production knowledge or experience with that commodity (e.g., educational, employment and professional history, and honors and awards). Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. Each vitae shall be no more than two pages in length, excluding the publication lists.

(iii) *Publication list(s)*. A chronological list of all publications in refereed journals during the past four years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these items usually appear in journals.

(12) *Budget*. A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose (Form CSREES-55), along with instructions for completion, is included in the Application Kit and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute. However, the recovery of indirect costs under this program may not exceed the lesser of the grantee institution's official negotiated indirect cost rate or the equivalent of 14 percent of total Federal funds awarded. This limitation also applies to the recovery of indirect costs by any sub-awardee or subcontractor, and should be reflected in the sub-recipient budget.

Note: For projects awarded under the authority of Sec. 2(c)(1)(A) of Pub. L. No. 89-106, no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(13) *Research Involving Special Considerations*. If it is anticipated that the research project will involve recombinant DNA or RNA research, experimental vertebrate animals, or human subjects, an Assurance Statement, Form CSREES-662, must be completed and included in the

proposal. Please note that grant funds will not be released until CSREES receives and approves documentation indicating approval by the appropriate institutional committee(s) regarding DNA or RNA research, animal care, or the protection of human subjects, as applicable.

(14) *Current and Pending Support*. All proposals must contain Form CSREES-663 listing this proposal and any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator of CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program.

(15) *Additions to Project Description*. The Administrator of CSREES, the members of peer review groups, and the relevant program staff expect each project description to be complete given the page limit established in this section (Proposal Format). However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs that do not reproduce well, reprints, and other pertinent materials that are deemed to be unsuitable for inclusion in the text of the proposal), then 20 copies of the materials should be submitted. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

Note: Specific organizational management information relating to an applicant shall be submitted on a one-time basis prior to the award of a grant for this program if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. If necessary, USDA will contact an applicant to request organizational management information once a proposal has been recommended for funding.

Compliance With the National Environmental Policy Act

As outlined in 7 CFR Part 3407 (CSREES's implementation of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*)), the environmental data or documentation for any proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA. In some cases, however, the preparation of environmental data or documentation may not be required. Certain categories of actions are excluded from the requirements of NEPA. The USDA and CSREES exclusions are listed in 7 CFR 1b.3 and 7 CFR 3407.6, respectively.

In order for CSREES to determine whether any further action is needed with respect to NEPA (e.g., preparation of an environmental assessment (EA) or environmental impact statement (EIS)), pertinent information regarding the possible environmental impacts of a proposed project is necessary; therefore, the National Environmental Policy Act Exclusions Form (Form CSREES-1234) provided in the Application Kit must be included in the proposal indicating whether the applicant is of the opinion that the project falls within one or more of the categorical exclusions. Form CSREES-1234 should follow Form CSREES-661, Application for Funding, in the proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an EA or an EIS is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

CSREES Proposal Evaluation

Priority will be given to proposals that address one or more of the commodities listed in Appendix II; however, proposals addressing commodities not included in this list will be considered. Proposals will be evaluated for relevancy (Criterion 1, 25 points) by representatives from USDA, EPA, appropriate farm and commodity organizations, and consumer groups. Methodology and scientific rigor (Criteria 2-6, 75 points) will be evaluated by a panel with appropriate expertise. Panel members will include representatives with appropriate science backgrounds from land-grant universities (including IPM, IR-4, and NAPIAP), USDA, EPA, and other organizations as needed. Funding determinations will come from a rank-ordered list of projects based on the

combined relevancy and scientific merit scores.

Proposals that will only develop Crop Profiles (Objective 2) will be evaluated as a separate group, and will not be scored on potential to reduce reliance (Criterion 4).

The following criteria will be used in evaluating proposals:

1. Relevance to Program Objectives (25 points). Factors that will be considered include: number of crops and pesticides addressed (particularly those listed in Appendices I and II), user involvement in planning and implementation, potential for rapid integration (within 2–3 years) into production practices, and demonstration of consideration of existing IPM programs.
2. Importance of the Problem (Problem Statement) (15 points).
3. Appropriateness of Methods in Meeting Objectives (20 points).
4. Potential to Reduce Reliance (20 points).
5. Level of User Involvement (10 points).
6. Appropriateness of the Budget (10 points).

