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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV99–929–1 FIR]

Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of a Provision on Producer Continuance Referenda Under the Cranberry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which temporarily suspended an order provision requiring a producer continuance referendum to be conducted on the marketing order during the month of May 1999. The industry currently is experiencing unsettled marketing conditions due to a surplus of product. The temporary delay in holding the continuance referendum is allowing the Cranberry Marketing Committee (Committee) to finalize the development of a plan to improve the marketing situation, hold producer meetings throughout the production area to update them on the situation, and begin implementing the plan.

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530-S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491; Fax: (202) 720–5698 or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax: (202) 720–5698; or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following website: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in 10 States. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The action temporarily suspended a provision in § 929.69(d) of the order which specifies the month and year when a continuance referendum should be conducted to determine if producers favor continuance of the cranberry marketing order. This action was unanimously recommended by the Committee at its March 15, 1999, meeting.

Section 929.69(d) of the order provides that the Secretary shall conduct a referendum during the month of May 1975 to ascertain whether continuance of the order is favored by the producers, and that the Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. The next continuance referendum was scheduled to be conducted in May 1999. The last continuance referendum was held in May 1995.

Section 929.69(b) of the order authorizes the Secretary to terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

At its March 15, 1999, meeting, the Committee recommended delaying the May 1999 referendum because the cranberry industry currently is experiencing significant marketing problems. Over the last few months, inventories of cranberry juice have been at record levels and producer prices have dropped significantly.

The Committee reported that, over the last five years, the industry has enjoyed increasing demand for cranberry products, primarily due to the success of numerous cranberry juice based beverages. However, such success has attracted additional production. With increased production and a leveling of demand, carry-out stocks of cranberry juice and juice products are at record levels and are predicted to increase significantly over the next few years. The Committee reported that carryout stocks at the end of August were approximately 1.2 million (mill.) barrels (bbls) in 1997, 2.1 mill. bbls in 1998, and are projected to be 2.7 and 3.2 mill. bbls in 1999 and 2000, respectively. The Committee also reported that, in recent months, producer prices have responded to this surplus by dropping from $70-80/barrel to $38/barrel.

The Committee plans a series of producer meetings throughout the 10-State production area to inform producers about positive actions being

undertaken by the Committee to help strengthen marketing conditions. Some of these actions include proposing amendments to the order, and filing an application with the Department's Foreign Agricultural Service for Market Access Program funds to help the industry further develop export markets for cranberries and cranberry products. The industry also is working with Congress on amendments to the Act to include reporting requirements for processors and importers, and adding cranberries to the list of commodities with the authority to establish marketing research projects, including paid advertising, to more effectively promote cranberries and cranberry products.

The Committee believes that a temporary delay in holding the continuance referendum provided time for its actions to help stabilize the current marketing situation. The Committee further believes that holding a continuance referendum in May 1999, given the current unsettled marketing situation, would not have provided a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), the interim final rule suspended provisions in § 929.69(d) to postpone the May 1999 continuance referendum under the cranberry marketing order. The Department currently plans to conduct a producer continuance referendum in May 2000. However, a final decision on holding that referendum will not be made until the spring of 2000. The Committee traditionally meets each year during the months of February or March to assess the current marketing situation and prospects for the upcoming season. The Committee's assessment of marketing conditions at that time will be used in making the final decision. In accordance with § 929.69(d) of the order, a continuance referendum is required to be held in May 2003.

The Regulatory Flexibility Act and Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of cranberries may be classified as small entities.

The interim final rule temporarily suspended a provision in the order requiring a producer referendum to be held in May 1999 to determine whether producers favor continuance of the order.

Section 929.69(d) of the order provides that the Secretary shall conduct a referendum during the month of May 1975 to ascertain whether continuance of the order is favored by the producers, and that the Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. The next continuance referendum was scheduled to be conducted in May 1999. The last continuance referendum was held in May 1995.

Section 929.69(b) of the order authorizes the Secretary to terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

At its March 15, 1999, meeting, the Committee recommended delaying the May 1999 referendum because the cranberry industry currently is experiencing significant marketing problems. Over the last few months, inventories of cranberry juice have been at record levels and producer prices have dropped significantly.

The Committee reported that, over the last five years, the industry has enjoyed increasing demand for cranberry products, primarily due to the success of numerous cranberry juice based beverages. However, such success has attracted additional production. With increased production and a leveling of demand, carry-out stocks of cranberry juice and juice products are at record levels and are predicted to increase significantly over the next few years. The Committee reported that carryout stocks at the end of August were approximately 1.2 million (mill.) barrels (bbls) in 1997, 2.1 mill. bbls in 1998, and are projected to be 2.7 and 3.2 mill. bbls in 1999 and 2000, respectively. The Committee also reported that, in recent months, producer prices have responded to this surplus by dropping from $70-80/barrel to $38/barrel.

The Committee plans a series of producer meetings throughout the 10-State production area to inform producers about positive actions being undertaken by the Committee to help strengthen marketing conditions. Some of these actions include proposing amendments to the order, and filing an application with the Department's Foreign Agricultural Service for Market Access Program funds to help the industry further develop export markets for cranberries and cranberry products. The industry also is working with Congress on amendments to the Act to include reporting requirements for processors and importers, and adding cranberries to the list of commodities with the authority to establish marketing research projects, including paid advertising, to more effectively promote cranberries and cranberry products.

The Committee believes that a temporary delay in holding the continuance referendum provided time for its actions to help stabilize the current marketing situation. The Committee further believes that holding a continuance referendum in May 1999, given the current unsettled marketing situation, would not have provided a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), this action suspended provisions in § 929.69(d) to postpone the May 1999 continuance referendum under the cranberry marketing order. The Department currently plans to conduct a producer continuance referendum in May 2000. This should serve as an alternative to just suspending the May 1999 continuance referendum. However, a final decision on holding that referendum will not be made until the spring of 2000. The Committee traditionally meets each year during the months of February or March to assess the current marketing situation and prospects for the upcoming season. The Committee's assessment of marketing conditions at that time will be used in making the final decision. In accordance with § 929.69(d) of the order, a continuance referendum is required to be held in May 2003.

This action did not impose any additional recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and

duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by Part 929 have been previously approved by OMB and assigned OMB Number 0581–0103.

Committee meetings are widely publicized throughout the cranberry industry and are open to all industry members and entities (including both small and large business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Like all Committee meetings, the March 1999 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Committee itself is composed of eight members, of which seven members are growers and one represents the public.

The interim final rule concerning this action was published in the **Federal Register** (64 FR 24023, May 5, 1999) with an effective date of May 6, 1999, through May 31, 1999. Copies of the rule were mailed by the Committee's staff to all Committee members and cranberry producers. In addition, the rule was made available through the Internet by the Office of the **Federal Register**. That rule provided for a 15-day comment period which ended May 20, 1999. No comments were received.

After consideration of all available information, and pursuant to § 929.69(b), it is found that the second sentence in § 929.69(d) does not tend to effectuate the declared policy of the Act for the period specified in the interim final rule and it is temporarily suspended.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Accordingly the interim final rule amending 7 CFR part 929 which was published at 64 FR 24023 on May 5, 1999, is adopted as a final rule without change.

Dated: June 17, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–16508 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 98

[Docket No. 98–102–2]

Limited Ports; Memphis, TN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On April 30, 1999, the Animal and Plant Health Inspection Service published a direct final rule. (See 64 FR 23178–23179, Docket No. 98–102–1). The direct final rule notified the public of our intention to amend the animal importation regulations by adding Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as: June 29, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Morley H. Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8686; or e-mail: morley.h.cook@usda.gov.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of June 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–16499 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–45–AD; Amendment 39–11212; AD 99–14–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–300 and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–300 and –400 series airplanes. This action requires repetitive inspections of the E–42 satellite communications (SATCOM) rack and fuselage (supporting) structure to detect cracking in the area surrounding the fastener holes, and to detect broken and missing fasteners; and corrective actions, if necessary. This amendment is prompted by reports indicating that cracking and broken and/or missing fasteners were found on the E–42 SATCOM equipment rack structure that attaches to the fuselage structure. The actions specified in this AD are intended to detect and repair cracking of the E–42 SATCOM rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane.

DATES: Effective July 14, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 1999.

Comments for inclusion in the Rules Docket must be received on or before August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99-NM–45-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Gnehm, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1426; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that cracking and broken and/or missing fasteners were found on the E–42 SATCOM equipment rack structure that attaches to the fuselage structure on several Boeing Model 747–300 and –400 series airplanes. Investigation revealed that one of the four stanchions (i.e., a supporting prop or brace) was found completely broken on two airplanes (one that had accumulated 23,693 total flight hours and the other with 24,752 total flight hours). Further investigation revealed that the rigid joints of the supporting structure of the E–42 SATCOM rack, coupled with environmental vibration of the airplane, may have caused the cracking to initiate in the area surrounding the fastener holes (located at the rigid joints) of the supporting structure of the E–42 SATCOM rack. The FAA also has received a report indicating that cracking has been detected on four freighter airplanes; one of the airplanes had accumulated less than 1,500 total flight hours.

On all airplanes, the E–42 SATCOM rack hangs above the main deck ceiling. On freighter airplanes and ''combi'' airplanes (i.e., configurations with provisions for passenger seating and cargo on the main deck), the E–42 SATCOM rack is located near rudder and elevator control cables, and the SATCOM wires run above the rudder and elevator control cables.

On all airplanes, failure of the rack and its supporting structure could result in loss of support for the E–42 SATCOM equipment, which could lead to chafing and arcing of the electrical wires and loss of SATCOM capabilities. Such failure also could result in the following unsafe conditions:

- On passenger-only airplanes, the E–42 SATCOM equipment could break through the ceiling, which could result in injury to passengers.
- On freighter and ''combi'' airplanes, the E–42 SATCOM equipment could fall and cause the SATCOM wires to pull and possibly break the rudder and/or elevator control cables, which could result in reduced controllability of the airplane. Failure of the SATCOM rack on ''combi'' airplanes carrying passengers also could result in injury to the passengers.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2428, dated December 17, 1998, which describes procedures for repetitive close visual inspections of the E–42 SATCOM rack and fuselage (supporting) structure to detect cracking in the area surrounding the fastener holes, and to detect broken or missing fasteners.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and repair cracking of the E–42 SATCOM rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below. This AD also requires that operators report results of initial inspection findings to the manufacturer.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Differences Between AD and Alert Service Bulletin

Operators should note that, although the Boeing alert service bulletin specifies that the manufacturer may be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Operators also should note that the Boeing alert service bulletin specifies that the manufacturer determine the repetitive inspection intervals in the event a repair and/or replacement of the fasteners is necessary. This AD would require repetitive inspections of the E–42 SATCOM rack and its supporting structure at intervals not exceeding 3,000 flight cycles, whether a repair and/or replacement of fasteners is required or not. While a manufacturer Designated Engineering Representative (DER) is authorized to determine whether a design or repair method complies with a specific requirement, at this time the FAA has not delegated the authority to a manufacturer DER to make the discretionary determination for repetitive inspection requirements.

Explanation of Applicability

Operators should note that the Boeing alert service bulletin (previously described), does not specify the line number for the effectivity of Boeing Model 747–400 series airplanes, but states that ''a line number will be specified at a later date,'' when a design improvement can be incorporated into the production line. To account for this interpretative effectivity, this AD is applicable to Boeing Model 747–300 series airplanes as listed in the alert service bulletin and Boeing Model 747–400 series airplanes equipped with a Boeing-installed E–42 SATCOM rack. As discussed previously, because this AD is considered interim action, applicability may be revised accordingly in subsequent AD action.

Explanation of Compliance Time

Operators should note that the Boeing alert service bulletin (previously described) recommends that the initial inspection be performed at the applicable time, as specified below:

- For airplanes identified in the alert service as Group 1: Within 500 flight hours or within 14,000 flight hours since the E–42 SATCOM rack was installed and populated with equipment.
- For airplanes identified in the alert service as Groups 2, 3, and 4: Within 500 flight hours or 20,000 flight hours since the E–42 SATCOM rack was installed and populated with equipment.

This AD would require that the initial inspection be performed at the applicable time, as specified below:

- For airplanes identified in the alert service bulletin as Group 1: Within 30 days after the effective date of this AD.
- For airplanes identified in the alert service bulletin as Groups 2, 3, and 4: Within 90 days after the effective date of this AD.

The FAA finds that, in view of a recent report indicating that cracking has been detected on an airplane that had accumulated less than 1,500 total flight hours, and because of the safety implications and consequences associated with such cracking, the initial compliance time specified in this AD is appropriate.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and

opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–45–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–14–04 Boeing: Amendment 39–11212. Docket 99–NM–45–AD.

Applicability: Model 747–300 series airplanes, as listed in Boeing Alert Service Bulletin 747–53A2428, dated December 17, 1998; and Model 747–400 series airplanes equipped with a Boeing installed E–42 satellite communications (SATCOM) rack; 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and repair cracking of the E–42 SATCOM rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane, accomplish the following:

Initial and Repetitive Detailed Visual Inspections

(a) Perform a detailed visual inspection of the E–42 SATCOM rack and fuselage (supporting) structure to detect cracking in the area surrounding the fastener holes, and to detect broken or missing fasteners, in accordance with Boeing Alert Service Bulletin 747–53A2428, dated December 17, 1998, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. Thereafter, repeat the inspection at intervals not to exceed 3,000 flight hours.

(1) For airplanes identified as Group 1: Within 30 days after the effective date of this AD.

(2) For airplanes identified as Groups 2, 3, and 4: Within 90 days after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation or assembly to detect damage, failure or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Actions

(b) If any cracking is found, or if any fastener is broken or missing, during any inspection required by paragraph (a) of this AD, prior to further flight: Repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. Repeat the detailed visual inspection of the SATCOM rack and fuselage (supporting) structure thereafter at the intervals specified by paragraph (a) of this AD.

Reporting Requirements

(c) Submit a report of the initial inspection findings (positive and negative) to Boeing Commercial Airplane Group, Attention: Manager, Airline Support, P.O. Box 3707, Seattle, Washington 98124–2207; at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable. The report must include a description of any discrepancy found, the airplane serial number, the number of landings and flight hours on the airplane, and, when possible, sketches and photographs of the inspected area. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the initial inspection is accomplished after the effective date of this AD: Submit the report within 10 days after performing the initial inspection required by paragraph (a) of this AD.

(2) For airplanes on which the initial inspection has been accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided that all the equipment is removed from the E–42 SATCOM rack.

Incorporation by Reference

(f) The inspections shall be done in accordance with Boeing Alert Service Bulletin 747–53A2428, dated December 17, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on July 14, 1999.

Issued in Renton, Washington, on June 22, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–16326 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3, 4, 40, 84, 96, 117, 127, 138, 151, 154, 159, 160, 164, 165, 167, 174, 175, 179, 181, and 183

[USCG–1999–5832]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 33 of the Code of Federal Regulations (CFR) to update the title before it is recodified on July 1, 1999. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective June 30, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG–1999–5832), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Ms. Janet Walton, Project Manager, Standards Evaluation and Development Division (G–MSR–2), Coast Guard, telephone 202–267–0257. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year Title 33 of the Code of Federal Regulations is recodified on July 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections to be included in the recodification. Some editorial changes are discussed individually in the following paragraphs. This rule does not change any substantive requirements of existing regulations.

Sections 174.14, 174.19, and 174.106

In these sections the rule changes the word ''boat'' to ''vessel'' to conform to the current statutory authority language in 46 U.S.C. 12302.

Section 179.03

This rule revises § 179.03 to clarify the meaning of the term ''Associated equipment'' as used in part 179 for defect notification requirements by adding the words ''as used in this part''.

Section 181.21

This rule removes an outdated certification date.

Sections 183.37 and 183.43

This rule revises the section headings in §§ 183.37 and 183.43 by adding the words ''outboard motors'' to reflect that the sections apply to outboard motors.

Sections 183.101, 183.201, and 183.301

These sections contain references to boats constructed on or after July 31, 1978, the effective date of Subparts F, G, and H of the Flotation Standard. Boats manufactured prior to that date still exist, but the standard is a manufacturer requirement applicable to new boats, and the effective date is no longer needed. This rule removes the effective date.

Section 183.401

The text of paragraph (a) is clarified by moving the words ''except outboard engines'' from the end of the sentence to immediately follow the words ''gasoline engines'' and by adding the word ''generation'' following the word ''electrical'' to conform the wording in § 183.401 to the wording in § 183.501.

Section 183.601

Section 183.601 contains a reference to boats that were built after July 31, 1980, except that the manufacturer may elect to comply any time after July 31, 1978. Boats manufactured prior to these dates still exist, but the standard is a manufacturer requirement applicable to new boats. The dates are no longer needed. This rule removes the dates.

Section 183.701

Section 183.701 contains a reference to the fact that the subpart applies to outboard motors and controls manufactured after August 1, 1982. Outboard motors and controls manufactured prior to that date still exist, but the standard is a manufacturer requirement applicable to new engines and controls. The date is no longer needed. This rule removes the date.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not

require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule will call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act and Enhancing the Intergovernmental Partnership

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093, October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a) and (b) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 4

Reporting and recordkeeping requirements.

33 CFR Part 40

Military academies.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 96

Administrative practice and procedure, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Safety management systems, Vessels.

33 CFR Part 117

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 138

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 159

Sewage disposal, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 175

Marine safety.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 3, 4, 40, 84, 96, 117, 127, 138, 151, 154, 159, 160, 164, 165, 167, 174, 175, 179, 181, and 183 as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

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

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. Revise § 3.35–1(b) to read as follows:

§ 3.35–1 Seventh district.

* * * * *

(b) The Seventh Coast Guard District is comprised of the states of South Carolina, Georgia and Florida, except for that part of Georgia and Florida west of a line from the intersection of the Florida coast with Longitude 83°50′W. (30°00′N., 83°50′W.) due north to a position 30°15′N., 83°50′W.; thence due

west to a position 30°15′N., 84°45′W.; thence due north to the intersection with the south shore of the Jim Woodruff Reservoir; thence along the east bank of the Jim Woodruff Reservoir and the east bank of the Flint River up stream to Montezuma, GA, thence northwesterly to West Point, GA. Also included is the Panama Canal Zone, all the island possessions of the United States pertaining to Puerto Rico and the U.S. Virgin Islands; and the U.S. Naval reservations in the islands of the West Indies and on the north coast of South America. The ocean areas are those portions of the western North Atlantic, Caribbean Sea, Gulf of Mexico and the Straits of Florida areas encompassed by a line originating at the state boundary between North Carolina and South Carolina, and extending southeasterly through 30°57′N., 73°06′W. and 29°00′N., 69°19′W. to 12°00′N., 43°00′W.; thence southwesterly to 10°00′N., 48°00′W.; thence westerly to 09°20′N., 57°00′W.; thence due west to the coastline of South America; thence westerly and northerly along the north coast of South America, and the eastern coasts of Central America and Mexico to the Yucatan Peninsula at 21°25′N., 87°11′W.; thence along a line 019°T to the intersection of longitude 83°50′W. and the western coastline of Florida (30°00′N., 83°50′W.).

PART 4—OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

3. The authority citation for part 4 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

4. In § 4.02, revise the entry for §§ 181.21 through 181.31 and add a new entry for ''Part 183'' to read as follows:

§ 4.02 Display.

33 CFR part or section where identified and described	Current OMB control No.
* * * * * * *	
Section 181.21 through 181.31	2115–0573
Part 183	2115–0573

PART 40—CADETS OF THE COAST GUARD

5. The authority citation for part 40 continues to read as follows:

Authority: 14 U.S.C. 182 and 633; 49 CFR 1.46(b).

§ 40.1 [Amended]

6. In § 40.1, remove the number ''06230'' and add, in its place, the number ''06320''.

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

7. The authority citation for part 84 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

§ 84.27 [Redesignated as § 84.24]

8. Redesignate § 84.27 as § 84.24.

PART 96—RULES FOR THE SAFE OPERATION OF VESSELS AND SAFETY MANAGEMENT SYSTEMS

9. The authority citation for part 96 continues to read as follows:

Authority: 46 U.S.C. 3201 *et seq.;* 46 U.S.C. 3103; 46 U.S.C. 3316, 33 U.S.C. 1231; 49 CFR 1.45, 49 CFR 1.46.

10. In § 96.340, revise paragraph (d) to read as follows:

§ 96.340 Safety Management Certificate: What is it and when is it needed?

* * * * *

(d) A copy of your vessel's valid Safety Management Certificate must be on board all U.S. and foreign vessels which carry more than 12 passengers, and must be on board a tanker, bulk freight vessel, freight vessel, or a self-propelled mobile offshore drilling unit of 500 gross tons or more, when engaged on foreign voyages or within U.S. waters.

* * * * *

PART 117—DRAWBRIDGE OPERATION REGULATIONS

11. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.147 [Amended]

12. In § 117.147, in paragraph (a), remove the number ''4.5'' and add, in its place, the number ''4.9''; and in paragraph (b), remove the number ''4.4'' and add, in its place, the number ''4.8''.

§ 117.169 [Amended]

13. In § 117.169(b), remove the words ''Southern Pacific'' and add, in their place, the words ''Northwestern Pacific''.

§ 117.191 [Amended]

14. In § 117.191(b), remove the words ''Atchison, Topeka and Santa Fe'' and add, in their place, the words ''Burlington Northern Santa Fe''.

§ 117.393 [Amended]

15. In § 117.393(b)(6), remove the words ''Chicago and Northwestern'' and add, in their place, the words ''Union Pacific''.

§ 117.773 [Amended]

16. In § 117.773(c), remove the word ''Conrail'' and add, in its place, the word ''CSX Transportation''.

§ 117.785 [Amended]

17. In § 117.785(b), remove the word ''Conrail'' and add, in its place, the word ''CSX Transportation''.

§ 117.791 [Amended]

18. In § 117.791(c), remove the word ''Conrail'' and add, in its place, the word ''CSX Transportation''.

§ 117.821 [Amended]

19. In § 117.821, redesignate paragraph (a)(7) as (a)(6).

§ 117.847 [Amended]

20. In § 117.847(b), remove the words ''Conrail bridge, mile 2.2'' and add, in their place, the words ''Norfolk Southern bridge, mile 1.5''.

§ 117.851 [Amended]

21. In § 117.851(d), remove the word ''Conrail'' and add, in its place, the words ''Norfolk Southern''.

§ 117.853 [Amended]

22. In § 117.853, remove the word ''Conrail'' and add, in its place, the words ''Norfolk Southern''.

§ 117.855 [Amended]

23. In § 117.855(c), introductory text, remove the words ''Norfolk and Western'' and add, in their place, the words ''Norfolk Southern''; and remove the word ''Conrail'' and add, in its place, the words ''Norfolk Southern''.