Confidentiality

CSREES receives grant proposals in confidence and will protect the confidentiality of their contents to the maximum extent permitted by law. Information contained in unfunded proposals will remain the property of the applicant. However, CSREES will retain one copy of all proposals received for a one year period; extra copies will be destroyed.

When a proposal results in a grant, it becomes a part of the public record, available to the public upon specific request under the Freedom of Information Act (FOIA). Information that the Secretary of Agriculture determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked by the applicant with the term "confidential proprietary information."

How To Obtain Application Materials

Copies of this solicitation, the administrative provisions for the Program (7 CFR Part 3400), and the Application Kit, which contains required forms, certifications, and instructions for preparing and submitting applications for funding, may be obtained by contacting: Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S.

Department of Agriculture, Mail Stop 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 1999 Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Proposal Submission

What To Submit

An original and 20 copies of a proposal must be submitted. Each copy must be stapled securely in the upper left-hand corner (DO NOT BIND). All copies of the proposal must be submitted in one package.

Where and When To Submit

Proposals must be postmarked by June 1, 1999. Proposals submitted by First Class mail must be sent to the following address: Special Research Grants—Pest Management Alternatives; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2245; 1400 Independence Avenue, SW; Washington, DC 20250–2245; telephone: (202) 401–5048.

Proposals to be delivered by Express mail, courier service, or by hand must be sent to the following address: Special Research Grants—Pest Management Alternatives; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 303; 901 D Street, SW; Washington, DC 20024; telephone: (202) 401–5048.

Stakeholder Input

CSREES is soliciting comments regarding this solicitation of applications from any interested party. These comments will be considered in the development of the next request for proposals for the program. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section

103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185). This section requires the Secretary to solicit and consider input on a current request for proposals from persons who conduct or use agricultural research, education, or extension for use in formulating the next request for proposals for an agricultural research program funded on a competitive basis.

In your comments, please include the name of the program and the fiscal year solicitation of applications to which you are responding. Comments are requested within six months from the issuance of the solicitation of applications. Comments received after that date will be considered to the extent practicable.

Additional Information

For reasons set forth in the final rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Appendix I

Pesticides—Priority List of Pesticides: pesticides that will be first to undergo review of tolerances by EPA, as required the Food Quality Protection Act of 1996.

Abbreviations: AM = antimicrobial, I = insecticide, F = fungicide, IGR = insect growth regulator, H = herbicide, N = nematicide.

Organophosphates

Acephate—I
Azinphos-methyl—I
Bensulide—H
Chlorethoxyfos—I
Chlorpyrifos—I
Chlorpyrifos methyl—I
Coumaphos—I
DEF—Defoliant
Diazinon—I
Dichlorvos -I
Dicrotophos—I
Dimethoate—I
Disulfoton—I
Ethion—I
Ethoprop -I, N
Ethyl parathion—I
Fenamiphos—I, N
Fenitrothion—I
Fenthion—I
Fonofos -I
Isofenphos—I
Malathion -I
Methamidophos—I
Methidathion—I
Methyl parathion—I
Naled—I
Oxydemeton methyl—I

Phorate—I
Phosmet—I
Phostebupirim—I
Pirimiphos methyl -I
Profenofos—I
Propetamphos—I
Sulfotepp—I
Sulprofos—I
Temephos—I
Terbufos—I
Tetrachlorvinphos—I
Trichlorfon—I

Carbamates:

2EEEBC—F
Aldicarb—I, N
Asulam—H
Bendiocarb—I
Benomyl—F
Carbaryl—I
Carbendazim—F
Carbofuran—I, N
Chlorpropham—H
Desmidipham—H
Fenoxycarb—I
Formetanate HC—I
Methiocarb—I
Methomyl—I
Oxamyl—I, N
Phenmedipham—H
Propamocarb hydrochloride—F
Propoxur—I
Thiodicarb—I
Thiophanate methyl—F
Troysan KK—AM, F

Potential Carcinogens (B1's and B2's)

Acetochlor—H
Aciflourfen sodium—H
Alachlor—H
Amitrol—H
Cacodylic acid—H
Captan—F
Chlorothalonil—F
Creosote—wood preservative
Cyproconazole—F
Daminozide (Alar)—growth retardant
ETO—fumigant, sterilant
Fenoxycarb—IGR
Folpet—F
Formaldehyde—fumigant, germicide
Heptachlor—I
Iprodione—F
Lactofen—H
Lindane—I
Mancozeb—F
Maneb—F
Metam sodium—F, I, H, N, soil fumigant
Metiram—F
MGK repellent—repellent, synergist
Orthophenylphenol—AM, F, virucide
Oxythioquinox—I
Pentachlorophenol—F
Pronamide—H
Propargite—I
Propoxur—I
Propylene oxide—AM, I, F
Telone—N, soil fumigant
Terrazole—F
Thiodicarb—I
TPTH—F
Vinclozolin—F

Appendix II

Commodities—USDA and EPA have determined that production of the following commodities may depend heavily on the

pesticides included on the priority list (Appendix I). The possible regulatory impacts of FQPA for these commodities are not known. To answer questions that may arise during FQPA implementation, crop profiles are critical for these commodities. Priority will be given to proposals that address one or more of the commodities on this list.

alfalfa (seed, forage)
artichoke
asparagus
avocado
barley
beans (dry, lima, snap)
beets
blackberry
blueberry
broccoli
brussels sprouts
canola
carrot
cauliflower
celery
citrus
clover seed
cole crops
collards
cranberry
cucumber
date
eggplant
endive
fig
filberts
garlic
green onions
greens
hazelnuts
hops
kale
kiwi
lettuce
livestock
mango
melons
mint
okra
onion
ornamentals (nursery, greenhouse)
parsley
peach
peanut
pear
peas (dry, green, processed)
peppers (bell, sweet, hot)
pineapple
pistachio
potato
pumpkin
radish
spinach
squash
stonefruit
sugarbeet
sweet potato
tomato
turnip
watermelon

Note: Applicants should refer to the National Agricultural Pesticide Impact Assessment Program (NAPIAP) website at: <http://ipmwww.ncsu.edu/opmppiap> for the latest update of completed and planned crop profiles.

Appendix III

Crop Profiles—FQPA instructs USDA and EPA to obtain pesticide use and usage data on major and minor crops. Of particular importance at this time are use and usage data for the organo-phosphates, carbamates, and possible carcinogens (B1's and B2's). These classes of pesticides have been identified as top priority at EPA for the tolerance reassessment process. These same pesticides are also vital to the production of many of our crops. Because some of these uses may be canceled it is important to identify where we stand now, where we need to be in the future, and what research efforts are needed to get us there as far as pest management practices are concerned. In order to better understand where future research efforts should lead it is necessary first to identify areas of critical need (i.e. those crops or situations where few if any alternative control measures are available to producers). To help USDA and EPA obtain this information "Crop Profiles" are being requested. It is the intent that "profiles" provide the complete production story for a commodity, including current pest management practices, and look at current research activities directed at finding replacement strategies for the pesticides of concern.

Crop profiles should include typical pesticide use information (not simply what appears on pesticide labels) and for consistency and ease of use should be presented in the following format:

Crop Profile for Commodity in State Production Facts

- State's ranking in national production of the commodity.
- States contribution to total US production of that commodity (percent).
- Yearly production numbers (total acres grown; total acres harvested; cash value).
- Production costs on a yearly basis.
- Identify percent of crop destined for: fresh market, processing, feed, etc.

Production Regions

- Define the production regions for the commodity within your state.

Cultural Practices

- Describe the cultural practices used for producing this commodity within your state (e.g. Soil types, irrigation practices, land preparation, planting times, thinning practices, etc.).
- Highlight intrastate or regional differences if they exist.