24. In appendix A to part 117, revise the entries for California, Oregon, and Washington to read as follows:

Appendix A to Part 117 [Revised]

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
* * *	*	*	*	*	*	
CALIFORNIA						
Carquinez Strait	7.0	Martinez	Union Pacific RR	KQ 7193 ..	16	14
Cerritos Channel	4.8	Long Beach	Henry Ford (Badger) Avenue, Port of Los Angeles.	WHX 947	16	13
	4.9	Long Beach	Schuyler Heim, CA DOT	KXJ 749 ...	16	13
Channel Street	0	San Francisco	3rd Street, San Francisco	WXY 959	16	9
	0.2	San Francisco	4th Street, San Francisco	WXY 970	16	9
Connection Slough	2.5	Mandeville Island	South Real Estate Company	WHV 225	16	9
Cordelia Slough	1.5	Benicia	Union Pacific RR	KA 98642	16	9
Georgianna Slough	4.5	Isleton	Tyler Island, Sacramento Co	WHU 246	16	9
	12.4	Walnut Grove	Georgianna Sl, Sacramento, Co.	WHU 254	16	9
Islais Creek	0.4	San Francisco	3rd Street, San Francisco	WXY 977	16	9
Little Potato Slough	1.0	Terminous	Potato Slough, CA DOT, SR12.	KSK 278 ..	16	9
Middle River	8.6	Bacon Island	Bacon Island, San Joaquin Co.	WBE 8326	16	9
Mokelumne River	3.0	Isleton	Mokelumne, CA DOT, SR12	KMJ 382 ..	16	9
	12.1	Walnut Grove	Millers Ferry, Sacramento, Co.	WBE 8326	16	9
Napa River	2.8	Vallejo	Mare Island Causeway, Navy.	Military license only, No FCC.	16	13
Oakland Inner Harbor Tidal Canal	5.2	Oakland	Park Street, Alameda County.	WHX 996	16	9
	5.6	Oakland	Fruitvale Avenue, Alameda County.	WQB 330	16	9
	6.0	Oakland	High Street, Alameda County.	WHX 488	16	9
Old River	10.4	Orwood	Burlington Northern Santa Fe Railroad Bridge.	WHU 322	16	9
	14.8	Victoria Island	Victoria Island, CA DOT	KXE 301 ..	16	9
Pacheco Creek	1.1	Martinez	Avon, Union Pacific RR	KA 97324	16	9
Petaluma River	13.7	Petaluma	D Street Bridge, Petaluma	WQX 644	16	9
Sacramento River	12.8	Rio Vista	Rio Vista, CA DOT, SR12	KMJ 384 ..	16	9
	15.7	Isleton	Isleton, CA DOT, SR160	KMJ 383 ..	16	9
	26.7	Walnut Grove	Walnut Grove, Sacto Co., SR E–13.	KMJ 491 ..	16	9
	33.4	Paintersville	Paintersville, CA DOT, SR160.	KMJ 381 ..	16	9
	46.0	Freeport	Freeport Sacto Co., SR E–9	KMJ 490 ..	16	9
	59.0	Sacramento	Tower Bridge, CA DOT	KDO 739	16	9
	59.4	Sacramento	I Street Union Pacific RR	WHW 554	16	9
San Leandro Bay	0	Alameda	Bay Farm Island, CA DOT ..	WHX 870	16	9
Steamboat Slough	11.2	Courtland	Steamboat Slough, CA DOT, SR160.	WHX 295	16	9
Three Mile Slough	0.1	Rio Vista	Three Mile Slough, CA DOT, SR160.	KMJ 385 ..	16	9
Turner Cut	2.3	McDonald Island	Zuckerman Bros. Br, Delta Farms.	WHV 959	16	9
* * *	*	*	*	*	*	
OREGON						
Coos Bay	9.0	North Bend	Union Pacific RR	KT 2006 ...	18A	13
Willamette River	6.9	St. Johns	Burlington Northern Santa Fe RR.	KQ 9050 ..	16	13
	11.7	Portland	Broadway Multnomah Co	KLU 724 ..	16	13
	12.1	Portland	Steel Union Pacific RR	KQU 534	16	13
	12.4	Portland	Burnside Multnomah Co	KTD 520 ..	16	13
	12.8	Portland	Morrison, Multnomah Co	KTD 522 ..	16	13
	13.1	Portland	Hawthorne Multnomah Co	KTD 521 ..	16	13
Youngs Bay	0.7	Astoria	OR DOT, US26	WHG 914	16	13

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES—Continued

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
* *	*	*	*	*	*	
WASHINGTON						
Blair Waterway	0.3	Tacoma	WA DOT, 11th Street	KZN 573	16	13
Chehalis River	0.1	Aberdeen	WA DOT, US101	KJA 289	16	13
Columbia River	105.6	Vancouver/Portland	Burlington Northern Santa Fe RR.	KQ 9049	16	13
	106.5	Vancouver/Portland	OR DOT, 15	KBM Interstate.	16	13
	169.8	Hood River, OR	Port of Hood River	KTD 562	16	13
	201.2	Celilo, OR	Burlington Northern Santa Fe RR.	KQ 9048	16	13
	323.4	Pasco/Kennewick	Union Pacific RR	KTD 561	16	13
	328.0	Pasco/Kennewick	Burlington Northern Santa Fe RR.	KQ 9046	16	13
Duwamish Waterway	0.4	Seattle	Spokane St., City of Seattle	KSK 285	13	13
	2.5	Seattle	1st Ave. So. City of Seattle	WHU 200	13	13
Ebey Slough	1.6	Marysville	WA DOT, US529	KZ 2475	13	13
Hood Canal		Port Gamble	WA DOT, Hood Canal Bride	KZJ 376	16	13
Hylebos Waterway	1.1	Tacoma	WA DOT, 11th Street	KZN 574	16	13
Lake Washington Ship Canal	0.1	Seattle	Burlington Northern Santa Fe RR.	KCE 201	16	13
	1.1	Seattle	Ballard, City of Seattle	KJA 445	13	13
	2.6	Seattle	Fremont, City of Seattle	KJA 442	13	13
	4.3	Seattle	University, City of Seattle	KJA 441	13	13
	5.2	Seattle	Montlake, City of Seattle	KJA 438	13	13
Snake River	1.5	East Pasco/Burbank	Burlington Northern Santa Fe RR.	KQ 9047	16	13
* *	*	*	*	*	*	

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

25. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

26. In § 127.003(b), revise the entry for American Society of Mechanical Engineers (ASME) to read as follows:

§ 127.003 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME)

Three Park Avenue, New York, NY 10016–5990:

ASME B31.3, CHEMICAL PLANT AND PETROLEUM REFINERY

Piping, 1993	127.1101

* * * * *

§ 127.1501 [Amended]

27. In § 127.1501(a), remove the number ''§ 127.103'' and add, in its place, the number ''§ 127.1307''.

PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS)

28. The authority citation for part 138 continues to read as follows:

Authority: 33 U.S.C. 2716, 2716a; 42 U.S.C. 9608, 9609; sec. 7(b), E.O. 12580, 3 CFR, 1987 Comp., p. 198; E.O. 12777, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46.

§ 138.40 [Amended]

29. In § 138.40(a), remove the words ''(703) 235–4813, Telex 248324 (Answerback CGNPFCUR), Telefax (703) 235–4835'' and add, in their place, the words ''(202) 493–6780, Telefax (202) 493–6781''.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

30. The authority citation for part 151, subpart A, continues to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

31. In § 151.04, revise paragraph (d) to read as follows:

§ 151.04 Penalties for violation.

* * * * *

(d) A ship operated in violation of MARPOL 73/78, the Act, or the regulations of this subpart is liable *in rem* for any civil penalty covered by paragraph (a) or (b) of this section, or any fine covered by paragraph (c) of this section, and may be proceeded against in the United States District Court of any district in which the ship may be found.

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

32. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (M)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

Appendix A to Part 154—Guidelines for Detonation Flame Arresters [Amended]

33. In paragraph 14.3.5.2(1) of appendix A, remove the words ''American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103'' and add, in their place, the words ''American Society for Testing and Materials (ASTM), 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959''.

34. In paragraph 14.3.5.2(2) of appendix A, remove the words ''American Society of Mechanical Engineers, 345 E. 47th St., New York, NY 10017'' and add, in their place, the words ''American Society of Mechanical Engineers International, Three Park Avenue, New York, NY 10016–5990''.

Appendix B to Part 154—Standard Specification for Tank Vent Flame Arresters [Amended]

35. In paragraph 3.3.3(1) of appendix B, remove the words ''American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103'' and add, in their place, the words ''American Society for Testing and Materials (ASTM), 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959''.

36. In paragraph 3.3.3(2) of appendix B, remove the words ''American Society of Mechanical Engineers, 345 E. 47th St., New York, NY 10017'' and add, in their place, the words ''American Society of Mechanical Engineers International, Three Park Avenue, New York, NY 10016–5990''.

PART 159—MARINE SANITATION DEVICES

37. The authority citation for part 159 continues to read as follows:

Authority: Sec. 312(b)(1), 86 Stat. 871 (33 U.S.C. 1322(b)(1)); 49 CFR 1.45(b) and 1.46(l) and (m).

§ 159.201 [Amended]

38. In § 159.201, remove the word ''(G–MSE–4)'' and add, in its place, the word ''(G–MSE–3)''.

PART 160—PORTS AND WATERWAYS SAFETY–GENERAL

39. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

§ 160.203 [Amended]

40. In § 160.203, in the definition of *hazardous condition*, in the last sentence, add a comma immediately following the word ''damage''.

PART 164—NAVIGATION SAFETY REGULATIONS

41. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.72 [Amended]

42. In § 164.72, redesignate paragraph (b)(3) as paragraph (b)(2).

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

43. Revise the authority citation for part 165 to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

44. In § 165.100, add a new paragraph (e) to read as follows:

§ 165.100 Regulated Navigation Area: Navigable Waters within the First Coast Guard District.

* * * * *

(e) In addition to the authority for this part 165, this section is also authorized under authority of section 311, Pub. L. 105–383.

45. In § 165.170, revise the section heading to read as follows:

§ 165.170 Safety Zone; Annual Heritage of Pride Fireworks Display, Hudson River, New York.

* * * * *

46. In § 165.905, revise the section heading to read as follows:

§ 165.905 USX Superfund Site Safety Zones: St. Louis River.

* * * * *

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

47. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

48. In § 167.150, revise the section heading to read as follows:

§ 167.150 Off New York Traffic Separation Scheme: General.

* * * * *

49. In § 167.151, revise the section heading to read as follows:

§ 167.151 Off New York: Precautionary areas.

* * * * *

50. In § 167.152, revise the section heading to read as follows:

§ 167.152 Off New York: Eastern approach, off Nantucket.

* * * * *

51. In § 167.153, revise the section heading to read as follows:

§ 167.153 Off New York: Eastern approach, off Ambrose Light.

* * * * *

52. In § 167.154, revise the section heading to read as follows:

§ 167.154 Off New York: South-eastern approach.

* * * * *

53. In § 167.155, revise the section heading to read as follows:

§ 167.155 Off New York: Southern approach.

* * * * *

54. In § 167.200, revise the section heading to read as follows:

§ 167.200 In the approaches to Chesapeake Bay Traffic Separation Scheme: General.

* * * * *

55. In § 167.201, revise the section heading to read as follows:

§ 167.201 In the approaches to Chesapeake Bay: Precautionary area.

* * * * *

56. In § 167.202, revise the section heading to read as follows:

§ 167.202 In the approaches to Chesapeake Bay: Eastern approach.

* * * * *

57. In § 167.203, revise the section heading to read as follows:

§ 167.203 In the approaches to Chesapeake Bay: Southern approach.

* * * * *

58. In § 167.350, revise the section heading to read as follows:

§ 167.350 In the approaches to Galveston Bay Traffic Separation Scheme and precautionary areas.

* * * * *

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

59. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.

§§ 174.14, 174.19, and 174.106 [Amended]

60. In 33 CFR part 174, remove the word ''boat'' and add, in its place, the word ''vessel'' in the following sections:

(a) Section 174.14;

(b) Section 174.19(e); and

(c) Section 174.106.

PART 175—EQUIPMENT REQUIREMENTS

61. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

§§ 175.120, 175.125, and 175.128 [Amended]

62. In 33 CFR part 175, remove the designator for paragraph (a) in the following sections:

(a) Section 175.120;
(b) Section 175.125; and
(c) Section 175.128.

PART 179—DEFECT NOTIFICATION

63. The authority citation for part 179 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; 49 CFR 1.46.

§ 179.03 [Amended]

64. In § 179.03, in the definition of *Associated equipment*, add the words '', as used in this part,'' immediately following the words ''*Associated equipment*''.

PART 181—MANUFACTURER REQUIREMENTS

65. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 4302 and 4310; 49 CFR 1.46.

§ 181.15 [Amended]

66. In § 181.15(a)(2)(ii), remove the words ''or boat hull''.

§ 181.21 [Amended]

67. In § 181.21, remove paragraph (b) and remove the designator for paragraph (a).

PART 183—BOATS AND ASSOCIATED EQUIPMENT

68. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

§ 183.23 [Amended]

69. In § 183.23, add ''a'' following ''by'' and preceding ''Motor''.

§ 183.35 [Amended]

70. In § 183.35(b)(1), remove the word ''displayed'' and add, in its place, the word ''displaced''.

71. In § 183.37(a), remove the word ''two'' immediately preceding the word ''horsepower'' and add, in its place, the number ''2''; and revise the section heading to read as follows:

§ 183.37 Maximum weight capacity: Boats rated for manual propulsion and boats rated for outboard motors of 2 horsepower or less.

* * * * *

72. In § 183.43, revise the section heading to read as follows:

§ 183.43 Persons capacity: Boats rated for manual propulsion and boats rated for outboard motors of 2 horsepower or less.

* * * * *

§ 183.101 [Amended]

73. In § 183.101, remove the words ''the construction or assembly of which is begun after July 31, 1978,''.

§ 183.110 [Amended]

74. In § 183.110, in the definition of *Sealed compartment*, remove the word ''seppage'' and add, in its place, the word ''seepage''.

75. In § 183.201, revise paragraph (a) to read as follows:

§ 183.201 Applicability.

(a) This subpart applies to monohull outboard boats that are:

(1) Less than 20 feet in length; and

(2) Rated for outboard engines of more than 2 horsepower.

* * * * *

§ 183.205 [Amended]

76. In § 183.205(c), in the last sentence in the paragraph, add the word ''there'' following the word ''where''.

§ 183.220 [Amended]

77. In § 183.220(b)(1), add the words ''the first'' immediately preceding the number 550.

§ 183.235 [Amended]

78. In § 183.235, introductory text, remove the words ''(a), (d)'' and add, in their place, the words ''(a) and (d)''.

79. In § 183.301, revise paragraph (a) to read as follows:

§ 183.301 Applicability.

(a) This subpart applies to monohull outboard boats that are:

(1) Less than 20 feet in length; and

(2) Rated for manual propulsion or outboard engines of 2 horsepower or less.

* * * * *

§ 183.335 [Amended]

80. In § 183.335 introductory text, remove the words ''(a), (d)'' and add, in their place, the words ''(a) and (d)''; and in paragraph (a) remove the word ''the'' immediately preceding the word ''heel''.

81. In § 183.401, revise paragraph (a) to read as follows:

§ 183.401 Purpose, applicability, and effective dates.

(a) This subpart applies to all boats that have gasoline engines, except outboard engines, for electrical generation, mechanical power, or propulsion.

* * * * *

§ 183.440 [Amended]

82. In § 183.440(b), remove the word ''boots'' and add, in its place, the word ''boot''.

83. In § 183.501, revise paragraph (a) to read as follows:

§ 183.501 Applicability.

(a) This subpart applies to all boats that have gasoline engines, except outboard engines, for electrical generation, mechanical power, or propulsion.

* * * * *

§ 183.514 [Amended]

84. In § 183.514(b), introductory text, remove the word ''paragragh'' and add, in its place, the word ''paragraph''.

§ 183.530 [Amended]

85. In § 183.530(c), remove the word ''serations'' and add, in its place, the word ''serrations''; and remove the word ''continous'' and add, in its place, the word ''continuous''.

§ 183.550 [Amended]

86. In § 183.550(h), remove the word ''labled'' and add, in its place, the word ''labeled''.

§ 183.584 [Amended]

87. In § 183.584 introductory text, add the word ''tank'' immediately following the word ''fuel''.

§ 183.588 [Amended]

88. In § 183.588(f), remove the word ''degree'' and add, in its place, the word ''degrees''.

89. Revise § 183.601 to read as follows:

§ 183.601 Applicability.

This subpart applies to all boats that have gasoline engines for electrical generation, mechanical power, or propulsion.

§ 183.620 [Amended]

90. In § 183.620, add the word ''NOTE:'' at the beginning of the undesignated paragraph immediately following paragraph (a)(5)(ii).

91. Revise § 183.701 to read as follows:

§ 183.701 Applicability.

This subpart applies to outboard motors and starting controls, and to manufacturers, distributors or dealers installing such equipment.

Dated: June 18, 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–16367 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 065–1065; FRL–6364–3]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the state of Missouri that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the state agency and approved by EPA.

EFFECTIVE DATE: This action is effective June 29, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; Office of Air and Radiation, Docket and Information Center (Air Docket), Environmental Protection Agency, 401 M Street, SW, Room M1500, Washington, DC 20460; and Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward West, Regional SIP Coordinator at the above Region VII address or at (913) 551–7330.

SUPPLEMENTARY INFORMATION: This format revision will affect the ''Identification of Plan'' section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR); the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, DC; and the Region VII Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or state-submitted materials not subject to IBR review remain unchanged.

The supplementary information is organized in the following order:

Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the Federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''IBR.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. (Where you can find a copy of the SIP compilation.) The information provided allows EPA and the public to monitor the extent to which a state implements the SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

How the State and EPA Updates the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally approved SIPs, as a result of consultations between EPA and OFR.

EPA began the process of developing: (1) A revised SIP document for each state that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''Identification of Plan'' sections for each applicable subpart to reflect these revised IBR procedures.

The description of the revised SIP document, IBR procedures, and ''Identification of Plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

How EPA Compiles the SIPs

The Federally approved regulations and source-specific permits submitted by Missouri have been organized by EPA into a SIP compilation that contains the updated regulations and source-specific permits approved by EPA through previous rulemaking actions in the **Federal Register**. The compilations are contained in three-ring binders and will be updated, primarily on an annual basis. The nonregulatory provisions are available by contacting Ed West at the Regional Office.

How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the state regulations, part two contains the source-specific requirements that have been approved as part of the SIP, and part three contains nonregulatory provisions that have been EPA-approved. Each part consists of a table of identifying information for each regulation, each source-specific permit, and each nonregulatory provision. The effective dates in the tables indicate the date of the most recent revision of the regulation. The table of identifying information in the compilation corresponds to the table of contents published in 40 CFR part 52 for the state. The regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations.

Where You Can Find a Copy of the SIP Compilation

The Region VII EPA Office developed and will maintain the compilation for Missouri. A copy of the full text of the state's current compilation will also be maintained at the OFR and EPA's Air Docket and Information Center. Missouri rules are also available electronically at http://www.epa.gov/

region07/programs/artd/air/rules/missouri /toc.htm.

The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the ''Identification of Plan'' section and included additional information to clarify the enforceable elements of the SIP.

The revised Identification of Plan section contains five subsections:

1. Purpose and scope
2. Incorporation by reference
3. EPA-approved regulations
4. EPA-approved source-specific permits
5. EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c) or (d) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52.

The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new system and its ability to enforce previously approved SIP measures, and will decide whether or not to retain the Identification of Plan appendices for some further period.

What EPA Is Doing in This Action

Today's action constitutes a ''housekeeping'' exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order (E.O.) 12866

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

B. E.O. 12875

Under E.O. 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 complies by consulting, E.O. 12875 requires EPA to provide to the OMB 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, E.O. 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. E.O. 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 is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 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, E.O. 13084 requires EPA to provide to the OMB, 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, E.O. 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. This rule does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The 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 (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. 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 the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action 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 preexisting 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 United States Senate, the United State House of Representatives, and the United States Comptroller General 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

EPA has determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Missouri SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' reorganization action.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 11, 1999.

William Rice,

Acting Regional Administrator. Region VII.

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

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. Section 52.1320 is redesignated as § 52.1322 and the heading and paragraph (a) are revised to read as follows:

§ 52.1322 Original Identification of Plan Section.

(a) This section identifies the original ''Air Implementation Plan for the State of Missouri'' and all revisions submitted by Missouri that were Federally approved prior to July 1, 1999.

* * * * *

3. A new § 52.1320 is added to read as follows:

§ 52.1320 Identification of Plan.

(a) Purpose and scope. This section sets forth the applicable SIP for Missouri under section 110 of the CAA, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards (NAAQS).

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 1999, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after July 1, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region VII certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of July 1, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; or at EPA Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

(c) EPA-approved regulations.

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
	Missouri Department of Natural Resources			
	Chapter 1—General Organization			
10–1.010	General Organization	10/1/82	7/21/83, 48 FR 33265.	
	Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area			
10–2.030	Restriction of Emission of Particulate Matter from Industrial Processes.	11/1/79	5/22/81, 46 FR 27932	9/27/84, 49 FR 38103 (correction). 10/5/89, 54 FR 41094 (correction).
10–2.040	Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85, 50 FR 3337.	
10–2.060	Restriction of Emission of Visible Air Contaminants.	7/1/77	3/18/80, 45 FR 17145	
10–2.080	Emission of Visible Air Contaminants from Internal Combustion Engines.	2/25/70	3/18/80, 45 FR 17145	
10–2.090	Incinerators	2/25/70	3/18/80, 45 FR 17145	The state has rescinded this rule.
10–2.100	Open Burning Restrictions	4/2/84	8/31/84, 49 FR 34484	
10–2.150	Time Schedule for Compliance	2/25/70	3/18/80, 45 FR 17145	
10–2.210	Control of Emissions from Solvent Metal Cleaning.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10–2.220	Liquefied Cutback Asphalt Paving Restricted.	6/3/91	6/23/92, 57 FR 27939	
10–2.230	Control of Emissions from Industrial Surface Coating Operations.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10–2.260	Control of Petroleum Liquid Storage, Loading, and Transfer.	11/30/95	8/20/97, 62 FR 44219	
10–2.280	Control of Emissions from Perchloroethylene Dry Cleaning Installations.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10–2.290	Control of Emissions From Rotogravure and Flexographic Printing Facilities.	3/30/92	8/30/93, 58 FR 45451	The state rule has Sections (6)(A) and (6)(B), which EPA has not approved. 9/6/94, 59 FR 43376 (correction).
10–2.300	Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction). Section (1)(A) is not a part of the SIP.
10–2.310	Control of Emissions from the Application of Automotive Underbody Deadeners.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10–2.320	Control of Emissions from Production of Pesticides and Herbicides.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10–2.330	Control of Gasoline Reid Vapor Pressure.	9/30/97	4/24/98, 63 FR 20318.	
10–2.340	Control of Emissions from Lithographic Printing Facilities.	10/15/91	6/23/92, 57 FR 27939.	
10–2.360	Control of Emissions from Bakery Ovens.	11/30/95	7/20/98, 63 FR 38755.	
10–2.390	Conformity to State Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act.	11/30/96	9/5/97, 62 FR 46880	2/10/98, 63 FR 6645 (correction).
	Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area			
10–3.010	Auto Exhaust Emission Controls	2/1/78	3/18/80, 45 FR 17145.	
10–3.030	Open Burning Restrictions	7/31/98	4/1/99, 64 FR 15688.	
10–3.040	Incinerators	2/1/78	3/18/80, 45 FR 17145	The state has rescinded this rule.
10–3.050	Restriction of Emission of Particulate Matter From Industrial Processes.	10/2/78	7/6/82, 47 FR 29233.	
10–3.060	Maximum Allowable Emissions of Particulate Matter From Fuel Burning Equipment.	9/4/84	1/24/85, 50 FR 3337	EPA has not approved the exemption in Section (7).

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10–3.080	Restriction of Emission of Visible Air Contaminants.	4/30/96	11/27/98, 63 FR 65559.	
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area				
10–4.030	Restriction of Emission of Particulate Matter From Industrial Processes.	11/1/79	5/22/81, 46 FR 27932	9/24/84, 49 FR 38103 (correction). 10/5/89, 54 FR 41094 (correction).
10–4.040	Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85, 50 FR 3337.	
10–4.060	Restrictions of Emission of Visible Air Contaminants.	7/1/77	3/18/80, 45 FR 17145.	
10–4.080	Incinerators	12/16/69	3/18/80, 45 FR 17145	The state has rescinded this rule.
10–4.090	Open Burning Restrictions	4/2/84	8/31/84, 49 FR 34484.	
10–4.140	Time Schedule for Compliance	12/15/69	3/18/80, 45 FR 17145.	
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
10–5.030	Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85 50 FR 3337.	
10–5.040	Use of Fuel in Hand-Fired Equipment Prohibited.	9/18/70	3/18/80 45 FR 17145.	
10–5.050	Restriction of Emission of Particulate Matter From Industrial Processes.	11/1/79	5/22/81 46 FR 27932	9/27/84 49 FR 38103 (correction). 10/5/89 54 FR 41094 (correction).
10–5.060	Refuse Not To Be Burned in Fuel Burning Installations.	9/18/70	3/18/80 45 FR 17145	The state has rescinded this rule.
10–5.070	Open Burning Restrictions	4/2/84	8/31/84 49 FR 34484.	
10–5.080	Incinerators	9/18/70	3/18/80 45 FR 17145	The state has rescinded this rule.
10–5.090	Restriction of Emission of Visible Air Contaminants.	7/1/77	4/9/80 45 FR 24140	7/11/80 45 FR 46806 (correction).
10–5.120	Information on Sales of Fuels to be Provided and Maintained.	9/18/70	3/18/80 45 FR 17145.	
10–5.130	Certain Coals to be Washed	9/18/70	3/18/80 45 FR 17145.	
10–5.180	Emission of Visible Air Contaminants from Internal Combustion Engines.	9/18/70	3/18/80 45 FR 17145.	
10–5.220	Control of Petroleum Liquid Storage, Loading and Transfer.	11/30/95	8/20/97 62 FR 44219.	
10–5.240	Additional Air Quality Control Measures May Be Required When Sources Are Clustered in a Small Land Area.	9/18/70	3/18/80 45 FR 17145.	
10–5.250	Time Schedule for Compliance	1/18/72	3/18/80 45 FR 17145.	
10–5.290	More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis Area.	5/3/82	8/30/82 47 FR 38123	The state has deleted all provisions to N.L. Industries, which is no longer in operation, and has made significant changes to the provisions affecting Carondelet Coke.
10–5.300	Control of Emissions from Solvent Metal Cleaning.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10–5.310	Liquefied Cutback Asphalt Restricted.	3/1/89	3/5/90 55 FR 7712.	
10–5.320	Control of Emissions from Perchloroethylene Dry Cleaning Installations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10–5.330	Control of Emissions from Industrial Surface Coating Operations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10–5.340	Control of Emissions From Rotogravure and Flexographic Printing Facilities.	3/30/92	8/30/93 58 FR 45451	The state rule has Section (6)(A)(B), which EPA has not approved. 9/6/94 59 FR 43376 (correction).
10–5.350	Control of Emissions From Manufacture of Synthesized Pharmaceutical Products.	11/29/91	8/24/94 59 FR 4348	04/3/95 60 FR 16806 (Correction Notice).