Insect/Mite Control

- Identify and discuss the insect/mite pests on this commodity, include: frequency of occurrence (yearly, sporadic, weather related), the damage they do, percentage of acres infested with the pest (for each growing season or crop cycle), critical timing of control measures, yield losses attributed to each pest.
- Note any regional differences that may occur within your state.

Chemical Controls

- For each pest discussed above identify the active ingredients that are used to manage

that pest, include: chemical name, trade name, formulations, percent crop treated, type of application (aerial, ground, chemigation, banded, broadcast, in-furrow etc.), typical application rates, timing (pre-plant, foliar, 5-leaf stage, etc.), typical number of applications per growing season or crop cycle, typical pre-harvest interval, typical reentry intervals, etc.

- Identify any use of the chemical in IPM programs.
- Identify any use of the chemical in resistance management programs.
- Discuss efficacy issues for each active ingredient.

Alternatives

- Discuss availability and efficacy issues associated with the alternatives for the pest/pesticide combinations discussed above.

Cultural Control Practices

- Identify and discuss any cultural practices (e.g. planting dates, resistant varieties, row spacing) used to manage the pests.

Biological Controls

- Discuss any biological control programs that are relevant for the pest/commodity, include pheromone use if applicable.

Post Harvest Control Practices

- Discuss post harvest management practices that are relevant for the pest/commodity; include preharvest and/or post harvest practices that are used for post harvest pest management.

Other issues

- Discuss any export or food processor restrictions that may limit the use of a given active ingredient or management practice.
- Describe on-going research activities that address a possible replacement strategy for the chemical under discussion. If possible discuss time-frame for implementation.
- Discuss any other relevant issues involving pest management practices used on this commodity.

Weed Control

- Follow same format as for insects/mites.

Disease Control

- Follow same format as for insects/mites.

Nematode Control

- Follow same format as for insects/mites.

Key Contacts

- Identify commodity experts within your state.

Cite References

- Provide the sources for information used in preparing crop profiles.

The Pesticide Impact Assessment Program (PIAP) State Liaison Representative (SLR) will review the draft crop profiles before the final reports are submitted.

Send to: Wilfred Burr (202/720-8647 or [wburr@ars.usda.gov](mailto:wburrr@ars.usda.gov)), USDA Office of Pest Management Policy, Rm 0110 South Ag Bldg., 1400 Independence Ave., Washington, DC 20250-0315.

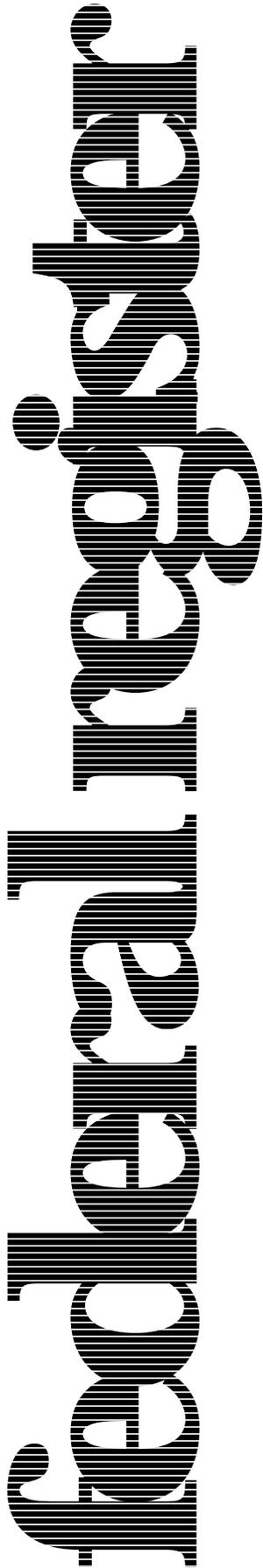
Note: Applicants should refer to the National Agricultural Pesticide Impact Assessment Program (NAPIAP) website at: <http://ipmwww.ncsu.edu/opmppiap> for examples and the latest update of completed and planned crop profiles.

Done at Washington, DC, on this 19th day of March, 1999.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.
[FR Doc. 99-7687 Filed 3-29-99; 8:45 am]

BILLING CODE 3410-22-P



**Tuesday
March 30, 1999**

Part V

Department of Labor

Office of Labor-Management Standards

29 CFR Part 215

**Amendment to Section 5333 (b)
Guidelines to Carry Out New Programs
Authorized by the Transportation Equity
Act for the 21st Century (TEA 21);
Proposed Rule**

DEPARTMENT OF LABOR**Office of Labor-Management Standards****29 CFR Part 215**

RIN 1215-AB25

Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA 21)

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Labor (DOL) is providing notice of an amendment to its procedural Guidelines for certification of certain Federal Transit Administration (FTA) projects in satisfaction of the requirements of Title 49 U.S.C., Chapter 53, Section 5333(b) (commonly referred to as "Section 13(c)"). This notice is necessitated by the introduction of three new programs under the Transportation Equity Act for the 21st Century (TEA-21), and the need to identify appropriate procedures for DOL's required certification of employee protections in connection with these projects.

DATES: Comments must be submitted by April 29, 1999.

ADDRESSES: Comments should be submitted to Kelley Andrews, Director, Statutory Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5603, Washington, DC 20210. Comments may also be submitted by facsimile to (202) 693-1342 or by e-mail to: kandrews@fenix2.dol-esa.gov.

FOR FURTHER INFORMATION CONTACT: Kelley Andrews, Director, Statutory Programs, (202) 693-0126.

SUPPLEMENTARY INFORMATION:**I. Background**

The Transportation Equity Act for the 21st Century (TEA-21), signed into law by President Clinton on June 9, 1998, provides for three new transportation programs which require employee protection under section 5333(b). These are the Job Access and Reverse Commute Program (section 3037), the Over-the-Road Bus Accessibility Program (section 3038), and the State Infrastructure Bank Program (section 1511). Pursuant to section 5333(b), DOL must certify, when Federal funds are used to acquire, improve, or operate a transit system, that the requisite transit employee protective arrangements are in place protecting certain rights of mass transit employees affected by such

assistance, as a condition of release of assistance by the Federal Transit Administration (FTA). These rights include the preservation of rights, privileges, and benefits under existing collective bargaining agreements, the continuation of collective bargaining rights, the protection of individual employees against a worsening of their positions related to employment, assurances of employment to employees of acquired mass transportation systems, priority of reemployment, and paid training or retraining.

For most programs funded by the FTA, DOL currently processes the employee protection certifications required under section 5333(b) in accordance with procedural Guidelines published at 29 CFR 215.3. DOL applies these procedures to the processing of all grants except section 5310, Elderly and Handicapped grants which do not require section 5333(b) certification, and section 5311 Non-Urban formula grants which are specifically exempted from processing under the Guidelines. Grants under section 5311 are automatically certified through the application of a warranty, while other grants are certified following referral procedures which afford the interested parties an opportunity to provide their views on substantive protections. The purpose of this notice is to amend the Guidelines to identify the certification processes which will be applicable for the Job Access and Reverse Commute Program, the Over-the-Road Bus Accessibility Program, and the State Infrastructure Bank Program. To accomplish this, DOL proposes to insert a new paragraph at § 215.3(a)(4) to identify programs and activities within programs which will not be subject to processing under the Guidelines. In addition, the last sentence of § 215.3(a)(3) will be omitted as extraneous. Finally, § 215.8 will be modified to update the room number and phone number of the Statutory Programs office.

II. Processing of Grants for New Programs

The Job Access and Reverse Commute Program provides funding to establish a regional approach to job access challenges and supports the implementation of a variety of transportation services that may be needed to connect welfare recipients to jobs and related employment activities. Metropolitan Planning Organizations will select applicants in areas serving populations of 200,000 or greater, and the states will select applicants in areas with populations under 200,000. The nature of recipients and the types of grants anticipated for applicants serving

populations under 200,000 are similar to the small urban and rural program under section 5311. Although traditional transportation providers are eligible recipients under the program, it will probably have the most impact on existing transit employees where applicants are serving populations of 200,000 or more. See Federal Transit Administration, Job Access and Reverse Commute Competitive Grants; Notice, 63 FR 60168 (November 6, 1998). Accordingly, DOL intends to establish procedures similar to those for section 5311(f) for applicants serving populations under 200,000, and to apply the existing Guidelines procedures for applicants serving populations of 200,000 or more. This necessitates that DOL amend the Guidelines to exclude Job Access and Reverse Commute grants for applicants serving populations under 200,000 from coverage under the Guidelines.