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10–5.360	Control of Emissions from Polyethylene Bag Sealing Operations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10–5.370	Control of Emissions from the Application of Deadeners and Adhesives.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10–5.380	Motor Vehicle Emissions Inspection.	1/3/84	8/12/85 50 FR 32411	
10–5.390	Control of Emissions from Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10–5.410	Control of Emissions From Manufacture of Polystyrene Resin.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10–5.420	Control of Equipment Leaks from Synthetic Organic Chemical and Polymer Manufacturing Plants.	3/1/89	3/5/90 55 FR 7712.	
10–5.480	Conformity to State Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act.	11/30/96	9/5/97 62 FR 46880	2/10/98 63 FR 6645 (correction).
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
10–6.010	Ambient Air Quality	4/18/88	7/31/89 54 FR 31524	The state adopted and submitted a revised ozone standard and a lead standard which EPA never acted on.
10–6.020	Definitions and Common Reference Tables.	5/31/96	5/14/97 62 FR 26405	
10–6.030	Sampling Methods for Air Pollution Sources.	10/31/98	4/1/99 64 FR 15688	
10–6.040	Reference Methods	4/18/88	7/31/89 54 FR 31524	Section 7, pertaining to percent sulfur in liquid hydrocarbons, is not part of the SIP.
10–6.050	Start-up, Shutdown, and Malfunction Conditions.	11/1/79	3/22/81, 46 FR 27932	9/27/84 49 FR 38103 (correction).
10–6.060	Construction Permits Required	3/31/98	12/22/98, 63 FR 70665	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
10–6.065	Operating Permits	5/31/96,	5/14/97 62 FR 26405	The state rule has sections (4)(A), (4)(B), and (4)(H)—Basic State Operating Permits. EPA has not approved those sections. 8/26/97 62 FR 45165 (revision notice).
10–6.110	Submission of Emission Data, Emission Fees and Process Information.	12/31/95	8/26/97, 62 FR 45166	Section (5), Emission Fees, has not been approved as part of the SIP. 2/10/98 63 FR 6648 (correction).
10–6.120	Restriction of Emissions of Lead from Primary Lead Smelter-Refinery Installations.	5/31/96	3/5/97, 62 FR 9970.	
10–6.130	Controlling Emissions During Episodes of High Air Pollution.	4/18/88	7/31/89, 54 FR 31524.	
10–6.140	Restriction of Emissions Credit for Reduced Pollutant Concentrations from the Use of Dispersion Techniques.	5/1/86	3/31/89, 54 FR 13184.	
10–6.150	Circumvention	8/15/90	4/17/91 56 FR 15500.	
10–6.170	Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.	9/30/96	1/21/98, 63 FR 3037.	
10–6.180	Measurement of Emissions of Air Contaminants.	11/19/90	7/23/91, 56 FR 33714.	
10–6.210	Confidential Information	1/27/95	2/29/96, 61 FR 7714.	
10–6.260	Restriction of Emission of Sulfur Compounds.	7/31/96	8/27/98, 63 FR 45727	EPA did not approve section (4) of the state rule.

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10–6.300	Conformity of General Federal Actions to State Implementation Plans.	8/31/96	5/14/97, 62 FR 26395.	
10–6.330	Charcoal Kilns	6/30/98	12/8/98, 63 FR 67591.	
Missouri Department of Public Safety Division 50—State Highway Patrol Chapter 2—Motor Vehicle Inspection				
50–2.010	Definitions	4/11/82	8/12/85, 50 FR 32411.	
50–2.020	Minimum Inspection Station Requirements.	10/11/82	8/12/85, 50 FR 32411.	
50–2.030	Inspection Station Classification	12/11/77	8/12/85, 50 FR 32411.	
50–2.040	Private Inspection Stations	5/31/74	8/12/85, 50 FR 32411.	
50–2.050	Inspection Station Permits	11/11/79	8/12/85, 50 FR 32411.	
50–2.060	Display of Permits, Signs and Poster.	11/31/74	8/12/85, 50 FR 32411.	
50–2.070	Hours of Operation	11/11/83	8/12/85, 50 FR 32411.	
50–2.080	Licensing of Inspector/Mechanics	4/13/78	8/12/85, 50 FR 32411.	
50–2.090	Inspection Station Operational Requirements.	8/11/78	8/12/85, 50 FR 32411.	
50–2.100	Requisition of Inspection Stickers and Decals.	6/12/80	8/12/85, 50 FR 32411.	
50–2.110	Issuance of Inspection Stickers and Decals.	12/11/77	8/12/85, 50 FR 32411.	
50–2.120	MVI–2 Form	11/11/83	8/12/85, 50 FR 32411.	
50–2.130	Violations of Laws or Rules Penalty.	5/31/74	8/12/85, 50 FR 32411.	
50–2.260	Exhaust System	5/31/74	8/12/85, 50 FR 32411.	
50–2.280	Air Pollution Control Devices	12/11/80	8/12/85, 50 FR 32411.	
50–2.290	Fuel Tank	5/3/74	8/12/85, 50 FR 32411.	
50–2.350	Applicability of Motor Vehicle Emission Inspection.	5/1/84	8/12/85, 50 FR 32411.	
50–2.360	Emission Fee	11/1/83	8/12/85, 50 FR 32411.	
50–2.370	Inspection Station Licensing	12/21/90	10/13/92, 57 FR 46778.	
50–2.380	Inspector/Mechanic Licensing	11/1/83	8/12/85, 50 FR 32411.	
50–2.390	Safety/Emission Stickers	11/1/83	8/12/85, 50 FR 32411.	
50–2.400	Emission Test Procedures	6/15/87	9/15/88, 53 FR 35820	Subsections (3)(B)3, (4)(A), (4)(B), (4)(B)1 and 2, (4)(B)5, and a portion of (4)(B)6 are not approved as part of the SIP.
50–2.401	General Specifications	12/21/90	10/13/92, 57 FR 46778.	
50–2.402	MAS Software Functions	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (6), Safety Inspection.
50–2.403	Missouri Analyzer System (MAS) Display and Program Requirements.	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (3)(B)4, Safety Inspection Sequences or (3)(M)5(II), Safety Inspection Summary.
50–2.404	Test Record Specifications	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (5), Safety Inspection Results.
50–2.405	Vehicle Inspection Certificate, Vehicle Inspection Report, and Printer Function Specifications.	12/21/90	10/13/92, 57 FR 46778.	
50–2.406	Technical Specifications for the MAS.	12/21/90	10/13/92, 57 FR 46778.	
50–2.407	Documentation, Logistics and Warranty Requirements.	12/21/90	10/13/92 57 FR 46778.	
50–2.410	Vehicles Failing Reinspection	12/21/90	10/13/92, 57 FR 46778.	
50–2.420	Procedures for Conducting Only Emission Tests.	12/21/90	10/13/92, 57 FR 46778.	
Kansas City Article III—Air Pollution				
18.83	Definitions	10/31/96	4/22/98, 63 FR 19823.	
18.91	Incinerators	10/31/96	4/22/98, 63 FR 19823.	
Kansas City Chapter 8—Air Quality				
8–2	Definitions	10/31/96	4/22/98, 63 FR 19823.	
8–4	Open Burning	10/31/96	4/22/98, 63 FR 19823.	

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
Springfield—Chapter 2A—Air Pollution Control Standards				
Article I.	Definitions	10/31/96	4/22/98, 63 FR 19823	Only Section 2A–2 is approved by EPA.
Article VII.	Stack Emission Test Method	10/31/96	4/22/98, 63 FR 19823	Only Section 2A–25 is approved by EPA.
Article IX.	Incinerator	10/31/96	4/22/98, 63 FR 19823	Only Sections 2A–34 through 38 are approved by EPA.
Article XX.	Test Methods and Tables	10/31/96	4/22/98, 63 FR 19823	Only Sections 2A–51, 55, and 56 are approved by EPA.
St Louis City Ordinance 59270				
Section 4	Definitions	10/31/96	4/22/98, 63 FR 19823.	
Section 12	Open Burning Restrictions	10/31/96	4/22/98, 63 FR 19823.	

(d) EPA-approved state source-specific permits and orders.

EPA—Approved Missouri Source Specific Permits and Orders

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
ASARCO Inc. Lead Smelter Glover, MO	Order	8/13/80	4/27/81, 46 FR 23412.	
St. Joe Lead (Doe Run) Company Lead Smelter Herculaneum, MO.	Order	3/21/84	6/11/84, 49 FR 24022.	
AMAX Lead (Doe Run) Company Lead Smelter Boss, MO.	Order	9/27/84	1/7/85, 50 FR 788.	
Gusdorf Operating Permit 11440 Lackland Road St Louis County, MO.	Permit Nos: 04682–04693.			
4/29/80 (St Louis County)	10/15/84, 49 FR 40164.			
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	3/9/90	3/6/92, 57 FR 8077.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	8/17/90	3/6/92, 57 FR 8077.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	7/2/93	5/5/95, 60 FR 22334.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order (Modification)	4/28/94	5/5/95, 60 FR 22334.	In a notice published on 8/15/97 at 62 FR 43647, EPA required implementation of the contingency measures.
Doe Run Lead Smelter Herculaneum, MO.	Consent Order (Modification)	11/23/94	5/5/95, 60 FR 22334.	
Doe Run Buick Lead Smelter Boss, MO	Consent Order	7/2/93	8/4/95, 60 FR 39851.	
Doe Run Buick Lead Smelter Iron County, MO.	Consent Order (Modification)	9/29/94	8/4/95, 60 FR 39851.	
ASARCO Glover Lead Smelter Glover, MO.	Consent Decree CV596–98CC with exhibits A–G.	7/30/96	3/5/97, 62 FR 9970.	
St Louis City Incinerator Permits				
Washington University School of Medicine.	Pathological Incinerator (RETORT) Permit No. 96–10–083.	2/20/97	4/22/98, 63 FR 19823.	
Washington University School of Medicine.	Medical Waste Incinerator Permit No. 96–10–084.	2/20/97	4/22/98, 63 FR 19823.	
St Louis University	Medical Waste Incinerator	9/22/92	4/22/98, 63 FR 19823.	

(e) EPA approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment Area	State submittal date	EPA approval date	Explanation
Kansas City and Outstate Air Quality Control Regions Plan.	Kansas City and Outstate.	1/24/72	5/31/72, 37 FR 10875.	
Implementation Plan for the Missouri portion of the St. Louis Interstate Air Quality Control Region.	St. Louis	1/24/72	5/31/72, 37 FR 10875.	
Effects of adopting Appendix B to NO^2 emissions.	St. Louis	3/27/72	5/31/72, 37 FR 10875.	
CO air quality data base	St. Louis	5/2/72	5/31/72, 37 FR 10875.	
Budget and manpower projections	Statewide	2/28/72	10/28/72, 37 FR 23089.	
Emergency episode manual	Kansas City	5/11/72	10/28/72, 37 FR 23089.	
Amendments to Air Conservation Law	Statewide	7/12/72	10/28/72, 37 FR 23089.	
Air monitoring plan	Outstate	7/12/72	10/28/72, 37 FR 23089.	
Amendments to Air Conservation Law	Statewide	8/8/72	10/28/72, 37 FR 23089.	
Transportation control strategy	Kansas City	5/11/73, 5/21/73,	6/22/73 38 FR 16566.	
Analysis of ambient air quality data and recommendation to not designate the area as an air quality maintenance area.	Kansas City	4/11/74	3/2/76, 41 FR 8962.	
Recommendation to designate air quality maintenance areas.	St. Louis, Columbia, Springfield.	5/6/74	9/9/75, 40 FR 41950.	
Plan to attain the NAAQS	Kansas City St. Louis	7/2/79 4/9/80, 45 FR ..	24140	Correction notice published 7/11/80.
Schedule for I/M program and commitment regarding difficult transportation control measures (TCMs).	St. Louis	9/9/80	3/16/81, 46 FR 16895	
Lead SIP	Statewide	9/2/80, 2/11/81, 2/13/81.	4/27/81, 46 FR 23412 7/19/84, 49 FR 29218	Correction notice published 5/15/81.
Report on recommended I/M program	St. Louis	12/16/80	8/27/81, 46 FR 43139	No action was taken on the specific recommendations in the report.
Report outlining commitments to TCMs, analysis of TCMs, and results of CO dispersion modeling.	St. Louis	2/12/81, 4/28/81	11/10/81, 46 FR 55518.	
1982 CO and ozone SIP	St. Louis	12/23/82, 8/24/83	10/15/84, 49 FR 40164.	
Air quality monitoring plan	Statewide	6/6/84	9/27/84, 49 FR 38103.	
Vehicle I/M program	St. Louis	8/27/84	8/12/85, 50 FR 32411.	
Visibility protection plan	Hercules Glades and Mingo Wildlife Area.	5/3/85	2/10/86, 51 FR 4916.	
Plan for attaining the ozone standard by December 31, 1987.	St. Louis	8/1/85	9/3/86, 51 FR 31328.	
PM^{10} plan	Statewide	3/29/88, 6/15/88	7/31/89, 54 FR 31524.	
Construction permit fees including Chapter 643 RSMo.	Statewide	1/24/89, 9/27/89	1/9/90, 55 FR 735.	
PSD NO_X requirements including a letter from the state pertaining to the rules and analysis.	Statewide	7/9/90	3/5/91, 56 FR 9172.	
Lead plan	Herculaneum	9/6/90, 5/8/91	3/6/92, 57 FR 8076.	
Ozone maintenance plan	Kansas City	10/9/91	6/23/92, 57 FR 27939.	
Small business assistance plan	Statewide	3/10/93	10/26/93, 58 FR 57563.	
Part D Lead plan	Herculaneum	7/2/93, 6/30/94, 11/23/94.	5/5/95, 60 FR 22274.	
Intermediate permitting program including three letters pertaining to authority to limit potential to emit hazardous air pollutants.	Statewide	3/31/94, 11/7/94, 10/3/94, 2/10/95.	9/25/95, 60 FR 49340.	
Part D lead plan	Bixby	7/2/93, 6/30/94	8/4/95, 60 FR 39851.	
Transportation conformity plans including a policy agreement and a letter committing to implement the state rule consistent with the Federal transportation conformity rule.	St. Louis, Kansas City	2/14/95	2/29/96, 61 FR 7711.	
Emissions inventory update including a motor vehicle emissions budget.	Kansas City	4/12/95	4/25/96, 61 FR 18251.	
Part D Lead Plan	Glover	8/14/96	3/5/97, 62 FR 9970.	
CO Maintenance Plan	St. Louis	6/13/97, 6/15/98	1/26/99, 64 FR 3855.	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ079–0014; FRL–6365–9]

RIN 2060–A122

Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving under the Clean Air Act (CAA or Act) a revision to the Arizona State Implementation Plan (SIP) reflecting Arizona State legislation that provides for the expeditious implementation of best management practices to reduce fugitive dust from agricultural sources in the Maricopa County (Phoenix) PM–10 nonattainment area. Because EPA is approving the State legislation as meeting the reasonably available control measure (RACM) requirements of the Act, EPA is also withdrawing a federal implementation plan (FIP) commitment, promulgated under section 110(c) of the Act, to adopt and implement RACM for agricultural fields and aprons in the Maricopa area.

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky at (415) 744–1286, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105. This document is also available as an electronic file on EPA's Region 9 web page at http://www.epa.gov/region09/air.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

1. Designation and Classification

Portions of Maricopa County [1] are designated nonattainment for the PM–10 national ambient air quality standards (NAAQS) [2] and were originally classified as ''moderate'' pursuant to section 188(a) of the Clean Air Act (CAA or Act). 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM-10 nonattainment area to ''serious'' under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in the CAA, including a demonstration that best available control measures (BACM) will be implemented by June 10, 2000. CAA sections 188(c)(2) and 189(b). While the Phoenix PM–10 nonattainment area is currently classified as serious, today's actions relate only to the moderate area statutory requirements.

Pursuant to section 189(b)(2), the State of Arizona was required to submit a serious area plan addressing both PM–10 NAAQS for the area by December 10, 1997. The State has not yet submitted that plan.

2. Moderate Area Planning Requirements and EPA Guidance

The air quality planning requirements for PM–10 nonattainment areas are set out in subparts 1 and 4 of Title I of the Clean Air Act. Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, by November 15, 1991 provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993. CAA sections 172(c)(1) and 189(a)(1)(C).[3] Since that deadline has passed, EPA has concluded that the required RACM/RACT must be implemented ''as soon as possible.'' *Delaney* v. *EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be ''as soon as practicable.'' See 55 FR 41204, 41210 (October 1, 1990) and 63 FR 28898, 28900 (May 27, 1998).

EPA has issued a ''General Preamble'' [4] describing EPA's preliminary views on how the Agency intends to review state implementation plans (SIPs) and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP provisions. The methodology for determining RACM/RACT is described in detail in the General Preamble. 57 FR 13498, 13540–13541. With respect to PM–10, Appendix C1 of the General Preamble suggests starting to define RACM with the list of available control measures for fugitive dust and adding to this list any additional control measures proposed and documented in public comments. Any measures that apply to de minimis emission sources of PM–10, or any measures that are unreasonable for technology reasons or because of the cost of the control in the area can then be culled from the list. In addition, potential RACM may be culled from the list if a measure cannot be implemented on a schedule that would advance the date for attainment in the area. 57 13498, 13560. 57 FR 18070, 18072 (April 28, 1992).

Moderate area plans were also required to meet the generally applicable SIP requirements for reasonable notice and public hearing under section 110(a)(2), necessary assurances that the implementing

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[1] ''Maricopa,'' ''Maricopa County'' and ''Phoenix'' are used interchangeably throughout this final rule to refer to the nonattainment area.

[2] There are two PM–10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). At that time, EPA established two PM–10 standards. The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter ($\mu g/m^3$). The 24-hour PM–10 standard of 150 $\mu g/m^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, Appendix K.

On July 18, 1997, EPA revised both the annual and the 24-hour PM–10 standards and also established two new standards for PM, both applying only to particulate matter up to 2.5 microns in diameter (PM–2.5)(62 FR 38651). Today's actions relate only to the CAA requirements concerning the 24-hour and annual PM–10 standards as originally promulgated in 1987.

On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit in American Trucking Assoc., Inc., et al. v. USEPA, No. 97–1440 (May 14, 1999) issued an opinion that, among other things, vacated the new standards for PM–10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM–10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in the Maricopa area. Codification of those standards continues to be recorded at 40 CFR 50.6. In the notice promulgating the revised PM–10 standards, the EPA Administrator decided that the previous PM–10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR at 38701. EPA has not taken any action under 40 CFR 50.6(d) for the Maricopa area.

[3] States with moderate PM–10 areas were also required to submit either a demonstration that the plan would provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable (CAA section 189(a)(1)(B)); and, for plan revisions demonstrating impracticability, a demonstration of reasonable further progress (RFP) meeting the requirements of CAA sections 172(c)(2) and 171(1). Section 171(1) defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by part D of the Act or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable attainment date.''

[4] See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

agencies have adequate personnel, funding and authority under section 110(a)(2)(E)(i) and 40 CFR 51.280; and the description of enforcement methods as required by 40 CFR 51.111 and EPA guidance implementing these provisions.

B. EPA's Moderate Area PM–10 FIP for Phoenix

On August 3, 1998, EPA promulgated under the authority of CAA section 110(c)(1) a federal implementation plan (FIP) to address the CAA's moderate area PM–10 requirements for the Phoenix PM–10 nonattainment area. 63 FR 41326 (August 3, 1998).

In the FIP, EPA promulgated, among other things, for both the annual and 24-hour PM–10 NAAQS, a demonstration that RACM will be implemented in the Phoenix area as soon as practicable.[5] As part of its RACM demonstration, EPA promulgated an enforceable commitment, codified at 40 CFR 52.127, to ensure that RACM for agricultural sources will be expeditiously adopted and implemented. See 63 FR 41326, 41350.[6]

II. Proposed Actions

On May 29, 1998, Arizona Governor Hull signed into law Senate Bill 1427 (SB 1427) which revised title 49 of the Arizona Revised Statutes (ARS) by adding section 49–457. This legislation established an agricultural best management practices (BMPs) committee for the purpose of adopting by rule by June 10, 2000, an agricultural general permit specifying BMPs for regulated agricultural activities[7] to reduce PM–10 emissions in the Maricopa PM–10 nonattainment area. ARS 49–457.A–F.

On September 4, 1998, the State of Arizona submitted ARS 49–457 to EPA. On December 30, 1998, EPA proposed to approve the legislation into the Arizona SIP for the Phoenix PM–10 nonattainment area under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and 189(a)(1)(C) and proposed to withdraw the FIP RACM commitment for such sources. Please refer to Notice of Proposed Rulemaking (63 FR 71816) for greater detail on the Arizona legislation. For EPA's SIP approval criteria and its evaluation of the Arizona legislation, see 63 FR 71817.

III. Comments on Proposed Rule and EPA Responses

EPA received 3 comment letters on its proposed action for Phoenix. The comment letters were submitted by: (1) Nancy C. Wrona, Director, Air Quality Division, Arizona Department of Environmental Quality; (2) Dan Thelander, Chair, Agricultural Best Management Practices Committee; and (3) Jennifer B. Anderson, Staff Attorney, Arizona Center for Law in the Public Interest (ACLPI). The first two letters expressed strong support for EPA's proposed approval and did not raise any issues that EPA need address. ACLPI, in a January 29, 1999 letter, however, opposes EPA's proposed actions for a variety of reasons. EPA responds to ACLPI's specific major comments below. The reader is referred to the technical support document (TSD) for this rulemaking for EPA's responses to all of ACLPI's comments in its January 29, 1999 letter.

ACLPI comments that EPA should withdraw the proposed SIP revision. ACLPI claims that EPA's proposal would replace a weak FIP commitment with a weaker State commitment to do the same thing and that the State commitment violates the CAA for the same reasons as the FIP commitment. Therefore ACLPI incorporates by reference into its comments its brief for petitioners in *Ober* v. *Browner*, No. 98–71158.[8]

In the Ober litigation, EPA fully responded to the arguments raised by the petitioners in their brief as they relate to the action at issue there, EPA's FIP commitment for agricultural sources in Phoenix. For the complete text of our responses to those arguments, see brief for respondents at pp. 10–18 and 43–59. Because ACLPI chose not to recast the arguments in its Ober brief in the context of EPA's proposed SIP approval and FIP withdrawal, we have not done so for them. Thus the text in the comment sections below summarizes and/or excerpts portions of the brief for petitioners as filed in the Ninth Circuit. In the EPA response sections, however, we have addressed the comments as if they refer to this proposed action and not the FIP promulgation.

The gravamen of ACLPI's complaint is that the State's regulatory approach is that of a commitment to adopt and implement agricultural controls in the future rather than immediate, adopted and implemented regulations. This approach was initially developed for EPA's FIP and was then incorporated into the State legislation that is the subject of this rulemaking. Therefore, the original rationale for that approach is of central relevance and we briefly summarize it here as a prologue to the specific comments and responses that follow:

EPA has, beginning with the proposed rulemaking for its August 3, 1998 FIP and culminating in the Ninth Circuit litigation, explained at length its reasoning in promulgating an enforceable commitment for the control of PM–10 from agricultural fields and aprons in the Phoenix PM–10 nonattainment area rather than immediate, fully developed regulations for those sources. See 63 FR 15920, 15935–15936 (April 1, 1998); 63 FR 41332–41334; 63 FR 71817; brief for respondents at 43–59. In short:

> In general, EPA believes that because agricultural sources in the United States vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers, each PM–10 agricultural strategy is uniquely based on local circumstances. Furthermore, EPA determined that the goal of attaining the PM–10 standards in Maricopa County with respect to agricultural sources would be best served by engaging all interested stakeholders in a joint comprehensive process on the appropriate mix of agricultural controls to implement in Maricopa County. EPA stated its belief that this process, despite the additional time needed to work through it, will ultimately result in the best and most cost-effective controls on agricultural sources in the County.
>
> In the FIP notices, EPA also explained its intention to meet its RACM commitment by developing and promulgating BMPs. Given the number of potential BMPs, the variety of crops types, the need for stakeholder input, and the time necessary to develop the BMPs into effective control measures, EPA believes that the adoption and implementation schedule in the FIP is as expeditious as practicable. * * *

[5] In addition to the RACM demonstration, EPA also promulgated a demonstration of reasonable further progress and a demonstration that it was impracticable for the Phoenix area to attain either the annual or 24-hour PM–10 NAAQS by the applicable attainment deadline pursuant to CAA sections 172(c)(2) and 189(a)(1)(B). 63 FR 41326, 41340 and 41342

[6] 40 CFR 52.127 provides that ''[t]he Administrator shall promulgate and implement reasonably available control measures (RACM) pursuant to section 189(a)(1)(C) of the Clean Air Act for agricultural fields and aprons in the Maricopa County (Phoenix) PM–10 nonattainment area according to the following schedule: by no later than September, 1999, the Administrator shall sign a Notice of Proposed Rulemaking; by no later than April, 2000, the Administrator shall sign a Notice of Final Rulemaking; and by no later than June 2000, EPA shall begin implementing the final RACM.''

[7] ''Regulated agricultural activities'' are defined as ''commercial farming practices that may produce PM–10 particulate emissions within the Maricopa PM–10 particulate nonattainment area.'' ARS 49–457.N.4.

[8] Ober is a pending petition for review, filed by ACLPI on behalf of Phoenix residents, in the U.S. Court of Appeals for the Ninth Circuit, of EPA's action in promulgating the Phoenix FIP. While ACLPI's comment letter does not specify what portions of the petitioners' brief it intends to incorporate, EPA believes that the only arguably relevant portion is at pp. 29–36, relating to EPA's commitment for agricultural sources, and therefore addresses here only the arguments in those pages.

63 FR 71817. That schedule provided that RACM for agricultural fields and aprons in the Phoenix area would be proposed by September 1999, finalized by April 2000, and implementation begun by June 2000. 40 CFR 52.127; 63 FR 41350.

Specific ACLPI Comments and EPA Responses

Comment: ACLPI claims in its Ober brief that EPA has not met its burden under its policy of demonstrating that available agricultural controls are infeasible or otherwise unreasonable. Petitioners' brief at 32.[9]

Response: Under EPA's General Preamble, a ''reasoned justification'' is required for measures rejected as RACM. 57 FR 13540. By demonstrating that it lacked sufficient information at the time the FIP was developed and promulgated to determine the appropriate agricultural controls for the Phoenix area, EPA fully justified its conclusion that the only responsible approach was the one it pursued, i.e., a commitment, enforceable through the CAA citizen suit provision, section 304, to adopt and implement RACM controls on an expeditious schedule. For the same reason, EPA did meet its burden under its own policy to demonstrate that the measures promoted by petitioners were not reasonably available at the time EPA developed and promulgated the FIP. As we demonstrate below, the FIP approach evolved into the State legislation; therefore the same justification exists for the State in adopting its legislation.