The Over-the-Road Bus Accessibility Program provides funding to assist in financing the incremental capital and training costs associated with the Department of Transportation's implementation of its Final Rule on accessibility requirements for Over-The-Road-Buses (OTRB). DOL intends to follow existing referral procedures under the Guidelines for processing employee protection certifications for this program. Thus, amendment of the Guidelines is not necessary to address Over-the-Road Bus Accessibility grants.

The State Infrastructure Bank (SIB) Program provides for a revised pilot program without limitation on the amount of funds that may be used to capitalize the bank. SIBs do not make grants, but can provide assistance in a variety of ways, including loans and advances for projects with a repayment provision, subsidizing interest rates, and providing bond or other debt financing security. DOL will certify initial capitalization grants made by FTA to the SIBs by applying standard protections and specifying that the SIB may not release funds absent subsequent certifications for specific projects. When specific projects are identified, certification of labor protections for each project funded by the SIB transit account will be processed in accordance with DOL's Guidelines, thus permitting the interested parties an opportunity to provide their views on the protective arrangements proposed for application to the specific projects. This necessitates that DOL amend the Guidelines to exclude from coverage grants for the initial capitalization of SIBs.

III. Public Consultation

In establishing the process for certification of protections applicable for the Job Access and Reverse Commute Program, the Over-the-Road Bus Accessibility Program, and the State Infrastructure Bank Program, DOL herein seeks the views of stakeholders in the transportation industry including transportation providers, transit employee unions, and potentially affected transit employees. Although we will not be able to respond directly to individual comments, we will address comments collectively when we issue the final rule with respect to this proposed amendment to the Guidelines.

IV. Regulatory Procedures:

Regulatory Flexibility Act

This proposed rule addresses the procedural steps for obtaining the Department's certification that employee protection arrangements under the Federal Transit law are in place as required for three new programs funded under TEA-21. The amendment will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 605(b)) is not required. The Assistant Secretary for Employment Standards has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration.

Unfunded Mandates Reform

Executive Order 12875—This rule will not create an unfunded Federal

mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

Paperwork Reduction Act

These guidelines contain no information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Small Business Regulatory Enforcement Fairness Act of 1996

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.

List of Subjects in 29 CFR Part 215

Grant administration; Grants—transportation; Labor-management relations; Labor unions; Mass transportation.

Accordingly, it is proposed that Chapter II of Title 29 of the *Code of Federal Regulations* be amended as follows.

PART 215—GUIDELINES, SECTION 5333(b), FEDERAL TRANSIT LAW

1. The authority citation for Part 215 continues to read as follows:

Authority: Secretary's Order 5-96, 62 FR 107, January 2, 1997.

2. Section 215.3 is amended by removing the last sentence in paragraph (a)(3) and by adding new paragraph (a)(4) to read as follows:

§ 215.3 Employees represented by a labor organization.

* * * * *

(a) * * *

(4) These procedures are not applicable to grants under section 5311; grants to applicants serving populations under 200,000 under the Job Access and Reverse Commute Program; or grants to capitalize SIB accounts under the State Infrastructure Bank Program.

3. Section 215.8 is revised to read as follows:

§ 215.8 Department of Labor contact.

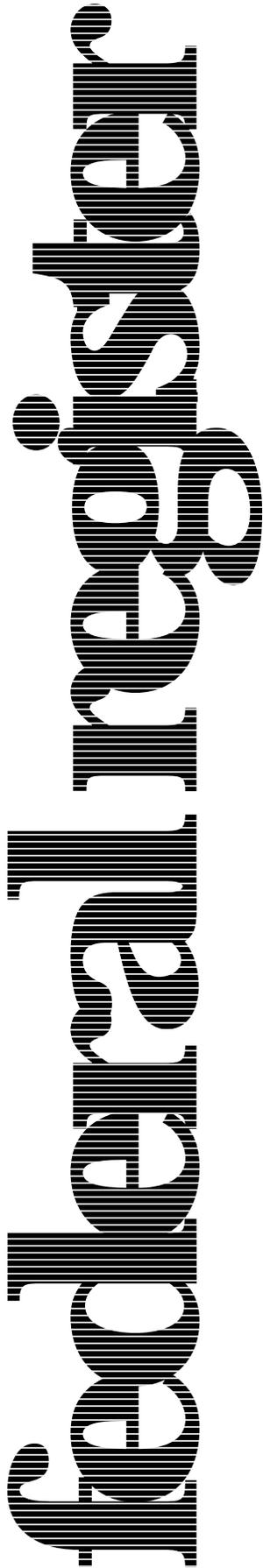
Questions concerning the subject matter covered by this part should be addressed to Director, Statutory Programs, U.S. Department of Labor, Suite N5603, 200 Constitution Avenue, NW, Washington, DC 20210; phone number 202-693-0126.

Signed at Washington, DC this 24th day of March, 1999.

Bernard E. Anderson,
Assistant Secretary for Employment Standards.

[FR Doc. 99-7708 Filed 3-29-99; 8:45 am]

BILLING CODE 4510-27-P



**Tuesday
March 30, 1999**

Part VI

**Department of
Education**

**Institute for International Public Policy
Program; Notice Inviting Applications for
New Awards for Fiscal Year (FY) 1999;
Notice**

DEPARTMENT OF EDUCATION

[CFDA No.84.269]

Institute for International Public Policy Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: To provide a grant that establishes an Institute for International Public Policy that will conduct a program to significantly increase the number of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States.

Eligible Applicants: Consortia consisting of one or more of the following entities: (1) An institution eligible for assistance under Part B of Title III of the Higher Education Act of 1965, as amended (HEA); (2) an institution of higher education that serves substantial numbers of African American or other underrepresented minority students; (3) an institution of higher education with programs in training foreign service professionals. ("Institution of higher education" is defined in section 101 of the HEA.)

Applications Available: March 31, 1999.

Deadline for Transmittal of Applications: May 7, 1999.

Deadline for Intergovernmental Review: July 7, 1999.

Estimated Amount of Awards: \$1,000,000.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Note: The Department is not bound by any estimates in this notice.

SUPPLEMENTARY INFORMATION: The applicant's share of the total cost of carrying out a program supported by a grant under this section must be at least one-half of the amount of the grant. The non-Federal share of the cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Note: Because there are no program specific regulations for the Institute for International Public Policy Program, applicants are encouraged to read the authorizing statute in sections 621-628 of part C, Title VI, of the HEA.

FOR APPLICATIONS OR INFORMATION

CONTACT: Ralph Hines, International Education and Graduate Programs Service, U.S. Department of Education, 400 Maryland Avenue, SW, Suite 600, Portals Building, Washington, DC 20202-5332. Telephone:(202) 401-9789. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Individuals with disabilities may obtain a copy of the application package in an alternate

format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1131-1131f.

Dated: March 24, 1999.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

[FR Doc. 99-7748 Filed 3-29-99; 8:45 am]

BILLING CODE 4000-01-P

Executive Order

**Tuesday
March 30, 1999**

Part VII

The President

**Executive Order 13115—Interagency Task
Force on the Roles and Missions of the
United States Coast Guard**

Title 3—

Executive Order 13115 of March 25, 1999

The President

Interagency Task Force on the Roles and Missions of the United States Coast Guard

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. (a) The Interagency Task Force on the Roles and Missions of the United States Coast Guard is established.