As noted above, in developing the FIP for these sources, EPA promoted and participated in a stakeholder process that included discussions and coordination among federal, state and local government agencies and national and local agricultural organizations. This approach resulted in a consensus among the participants on the elements of a workable and expeditious agricultural strategy that would be incorporated initially into the FIP and subsequently into State legislation. 63 FR 15936–15937. In its FIP proposal, EPA explained that its enforceable commitment included a series of milestones to assure adoption and implementation of RACM. The Agency further explained:

> EPA would initially convene a stakeholder-based process to begin formal development of draft BMPs. Stakeholder groups represented will likely include but not be limited to the Arizona Farm Bureau Federation, Maricopa County Farm Bureau, ADEQ [Arizona Department of Environmental Quality], MAG [Maricopa Association of Governments], MCESD [Maricopa County Environmental Services Department], NRCS [Natural Resource Conservation Service], Cooperative Extension, the University of Arizona, tribes, and environmental and/or public health organizations. This effort would build upon the stakeholder-based discussions which occurred in 1997 and early 1998. By September 1998, the stakeholders would begin to draft BMPs. * * * In June 2000, BMP implementation will begin with an extensive collaborative public outreach and education campaign. Guidance documents would be developed to assist growers with implementation of the BMPs. Compliance assistance would also be a key element of the BMP program.

Id. at 15937.

In the FIP proposal, EPA also addressed the issue of how the federal commitment could ultimately be replaced:

> While EPA's intended BMP approach is designed to meet the RACM requirement, the Agency believes it can serve as a potential starting point and model for the development of a State-led SIP process for addressing BACM [Best Available Control Measures] for agricultural sources. Thus, the stakeholders could potentially build upon the BMP approach initiated for the FIP to address both RACM and BACM requirements for the agricultural sector in the SIP.[10] The Arizona Farm Bureau Federation, the Maricopa County Farm Bureau, NRCS, ADEQ, and other regulatory agencies are currently working collaboratively to develop a State-led BMP process for that purpose. EPA strongly endorses such a process.

Id. at 15937. Thus it was clear from the beginning of the regulatory development effort for the agricultural sources in Phoenix that the participants intended that both the federal and State processes would be substantially identical and, as such, a seamless transition from the FIP to the State replacement SIP could be effectuated. See, e.g., letter from David P. Howekamp, EPA, to Kevin Rogers, Maricopa County Farm Bureau (MCFB), January 7, 1998 and letter from Kevin G. Rogers to David P. Howekamp, January 22, 1998.

As expected, the approach and process in the State legislation that was ultimately passed and submitted by the State as a SIP revision are virtually coextensive with that of the FIP. For example, the legislation establishes a committee with the authority to adopt BMPs and conduct an educational program. See ARS 49–457.A-F, H and M. The provisions of the State legislation are discussed in detail in the proposal for this action at 63 FR 71816–71817.

Furthermore, in practice, a single entity has been established and has been operating to develop BMPs to comply with both the requirements of the FIP and State legislation. This entity, known as the Best Management Practices committee, has been meeting on a regular basis since September, 1998. In addition, a Technical Working Group was formed which is currently reviewing and evaluating a list of over 50 BMPs for possible use in Maricopa County. The Technical Working Group will then forward its recommendations to the BMP committee. Together, the committee and the working group are comprised of representatives from State and local agencies, universities, farmers/producers in Maricopa County, and EPA representatives. The committee expects to develop BMPs by September, 1999. These BMPs will then undergo review by State offices and the public and are expected to be adopted by June 10, 2000. Thus, for all practical purposes, the implementation efforts to date of the FIP commitment and the Arizona legislation are effectively the same.

As we have demonstrated above, the FIP and the State legislation were developed by the same participants and through the same process and were intended to be substantially identical. Therefore, the justification for the commitment approach in both the FIP and the SIP[11] are the same. ACLPI has had ample opportunity to comment and detail its arguments regarding the alleged inadequacy of that justification in connection with the FIP promulgation and the judicial challenge to that rulemaking. See letter from ACLPI to EPA, Region 9, May 18, 1998 and petitioners' brief at 29–36. For these reasons, while EPA acknowledges that the SIP submittal did not contain the ''reasoned justification'' provided for in Agency guidance, EPA believes that such a State justification would have been the same as that provided by EPA in connection with the FIP. Therefore, to the extent that the State did not duplicate that rationale, it is of no consequence. By its incorporation of its brief in Ober into its comments on the proposal for this action, ACLPI has put

[9] ''ACLPI'' and ''petitioners'' are used interchangeably throughout this document except where otherwise indicated.

[10] At the time the moderate area FIP was being developed, the State was preparing to develop its plan to meet the serious area PM–10 requirements of the Act in the Phoenix area, one of which is provisions to assure that the best available control measures for the control of PM–10 shall be implemented. See generally CAA section 189(b).

[11] The Arizona legislation operates as a commitment enforceable under CAA section 304 by mandating the adoption by June 10, 2000 of a general permit specifying BMPs with which sources must comply by December 31, 2001 and the initiation of an education program by June 10, 2000. ARS 49–457.G, H, M.

its arguments in the record for this rulemaking.

Comment: In their brief, petitioners argue that EPA's deferral of agricultural controls in the FIP through the use of a commitment is not reasonable because ''[t]echniques for controlling agricultural emissions are well known.'' In support of this argument, petitioners cite, among other things, existing South Coast Air Quality Management District (SCAQMD) rules, EPA guidance, and a report by a 1996 task force appointed by Arizona's Governor, and claim that EPA erred by not adopting those measures in the FIP. Petitioners' brief at 30–31. ACLPI also suggests that EPA's action with respect to agricultural controls is contrary to the Agency's own policies detailing available agricultural control measures. *Id.*

Response: As discussed above, EPA has explained at length the rationale for its commitment in the FIP to adopt and implement RACM for the agricultural sector in Phoenix. See, e.g., 63 FR 15936. The Arizona legislation takes a very similar approach for the same reasons.

EPA agrees that certain techniques are well known. The critical question, however, is not whether those measures are ''available,'' but whether they are ''reasonably available'' for the Phoenix area. ACLPI's arguments ignore the fact that, as noted above, PM–10 strategies in an agricultural context are highly dependent on specific local factors. 63 FR 41332–41333; Technical Support Document for U.S.EPA's Final Federal Implementation Plan for the Phoenix Nonattainment Area, Response to Comments Document, p. 16. (FIP TSD). As EPA explained in connection with the FIP, ''[a] resolution of these uncertainties, in the context of an assessment of the potential mix of control measures, is critical to a determination of whether controls such as those contained in the SCAQMD rules are reasonably available for the Maricopa County nonattainment area and will contribute to attaining the PM–10 standards in the area.'' [12] *Id.* at pp. 16–17. That reasoning applies to the State legislation as well.

Moreover, contrary to ACLPI's suggestion in its brief, the 1996 Governor's task force report supports—not undermines—the State's approach to agricultural controls in its legislation. That report recommends the ''[d]evelopment, implementation, and documentation of specific voluntary practices to reduce dust emissions from agricultural practices'' and specifies that they ''may become part of a list of mandatory agricultural BACM developed through coordination'' by local and state agencies with relevant expertise. The report further states that ''[a] coordination plan could be started immediately. Implementation would require cooperation with the agricultural community.'' Finally, the report lists several barriers to implementation. Report of the Governor's Air Quality task Force; Recommended Long-term Control Measures for Ozone, Carbon Monoxide, and PM–10, December 2, 1996, p. III–85–88. Thus, the task force recognized that the recommended measures would need considerable additional work and coordination among stakeholders before they could be fully realized in the Phoenix area.

Finally, the EPA guidance cited by petitioners lists agricultural control measures generally determined to be available for consideration by states in developing their PM–10 plans. EPA does not dispute the availability of such controls, but its guidance does not presume that these measures are reasonably available in any or all areas. Again, the question is whether the application of those measures to a specific area, like Maricopa County, is reasonable.

To take just one of the available measures cited by petitioners—modified tillage methods—as an example, EPA's guidance notes that operational tillage modifications require areas to consider: replacing planting and seeding methods, planting and fertilizing of specific grasses, crops and trees, and revising grazing practices. It acknowledges that resorting to some of these modified farming approaches ''would require initial capital investments by the farming industry for new equipment.'' Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures, U.S.EPA, Office of Air Quality Planning and Standards (OAQPS), September 1992, p. 3–49. Both the American Farm Bureau Federation and the MCFB commented on possible negative economic impacts on agriculture if FIP controls were imposed on such sources. 63 FR at 41333–41334. It is because agricultural controls can be costly and intersect with land management practices and farming issues that EPA's policy is to work closely with all affected local, state and federal entities (e.g., USDA). Indeed, petitioners correctly note that EPA's guidance includes ''USDA-assisted soil conservation plans * * * on individual farms'' as an available measure. Petitioners' brief at 32.

Comment: According to the petitioners, citing CAA section 172(c)(1), the ''wholesale deferral of agricultural controls [in the FIP] is utterly indefensible because the Act required adoption of all reasonably available controls as expeditiously as practicable.'' They contend that for moderate PM–10 areas, the Act set an explicit, absolute deadline of December 10, 1993 for implementing such measures under section 189(a)(1)(C) and that where an absolute deadline under the Act has passed, EPA must correct the deficiency ''as soon as possible'' to effectuate Congressional intent. Delaney v. EPA, 898 F.2d 687, 691, 695 (9th Cir. 1990).

Response: The air quality planning requirements for moderate area PM–10 SIPs are set out in CAA section 189, which states that the moderate area SIP must contain provisions to assure that RACM for the control of PM–10 is implemented by December 10, 1993. CAA section 189(a)(1)(C). In its General Preamble, which contains guidance to the states for determining RACM and reasonably available control technology (RACT) in their PM–10 moderate area SIPs, EPA interpreted this specific deadline for PM–10 nonattainment areas to supersede the generally applicable ''as expeditiously as practicable'' deadline in CAA section 172(c)(1). See 57 FR 13501. However, because the December 10, 1993 deadline had passed by the time the State legislation at issue here was developed, the applicable deadline became ''as soon as possible'' under Delaney, 898 F.2d at 691. EPA has interpreted this requirement to be ''as soon as practicable.'' 63 FR 15926. We have delineated above the various factors that demonstrate that the schedule in the State legislation meets that test.

Comment: In its January 29, 1999 comment letter, ACLPI contends that EPA cannot claim that the State legislation provides for the expeditious implementation of RACM because the implementation date for the BMPs in the State plan is December 31, 2001 compared to an implementation date of June 2000 for the FIP.

[12] EPA provided examples of the differences between Maricopa County and the Coachella Valley that affect control strategy choices. For instance, SCAQMD rule 403.1 restricts activities capable of generating fugitive dust when wind speeds exceed 25 miles per hour; while PM–10 exceedances in Maricopa County can occur when winds exceed 15 miles per hour. Maricopa County has approximately 300,000 acres in production as opposed to the Coachella Valley's 60,000 areas. Finally, not only are the crops very different (Maricopa County is dominated by cotton, alfalfa, and wheat, while the Coachella Valley primarily grows fruits and vegetables), these crops have different planting and growing patterns.

Response: Under the State legislation, by June 10, 2000, BMPs must be adopted and embodied in a general permit in the Maricopa PM–10 nonattainment area and an education program must be initiated. By December 31, 2001, all regulated parties are required to be in compliance with the general permit. ARS 49–457.G, H, M.

The FIP requires that EPA shall begin implementing the final RACM, i.e., the BMPs, by June 2000. 63 FR 41350. Prior to proposing the FIP and as part of the stakeholder process, EPA, in conjunction with MCFB, concluded that it would not be possible to fully implement the BMPs by June 2000. See, e.g., letter from David P. Howekamp, EPA, to Kevin Rogers, MCFB, January 7, 1998 and letter Kevin G. Rogers to David P. Howekamp, January 22, 1998. Thus, as we stated in the proposal for the FIP, EPA's intention was to conduct an education program before enforcing the BMPs: ''In June 2000, BMP implementation will begin with an extensive collaborative public outreach and education campaign.'' 63 FR 15937. EPA's intention to begin its education program as the first phase of its implementation program by that date is consistent with the education program requirement in the State legislation. In fact, the State legislation is arguably more stringent than the FIP because it provides for full compliance with the BMPs by December 31, 2001, while the FIP has no such full or final implementation deadline. See 40 CFR 52.127; 63 FR 41350.

Comment: ACLPI argues that an enforceable commitment to adopt control measures is not consistent with the CAA and prior practice. Specifically, petitioners object that EPA's decision to promulgate an enforceable commitment, as opposed to actual control measures, does not meet the CAA requirements for enforceable measures as expeditiously as practicable, and that the commitment offers no assurance that adequate controls will ever be adopted. Petitioners' brief at 34–36.

Response: Historically EPA has interpreted the CAA to allow states to submit, and EPA to approve, enforceable commitments to adopt rules in the future, and the courts have upheld such approvals. See, e.g., *Friends of the Earth* v. *EPA*, 499 F.2d 1118, 1124 (2d Cir. 1974).[13] Indeed, in *Kamp* v. *Hernandez*, 752 F.2d 1444, 1446, modified in other part, 778 F.2d 527 (9th Cir. 1985), the court reviewed EPA's approval of a plan that required Arizona to adopt regulations in the future to control fugitive emissions. Petitioners challenged EPA's approval, claiming that the lack of such controls in the plan meant that it did not assure attainment and maintenance of the sulfur dioxide standards. While finding that the Act requires plans to ''rely on emission limitations to the maximum extent feasible,'' the court upheld EPA's approval, agreeing with the Second Circuit's reasoning that ''the demands of its ''difficult and complex job'' require that EPA be given some flexibility to approve nearly complete implementation plans.'' Id. at 1455. Here, as shown above, it was not feasible for the State to impose immediate controls on agricultural sources and the enforceable commitment in the State's legislation provides for the implementation of RACM as soon as practicable.

Petitioners rely on *NRDC* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994) to support their argument. There, the D.C. Circuit considered EPA's authority under CAA section 110(k)(4) which was added as part of the 1990 Amendments to the Act, to conditionally approve a SIP submittal which consisted entirely of a commitment letter to submit the required measure by a date certain.[14] Here, however, EPA did not rely on section 110(k)(4); rather the Agency proposed to approve the Arizona legislation under section 110(k)(3). 63 FR 71818.

Moreover, when section 110(k)(4) was enacted as part of the 1990 Amendments, it provided a new type of approval for a limited set of commitments that, in general, could not be enforced under the Act's enforcement mechanisms, including the citizen suit provision.[15] There is no evidence that by enacting this provision Congress intended to replace EPA's well-established policy of using its general approval authority to approve enforceable commitments and, in fact, EPA has continued to approve enforceable commitments under its general authority. See 62 FR 1150, 1187 (Jan. 8, 1997).

IV. Final Actions

EPA has evaluated ARS 49–457 and has determined that it is consistent with the CAA and EPA regulations. Therefore, EPA is approving ARS 49–457 under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and 189(a)(1)(C). Because EPA is approving the Arizona statute as meeting the RACM requirements of the CAA for agricultural sources in the Phoenix area, EPA is also withdrawing the FIP RACM commitment for such sources by deleting § 52.127, Commitment to Promulgate and Implement Reasonably Available Control Measures for the Agricultural Fields and Aprons, in subpart D of part 52, chapter I, title 40 of the Code of Federal Regulations. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 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 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

[13] Courts have agreed that such commitments are enforceable by the public under the CAA citizen suit provision, section 304. See, e.g., *American Lung Association of New Jersey* v. *Kean*, 670 F. Supp. 1285 (D.N.J. 1987), aff'd, 871 F.2d 319 (3d Cir. 1989); *NRDC* v. *New York State Dep't of Environmental Conservation*, 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Environment* v. *Deukmejian*, 731 F. Supp. 1448, reconsideration granted in part, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition Against Columbus Center* v. *New York*, 967 F.2d 764 (2d Cir. 1992); *Trustees for Alaska* v. *Fink*, 17 F.3d 1209 (9th Cir. 1994).

[14] Under section 110(k)(4), the Administrator ''may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain,'' within one year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

[15] As noted above, under section 110(k)(4), if a commitment is not fulfilled, the conditional approval must be converted to a disapproval. Once a SIP provision is disapproved, there is no longer any commitment left to enforce under the Act.

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 Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 this rule does not create any new requirements, I certify that this rule 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 this rule 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 withdraws Federal requirements, 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. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. 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).

I. 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 August 30, 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 17, 1999.

Carol M. Browner,

Administrator.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(93) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(93) Plan revisions were submitted on September 4, 1998 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Revised Statute 49–457.

* * * * *

§ 52.127 [Removed and Reserved]

3. Section 52.127 is removed and reserved.

[FR Doc. 99–16371 Filed 6–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6369–1]

National Primary Drinking Water Regulation: Consumer Confidence Reports; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published in the **Federal Register** of August 19, 1998, a final rule setting out the requirements for annual drinking water quality reports that water suppliers must provide to their customers. The final rule included several minor typographical mistakes. This document corrects those mistakes.

DATES: Effective on June 29, 1999.

FOR FURTHER INFORMATION CONTACT: Rob Allison, 202–260–9836; E-mail: allison.rob@epa.gov.

SUPPLEMENTARY INFORMATION: In the August 19, 1998 **Federal Register** (63 FR 44511), EPA published the Consumer Confidence Report Rule. Paragraph f of the section on Report Content (§ 141.153) mistakenly refers to the requirements of § 141.153(d)(7) when it should refer to § 141.153(d)(6). This rule corrects that mistake.

The preamble to the August 19, 1998 rule explained that systems that detect certain contaminants at concentrations above 50% of the applicable MCL or action level must include additional educational information about those contaminants in their reports. As explained in the preamble to the final rule, EPA intended that all systems detecting a contaminant at greater than 50% of the MCL or AL and not in violation or exceedence would include this educational statement. (See discussion at 63 FR 44514 (August 19, 1998)). Systems that violate or exceed the applicable National Primary Drinking Water Regulation would not include this additional statement because another part of the rule requires them to provide a clear and readily understandable explanation of the violation, including the potential adverse health effects. EPA's rule language at § 141.154(d) inaccurately described this requirement when it said that the requirement applied to ''systems which detect lead above the action level in more than 5%, but fewer than 10%, of homes sampled....'' EPA's phrasing inadvertently exempts systems that detect lead above the AL in precisely 10% of homes sampled. EPA is clarifying its requirement by amending the statement to read ''Systems which detect lead above the action level in more than 5%, and up to and including 10%, of homes sampled * * *.''

In addition, Appendices A and B to Subpart O mischaracterized regulatory levels for total coliforms and total trihalomethanes. The Appendices listed the Maximum Contaminant Level Goal (MCLG) for Total Trihalomethanes (TTHMs) as zero. This is incorrect; under current EPA regulations, TTHMs have no MCLG. This notice amends Appendices A and B to replace the number zero for the TTHMs MCLG with ''n/a'' (the abbreviation for ''not applicable.'') Similarly, the Appendices mistakenly listed the Maximum Contaminant Level for Total Coliforms as ''presence of coliform bacteria in ≥5% of monthly samples''. EPA is today correcting the Appendices to show that the MCL for total coliforms is ''(systems that collect 40 or more samples per month) 5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample'.

Finally, in paragraphs (f)(2) and (f)(3) of the section on Special Primacy Requirements (§ 142.16), the rule mistakenly refers to 40 CFR 141.155(b) when it should refer to 40 CFR 141.155(c). This amendment corrects that mistake.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting minor errors in the promulgated rule. Thus, notice and public comment procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since August 19, 1998, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined under E.O. 12866. Further, EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) because it does not involve any technical standards. EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the August 19, 1998 **Federal Register** notice.

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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an immediate effective date. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

The final rule [FR Doc. 98–22056] published on August 19, 1998, (63 FR 44511)is corrected as follows:

PART 141—[CORRECTED]

1. On page 44528, in the middle column, in § 141.153(f), correct ''§ 141.153(d)(7)'' to read ''§ 141.153(d)(6)''.

2. On page 44529, in the middle column, in § 141.154, correct ''(d) Systems which detect lead above the action level in more than 5%, but fewer that 10%, of homes sampled:'' to read ''(d) Systems which detect lead above the action level in more than 5%, and up to and including 10%, of homes sampled:''

3. In Appendix A to subpart O, on page 44530, in the fourth column of the table, line 1, correct ''presence of coliform bacteria in ≥5% of monthly samples'' to read ''(systems that collect 40 or more samples per month) 5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample''.

4. In Appendix A to subpart O, on page 44531, in the fifth column of the table, line 73, correct ''0'' to read ''n/a''.

5. In Appendix B to subpart O, on page 44531, in the third column of the table, line 1, correct ''presence of coliform bacteria in ≥5% of monthly samples'' to read ''(systems that collect 40 or more samples per month) 5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample''.

6. In Appendix B to subpart O, on page 44533, in the second column of the table, line 73, correct ''0'' to read ''n/a'.

PART 142—[CORRECTED]

7. On page 44535, in the third column, in § 142.16(f)(2), correct ''40 CFR 141.155(b)'' to read ''40 CFR 141.155(c)''.

8. On page 44535, in the third column, in § 142.16(f)(3), correct ''40 CFR 141.155(b)'' to read ''40 CFR 141.155(c)''.

Dated: June 18, 1999.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 99–16536 Filed 6–28–99; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION 6820–34

41 CFR Parts 101–25, 101–31, and 101–38

[FPMR Amendment E–278]

RIN 3090–AG84

Guidelines for Making Purchase or Lease Determinations and Use of Private Inspection, Testing, and Grading Services

AGENCY: Office of Governmentwide Policy.

ACTION: Final rule.

SUMMARY: The General Services Administration is removing Federal Property Management Regulations (FPMR) Guidelines for Making Purchase or Lease Determinations, and Use of Private Inspection, Testing, and Grading Services, from the FPMR. Adequate coverage on these issues is contained in the Federal Acquisition Regulation (FAR). A cross-reference is added to the FPMR to direct readers to the appropriate FAR coverage.

EFFECTIVE DATE: This final rule is effective June 29, 1999.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington DC 20405, (202) 208–7312.

SUPPLEMENTARY INFORMATION:

A. Background

In an effort to improve GSA's external directives system, GSA has undertaken a review of the Federal Property Management Regulations (FPMR). The FPMR prescribes Governmentwide regulations for real property, personal property, and other programs and activities within GSA's regulatory authority. GSA will update, streamline, and clarify the content of the FPMR over the next year. As part of this review, GSA is:

1. Removing FPMR 101–25.5 regarding Guidelines for Making Purchase or Lease Determinations and adding a cross-reference to the FAR in its place. The decision to lease or purchase equipment is an acquisition matter and coverage on this subject is contained in FAR Subpart 7.4.

2. Removing FPMR 101–31.2 regarding the use of private inspection, testing, and grading services and adding a cross-reference to the FAR in its place. Coverage on this subject is provided in the Federal Acquisition Regulation (FAR). FAR Part 46, Quality Assurance, prescribes policies and procedures to ensure that supplies and services acquired under Government contract conform to the contract's quality and quantity requirements. Included in Part 46 are inspection and other measures associated with quality requirements. FAR Part 37 covers service contracting. FAR Subpart 7.5, Inherently Governmental Functions, addresses what is and is not an inherently Governmental function.

A proposed rule was published in the **Federal Register** on February 10, 1999 (64 FR 6589). No comments were received.

B. Executive Order 12866

The General Services Administration has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866.

C. Regulatory Flexibility Act

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule removes from the FPMR coverage at 101–25.5, Guidelines for Making Purchase or Lease Determinations, and 101–31.2, Use of Private Inspection, Testing, and Grading Services.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804.

List of Subjects in 41 CFR Parts 101–25 and 101–31

For the reasons set forth in the preamble, 41 CFR parts 101–25, 101–31, and 101–38 are amended as follows:

1. The authority citation for parts 101–25, 101–31, and 101–38 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

PART 101–25—GENERAL

2. Subpart 101–25.5 is revised to read as follows:

Subpart 101–25.5—Purchase or Lease Determinations

§ 101–25.500 Cross-reference to the Federal Acquisition Regulation (FAR)(48 CFR Chapter 1, Parts 1–99).

For guidance see Federal Acquisition Regulation Subpart 7.4 (48 CFR Subpart 7.4).

PART 101–31—INSPECTION AND QUALITY CONTROL

3. Subpart 101–31.2 is revised to read as follows:

Subpart 101–31.2—Private Inspection, Testing, and Grading Services

§ 101–31.200 Cross-reference to the Federal Acquisition Regulation (FAR)(48 CFR Chapter 1, Parts 1–99).

For guidance see Federal Acquisition Regulation (e.g., Subpart 7.5, and Parts 37 and 46) (48 CFR Subpart 7.5, and Parts 37 and 46).

PART 101–38—MOTOR VEHICLE MANAGEMENT

4. Section 101–38.105 is amended by removing paragraph (g) and redesignating paragraphs (h) and (i) as paragraphs (g) and (h) respectively.

Dated: May 19, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–16197 Filed 6–28–99; 8:45 am]

BILLING CODE 6820–34–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 43, 63, and 64

[IB Docket Nos. 98–148, 95–22, CC Docket No. 90–337 (Phase II), FCC 99–73]

Biennial Review of the Reform of the International Settlements Policy and Associated Filing Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document removes outdated rules that govern the manner in which U.S. international telecommunications carriers relate to foreign carriers that provide service in competitive markets. The Commission concludes that it should remove the existing international settlements policy (ISP): for settlement arrangements between U.S. carriers and foreign telecommunications carriers that lack market power; and for all settlement arrangements on routes where U.S. carriers are able to terminate at least 50 percent of their U.S. billed traffic in the foreign market at rates that are at least 25 percent below the applicable benchmark settlement rate.

The Commission believes that the new rules will create greater incentives for U.S. carriers to adopt business strategies that will enable them to obtain low rates to terminate U.S. traffic in foreign markets.

DATES: These rules contain information collections that have not been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date of these rules. Public and agency comments are due on the information collections August 30, 1999.