(b) The Task Force shall be composed of one representative from the:

- (1) Department of State;
- (2) Department of Defense;
- (3) Department of Justice;
- (4) Department of Commerce;
- (5) Department of Labor;
- (6) Department of Transportation;
- (7) Environmental Protection Agency;
- (8) Office of Management and Budget;
- (9) National Security Council;
- (10) Council on Environmental Quality;
- (11) Office of Cabinet Affairs;
- (12) National Economic Council;
- (13) Domestic Policy Council; and
- (14) United States Coast Guard.

The Secretary of Transportation shall select from among the Task Force members a Chair and Vice Chair for the Task Force.

(c) The members of the Task Force shall be officials or employees of the Federal Government.

Sec. 2. Functions. (a) The Task Force shall report to the President through the Secretary of Transportation, and shall provide advice and recommendations regarding the appropriate roles and missions for the United States Coast Guard through the Year 2020. While the Task Force will comprehensively review all Coast Guard roles and missions, it will give special attention to the deepwater missions, which are those that generally occur beyond 50 nautical miles from U.S. shores.

(b) The Chair shall consult with the Secretary of Transportation, Commandant of the Coast Guard, and, as appropriate, other heads of departments and agencies. The Chair may invite experts to submit information to the Task Force and hold field briefings or visits.

(c) The Chair may acquire services or form teams to carry out the functions of the Task Force. The Task Force and/or the Task Force staff may travel as necessary to carry out the Task Force's functions.

Sec. 3. Methodology. (a) The Task Force will seek to identify and distinguish which Coast Guard roles, missions, and functions might be added or enhanced; might be maintained at current levels of performance; or might be reduced, eliminated, or moved to other private organizations or Government agencies. The Task Force also will consider whether current Coast

Guard roles, missions, and functions might be better performed by private organizations (by contract or otherwise), public authorities, local or State governments, or other Federal agencies. The Task Force will provide explicit reasons for its recommendations.

(b) The Task Force will establish explicit criteria for screening roles, missions, and functions to determine how and by whom they would be best performed.

(c) For those roles, missions, and functions that the Task Force recommends be performed by the Coast Guard, the Task Force will advise as to how they might be performed most effectively and efficiently.

(d) The Task Force will consider the impact on Coast Guard roles, missions, and functions of future prospects in various areas, including technology, demographics, the law of the sea, marine pollution, and national security.

(e) The Task Force shall review each of the Coast Guard's law enforcement and national security missions and functions according to the methodology described in this section. However, in conducting that review, the Task Force shall assume that the Coast Guard will remain a law enforcement agency and an armed force of the United States.

Sec. 4. Administration. (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Task Force such information with respect to the roles and missions of the Coast Guard as it may require to carry out its functions.

(b) The Coast Guard shall support the Task Force administratively and financially.

(c) The Secretary of Transportation shall appoint a Staff Director for the Task Force.

(d) Assigned staff shall possess a balanced and broad base of experience to include persons of experience in national security, military operations, foreign and domestic policy, international affairs, economic policy, environmental protection, and law enforcement. Staff members may include military members on active duty, Reserve members of any component, and Federal civilian employees.

Sec. 5. General. (a) The Task Force shall exist for a period of 6 months from its first meeting unless extended by the Secretary of Transportation and, at the conclusion, submit a written report as discussed in section 2 of this order.

(b) The recommendations of the Task Force will be considered in determining the appropriate level of investment in the Coast Guard's Deepwater Capability Replacement Project, a system of cutters and aircraft with an integrated command, control, communications, and sensor infrastructure. The Task Force may provide an interim report for use in preparation of the Federal budget for Fiscal Year 2001.



THE WHITE HOUSE,
March 25, 1999.

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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.

RULES GOING INTO EFFECT MARCH 30, 1999**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Olives grown in—
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Polymer and resin production facilities (Groups I and IV) and volatile organic compound (VOC) emissions from polymer manufacturing industry; comments due by 4-8-99; published 3-9-99

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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/fedreg>.

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, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

H.R. 540/P.L. 106-4

Nursing Home Resident Protection Amendments of 1999 (Mar. 25, 1999; 113 Stat. 7)

Last List March 26, 1998

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