FOR FURTHER INFORMATION CONTACT: Robert McDonald, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 99–73, adopted on April 15, 1999, and released on May 6, 1999. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at http://www.fcc.gov/bureaus/international/orders/1999/fcc99073.wp. The complete text of this Order also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

This document contains information collections subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the modified information collections contained in this proceeding.

Summary of Report and Order

1. In August 1998, the Commission issued a Notice of Proposed Rulemaking (63 FR 44224, August 18, 1998) in which it proposed substantial changes in the way it regulates international telecommunications carriers' relations with their foreign counterparts. The Commission initiated this proceeding pursuant to Section 11 of the Telecommunications Act of 1996, 47 U.S.C.161, which directs the Commission to undertake a review on every even-numbered year of all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. In this proceeding the Commission adopts most of the proposals contained in the Notice and implements procedures that will grant regulatory relief to carriers while increasing the efficiency of the Commission.

2. The Commission finds that removing the ISP and related filing

requirements between U.S. carriers and foreign carriers that lack market power in foreign markets would remove unnecessary regulatory burdens on U.S. carriers and at the same time future competition in the U.S. international services market. The vast majority of commenting parties support this change in Commission policy.

3. The Commission adopted the ISP and related filing requirements to prevent whipsawing by a foreign monopoly carrier. Where the carrier in the foreign market lacks market power, however, its ability to whipsaw U.S. carriers is substantially diminished, if not eliminated. Except in unusual circumstances, a U.S. carrier that is faced with an attempt at whipsawing by a foreign carrier that lacks market power on the foreign end of a particular route may respond by entering an agreement with a different foreign carrier on the route. The Commission thus concludes that the ISP is not necessary to prevent whipsawing for settlement arrangements with foreign carriers that lack market power.

4. The Commission will no longer require U.S. carriers that conclude arrangements with foreign carriers that lack market power in the foreign market to comply with the terms of the ISP or its contract filing requirements. Instead, the Commission finds that a policy that promotes the conclusion of unrestricted commercial arrangements between U.S. carriers and foreign carriers that lack market power in the foreign market will best further our goal of promoting competition in the international services market. The Commission finds that its 47 CFR 43.51 contract filing requirement should no longer apply to any U.S. carrier arrangement with a foreign carrier that lacks market power.

5. In determining whether it should continue to apply the ISP, the Commission adopts a presumption that a foreign carrier lacks market power when it possesses less than a 50 percent market share in each of the relevant foreign markets.

6. The Commission finds that it is necessary to adopt a mechanism to ensure that carriers enter into arrangements that deviate from the ISP only with carriers that lack market power in the foreign market, and that a relaxation of the ISP would not enable U.S. carriers to enter into arrangements that deviate from the ISP with foreign carriers that could exercise their market power to the detriment of U.S. consumers. The Commission will therefore make an affirmative finding to determine which carriers possess market power in specific foreign markets, and make a list of such carriers public. Carriers would thus be precluded from exchanging traffic outside of the ISP with carriers on the list unless otherwise allowed. The Commission finds that this approach will best advance its policy of allowing U.S. carriers to enter into arrangements with foreign carriers that lack market power with a minimum of regulatory oversight, while maintaining the ISP for certain arrangements with foreign carriers that possess market power in the foreign market. The Commission's rules include a presumption that a foreign carrier does not possess market power in a foreign market if it possesses less than 50 percent market share in each of the relevant foreign markets. The Commission thus issues, concurrently with the release of this Order, a public notice containing a list of foreign carriers that it believes do not qualify for this presumption, for the purposes of identifying arrangements that are not required to comply with the ISP and the Commission's No Special Concessions rule. This list is based on publicly available information, compiled from official sources, including the International Telecommunication Union (ITU). (Public Notice, DA 99–809, published elsehwere in this issue.) Interested parties may challenge the inclusion or exclusion of any carrier on the list by submitting a petition for declaratory ruling and the appropriate supporting documentation to demonstrate that a carrier included on the list lacks market power or that a carrier excluded from the list has market power. The Commission may also amend the list on its own motion. The list will be updated periodically and posted on the Commission's web page at http://www.fcc.gov/ib. Carriers are responsible for ensuring that arrangements they enter into outside of the ISP comply with the Commission's rules in the event of additions to the list.

7. The Commission amends Sections 43.51 and 64.1001 to remove the ISP and related contract filing requirements for arrangements between U.S. carriers and foreign carriers that lack market power. Section 43.51 will also specify procedures for modifying the list of foreign carriers that do not qualify for the presumption that they lack market power. The Commission also amends its No Special Concessions Rule, Section 63.14, to eliminate the requirement that a carrier seeking to enter into an exclusive arrangement with a foreign carrier that lacks market power submit with the Section 43.51 contract filing (which the Commission here eliminates) information to demonstrate that the foreign carrier lacks market power. This rule change will permit carriers to rely on the Commission's published list of foreign carriers for purposes of determining which foreign carriers are the subject of the prohibitions contained in Section 63.14.

8. The Commission concludes that it would serve the public interest to remove the ISP completely on certain routes, including for arrangements with foreign carriers that possess market power in the foreign market. The Commission finds that lifting the ISP has significant merits where the potential harm due to a foreign carrier's abuse of market power is limited. The Commission declines, however, to adopt the standard proposed in the Notice to remove the ISP on all routes where it currently allows international simple resale (ISR). Instead, the Commission removes the ISP completely only on those routes where U.S. carriers have the ability to settle U.S. traffic at rates that are 25 percent below the benchmark, or less. The Commission believes this provides the proper balance between, on the one hand, its goal in this proceeding of eliminating regulations that impede the development of competition, and, on the other hand, the longstanding goal of the ISP of preventing anticompetitive behavior that can harm U.S. consumers. The Commission also finds that on those routes where U.S. carriers have the ability to settle U.S. traffic at rates that are 25 percent below the benchmark, or less, the ISP is no longer necessary, regardless of whether the foreign country is a WTO Member or a non-WTO Member country. The Commission therefore repeals this rule, as applied in such cases, as it is no longer in the public interest.

9. The Commission further finds that it is not necessary to require all traffic that is terminated in a foreign market to be settled at 25 percent below the applicable benchmark settlement rate, or less, in order to lift the ISP. Rather, the Commission finds that removing the ISP where at least 50 percent of U.S.-billed traffic is terminated at such rates will ensure that the ISP is maintained only where it is necessary. The Commission finds that the ability of U.S. carriers to terminate at least 50 percent of the U.S.-billed traffic in the foreign market at rates that are 25 percent below the benchmark rate or less is convincing evidence that competitive pressures exist in the foreign market to constrain the market power of the foreign carrier. The Commission thus finds that where at least 50 percent of traffic is terminated at rates 25 percent lower than the

benchmark, or less, a foreign carrier is unlikely to have the ability to exercise market power to harm U.S. consumers and that the ISP is thus unnecessary.

10. The Commission will amend its rules establishing procedures for carriers seeking to enter into an arrangement that does not comply with the ISP with a foreign carrier that possesses market power on a route for which the ISP has not previously been lifted. Such carriers must file a petition for declaratory ruling that at least 50 percent of U.S.-billed traffic on the route is terminated in the foreign market at rates that are 25 percent below the benchmark settlement rate, or less. For upper income routes, 25 percent below the benchmark rate is 11.25 cents; for upper middle income routes, 25 percent below the benchmark rate is 14.25 cents; and for lower income routes, 25 percent below the benchmark rate is 17.25 cents. Carriers filing such petitions should include the appropriate supporting documentation demonstrating that the route qualifies for exemption from the ISP. Such documentation may include settlement rate or other data published by the Commission. The Commission will issue a public notice upon the filing of such a petition and may, in each case, determine an appropriate deadline for filing comments. Unopposed requests may be granted by public notice. The Commission will publish and periodically update a list of international routes exempt from the ISP on the Commission's web page at http://www.fcc.gov/ib.

11. The Commission also concludes here that it should amend its filing requirements to allow that settlement rate information and copies of contracts required to be filed under Section 43.51 be filed confidentially for arrangements with foreign carriers that possess market power on routes where it removes the ISP. The Commission finds that requiring carriers to file copies of arrangements entered into with foreign carriers that possess market power in the relevant foreign telecommunications markets provides a valuable tool to ensure that U.S. carriers do not enter into arrangements that would allow the foreign carrier to exercise its market power to the detriment of U.S. consumers. The Commission will therefore amend Sections 43.51 and 64.1001 of the Commission's rules to require carriers that exchange traffic with foreign carriers that possess market power on routes where it has lifted the ISP to file information on rates paid for the origination and/or termination of international traffic and copies of their contracts with these foreign carriers with the Commission. Such information may be filed with the Commission under confidential seal. This filing requirement covers all arrangements between U.S. and foreign carriers that possess market power, including arrangements currently classified as ISR arrangements and alternative settlement arrangements. The Commission finds that a confidential filing requirement will adequately deter the kind of anticompetitive conduct in which affiliated carriers or joint venture partners could engage.

12. Removing the ISP could exacerbate the concern about anticompetitive behavior by allowing a foreign carrier to adopt a strategy that would raise the costs of its U.S. affiliate's rivals and thus improve the position of the joint enterprise. The Commission finds that on routes where it removes the ISP, the danger of harm from such action, generally, is significantly reduced. Due to heightened concern about anticompetitive arrangements between U.S. carriers and their affiliates and joint venture partners, however, the Commission finds it necessary to adopt an additional safeguard to deter such arrangements. The Commission adopts a safeguard that prohibits U.S. carriers that are affiliated or non-equity joint venture partners with foreign carriers that possess market power in the foreign market from entering into arrangements that may present a significant adverse impact on competition on the international route. If the Commission finds that carriers have entered into such arrangements, the Commission reserves the right to take appropriate action to remedy the situation, including reimposing the ISP on the route.

13. In 1996, the Commission adopted the *Flexibility Order* (62 FR 5535, February 6, 1997), which established a framework for permitting flexibility in its accounting rate policies where appropriate market and regulatory conditions exist. Under the flexibility policy, the Commission maintains a presumption in favor of allowing flexible settlement arrangements with carriers in WTO Member markets that can be rebutted only by a showing that the foreign carrier that is a party to the flexible settlement arrangement does not face competition from multiple facilities-based carriers. The Commission finds here, that the changes it makes in this Order to exempt from the ISP arrangements between U.S. and foreign carriers that lack market power, and between U.S. and all foreign carriers on routes that allow U.S. carriers to terminate at least 50 percent of their traffic at rates that are at least 25 percent below the applicable benchmark settlement rate largely supersede the policies adopted in the *Flexibility Order.* The Commission therefore finds that maintaining the flexibility policies and procedures would needlessly complicate its accounting rate policies. The Commission eliminates the flexibility policy and therefore removes Section 64.1002 of its rules.

14. The Commission finds, however, that there may be unforeseen circumstances in which it may be in the public interest to allow an arrangement with a foreign carrier with market power to deviate from the ISP, even though the standard for removing the ISP has not been met. The Commission will therefore entertain waivers of the ISP for individual settlement arrangements. Among the factors the Commission will consider are whether granting such a waiver would promote the public interest in achieving cost-based rates for terminating international traffic, while precluding the abuse of foreign market power.

15. The Commission finds that there is no valid reason to apply the No Special Concessions rule to the terms and conditions under which traffic is settled, including the allocation of return traffic, on a route where the Commission removes the ISP. It makes no sense for the No Special Concessions rule to impose a nondiscrimination requirement for settlement arrangements on routes where it removes the ISP. The point of removing the ISP is to allow market forces to determine the types of arrangements into which carriers enter. The Commission therefore will amend Section 63.14 of the Commission's rules to clarify that the No Special Concessions rule does not apply to the terms and conditions under which traffic is settled, including the allocation of return traffic, on routes where the Commission removes the ISP. The Commission also finds that the No Special Concessions rule should apply to interconnection of international facilities, private line provisioning and maintenance, and quality of service on routes where the Commission removes the ISP. The Commission finds that there is still a risk of anticompetitive conduct for arrangements with foreign carriers that possess market power, even on routes where the Commission removes the ISP. The Commission therefore will maintain the No Special Concessions rule, as modified above, on all routes, regardless of whether the ISP applies.

16. In the Notice, the Commission sought comment on whether removing the ISP and related filing requirements may allow carriers to enter into

arrangements that may have anticompetitive effects. In particular, the Commission noted that U.S. carriers have, in the past, expressed concern regarding whether their competitors may negotiate arrangements to accept ''groomed'' traffic, *i.e.* traffic that terminates in particular geographic regions. The Commission finds that the danger of anticompetitive effects of grooming arrangements are unlikely. The Commission therefore finds that a prohibition against incumbent local exchange carriers accepting ''groomed'' international traffic is unnecessary.

17. Given its conclusion that grooming arrangements are not a cause for concern on routes where it has removed the ISP, the Commission hereby removes the condition imposed on Bell Operating Company international Section 214 certificates, which required these carriers to obtain prior Commission approval of grooming arrangements.

18. The Commission sought comment in the Notice on whether it should continue to afford carriers the option of filing either a notification or a modification notice for simple changes in accounting rates negotiated with foreign carriers. The Commission finds that adopting a single procedure for accounting rate changes will simplify its regulatory structure and avoid confusion for parties seeking to make the required filings with the Commission. The Commission therefore adopts its proposal to remove the option of filing a notification and require that all accounting rate filings be governed under the existing procedures for accounting rate modifications.

19. The Commission also sought comment on the extent to which it should continue to require that carriers making accounting rate filings serve every carrier that provides service on the international route with a copy of the filing. The Commission noted that the number of international carriers is growing on many routes and sought comment on whether another approach is warranted. The Commission also noted that it had been urged to require that accounting rate filings be placed on public notice, as is required for petitions seeking approval of flexible settlement arrangements. Further, the Commission noted that it has introduced an electronic filing mechanism for accounting rate filings, and that information contained in such filings would be available on the Commission's web site at http://www.fcc.gov/ib. The Commission's electronic filing system for accounting rate filings was introduced very recently, however, and the Commission has not had sufficient experience with the system to determine whether the information available on the Commission's web site will be an adequate substitute for the existing service requirement. The Commission therefore declines to remove the existing service requirement at this time. The Commission anticipates, however, that it may remove the service requirement in the near future, as it continues to implement the new electronic filing system. The Commission will therefore eliminate the existing service requirement within 3 months of the release of this Order. The Commission delegates to the Chief, International Bureau the authority to implement this change and direct the International Bureau to issue a Public Notice at that time to make this change in the Commission's rules.

20. The Commission also has pending two remaining issues on reconsideration of the *Foreign Carrier Entry Order* (60 FR 6732, December 29, 1995; 61 FR 4937, February 9, 1996). In that order, the Commission adopted the requirement that U.S. facilities-based carriers obtain separate Section 214 authority and demonstrate that equivalency exists when such carriers seek to provide ISR over their *facilities-based* U.S. international private lines. The Commission adopted an exception to this general rule, however, to permit a carrier to use its U.S. facilities-based private lines to carry switched traffic without demonstrating equivalency where two conditions are met: (1) the private line is interconnected to the public switched network on one end only—either the U.S. end or the foreign end; and (2) the foreign correspondent with which the U.S. facilities-based carrier is interchanging switched traffic is not the owner of the underlying foreign private line half-circuit. The Commission finds above that there are significant public interest benefits to permitting U.S. facilities-based carriers to provide switched services, without limitation, outside the ISP in correspondence with foreign carriers that lack market power. In light of this conclusion, the provision the Commission adopted in the *Foreign Carrier Entry Order* permitting one-end interconnection by U.S. facilities-based carriers is superfluous. The Commission's decision to lift the ISP for all U.S. carrier arrangements with foreign carriers that lack market power thus effectively subsumes the rule that permits one-end interconnection by U.S. facilities-based carriers. The Commission therefore eliminates that rule.

21. British Telecommunications North America (BTNA) seeks reconsideration of the Commission's decision not to allow resellers on the U.S. end to offer one-end interconnection services. The Commission finds merit to BTNA's argument that U.S. private line resellers should be accorded the same regulatory freedom as U.S. facilities-based carriers to exchange switched traffic in correspondence with foreign carriers that lack market power. The Commission therefore modifies its rules to permit U.S.-authorized private line resellers to interconnect their private lines to the public switched network, at one or both ends, for the provision of switched basic services, and thus, to engage in ISR in either of the following circumstances: (1) on any route where the resale carrier exchanges switched traffic with a foreign carrier that lacks market power; or (2) on any route for which the Commission has authorized the provision of ISR. This rule supersedes the condition that appears in the Section 214 authorizations of private line resellers that limits their ability to resell interconnected private lines to routes for which the Commission have authorized ISR.

22. The Commission also directs all U.S. private line carriers to amend their international private line tariffs to track the policy and rules the Commission adopts in this Order. In particular, the Commission shall require that a carrier's tariff explicitly state the Commission's policy that the private line user may engage in resale of the international private line for the provision of a switched, basic telecommunications service upon authorization from the Commission under Section 214 of the Communications Act of 1934, as amended, and provided that the private line is used only on a route where the resale carrier exchanges switched traffic with a foreign carrier that the Commission has determined lacks market power; or on any route for which the Commission has authorized the provision of switched services over private lines. Carriers will be required to amend their international private line tariffs within ten days after the effective date of the rules adopted in this order.

Final Regulatory Flexibility Certification

23. The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms

''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

24. In the Notice in this proceeding, the Commission certified that the proposed rules ''[would] not, if promulgated, have a significant economic impact on a substantial number of small entities.'' No comments were received concerning this certification. The purposes of this proceeding are to eliminate some regulatory requirements and to simplify and clarify other existing rules. These rule changes will affect facilities-based international telecommunications carriers exclusively—in particular, approximately 10 facilities-based international telecommunications carriers. Neither the Commission nor SBA has developed a small business definition specifically applicable to such international carriers; therefore, the Commission will utilize the definition under the SBA rules for Communications Services, Not Elsewhere Classified (NEC). Under this definition, a small business is one with $11.0 million or less in annual receipts. Based on information filed with the Commission, the subject facilities-based international telecommunications carriers do not fall within the above definition of ''small business'' because they each have more than $11.0 million in annual receipts. The rule modifications at issue do not impose any additional compliance burden on persons dealing with the Commission, including small entities. Rather, this action removes filing requirements in scaling back application of the Commission's International Settlements policy. Accordingly, the Commission certifies, pursuant to the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Report and Order and Order on Reconsideration*, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the *Report and Order and Order on Reconsideration* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

Supplemental Final Regulatory Flexibility Analysis

25. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice in IB Docket No. 95–22, and a Final Regulatory Flexibility Analysis (FRFA) was incorporated into the *Report and Order* in that docket. The Order contains a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) which conforms to the RFA.

26. *Need for, and Objectives of, the Present Action.* This action creates greater opportunities for U.S. international private line resellers to carry U.S. international traffic outside of the settlements process. It also harmonizes the treatment of private line resellers with that of facilities-based carriers.

27. *Summary of Significant Issues Raised by Reconsideration Petitions.* No petitions were received in direct response to the FRFA in the *Report and Order*, nor were small business issues raised.

28. *Description and Estimate of the Number of Small Entities to which the Rules Will Apply.* As noted in the associated Final Regulatory Flexibility Certification in IB Docket No. 98–148, *supra*, the RFA directs agencies to provide a Regulatory Flexibility Analysis in notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The Commission's action on reconsideration in IB Docket No. 95–22 will affect telecommunications resellers, including resellers that are small businesses; therefore, the Commission incorporates this present Supplemental FRFA into its *Report and Order and Order on Reconsideration*.

29. In light of the petitions for reconsideration in IB Docket No. 95–22, the Commission modifies its rules to allow U.S. international private line resellers to carry switched traffic over international private line circuits in correspondence with foreign carriers that lack market power. The Commission expects that these changes will allow U.S. private line resellers, including small entities, to take advantage of new opportunities in the international telecommunications marketplace. As noted in the associated certification, *supra*, in instances where neither the Commission nor the SBA has developed a small business definition specifically applicable to the entities potentially affected by its action, the Commission utilizes the pertinent definition under the SBA rules. Here, neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than a radiotelephone (wireless) company. The Commission describes available statistics for telecommunications entities generally, including resellers, then give more particular information on resellers.

30. The SBA has developed a small business definition for establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' (wireless) to be such businesses having no more than 1,500 employees. The U.S. Bureau of the Census reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. The Commission does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities that may be affected by present action.

31. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to TRS data, 339 reported that they were engaged in the resale of telephone service (including debit card providers). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate

with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 339 small entity resellers that may be affected by the rules.

32. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*. In its reconsideration of IB Docket No. 95–22, the Commission modifies its rules to allow U.S. private line resellers to carry switched traffic over international private line circuits in correspondence with foreign carriers that lack market power. The Commission expects that these changes will expand the ability of U.S. private line resellers, including small entities, to reap economic benefits by taking advantage of new opportunities in the international telecommunications marketplace.

33. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*. As discussed, in reconsideration of the petitions in IB Docket No. 95–22, the Commission modifies its rules to allow U.S. private line resellers to carry switched traffic over international private line circuits in correspondence with foreign carriers that lack market power. Authorized private line resellers will be subject to no reporting, recordkeeping, or compliance requirements in order to carry switched traffic over international private line circuits in correspondence with foreign carriers that lack market power.

34. *Report to Congress*. The Commission will send a copy of the *Report and Order and Order on Reconsideration*, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order and Order on Reconsideration*, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order and Order on Reconsideration* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Paperwork Reduction Act of 1995 Analysis

35. This Order contains information collections which will be submitted to the Office of. As part of our continuing effort to reduce paperwork burdens, the Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 30, 1999. Comments should address the following: (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.

OMB Control Number: 3060–XXXX.

Title: Operating Agreements of Common Carriers & Affiliates.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 20.

Number of Responses: 1180.

Estimated Time Per Response: 5 hours.

Frequency of Response: On Occasion.

Total Annual Burden: 5900.

Total Annual Costs: None.

Needs and Uses: The information contained in these reports will be used by the Commission to determine whether the activities reported have affected or are likely to affect adversely the carrier's service to the public or whether these activities result in undue or unreasonable increases in charges. If this information was not reported, the Commission would not be able to ascertain the impact of these activities on the just and reasonable rates as required by the Act.

OMB Control Number: 3060–0454.

Title: Regulation of International Accounting Rates.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 20.

Estimated Time Per Response: l hour.

Frequency of Response: On occasion. We estimate that more carriers will file for fewer markets (about 38). Third party disclosure.

Total Annual Burden: 760.

Total Annual Costs: $25,270.

Needs and Uses: The information is a method for the Commission to monitor the international accounting rates to ensure that the public interest is being served and also to enforce Commission policies.

OMB Control Number: 3060–0764.

Title: Regulation of International Accounting Rates.

Form Number: N/A.

Type of Review: Elimination of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: -30.

Estimated Time Per Response: 16 hours.

Total Annual Burden: -80 hours.

Total Annual Costs: -$180.000.

Needs and Uses: This Order removes Section 64.1002, and thus this collection of information is no longer necessary.

Written comments by the public on the proposed information collections are due on or before August 30, 1999. Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov. For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

Ordering Clauses

36. Accordingly, *it is ordered* that, pursuant to Sections 1, 2, 4(i), 201, 203, 205, 214, 303(r), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 152, 154(i), 201, 205, 214, 303(r), 309, the policies, rules, and requirements discussed herein *are adopted* and Parts 43 and 63 of the Commission's rules, 47 CFR Parts 43 and 63, *are amended* as set forth in the rule changes.

37. *It is further ordered* that the petitions for reconsideration in CC Docket No. 90–337 *are denied*.

38. *It is further ordered* that the petitions for reconsideration in IB Docket No. 95–22 *are granted in part* and *denied in part*, as discussed herein.

39. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this *Report and Order and Order on Reconsideration*, including the Final Regulatory Flexibility Certification and the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

40. *It is further ordered* that the policies, rules, and requirements established in this decision shall take effect after the Commission publishes a document in the **Federal Register** announcing the effective date of these rules or in accordance with the

requirements of 5 U.S.C. 801(a)(3) and 44 U.S.C. 3507.

List of Subjects in 47 CFR Parts 0, 43, 63, and 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 43, 63, and 64 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.457 is amended by adding paragraph (d)(1)(vi) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(d) * * *

(1) * * *

(vi) The rates, terms and conditions in any agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy under § 43.51(g) of this chapter.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

3. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

4. Section 43.51 is amended by revising paragraphs (a), (b) and (e), and by adding paragraphs (f) and (g) to read as follows:

§ 43.51 Contracts and concessions.

(a) Any communications common carrier that: is engaged in domestic communications and has not been classified as nondominant pursuant to § 61.3 of this chapter or, except as provided in paragraphs (f) and (g) of this section, is engaged in foreign communications, and enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point; must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

(1) The exchange of services;

(2) Except as provided in paragraph (c) of this section, the interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances; and

(3) The rights granted to the carrier by any foreign government for the landing, connection, installation, or operation of cables, land lines, radio stations, offices, or for otherwise engaging in communication operations.

(b) If the agreement referred to in this section is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier not subject to the provisions of this section to submit the documents referenced in this section.

* * * * *

(e) *International settlements policy.* (1) Except as provided in paragraph (g) of this section, if a carrier files an operating agreement (whether in the form of a contract, concession, license, etc.) referred to in paragraph (a) of this section to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter. Unless a carrier is providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point pursuant to an operating agreement that is exempt from the international settlements policy under paragraph (g) of this section, the carrier shall not bargain for or agree to accept more than its proportionate share of return traffic.

(2) Except as provided in paragraph (g) of this section, if a carrier files an amendment to the operating agreement referred to in paragraph (a) of this section under which it already provides switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter.

(f) *Confidential treatment.* (1) A carrier providing service on an international route that is exempt from the international settlements policy under paragraph (g)(2) of this section, but that is required by paragraph (a) or (b) of this section to file a contract covering that route with the Commission, may request confidential treatment under § 0.457 of this chapter for the rates, terms and conditions that govern the settlement of U.S. international traffic.

(2) Carriers requesting confidential treatment under this paragraph must include the information specified in § 64.1001(c) of this chapter. Such filings shall be made with the Commission, with a copy to the Chief, International Bureau. The transmittal letter accompanying the confidential filing shall clearly identify the filing as responsive to § 43.51(f).

(g) Exemption from the international settlements policy and contract filing requirements.

(1) A carrier that enters into a contract, including an operating agreement, for the provision of a common carrier service between the United States and a foreign point with a carrier that lacks market power in that foreign market is not subject to the requirements of paragraphs (a), (b) or (e) of this section.

(i) A foreign carrier lacks market power for purposes of paragraph (g)(1) of this section if it does not appear on the Commission's list of foreign carriers that do not qualify for the presumption

that they lack market power in particular foreign points. The list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

(ii) The Commission will include on the list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points any foreign carrier that has 50 percent or more market share in the international transport or local access markets of a foreign point. A party that seeks to remove such a carrier from the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier lacks 50 percent market share in the international transport and local access markets on the foreign end of the route or that it nevertheless lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. A party that seeks to add a carrier to the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier has 50 percent or more market share in the international transport or local access markets on the foreign end of the route or that it nevertheless has sufficient market power to affect competition adversely in the U.S. market.

(2) A carrier that enters into a contract, including an operating agreement, with a carrier in a foreign point for the provision of a common carrier service between the United States and that point is not subject to the international settlements policy in paragraph (e) of this section if the foreign point appears on the Commission's list of international routes that the Commission has exempted from the international settlements policy. The list of exempt routes is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

(i) A party that seeks to add a foreign market to the list of markets that are exempt from the international settlements policy must show that U.S. carriers are able to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96–261.

(ii) A party that seeks to remove a foreign market from the list of markets that are exempt from the international settlements policy must show that U.S. carriers are unable to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96–261.

Note to paragraph (g): The Commission's benchmark settlement rates are available in International Settlement Rates, IB Docket No. 96–261, *Report and Order*, 12 FCC Rcd 19,806, 62 FR 45758 (August 29, 1997).

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 161, 201–205, 218, 403, 533 unless otherwise noted.

6. Section 63.14 is amended by revising paragraphs (a) and (c), and by removing paragraph (d), to read as follows:

§ 63.14 Prohibition on agreeing to accept special concessions.

(a) Any carrier authorized to provide international communications service under this part shall be prohibited, except as provided in paragraph (c) of this section, from agreeing to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and from agreeing to accept special concessions in the future.

Note to paragraph (a): Carriers may rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which foreign carriers are the subject of the prohibitions contained in this section. The Commission's list of foreign carriers that do not qualify for the presumption that they lack market power is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

* * * * *

(c) This section shall not apply to the rates, terms and conditions in an agreement between a U.S. carrier and a foreign carrier that govern the settlement of international traffic, including the method for allocating return traffic, if the international route is exempt from the international settlements policy under § 43.51(g)(2) of this chapter.

7. Section 63.16 is amended by revising paragraph (a) to read as follows:

§ 63.16 Switched services over private lines.

(a) Except as provided in §§ 63.22 (e)(2) and 63.23(d)(2), a carrier may provide switched basic services over its authorized private lines if and only if the country at the foreign end of the private line appears on a Commission list of destinations to which the Commission has authorized the provision of switched services over private lines. The list of authorized destinations is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

* * * * *

8. Section 63.22 is amended by revising paragraph (e) to read as follows:

§ 63.22 Facilities-based international common carriers.

* * * * *

(e)(1) Except as provided in paragraph (e)(2) of this section, the carrier may provide switched basic services over its authorized facilities-based private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16. If at any time the Commission removes the country from that list or finds that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(2) The carrier may use its authorized facilities-based private lines to provide switched basic services in circumstances where the carrier is exchanging switched traffic with a foreign carrier that lacks market power in the country at the foreign end of the private line.

(3) A foreign carrier lacks market power for purposes of paragraph (e)(2) of this section if it does not appear on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points. This list is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

* * * * *

9. Section 63.23 is amended by revising paragraph (d) to read as follows:

§ 63.23 Resale-based international common carriers.

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, the carrier may provide switched basic services over its authorized resold private lines if and

only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16. If at any time the Commission removes the country from that list or finds that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(2) The carrier may use its authorized resold private lines to provide switched basic services in circumstances where the carrier is exchanging switched traffic with a foreign carrier that lacks market power in the country at the foreign end of the private line.

(3) A foreign carrier lacks market power for purposes of paragraph (d)(2) of this section if it does not appear on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points. This list is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

* * * * *

PART 64 —MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

10. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 10, 201, 218, 226, 228, 332 unless otherwise noted.

11. Section 64.1001 is amended by revising paragraphs (b) through (g) and by removing paragraphs (h) through (l) to read as follows:

§ 64.1001 International settlements policy and modification requests.

* * * * *

(b) If the international settlement arrangement in the operating agreement or amendment referred to in § 43.51(e)(1) or (e)(2) of this chapter differs from the arrangement in effect in the operating agreement of another carrier providing service to or from the same foreign point, the carrier must file a modification request under this section unless the international route is exempt from the international settlements policy under § 43.51(g) of this chapter.

(c) A modification request must contain the following information:

(1) The applicable international service;

(2) The name of the foreign telecommunications administration;

(3) The present accounting rate (including any surcharges);

(4) The new accounting rate (including any surcharges);

(5) The effective date;

(6) The division of the accounting rate; and

(7) An explanation of the proposed modification(s) in the operating agreement with the foreign correspondent.

(d) A modification request must contain a notarized statement that the filing carrier:

(1) Has not bargained for, nor has knowledge of, exclusive availability of the new accounting rate;

(2) Has not bargained for, nor has any indication that it will receive, more than its proportionate share of return traffic; and

(3) Has informed the foreign administration that U.S. policy requires that competing U.S. carriers have access to accounting rates negotiated by the filing carrier with the foreign administration on a nondiscriminatory basis.

(e) An operating agreement or amendment filed under a modification request cannot become effective until the modification request has been granted under paragraph (g) of this section.

(f) Carriers must serve a copy of the modification request on all carriers providing the same or similar service to the foreign administration identified in the filing on the same day a modification request is filed.

(g) All modification requests will be subject to a twenty-one (21) day pleading period for objections or comments, commencing the date after the request is filed. If the modification request is not complete when filed, the carrier will be notified that additional information is to be submitted, and a new 21 day pleading period will begin when the additional information is filed. The modification request will be deemed granted as of the twenty-second (22nd) day without any formal staff action being taken: provided

(1) No objections have been filed, and

(2) The International Bureau has not notified the carrier that grant of the modification request may not serve the public interest and that implementation of the proposed modification must await formal staff action on the modification request. If objections or comments are filed, the carrier requesting the modification request may file a response pursuant to § 1.45 of this chapter. Modification requests that are formally opposed must await formal action by the International Bureau before the proposed modification can be implemented.

§ 64.1002 [Removed]

12. Section 64.1002 is removed.

[FR Doc. 99–16032 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–189; RM–9377; RM–9475]

Radio Broadcasting Services; Manzanita, Cannon Beach and Bay City, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of John L. Zolkoske and Broad Spectrum Communications, Inc., allots Channel 242A to Bay City, OR, as the community's first local aural service, substitutes Channel 235C3 for Channel 243A at Cannon Beach, OR, and modifies the license of Station KCBZ to specify the higher powered channel. The proposal of Zolkoske to allot Channel 235A to Manzanita, OR, as its first local aural service, is dismissed. *See* 63 FR 59263, November 3, 1998. Channel 242A can be allotted to Bay City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 45–31–24 NL; 123–53–18 WL. Channel 235C3 can be allotted to Cannon Beach without the imposition of a site restriction, at coordinates 45–53–42 NL; 123–57–36 WL. Canadian concurrence in these allotments has been obtained since both Bay City and Cannon Beach are located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective August 2, 1999. A filing window for Channel 242A at Bay City, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–189, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference

Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Bay City, Channel 242A, and by removing Channel 243A and adding Channel 235C3 at Cannon Beach.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16431 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–133; RM–9314]

Radio Broadcasting Services; Zapata, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 274A to Zapata, Texas, in response to a petition filed by Arturo Lopez and Eleazar Trevino. *See* 63 FR 6078, February 6, 1998. The coordinates for Channel 274A at Zapata are 26–54–30 and 99–16–18. In response to comments filed by Encarnacion A. Guerra in this proceeding, we shall also allot Channel 280A to Zapata. The coordinates for Channel 280A at Zapata are 26–54–30 and 99–16–18. Mexican concurrence has been obtained for the allotment of Channels 274A and 280A at Zapata. With this action, this proceeding is terminated. A filing window for Channels 274A and 280A at Zapata will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–133, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channels 274A and 280A at Zapata.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16433 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980817221–9020–02; I.D. 072898A]

RIN 0648–AL22

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program; Extension of Expiration Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of expiration date.

SUMMARY: NMFS extends the expiration date of an emergency interim rule implementing requirements of the American Fisheries Act (AFA) related to the 1999 Western Alaska Community Development Quota (CDQ) Program. This action revises pollock CDQ catch accounting regulations and removes the squid allocation from the CDQ program. The emergency interim rule that is effective from January 21, 1999, through July 20, 1999, is extended through December 31, 1999. This action is necessary to implement CDQ Program-related provisions of the AFA.

DATES: The expiration date for ''Directed fishing for pollock CDQ,'' the amendments to § 679.20(b)(1)(iii)(A) and (b)(1)(iii)(D), and § 679.32(e) of the emergency interim rule published January 26, 1999 (64 FR 3877), and as amended April 26, 1999 (64 FR 20210), is extended from July 20, 1999, through December 31, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the initial emergency interim rule may be obtained from Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attention: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Management Background and Need for Action

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

The President signed the AFA into law on October 20, 1998, as part of the Omnibus Appropriations Bill FY99, (Pub. L. 105–277). NMFS determined that two changes to the CDQ Program regulations were necessary in order for the CDQ Program-related provisions of the AFA to be effective by January 1999. These two regulatory changes were (1) to allow pollock bycatch in the non-pollock groundfish CDQ fisheries to accrue against the allowance for incidental catch of pollock established

by section 206(b) of the AFA and (2) to remove the allocation of squid from the CDQ Program in order to allow the CDQ groups to maximize the possibility that the pollock CDQ directed fishing allowance will be fully harvested. At its November 1998 meeting, the Council concurred with NMFS's recommendation for these changes.

NMFS published the emergency interim rule implementing these regulatory changes in the **Federal Register** on January 26, 1999 (64 FR 3877), effective through July 20, 1999. Specifically, the emergency interim rule (1) establishes a new definition of directed fishing for pollock CDQ, (2) revises specifications of the groundfish CDQ reserves at § 679.20(b)(1)(iii), and (3) revises pollock CDQ catch accounting regulations at § 679.32(a)(2) and (e). The preamble to the initial emergency interim rule provides more background on the justification and effects of this action. No comments were received during the comment period for the initial emergency interim rule. NMFS intends to initiate proposed and final rulemaking later in 1999 to permanently implement these CDQ Program-related provisions of the AFA.

This current action extends the expiration date of the emergency interim rule, as amended, through December 31, 1999.

On April 26, 1999 (64 FR 20210), NMFS issued a final rule amending the regulations governing the halibut CDQ fisheries and correcting some inadvertent errors in the initial emergency interim rule implementing AFA provisions relating to the CDQ Program. Specifically, revisions to the definition of groundfish CDQ fishing were made permanent; § 679.32(a)(2), (a)(3), and (e) were permanently removed; and § 679.32(g) was redesignated as § 679.32(e). Under this extension of the expiration date for the emergency interim rule, new § 679.32(e) will expire on December 31, 1999.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Extension of this emergency interim rule is necessary to continue to monitor and manage catch of pollock in the CDQ fisheries required by the AFA. Failure to extend this action would prevent the CDQ groups from taking advantage of the AFA's provisions that only pollock harvested while directed fishing for pollock CDQ will accrue against the pollock CDQ allocation and could result in squid bycatch limiting the total catch of pollock CDQ. The AA finds good cause to extend the emergency interim rule in accordance with section 305(c)(3)(B) of the Magnuson-Stevens Act. Pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for public comment, as the delay associated with such procedures would be contrary to the public interest.

Similarly, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a 30-day delay in the effective date of this rule would be contrary to the public interest. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The emergency interim rule contains a reduction in a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB control number 0648–0269. Shoreside processors and CDQ groups are currently required to report all pollock harvested in the CDQ fisheries on CDQ delivery reports and CDQ catch reports. This emergency interim rule requires that the incidental catch of pollock in non-pollock CDQ fisheries not be reported on the CDQ delivery report and the CDQ catch report.

This rule has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 23, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine fisheries Service.

[FR Doc. 99–16520 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 124
Tuesday, June 29, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Liquidation of Collateral and Sale of Commercial Loans

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: SBA proposes to amend its regulation regarding the liquidation and sale of loans. As part of a government-wide initiative, federal credit agencies are being directed by the Office of Management and Budget (OMB) to sell their loan portfolios. Initially, SBA intends to sell its portfolio of direct and purchased loans made under the authorities of the 7(a) and 501, 502, 503, and 504 programs. This will include both secured and unsecured loans in performing and non-performing status. The loans will be sold to qualified bidders by means of competitive procedures at publicly advertised sales. Bidder qualifications will be set for each sale in accordance with the terms and conditions of each sale. SBA also intends to sell its disaster home loans and disaster business loans, but will publish separate regulations regarding these sales.

DATES: Submit comments on or before July 29, 1999.

ADDRESSES: Comments should be mailed to Arnold S. Rosenthal, Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street, S.W., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Richard Blewett, 202–205–4202.

SUPPLEMENTARY INFORMATION: 13 CFR 120.540 sets forth SBA's policy for the liquidation of collateral and the sale of commercial loans. SBA now proposes to amend and expand this rule to include the sale of direct and purchased loans in asset sales. Pub. L. 104–134, the ''Debt Collection Improvement Act of 1996,'' enacted on April 26, 1996, provides that, ''the head of an executive * * * agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any non-tax debt owed to the United States that is delinquent for more than 90 days.'' 31 U.S.C. 3711(i)(1). The Small Business Act, 15 U.S.C. 634(b)(2), provides in pertinent part that ''(The Administrator) may sell at public or private sale * * * in (her) discretion * * * any evidence of debt * * * personal property, or security * * *'' It further provides in 15 U.S.C. 634(b)(7) that the Administrator may ''take any and all actions * * * when [she] determines such actions are necessary or desirable in * * * liquidating or otherwise dealing with or realizing on loans * * *'' Pursuant to this statutory authority, SBA is establishing an Asset Sales Program to sell portions of its direct and participation loan portfolios.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule is not a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

SBA certifies that this proposed rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this proposed rule is drafted, to the extent practicable, to accord with the standards set forth in paragraph 2 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs—business.

For the reasons stated in the preamble, the Small Business Administration proposes to amend 13 CFR part 120 as follows:

PART 120—[AMENDED]

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634 (b)(6) and (h).

2. In § 120.540 revise the section heading, add paragraph (b)(4), and revise paragraph (d) to read as follows:

§ 120.540 What are SBA's policies concerning the liquidation of collateral and the sale of business loans?

* * * * *

(b) * * *

(4) Sell direct and purchased 7(a) and 501, 502, 503 and 504 loans in asset sales. SBA will offer these loans for sale to qualified bidders by means of competitive procedures at publicly advertised sales. Bidder qualifications will be set for each sale in accordance with the terms and conditions of each sale.

* * * * *

(d) *Recoveries and security interests shared.* SBA and the Lender will share pro rata (in accordance with their respective interests in a loan) all loan payments or recoveries, including proceeds from asset sales, all reasonable expenses (including advances for the care, preservation, and maintenance of collateral securing the loan and the payment of senior lienholders), and any security interest or guarantee (excluding SBA's guarantee) which the Lender or SBA may hold or receive in connection with a loan.

* * * * *

Dated: June 22, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–16339 Filed 6–28–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–26–AD]

Airworthiness Directives; Eurocopter France Model SA–360C, SA–365C, C1, C2, SA–365N, N1, AS–365N2, and SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter France Model SA–360C, SA–365C, C1, C2, SA–365N, N1, AS–365N2, and SA–366G1 helicopters. This proposal would require inspecting and, if necessary, replacing certain circuit breakers. This proposal is prompted by the manufacturer discovering the loss of electrical continuity between the terminals of a circuit breaker. The actions specified by the proposed AD are intended to prevent loss of electrical power, loss of instrumentation, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5120, fax (817) 222–5961.

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 No. 98–SW–26–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–360C, SA–365C, C1, C2, AS–365N, N1, AS–365N2, and SA–366G1 helicopters. The DGAC advises of the loss of electrical continuity on certain single-pole circuit breakers.

Eurocopter France has issued three service bulletins, all dated December 11, 1997. Service Bulletin No. 01.36 is applicable to Model SA–360/365C, C1, and C2 helicopters; Service Bulletin No. 01.24 is applicable to Model SA–366G1 helicopters; and Service Bulletin 01.00.45 is applicable to Model AS–365N, N1, and N2 helicopters. All of these service bulletins specify inspecting Crouzet single-pole circuit breakers, Part Number (P/N) 84–400–028 through P/N 84–400–037, and replacing all circuit breakers that have any loss of electrical continuity. The DGAC classified these service bulletins as mandatory and issued AD 98–111–021(A), AD 98–112–042(A), and AD 98–113–043(A), all dated March 11, 1998, in order to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–360C, SA–365C, C1, C2, SA–365N, N1, AS–365N2, and SA–366G1 helicopters of the same type design registered in the United States, the proposed AD would require inspecting of any Crouzet single-pole circuit breakers, P/N 84–400–028 through P/N 84–400–037, and replacing all circuit breakers that have a loss of electrical continuity. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 136 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per helicopter to accomplish the inspection and replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $23 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,208.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not

a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. 98–SW–26–AD.

Applicability: Model SA–360C, SA–365C, C1, C2, SA–365N, N1, AS–365N2, and SA–366G1 helicopters, with Crouzet single-pole circuit breaker, part number (P/N) 84–400–028 through P/N 84–400–037, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 loss of electrical power, loss of instrumentation, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 100 hours time-in-service (TIS) or within the next 3 calendar months, whichever occurs first,

(1) For Model SA–360C, and SA–365C, C1, and C2 helicopters, inspect the electrical master box assembly, flotation gear unit assembly, and ground receptacle Crouzet circuit breakers for electrical continuity in accordance with section 2B of the Accomplishment Instructions contained in Eurocopter France Service Bulletin (SB) No. 01.36, dated December 11, 1997.

(2) For Model SA–365N, N1, and AS–365N2 helicopters, inspect the electrical master box assembly, flotation gear unit assembly, and ground receptacle Crouzet single-pole circuit breakers for electrical continuity in accordance with section 2B of the Accomplishment Instructions contained in SB No. 01.00.45, dated December 11, 1997.

(3) For Model SA–366G1 helicopters, inspect the electrical master box assembly, flotation gear unit assembly, and ground receptacle Crouzet single-pole circuit breakers for electrical continuity in accordance with section 2B of the Accomplishment Instructions contained in SB 01.24, dated December 11, 1997.

(b) On or before 500 hours TIS or 6 calendar months, whichever occurs first, inspect all remaining Crouzet single-pole circuit breakers in accordance with section 2B of the Accomplishment Instructions of the applicable SB.

(c) Any replacement single-pole circuit breaker installed, or any single-pole circuit breaker removed and reinstalled, must be inspected prior to further flight in accordance with paragraph 2.B. of the Accomplishment Instructions of the applicable SB.

(d) Remove any affected part-numbered circuit breaker and replace with an airworthy circuit breaker on or before December 31, 1999.

(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, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile AD 98–112–042(A), AD 98–113–043(A), and AD 98–111–021(A), all dated March 11, 1998.

Issued in Fort Worth, Texas, on June 22, 1999.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–16477 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

14 CFR Part 298

[Docket No. OST–98–4043]

RIN No. 2105–AC71

Meeting To Discuss Ways To Improve the Alaska Commuter and Small Certificated Air Carrier Data Collection Program

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Transportation (DOT) collects financial and traffic data from various types of air carriers. DOT announces a forthcoming meeting to discuss ways to improve this program as it relates to Alaska small certificated and commuter air carriers. The meeting is being held jointly with the U.S. Postal Service.

DATES: The meeting will be held Thursday, July 22, 1999, 8 a.m. to 5 p.m. and Friday, July 23, 1999, 8 a.m. to 5 p.m., Alaska time.

ADDRESSES: The meeting will take place in the US Postal Service Conference Room at the Anchorage Processing and Distribution Center, 4141 Postmark Drive, Anchorage, AK 99502. Attendance is open to the interested public but limited to space available. If you plan to attend the meeting please contact Kevin Adams by July 8, 1999. Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Mr. Adams at least seven days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Kevin Adams, EAS & Domestic Analysis Division, X–53, Office of Aviation Analysis, Office of the Secretary, US Department of Transportation, 400 Seventh Street SW, Washington D.C. 20590; by phone at (202) 366–1047; by e-mail at kevin.adams@ost.dot.gov; or by Fax at (202) 366–7638.

SUPPLEMENTARY INFORMATION:

Background

49 U.S.C. 329(b)(1) requires the Department of Transportation to collect and disseminate information on civil aeronautics, other than that collected and disseminated by the National Transportation Safety Board. In meeting this responsibility, the Department collects traffic and financial data submitted under 14 CFR part 241 (Large Certificated Air Carriers) and 14 CFR part 298 (Commuter and Small Certificated Air Carriers). It also collects

certain other traffic and service quality data under 14 CFR parts 217, 234, 250, and 374a.

The Department in Docket No. OST–98–4043, Notice 98–18, ''Aviation Data Requirements Review and Modernization Program'' on its own initiative requested public comments from reporting carriers and aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department invited comments on whether existing airline traffic, fare, and financial data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and the airline industry. It is the Department's preliminary position that its current aviation data systems may not provide sufficiently detailed data in some areas which are necessary to ensure that the Department fully meets its mandated aviation responsibilities. One of these responsibilities is the setting of the Alaska bush mail rates. The Department relies on data submitted by the Alaska small certificated and commuter air carriers on the Form 298–C reports to set the bush mail rates. While this meeting will be held as part of the Advanced Notice of Proposed Rulemaking to review the Department's aviation data collection process, its focus will be on the data collection process for Form 298–C reports. A summary of the meeting will be included in the docket.

DOT, the Postal Service, Alaska air carriers, and other interested entities will review and discuss possible revisions to 14 CFR part 298 (the Department's Form 298–C reporting requirements). The meeting will assess how the Form 298–C data reporting system can be reengineered to enhance the usefulness of the data collected in facilitating the Alaska bush mail rate calculations while at the same time exploring alternatives for reducing costs for the Department, the Postal Service, and the airline industry. The meeting will be open to the public. We particularly solicit participation from those Alaska small certificated and commuter air carriers who currently transport or wish to transport mail for the U.S. Postal Service in Alaska.

Issued in Washington, DC, on June 24, 1999.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 99–16505 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 111

RIN 1515–AC34

Customs Brokers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document provides an additional 30 days for interested members of the public to submit comments on the proposed revision to part 111 of the Customs Regulations governing the licensing and conduct of customs brokers in the performance of customs business on behalf of others. The proposed revision, which was published in the **Federal Register** on April 27, 1999, includes changes to the regulatory texts to part 111 to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The proposed revision also includes changes to reflect the recent reorganization of Customs as well as changes to improve the content, layout and clarity of the regulatory texts. The comment period was scheduled to expire on June 28, 1999.

DATES: Comments on the proposed revision must be received on or before July 28, 1999.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, US Customs Service, 1300 Pennsylvania Avenue, NW, Washington DC 20229. All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) between 9 a.m. and 4:30 p.m. on normal business days at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, 3rd Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Operational Aspects:* Bruce Ingalls, Office of Field Operations (202–927–1082).

Legal Aspects: Jerry Laderberg, Office of Regulations and Rulings (202–927–2320).

SUPPLEMENTARY INFORMATION:

Background

Customs published a document in the **Federal Register** (64 FR 22726) on April 27, 1999, proposing to revise part 111 of the Customs Regulations governing the licensing and conduct of customs brokers in the performance of customs business on behalf of others. The proposed revision includes changes to the regulatory texts to part 111 to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The proposed revision also includes changes to reflect the recent reorganization of Customs as well as changes to improve the content, layout and clarity of the regulatory texts.

The document invited the public to comment on the proposed revision to part 111. Comments on the proposed rule were requested on or before June 28, 1999.

On June 22, 1999, Customs received a request from a law firm representing the JFK Airport Customs Brokers Association to extend the time period for submission of comments on the proposed rule so that the firm can receive sufficient input from members of the Association before submitting comments.

Customs has concluded that this request has merit. Accordingly, the period of time for the submission of comments is being extended 30 days. Comments are now due on or before July 28, 1999.

Dated: June 23, 1999.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 99–16479 Filed 6–28–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–99–011]

RIN 2115 AE47

Drawbridge Operations Regulations; Columbia River, OR

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating regulations for the dual Interstate 5 drawbridges across the Columbia River, mile 106.5, between Vancouver, WA, and Portland, OR. The proposed amendment would simplify the existing regulations by removing the river level and vessel types as schedule factors and establish a single schedule during which the draw spans need not be opened for the passage of vessels from 6:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday except federal holidays. The change would also require one-hour notice daily for all draw openings between 6:30 a.m. and 6 p.m. to allow vehicle traffic enough notice of bridge openings to choose an alternative route.

DATES: Comments must reach the Coast Guard on or before August 30, 1999.

ADDRESSES: You may mail comments to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220–7272.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should identify this rulemaking (CGD 13–99–011) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change the proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Coast Guard include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The purpose of the proposed change to section 117.869 is to streamline the operating regulations by removing the various periods when the dual lift spans need not open for vessels and replacing them with a single set of hours Monday through Friday for all vessels, in contrast to the current distinction made between recreational and commercial vessels when the local river gauge reads 6 feet or more. the proposed regulation would not change the operation of the draw spans on weekends and federal holidays, when openings on signal are provided. The proposed one-hour notice for openings would enable the state transportation departments of Washington and Oregon to establish means of notification to interstate traffic approaching the bridge. With adequate notification of an imminent opening, much of the highway traffic both north and south of the interstate bridges could divert to I–205, which crosses the Columbia on a high-level fixed bridge upstream of the drawbridges. This parallel crossing is about 6 miles upstream, east of the I–5 Drawbridges. Both states are in various phases of implementing electronic notification systems on I–5, which could warn motorists of draw span openings.

The operating regulations currently in effect are dependent upon river level measured by the gauge at the bridges. The hours during which the bridges need not open for navigation are presently changed whenever the river level is at 6 feet or above. This consideration of river level would be removed by this proposal in order to streamline the regulations to an easily remembered and administered schedule of operation.

The proposed regulations are uniformly applied to all types of navigation. There would no longer be an operating distinction between commercial and recreational vessels.

Currently, when the river is at 6 feet or more (above Columbia River Datum), the draws need not open for the passage of commercial vessels from 6:30 a.m. to 8 a.m. and from 3:30 p.m. to 6 p.m. Monday through Friday, except federal holidays, and for all other vessels the draws need not open from 5:30 a.m. to 9 a.m. and 2:30 p.m. and 6 p.m. Monday through Friday, except federal holidays. When the river gauge indicates 5.9 feet, or less, the draws need not open for the passage of any vessels from 5:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday, except federal holidays.

Interstate 5 is a major north-south transportation corridor in the western United States. The dual bridges across the Columbia are the only drawbridges on this interstate highway or any interstate highway west of the Mississippi River. The weekday traffic count often exceeds 120,000 vehicles per day. Traffic begins to increase dramatically about 7 a.m. Monday through Friday. It remains high throughout the day, generally more than 6,000 vehicles per hour to more than 9,000 per hour. In the evening the decrease in traffic follows 6 p.m. by several hundred vehicles per hour.

The Columbia River bears substantial navigation both recreational and commercial in this vicinity. Most of the commercial traffic is composed of towboats barges, floating derricks, and passenger vessels. the recreational traffic includes tall-masted sailboats.

The Interstate 5 Bridges provide 39.86 feet of vertical clearance at 0.0 elevation, Columbia River Datum or CRD, at the dual lift spans when they are down, or closed. Fully raised, the vertical lift spans provide 178 feet at 0.0 river level (CRD). Most of the towboats plying this reach of the river require at least 52 feet of vertical clearance. There are other vessels, such as derrick barges and sailboats, which require more clearance.

The dual vertical lift spans of the I–5 Bridges open annually from several hundred to over a thousand times, as recorded in the years of the current decade. There is a decrease in openings when the river level is low. Weather conditions can influence the preferred course through the bridges.

In 1998, the vertical lifts opened 386 times for vessels. This and the following counts do not include maintenance or training openings. In 1997, which witnessed higher water, the total annual openings for vessels was 829. The month in 1997 with the most openings for vessels was May. In May the bridges opened 161 times. River levels in May 1997 ranged from 15 to 17 feet at the bridge gauges. In May 1998 the water levels ranged from 6 to 14 feet and experienced only 56 openings. From the draw logs on hand (1993–1998) it can be concluded that the number of openings can fluctuate significantly from year to year and from month to month.

The river level has a significant influence on the number of openings that are requested by vessel operators. However, the difference in the closed periods make the regulations in effect more complicated than those which are proposed. Currently, commercial traffic is somewhat more limited in the hours during which they may use the lift spans when the river gauge is 6 feet or more at the bridges. The total daily

closed period is less restrictive when the river gauge is at 5.9 feet or less.

By changing the closed periods Monday through Friday and by requiring one-hour notice for openings, the Coast Guard intends to assist traffic flow on the I–5 corridor without unreasonably hindering navigation on the Columbia River.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.869 so that the draws need not be opened for the passage of commercial vessels from 6:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday, except federal holidays. This amendment also requires one-hour notice for all openings between the hours of 6:30 a.m. and 6 p.m. every day.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed rule would improve commuter traffic flow and by minimally increasing the times when commercial navigation cannot pass through the open draw spans.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this proposed rule, if adopted, will not have a significant impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.869 (a) to read as follows:

§ 117.869 Columbia River.

(a) The draws of the Interstate 5 Bridges, mile 106.5, between Portland, OR, and Vancouver, WA, shall open on signal if one hour notice is provided between the hours of 6:30 a.m. and 6 p.m., except that the draws need not be opened for the passage of vessels from 6:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m. Monday through Friday, except federal holidays.

* * * * *

Dated: June 21, 1999.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 99–16533 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–222, RM–9602]

Radio Broadcasting Services; Fountain Green, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 244A at Fountain Green, Utah. The channel can be allotted to Fountain Green without a site restriction at coordinates 39–37–42 NL and 111–38–24 WL.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–222, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*

parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16420 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–223, RM–9604]

Radio Broadcasting Services; Leeds, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 287C2 at Leeds, Utah, as the community's first local service. The channel can be allotted to Leeds without a site restriction at coordinates 37–14–18 NL and 113–21–42 WL.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–223, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16421 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–219, RM–9638]

Radio Broadcasting Services; Choteau, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 271C1 at Choteau, Montana, as the community's first local service. The channel can be allotted to Choteau with a site restriction 29.4 kilometers (18.3 miles) south of the community at coordinates 47–33–40 NL and 112–18–43 WL. Canadian concurrence will be requested for the allotment of Channel 271C1 at choteau.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–219, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16422 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–220, RM–9601 and RM–9636]

Radio Broadcasting Services; Darby and Stevensville, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separately-filed petitions for rule making that are mutually exclusive. Mountain West Broadcasting has requested the allotment of Channel 300A at Darby, Montana (RM–9601). The channel can be allotted to Darby without a site

restriction at coordinates 46–01–18 NL and 114–10–42 WL. The Battani Corporation has requested the allotment of Channel 300C2 at Stevensville, Montana, at coordinates 46–30–24 and 114–05–18 (RM–9636). Since Stevensville is located within 320 kilometers of the U.S.-Canadian border, concurrence of the Canadian Government will be requested for the allotment of Channel 300C2 at Stevensville.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009 and the Battani Corporation, c/o Robert Lewis Thompson, Taylor Thiemann and Aitken, L.C., 908 King Street, Suite 300, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–220, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16423 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–221, RM–9639]

Radio Broadcasting Services; Fortine, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 232C3 at Fortine, Montana, as the community's first local service. The channel can be allotted to Fortine without a site restriction at coordinates 48–45–42 NL and 114–54–12 WL. Canadian concurrence will be requested for the allotment of Channel 232C3 at Fortine.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–221, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16424 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–224, RM–9605]

Radio Broadcasting Services; Parowan, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 300C2 at Parowan, Utah. The channel can be allotted to Parowan without a site restriction at coordinates 37–50–30 NL and 112–49–30 WL.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–224, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may

also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16425 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–225, RM–9635]

Radio Broadcasting Services; Saint Regis, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 256C2 at Saint Regis, Montana, as the community's first local service. The channel can be allotted to Saint Regis with a site restriction 18.1 kilometers (11.2 miles) east of the community at coordinates 47–15–56 NL and 114–51–29 WL. Canadian concurrence will be requested for the allotment of Channel 256C2 at Saint Regis.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–225, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16426 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–226, RM–9603]

Radio Broadcasting Services; Toquerville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 280C at Toquerville, Utah, as the community's first local broadcast service. The channel can be allotted to Toquerville without a site restriction at coordinates 37–15–12 NL and 113–17–00 WL.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–226, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–16427 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–227, RM–9634]

Radio Broadcasting Services; Trego, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 296C2 at Trego, Montana, as the community's first local service. The channel can be allotted to Trego with a site restriction 9.1 kilometers (5.7 miles) southwest of the community at coordinates 48–38–44 NL and 114–57–17 WL. Canadian concurrence will be requested for the allotment of Channel 296C2 at Trego.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–227, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16428 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–228, RM–9612]

Radio Broadcasting Services; Valier, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 289C1 at Valier, Montana, as the community's first local service. The channel can be allotted to Valier without a site restriction at coordinates 48–18–18 NL and 112–15–30 WL. Canadian concurrence will be requested for the allotment of Channel 289C1 at Valier.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–228, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–16429 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–218, RM–9637]

Radio Broadcasting Services; Alberton, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Battani Corporation proposing the allotment of Channel 288C2 at Alberton, Montana, as the community's first local service. The channel can be allotted to Alberton with a site restriction 21.7 kilometers (13.5 miles) west of the community at coordinates 47–01–45 NL and 114–45–20 WL. Canadian concurrence will be requested for the allotment of Channel 288C2 at Alberton.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Taylor Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–218, adopted June 9, 1999, and released June 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16430 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–229, RM–9479]

Radio Broadcasting Services; Dayton, Incline Village, and Reno, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition jointly filed by Salt Broadcasting, L.L.C., licensee of Station KTHX–FM, Incline Village, NV, and Americom Las Vegas Limited Partnership, licensee of Station KRNO–FM, Reno, NV. Petitioners request: (1) the substitution of Channel 261C1 for Channel 261C2 at Incline Village, its reallotment to Dayton, as the community's first local aural service, and the modification of Station KTHX–FM's license to specify both the higher class channel and Dayton as its community of license; and (2) the reallotment of Channel 295C from Reno to Incline Village and the modification of Station KRNO–FM's license to specify Incline Village as its community of license. Channel 261C1 can be allotted to Dayton with a site restriction of 36.8 kilometers (22.9 miles) northeast, at coordinates 39–29–27 NL; 119–19–03 WL, to accommodate petitioner's desired transmitter site. Channel 295C can be allotted to Incline Village with a site restriction of 10.1 kilometers (6.3 miles) northeast, at coordinates 39–18–38 NL; 119–53–01 WL, which represents Station KRNO–FM's presently licensed transmitter site.

DATES: Comments must be filed on or before August 9, 1999, and reply comments on or before August 24, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis P. Corbett, Ross G. Greenberg, Leventhal, Senter & Lerman, P.L.L.C., 2000 K Street, NW, Suite 600, Washington, D.C. 20006–1809 (Counsel to petitioners).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–229, adopted June 9, 1999, and released June 18, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–16432 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List the Plant ''Esenbeckia runyonii'' (Limoncillo) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 90-day finding for a petition to list *Esenbeckia runyonii* (limoncillo) as endangered under the Endangered Species Act of 1973, as amended. This small tree is known from Cameron County, Texas, and from the states of Tamaulipas, Nuevo Leon, San Luis Potosi, Queretaro, and Hidalgo in Mexico. We find that the petition failed to present substantial information indicating that listing this species may be warranted.

DATES: The finding announced in this document was made on June 3, 1999.

ADDRESSES: Data, information, comments, or questions concerning this petition finding should be submitted to the U.S. Fish and Wildlife Service, Ecological Services Field Office, c/o Texas A&M University-Corpus Christi, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robyn Cobb, c/o Texas A&M University-Corpus Christi Field Office (see **ADDRESSES** section) (telephone 512/994–9005; facsimile 512/994–8262).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we

make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to us at the time the finding is made. To the maximum extent practicable, we make this finding within 90 days of the date the petition was received, and notice of the finding must be published promptly in the **Federal Register**. If the finding is that substantial information was presented, we are also required to promptly commence a review of the status of the species involved if one has not already been initiated under our internal candidate assessment process.

We have made a 90-day finding on a petition to list the plant *Esenbeckia runyonii* (limoncillo). The petition, dated June 28, 1994, was submitted by Joe Ideker, Secretary of the Native Plant Project, and was received by the Service on July 5, 1994. The petitioner requested that we list *E. runyonii* as endangered. Action on this petition was delayed by a listing moratorium (Public Law 104–6, April 10, 1995) and rescission of listing program funding in Fiscal Year 1996. This moratorium was subsequently lifted and listing program funding restored on April 26, 1996. On May 16, 1996 (61 FR 24722) the Service issued guidance for priorities in restarting the listing program. This 90-day finding was precluded by the Service's listing priority guidance for Fiscal Year 1997, finalized December 5, 1996 (61 FR 64475). With the publication of listing priority guidance for Fiscal Years 1998 and 1999 on May 8, 1998 (63 FR 25502) the Service returned to a more balanced listing program. The processing of petition findings to add species to the list of threatened and endangered species have significant conservation benefit and these actions are now placed in Tier 2.

The petitioner states that all but one of the four (perhaps five) historically known U.S. populations of this small tree have been lost due to habitat destruction and that the remaining U.S. population consists of 15 plants occurring on less than 0.4 hectare (ha) (1 acre (ac)) of a Lower Rio Grande Valley National Wildlife Refuge (LRGV–NWR) tract. The petitioner states that this population is vulnerable to destruction from catastrophic events such as hurricanes, freezes, or fires. The petitioner mentions two unverified groups of *E. runyonii* plants in a Brownsville, Texas, park that are threatened by construction of a road to the Los Tomates Bridge. We investigated these plants and found them to be *Crescentia alata*, a trifoliate-leaved species in the bignonia family. The petitioner notes that other *E. runyonii* populations occur in Mexico, but provides no information on these populations.

Cameron County, Texas, on the U.S./Mexico border, is the northern range limit of *E. runyonii.* Populations in Mexico are known from the states of Tamaulipas, Nuevo Leon, San Luis Potosi, Queretaro, and Hidalgo (F. Gonzalez-Medrano, Instituto de Biologia, Mexico City, Mexico, *in litt.* 1994; Kaastra 1982; A.M. Olivo, Instituto de Ecologia y Alimentos, Ciudad Victoria, Tamaulipas, Mexico, *in litt.* 1994; J.M. Poole, Texas Parks and Wildlife Department, Austin, Texas, *in litt.* 1994). Information from herbarium specimens at the Missouri Botanical Garden (J.M. Poole, *in litt.* 1994), Universidad Autonoma de Tamaulipas (A.M. Olivo, *in litt.* 1994), Universidad Nacional Autonoma de Mexico, Mexico, D.F. (F. Gonzalez-Medrano, *in litt.* 1994), and Kaastra (1982) indicate at least 45 collection sites in Mexico. Chiang (1989) notes a collection by Pringle in Nuevo Leon that may represent an additional site. The species is also known from the canyons of the Sierra de Picachos (Nuevo Leon) and the El Cielo (Tamaulipas) bioreserve (C. Best, LRGV-NWR, Alamo, Texas, pers. comm. 1994).

Esenbeckia runyonii populations in Mexico occur primarily in moist canyons on rocky talus slopes (C. Best, pers. comm. 1994; F. Gonzalez-Medrano, *in litt.* 1994). This habitat is vastly different from the floodplain delta of the Rio Grande where the species occurs in the United States.

The petition indicates a willingness to list only the Texas population of this plant until further studies are done on the populations in Mexico. The Act allows the listing of distinct population segments of vertebrate fish or wildlife species, but does not extend the same option to plants or invertebrate animals. The listing of any plant or invertebrate animal must include all populations within the species' historical range.

We have reviewed the petition and appended data, and other literature and information available in our files. On the basis of the best scientific and commercial information available, we find that the petition does not present substantial information that listing this species may be warranted. The petition includes no information regarding distribution, population sizes, or threats to *E. runyonii* in Mexico, which constitutes most of the species' documented range (Kaastra, 1982). Information readily available to us indicates that while the U.S. populations have been reduced from four to one, the populations in Mexico appear to be relatively abundant and under no immediate threat that would justify listing the species as endangered or threatened.

References Cited

Chiang, F. 1989. *Casimiroa greggii*, formerly in *Sargentia* (Rutaceae) Taxon 38:116–119.

Kaastra, R.C. 1982. Flora Neotropica, Monograph Number 33, Pilocarpinae (Rutaceae). New York Botanical Garden, Bronx, New York.

Author: The primary author of this document is Angela Brooks, formerly of the Corpus Christi Ecological Services Field Office (See **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: June 3, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–16418 Filed 6–28–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990506119–9119–01; I.D. 040799B]

RIN 0648–AM66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues proposed regulations to implement certain provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). These proposed regulations would set the opening date of the recreational red snapper fishing season at March 1, beginning with the

2000 fishing year; establish a 4–fish recreational red snapper bag limit with a 0–fish bag limit for captain or crew of a charter vessel or headboat; and change the openings of the fall red snapper commercial season from the first 15 days of each month to the first 10 days of each month, beginning September 1 each year. The intended effect of these proposed regulations is to maximize the economic benefits from the red snapper resource within the constraints of the rebuilding program for this overfished resource.

DATES: Written comments must be received on or before July 14, 1999.

ADDRESSES: Comments on the proposed rule must be sent to Dr. Roy E. Crabtree, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the framework regulatory amendment, which includes an environmental assessment, and a regulatory impact review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; Phone: 813–228–2815; Fax: 813-225–7015; E-mail: gulf.council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Roy E. Crabtree, 727–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the EEZ of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Council has proposed adjusted management measures (regulatory amendment) for the Gulf red snapper fishery for NMFS' review, approval, and implementation. These measures were developed and submitted to NMFS under the terms of the FMP's framework procedure for annual adjustments in total allowable catch and related measures for the red snapper fishery (framework procedure). The proposed regulations would implement the measures contained in the Council's regulatory amendment except for a proposed measure to reduce the minimum size limit for red snapper from 15 to 14 inches. NMFS previously disapproved this measure (see below).

Background

The Council requested that NMFS implement the measures in its proposed regulatory amendment through emergency action because the proposed recreational season, size limit, and bag limit measures could not be implemented by proposed and final regulations before the automatic opening of the recreational fishery on January 1, 1999. NMFS implemented the 4-fish bag limit via emergency interim rule (63 FR 72200, December 31, 1998), as requested, to slow the rate of harvest, avoid angler confusion, and address emergency conditions in the fishery. NMFS did not implement the requested 0–fish bag limit for captain and crew, size limit change, or seasonal delay via emergency interim rule. NMFS analyses showed that benefits from emergency implementation of these measures were not sufficient to justify the associated loss of opportunity for prior notice and public comment.

The Council submitted a proposed regulatory amendment that would reduce the minimum size limit (size limit) for red snapper from 15 inches to 14 inches (38 cm to 36 cm) (total length) for persons fishing under the recreational or commercial quotas. NMFS has disapproved this measure based on national standard 2 of the Magnuson-Stevens Act and has returned this measure to the Council, as provided for by the Reef Fish FMP framework procedure. The proposed minimum size limit reduction provides no clear economic or biological benefits. NMFS analyses suggest that reducing the minimum size limit from 15 inches to 14 inches would shorten the recreational season by about 7 days, with little or no corresponding benefit to the stock.

Seven Council members signed a minority report opposing the 14-inch (36–cm) size limit and the 0–fish bag limit for captain and crew. One Council member signed a second minority report opposing the 0–fish bag limit for captain and crew.

Recreational Season Delay

The Council proposes to delay the opening date of the recreational season from January 1 to March 1. The Council recommends this change based on the preponderance of public testimony that this closure period would be the least disruptive to the fishery. The purpose of this change is to extend the fishing season further into the fall; however, NMFS analyses suggest that the 2-month delay would only extend the season an additional 15 days. The proposed delay would close the fishery in January and February, resulting in an estimated net loss of 12,000 angler trips, including 3,600 trips in the for-hire sector. The number of lost trips is expected to be greatest in the western Gulf off Texas. At its January 1999 meeting, the Council reviewed the NMFS economic analyses. Charter vessel and headboat operators from the northern and eastern Gulf reiterated their belief that the benefits of the extended fall season resulting from the March 1 opening outweigh the adverse effects of decreasing the total number of fishing trips per year. This testimony may not be representative of the affected Gulf-wide recreational sector; public comment on this aspect of the proposed rule is needed to better evaluate this issue.

Proposed Bag Limit Measures

To prolong the recreational season, the Council recommends a 0–fish bag limit for captain and crew of for-hire vessels and a continuation of the 4-fish limit for all other persons subject to the bag limit provision (currently in effect for all such persons through June 29, 1999, via emergency interim rule (63 FR 72200, December 31, 1998)). NMFS analyses suggest that the 4-fish bag limit will extend the duration of the recreational season beyond that achieved with a 5-fish bag limit. Industry participants have suggested that four fish is the minimum bag limit that would continue to attract for-hire customers. Analyses of the 0–fish bag limit for captain and crew suggest that the extension of the season resulting from this measure would be only 5 days or less. The Council considered this measure in combination with other proposed changes and concluded this measure would significantly extend the recreational season. Two Council minority reports question the fairness and equity of this measure and its disproportionate effect on for-hire vessels that carry few customers. These minority reports state that the Council approved the measure without any scientific analysis; however, the Council was provided the Socioeconomic Panel's analyses of the effect of the 0–fish bag limit for captain and crew. Additional public comment on these issues is needed.

Commercial Fall Season Adjustment

The regulations implementing FMP Amendment 15 restricted the red snapper commercial harvest to the first 15 days of the month for each of the annual fishing seasons beginning February 1 and September 1. These monthly harvest periods were intended to benefit the fishery by extending the length of the commercial fishing season and stabilizing market prices. Based on more recent public testimony, the Council concluded that the industry would benefit from a reduction in the duration of the monthly open periods from 15 days to 10 days in the fall season. The intent of this action is to stabilize ex-vessel prices.

Classification

This proposed rule has been determined to be significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The Council prepared an RIR that describes the economic outcomes of the measures in the proposed rule. The proposed measure to reduce the recreational bag limit from 5 to 4 fish, plus a 0–fish bag limit for captain and crew of for-hire vessels, is expected to reduce the projected rate of recreational harvest, potentially reduce the angler's economic value per trip, and reduce the benefits of captain and crew. Such reductions would be compensated for by extending the season by about 4 weeks later in the year. Given certain assumptions, this measure would increase the benefits to both anglers and for-hire vessels, but the available data do not allow the appropriate calculations to be made. Postponing the opening of the recreational fishery from January 1 to March 1 would allow the fishery to remain open for 15 days more in the fall. Even though the extension of the season is viewed as a desirable result, this extension will be accompanied by a small reduction in the expected total number of angler trips because more trips will be foregone during January and February than will be gained later in the season. Hence, the overall economic effect of postponing the season is expected to be negative by a small but unknown amount. The proposed reduction in fishing time from 15 days to 10 days for each open month in the fall commercial red snapper season is expected to achieve minimal but positive revenue effects. This result is expected because the shorter open periods each month will lessen the probability of supply gluts when red snapper markets are relatively weak in the fall season. The RIR found that the proposed regulations will not be significant under E.O. 12866. The RIR also estimated that the government costs of developing the rule were $40,500, and there are no expected increased costs of monitoring, enforcement or reporting.

The Council also determined, and NMFS concurs, that there will not be a significant impact on the estimated 1,626 reef fish permit holders who can legally engage in the commercial harvest of red snapper or operate for-hire businesses and can legally catch red snapper under the recreational bag limit. These permit holders are all classified as small entities. This determination was based on a finding that none of the measures are expected to directly reduce gross revenues of commercial or for-hire vessels, that no production cost increases are expected, that no differential small versus large firm impacts are expected, that there are no expected changes in capital costs of complying with the proposed rule, and that no small entities would be expected to cease business if the proposed rule is implemented.

Based on the findings summarized above, the Council concluded that the proposed rule would not have a significant impact on a substantial number of small business entities, and a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 23, 1999.

Andrew A. Rosenberg,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

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

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.34, paragraph (l), currently suspended through June 29, 1999, is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(l) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 15th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(A) is reached or until noon on September 1, whichever occurs first. Starting in September, the commercial fishery for red snapper in or from the Gulf EEZ is closed from noon on the 10th of each month to noon on the first of each succeeding month until the quota specified in § 622.42(a)(1)(i)(B) is reached or until the end of the fishing year, whichever occurs first. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1). However, when the recreational quota for red snapper has been reached and the bag and possession limit has been reduced to zero, the limit for such possession during a closed period is zero.

* * * * *

3. In § 622.39, paragraph (b)(1)(iii), currently suspended through June 29, 1999, is revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(iii) Red snapper—4, except that for an operator or member of the crew of a charter vessel or headboat, the bag limit is 0.

* * * * *

4. In § 622.42, paragraph (a)(2) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(a) * * *

(2) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(i) of this section—4.47 million lb (2.03 million kg), round weight. Beginning January 1, 2000, this quota becomes available on March 1 each year.

* * * * *

[FR Doc. 99–16519 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 050399A]

RIN 0648–AL27

Fisheries of the Northeastern United States; Amendment 12 to the Northeast Multispecies Fishery Management Plan; Measures to Address the Sustainable Fisheries Act Requirements; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to a notice of availability.

SUMMARY: NMFS corrects a notice of availability for Amendment 12 to the Northeast Multispecies Fishery Management Plan that was published at 64 FR 29257, June 1, 1999, containing a possession limit that was incorrect.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Management Specialist, 978–281–9288.

Correction

In the **Federal Register** of June 1, 1999, in FR Doc. 99–13828, on page 29257, in the 3rd column, in the 16th line, the weight ''35,000 lb'' should read ''30,000 lb''.

Dated: June 22, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16513 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 060899B]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan for spiny dogfish; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic and New England Fishery Management Councils (Councils) have submitted the Fishery Management Plan for Spiny Dogfish (FMP) for Secretarial review and are requesting comments from the public. The FMP proposes management measures to control fishing mortality, a definition of overfishing, a 5-year rebuilding schedule, and an identification and description of essential fish habitat (EFH). The purpose of the FMP is to conserve spiny dogfish to achieve optimum yield from this resource. The FMP will achieve this overall goal primarily by eliminating overfishing and rebuilding the spiny dogfish stock to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments on the FMP must be received on or before August 30, 1999.

ADDRESSES: Send comments to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope: ''Comments on Spiny Dogfish FMP.''

Copies of the FMP including the final environmental impact statement, regulatory impact review, and supplement of May 1999, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, at 978–281–9279.

SUPPLEMENTARY INFORMATION: Domestic landings of spiny dogfish (*Squalus acanthias*) on the East Coast rapidly increased from 9.92 million lb (4,500 metric tons (mt)) in 1989 to 61.72 million lb (28,000 mt) in 1996, then declined to approximately 41.89 million lb (19,000 mt) in 1997. During this period, the fishing mortality rate (F) rose from below 0.1 during the 1980's to 0.3 in 1997. In addition to the overall increase in landings, the landings disproportionately contain females, because they grow to a larger size than males and are, therefore, preferred for processing. Because of the directed fishing effort on adult female spiny dogfish, including discard mortality, the spawning stock biomass (SSB) has severely declined.

The spiny dogfish, a common small shark, inhabits the temperate and sub-Arctic latitudes of the North Atlantic Ocean. In the Northwest Atlantic, they range from Labrador to Florida, but are most abundant from Nova Scotia to Cape Hatteras. They migrate seasonally, moving north in spring and summer and south in fall and winter. Spiny dogfish are considered a unit stock in the Northwest Atlantic Ocean. The management unit for this FMP is the entire spiny dogfish stock along the Atlantic coast of the United States.

Spiny dogfish is a long-lived, slow growing species. Fifty percent of the female population is mature at 12 years of age. This species bears live young after a 2-year gestation period. Litter sizes range from 2 to 15 pups. Therefore, a small spawning stock produces correspondingly low recruitment, making spiny dogfish especially vulnerable to overfishing.

The 26th Northeast Regional Stock Assessment Workshop (SAW 26) in March 1998 concluded that spiny dogfish are overexploited. SAW 26 reported that minimum biomass estimates of mature females (≥ 80 cm) have declined by over 50 percent since 1989 and that recruitment of juvenile dogfish was the lowest on record in 1997. The combination of increased fishing mortality, declining biomass of mature females, and low recruitment have contributed to the overfished condition of the stock.

NMFS notified the Councils on April 3, 1998, that spiny dogfish was being added to the list of overfished stocks in the Report on the Status of the Fisheries of the United States, prepared pursuant to section 304 of the Magnuson-Stevens Act. The Magnuson-Stevens Act requires remedial action for stocks that are designated overfished, and requires the Regional Fishery Management Councils to prepare measures within 1 year of notification to end overfishing and to rebuild the overfished stock.

The FMP proposes management measures to control fishing mortality, a definition of overfishing, a 5-year stock rebuilding schedule, and identification and description of EFH. The FMP was developed jointly by the Councils. The Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) has the administrative lead on the FMP.

The proposed management measures to control fishing mortality include: (1) Permit and reporting requirements for owners of commercial vessels, operators, and dealers; (2) the establishment of a Spiny Dogfish Monitoring Committee; (3) a framework adjustment process; (4) an annual commercial quota; (5) seasonal (semi-annual) allocation of the commercial quota; (6) a prohibition on finning; and (7) annual FMP review.

The FMP would eliminate overfishing and rebuild the spiny dogfish stock through a two-step reduction in F. The first step would reduce F from current levels (approximately 0.3) to 0.2 beginning the second quota period of year one (November 1999–April 2000). F would be reduced to 0.03 for the remaining 4 years of the rebuilding schedule.

The primary management measure in the FMP is an annual commercial quota that would be allocated semi-annually, based upon the percentage of commercial landings for each semi-annual period during the years 1990–1997. The first period (May 1–Oct. 31) would receive 57.9 percent of the annual commercial quota; the second period (Nov. 1–April 30) would receive the remaining 42.1 percent of the annual commercial quota.

The annual commercial quota would be based upon the recommendations of the Spiny Dogfish Monitoring Committee, the Joint Spiny Dogfish Committee, and the Councils. The annual quota would be established by the Regional Administrator at a level to assure that the target F specified in the FMP is not exceeded.

Any owner of a vessel wanting to fish for spiny dogfish within the EEZ for sale, or wanting to transport and deliver for sale any spiny dogfish taken within

the EEZ, would be required to obtain a Federal commercial vessel permit for that purpose. Any dealer of spiny dogfish would be required to obtain a Federal dealer permit. Anyone who operates a vessel for the purpose of fishing commercially for spiny dogfish would be required to obtain an operator's permit. Specific requirements regarding permitting requirements are discussed in the FMP and proposed rule.

Overfishing Definition

The FMP's overfishing definition consists of two components: (1) A maximum F threshold and a target F, and (2) a minimum SSB threshold and an SSB target. The overfishing definition specifies an F threshold level, whereby F in excess of this level would be defined as overfishing. The definition also specifies a target F that would allow stock rebuilding. Overfishing for spiny dogfish occurs when F exceeds the level associated with a pup-per-recruit ratio of 1.0, designated as F_{rep}. F_{rep} represents the level that allows for the production of 1.0 female pup per female recruit to the adult stock; that is, the level that allows the adult female portion of the stock to replace itself. F_{rep} is currently estimated to be 0.11. The current F level of 0.3 exceeds F_{rep}. The target F (F_{target}) specified in the FMP represents the mortality rate that would produce an average of 1.5 pups-per-recruit and is estimated to be 0.08.

The SSB component of the overfishing definition is based upon the level of adult female SSB that maximizes average recruitment, referred to as SSB_{max}. SSB_{max} was selected as a proxy value for B_{msy} (the biomass level that would produce maximum sustainable yield). SSB_{max} was determined to be 440 million lb (200,000 mt) SSB. Spiny dogfish is defined as overfished when adult female SSB falls below the threshold level of ½ $SSB_{max,}$ which is 220 million lb (100,000 mt) SSB. The Councils have chosen a biomass rebuilding target of 397 million lb (180,000), which is 90 percent of SSB_{max}.

The most recent stock assessment data presented by the NMFS Northeast Fisheries Science Center (NEFSC)(1998) and the Dogfish Technical Committee indicate that, based upon a 3-year moving average of NEFSC survey data, the total adult female spiny dogfish SSB is currently about 280 million lb (127,000 mt). This is below the SSB rebuilding target specified in the FMP. The FMP proposes to rebuild the adult female spiny dogfish stock to 396 million lb (180,000 mt) over a 5-year rebuilding period, whereby F is reduced from 0.3 to 0.2 beginning the second quota period of year one (November 1999–April 2000) and then further reduced to 0.03 for the remaining 4 years of the rebuilding schedule.

Essential Fish Habitat

The FMP includes the Councils' identification and description of EFH for juvenile and adult spiny dogfish, and evaluation of fishing activities and non-fishing activities that may adversely affect EFH. The FMP does not propose any specific management measures to address adverse effects from fishing, but it makes conservation, enhancement, and research recommendations to address non-fishing activities. The FMP states that the Councils intend to review and, if necessary, amend the EFH designations for spiny dogfish at least every 5 years. The FMP also authorizes the revision of EFH components using the framework process.

Supplement to the FMP

Following initial review of the Council's FMP submission, NMFS identified several areas that required clarification or additional information. These areas included discussion of sections addressing the Paperwork Reduction Act, Marine Mammal Protection Act, Endangered Species Act, EFH, the overfishing definition, and national standard 9. As a result, the Councils submitted a Supplement to the FMP on May 12, 1999.

This NOA requests comments on the FMP, including comments on the amended biomass rebuilding target and the associated 5-year rebuilding schedule. A proposed rule that would implement the FMP will be published in the **Federal Register** for public comment after NMFS has evaluated it under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by August 30, 1999, the end of the comment period on the FMP, to be considered in the decision concerning approval or disapproval of the FMP. All comments received by August 30, 1999, whether specifically directed to the FMP or to the proposed rule, will be considered in the approval/disapproval decision on the FMP. Comments received after that date will not be considered in the approval/disapproval decision on the FMP. All comments received on the FMP or on the proposed rule will be responded to in the preamble to the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 24, 1999.

George H. Darcy,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16521 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 124
Tuesday, June 29, 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 AGRICULTURE

Submission for OMB Review; Comment Request

June 24, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* To Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Financial Requirement & Expenditure Statement.

OMB Control Number: 0572–0015.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture. It makes loans (direct and guaranteed) to finance electric, telecommunications, and water and waste water facilities in rural areas. RUS' electric program is a leader in lending to upgrade, expand, maintain and replace the vast rural American electric infrastructure. The RUS loan portfolio totals nearly $42 billion. RUS also acts as a catalyst for private sector investment in rural America and assists borrowers by enabling them to more easily obtain ''market financing.'' The Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, authorizes and empowers the Administrator of the Rural Utilities Service to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service. Eligible borrowers for RUS financial assistance include rural cooperative, nonprofit, limited-dividend, or mutual associations; municipalities; Indian Tribes; people's utility districts; states, territories, and subdivisions and agencies thereof; and, commercial corporations. These entities are obligated to serve the public welfare and, in many instances, are subject to State regulatory oversight. RUS electric borrowers use RUS form 595 to request an advance of loan funds. RUS will collect information using RUS form 595.

Need and Use of the Information: RUS will collect information on the distribution, transmission, generation, headquarters facilities, and acquisitions. The information enables the Government to ensure that loan funds are expended and advanced by RUS to electric borrowers only for US approved budget processes and amounts. Under RUS loan contracts, advances are made to borrowers as they need funds for their previously authorized construction projects. The Government's security would be impaired if it could not determine with assurance that loan fund advances and expenditures were being made in accordance with the borrower's obligations and commitments.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 798.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 26,334.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System (NAHMS).

OMB Control Number: 0579–0079.

Summary of Collection: The mission of the National Animal Health Monitoring System (NAHMS) Program of the Animal and Plant Health Inspection Service (APHIS) is to deliver statistically-valid and scientifically-sound animal health information to consumers, animal health officials, private practitioners, animal industry groups, policy makers, public health officials, media, educational institutions, and others. Annually, NAHMS conducts studies of specific livestock and poultry issues. NAHMS is proposing to collect information in conjunction with the Equine '98 study. Information for the study will be collected voluntarily on a national basis from people involved in the equine (horses, ponies, donkeys, and mules) industry using surveys and other structured forms.

Need and Use of the Information: The information collected through the NAHMS Equine '98 study will be used to estimate risk factors for regional and national prevalence of specific pathogens; support the industry goal of providing optimal health care for equids by determining current practices in health management; provide baseline estimates of equine health conditions; provide information on mortality and morbidity as it relates to body system categories such as respiratory disease, colic, and lameness; and determine the cost of disease.

Description of Respondents: Farms; State, Local, or Tribal Government.

Number of Respondents: 5,468.

Frequency of Responses: Reporting: On occasion; Monthly.

Total Burden Hours: 10,454.

Animal and Plant Health Inspection Service

Title: Tuberculosis.

OMB Control Number: 0579–0084.

Summary of Collection: Title 21 U.S.C. authorizes the Secretary of Agriculture to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as hog cholera, African swine fever, and other foreign diseases. The Animal and Plant Health Inspection Service (APHIS) oversees the Cooperative State-Federal Bovine Tuberculosis Eradication Program to eliminate bovine tuberculosis, a serious disease of livestock. The disease also affects man through contacts with infected animals or their byproducts. APHIS works with State and other federal organizations to conduct epidemiologic investigations to locate bovine tuberculosis and provide a means of controlling it. Information is collected using a variety of forms to properly identify, test, and transport animals that are infected with or exposed to tuberculosis.

Need and Use of the Information: APHIS will collect information to search for infected herds, maintain identification of livestock, monitor deficiencies in identification of animals for movement, and monitor program deficiencies in suspicious and infected herds. Continued collection of this information is essential for program progress aimed at controlling and eradicating bovine tuberculosis.

Description of Respondents: Business or other for-profit; Farms; State, Local, or Tribal Government.

Number of Respondents: 5,031.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 17,372.

Food and Nutrition Service

Title: Survey of State Public Health and Community Nutrition Workforce.

OMB Control Number: 0584–NEW.

Summary of Collection: The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) was created by the Congress in 1972 to provide nutritious food, nutrition education, and health care referrals to meet the special nutritional needs of low-income pregnant, postpartum, and breastfeeding women, and their infants and children (up to age five) who are at nutritional risk. The program seeks to meet the special nutritional needs to these individuals and to prevent health and development problems associated with poor nutrition during pregnancy and early childhood. The Food and Nutrition Service (FNS), which administers the WIC Program, needs workforce information to provide technical assistance to improve state agency administrative systems, including recruitment and retention of qualified nutrition staff. FNS has executed a cooperative agreement with the Association of State and Territorial Public Health Nutrition Directors (ASTPHND) to collect, process, aggregate, analyze and report the survey data. Legislative authority for the Survey of State Public Health Nutrition Workforce is provided under section 17(g) of the Child Nutrition Act of 1966 as amended through Pub. L. 105–24. The FNS will collect information from the public health nutrition workforce using a survey which will be distributed by mail, fax, email or hand delivered to their worksite.

Need and use of the Information: FNS will collect information to assist with workforce recruitment and retention; identify trends in the experience and preparation of the public health nutrition workforce; compare current qualifications of WIC nutrition staff with the workforce resources needed to carry out the program at the state and local level; and identify training and development needs of WIC personnel in relation to their job responsibilities, credentials, education, and tenure. The information is needed to assess efforts to recruit and retain public health nutritionists to staff the WIC Program at the state and local levels. Recruitment and retention of qualified staff is essential to maintaining the quality of nutrition services by providing an environment where staff is appropriately selected, trained, and supported.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 8055.

Frequency of Responses: Recordkeeping; Reporting: Other; one-time.

Total Burden Hours: 3233.4.

Rural Utilities Service

Title: Request for Mail List Data.

OMB Control Number: 0572–0051.

Summary of Collection: The Rural Utilities Service (RUS) manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended, (Re Act) and as prescribed by Office of Management and Budget (OMB) Circular A–129, Policies for Federal Credit Programs and Non-tax Receivables. RUS Form 87 is used for the RUS electric and telephone programs to obtain the name and addresses of the borrowers' officials with whom RUS must communicate directly in order to administer the agency's lending programs. RUS will collect information using form RUS 87.

Need and use of the Information: RUS will collect information to assure that correspondence with the borrowers is properly directed; documents submitted to RUS, such as loan applications and requests for the advance of loan funds, are signed by the appropriate officials and regulatory and administrative obligations are met to provide information to persons directly involved with carrying out Department programs and activities.

Description of Respondents: Not-for-profit institutions; business or other for-profit.

Number of Respondents: 905.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 226.

Food and Nutrition Service

Title: 7 CFR Part 215 SMP Special Milk Program for Children.

OMB Control Number: 0584–0005.

Summary of Collection: Responsibility for administering the Special Milk Program (SMP) at the Federal level has been assigned to the Food and Nutrition Service (FNS). 7 CFR part 215 legislation requires that SMP operations within the States be administered by State Agencies (SAs). Section 2 of the Child Nutrition Act sets forth the intent of the Congress as being ''to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods by assisting the States, through grants-in-aid and other means, to meet effectively the nutritional needs of our children.'' The SMP is a performance-funded program. For each half-pint of milk served free to an eligible child, in a School Food Authority (SFA) operating the SMP in its pricing mode, the SA reimburses the SFA for the cost of obtaining the milk. For each half-pint of milk served to a paying child in a pricing program, or to any child in a nonpricing program, the SA reimburses the SFA at a rate set by statute. The SA obtains from FNS the Federal funds necessary to make SMP reimbursement payments. FNS pays the SA at the same rates at which the SA reimburses SFAs. FNS will collect information using Form FNS–10.

Need and use of the Information: FNS will collect information to compute the amount of Federal SMP funds due the SA under the performace-funding formula; analyze and evaluate the results of program operations within each State and nationwide; respond to data requests from the Congress, OMB, advocacy groups and the general public; develop budget projections of the amount of Federal funds needed to pay SMP program benefits; and regulate the flow of Federal funds to SA. Without

this information FNS would not be able to evaluate program operations.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 16,370.

Frequency of Responses: Recordkeeping; Reporting: Monthly, Annually.

Total Burden Hours: 830,184.

Nancy B. Sternberg,

Departmental Clearance Officer.

[FR Doc. 99–16534 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV99–902–1 NC]

Notice of Request for Approval of a Generic Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval for a generic information collection that will combine several individual marketing order information collections into one.

DATES: Comments on this notice must be received by August 30, 1999, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; Telephone: (202) 205–2829 or Fax: (202) 720–5698, or E-mail: moabdocket__clerk@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Marketing Orders for Fruit Crops.

OMB Number: Number not assigned yet.

Expiration Date of Approval: Three years from date of approval.

Type of Request: Approval for a generic information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality products for consumers and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the marketing order programs. Under the Act, orders may authorize the following: production and marketing research, including paid advertising, volume regulations, reserves, including pools and producer allotments, container regulations, and quality control. Production and marketing research activities are paid for by assessments levied on handlers regulated under the marketing orders.

Under the marketing orders, producers and handlers are nominated by their respective peers. These nominees then serve as representatives on their respective committees/boards and must file nomination forms with the Secretary.

The respective committees/boards have developed forms as a means for persons to file required information with the committees/boards relating to supplies, shipments, and dispositions of their respective commodities, and other information needed to effectively carry out the purpose of the AMAA and their respective orders, and these forms are utilized accordingly.

Formal rulemaking amendments to the orders must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of these marketing order programs. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the respective orders whenever an order is amended.

This information collection will combine: OMB #0581–0068, Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas, Marketing Order No. 906; OMB #0581–0091, Limes Grown in Florida, Marketing Order No. 911; OMB # 0581–0078, Avocados Grown in South Florida, Marketing Order No. 915; OMB #0581–0072, Nectarines Grown in California, Marketing Order No. 916; OMB #0581–0149, Kiwifruit Grown in California, Marketing Order No. 920; OMB #0581–0133, Sweet Cherries Grown in Designated Counties in Washington, Marketing Order No. 923; OMB #0581–0134, Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon, Marketing Order No. 924; and OMB #0581–0109, Grapes Grown in a Designated Area of Southeastern California, Marketing Order No. 925.

The forms covered under this information collection will continue to require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the Act as expressed in the orders.

The information collected is used only by authorized employees of the committees/boards and authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff. Authorized committee/board employees are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .37 hours per response.

Respondents: Producers, handlers and processors.

Estimated Number of Respondents: 3,983.

Estimated Number of Responses per Respondent: 2.75.

Estimated Total Annual Burden on Respondents: 10,940 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference this docket number and the appropriate marketing order, and be mailed to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; Fax: (202) 720–5698; or E-mail: moabdocket__clerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and

Independence Avenue, S.W., Washington, D.C., room 2525–South Building.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: June 17, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–16509 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[PY–99–005]

United States Grade Standards for Shell Eggs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is soliciting comments on its proposal to change the United States Grade Standards for Shell Eggs. Specifically, AMS proposes to delete the general term ''Inedible eggs'' and its definition, revise the definition of the general term ''Loss'' eggs by including examples of inedible eggs, revise the term descriptive of an A quality white, and delete specifications for packaging materials. These changes would simplify and clarify the terminology used and would remove information that is no longer of value to the industry.

The current United States Grade Standards for Shell Eggs, along with the proposed changes, are available by contacting the address below or by visiting the AMS Internet site at: www.ams.usda.gov/poultry/standards.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, AMS, USDA, Room 3944-South Bldg., STOP 0259, 1400 Independence Avenue, SW, Washington, DC 20250–0259. Comments may also be faxed to (202) 690–0941.

State that your comments refer to Notice number PY–99–005 and include the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m. Eastern Time, Monday through Friday, except holidays. Comments will also be posted on the Internet at www.ams.usda.gov/poultry/standards.

FOR FURTHER INFORMATION CONTACT: Douglas C. Bailey at (202) 720–3506.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 (AMA), as amended (7 U.S.C. 1621 *et seq.*) authorizes the establishment of U.S. standards and grades for shell eggs. These standards and grades are maintained by AMS for use as a common language of trade among those buying and selling shell eggs. The standards are used by shell egg processors, wholesale traders, institutions, Federal and State governments, and retailers that sell eggs to the ultimate consumer. AMS also administers a voluntary grading program for shell eggs under the AMA. Any interested person, commercial firm, or government agency can, for a fee, have AMS monitor processing operations and verify that the grade and size of eggs being packaged meet the requirements of the U.S. grade standards and weight classes. Eggs meeting the requirements can be packaged into cartons or other containers bearing the USDA grade shield.

Currently, the definition of ''Loss'' eggs includes inedible eggs. There is also a separate definition for ''Inedible eggs'' that includes examples of such eggs. When applying the grade tolerances of the standard, there is no need to separately identify inedible eggs from loss eggs. Therefore, AMS proposes to delete the general term ''Inedible eggs'' and to add the examples of inedible eggs to the definition of ''Loss'' eggs. This would clarify that eggs with rots, green whites, stuck yolks, blood rings, or free yolk in the white are to be classed as ''Loss'' eggs when applying grade tolerances.

Candling is the process of using light to help determine the quality of an egg. Automated mass scanning equipment is used by most egg packers to detect eggs with cracked shells and interior defects. Hand-candling is done to spot-check and determine accuracy in grading. The breakout method of determining interior quality enables graders and students to calibrate their grading skills against an objective standard. In this method, a micrometer measures the height of the thick white of a broken-out egg and gives a direct reading in Haugh units. Currently, there is a Haugh unit range of ''60 to 72'' for A quality and ''72 or higher'' for AA quality. Because these values appear to overlap, AMS proposes to revise the description for A quality to read ''60 up to, but not including, 72.'' This would clarify the wording and make it consistent with the intent of the description.

Specifications for packaging materials are provided as examples of quality packaging, but do not appear to be of any recognized value to today's industry. Therefore, AMS is proposing to delete this section entirely.

The complete text of the proposed revisions to the grade standards can be obtained from the Internet at www.ams.usda.gov/poultry/standards. A copy can also be obtained by writing to the address above, calling (202) 720–3506, faxing (202) 690–0641, or e-mailing Douglas.Bailey@usda.gov.

Authority: 7 U.S.C. 1621–1627.

Dated: June 23, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–16451 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–045–1]

Draft Guideline on Good Clinical Practices, VICH Topic GL9

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are requesting comments on a draft document titled ''Guideline on Good Clinical Practices'' that has been developed by the International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The guideline is intended to be an international ethical and scientific quality standard for designing, conducting, monitoring, recording, auditing, analyzing, and reporting clinical studies evaluating veterinary products. Because the guideline would apply to veterinary biological products regulated by the Animal and Plant Health Inspection Service under the Virus-Serum-Toxin Act, we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

DATES: To ensure that your comments are considered, we must receive them by August 13, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–045–1, Regulatory Analysis and

Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–045–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

You may request a copy of the draft ''Guideline on Good Clinical Practices'' by writing to Dr. Lawrence A. Elsken, USDA, APHIS, VS, CVB–LPD, 510 South 17th Street, Suite 104, Ames, IA 50010, or by calling (515) 232–5785. The draft guideline is also available on the Internet at http://www.aphis.usda.gov/vs/cvb/lpd/notices.

FOR FURTHER INFORMATION CONTACT: For information regarding VICH, contact Dr. David A. Espeseth, Special Assistant to the Deputy Administrator, Veterinary Services, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; phone (301) 734–8245. For information regarding the draft guideline, contact Dr. Lawrence A. Elsken, USDA, APHIS, VS, CVB–LPD, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785.

SUPPLEMENTARY INFORMATION: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) is a unique project that brings together the regulatory authorities of the European Union, Japan, and the United States and representatives from the animal health industry in the three regions to harmonize technical requirements for veterinary products (both drugs and biologics). Regulatory authorities and industry experts from Australia and New Zealand participate in an observer capacity. The VICH initiative is conducted under the auspices of the International Office of Epizootics. The World Federation of the Animal Health Industry (COMISA, the Confederation Mondiale de L'Industrie de la Sante Animale) provides the secretarial and administrative support for VICH activities.

The United States Government is represented in VICH by the Food and Drug Administration (FDA) and the Animal and Plant Health Inspection Service (APHIS). The FDA provides expertise regarding veterinary drugs, while APHIS fills a corresponding role for veterinary biological products. As VICH members, APHIS and FDA participate in efforts to enhance harmonization and have expressed their commitment to seeking scientifically based harmonized technical requirements for the development of veterinary drugs and biological products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for veterinary medicines and biologics among regulatory agencies in different countries.

The draft document that is the subject of this notice, ''Guideline on Good Clinical Practices'' (VICH Topic GL9), has been made available by the VICH Steering Committee for comments by interested parties. The guideline is intended to be an international ethical and scientific quality standard for designing, conducting, monitoring, recording, auditing, analyzing, and reporting clinical studies evaluating veterinary products. Because the guideline would apply to veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act—particularly with regard to prelicensing field studies testing the safety or efficacy of veterinary biological products—we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The draft document reflects current APHIS thinking on the design and conduct of all field studies testing the safety or efficacy of veterinary biological products in the target species. (The draft guideline refers to such studies as ''clinical studies.'') Once a final draft of ''Guideline on Good Clinical Practices'' has been approved, the guideline will, in accordance with the VICH process, be recommended for adoption by the regulatory bodies of the European Union, Japan, and the United States. As with all VICH documents, the guidelines, once finalized, will not create or confer any rights for or on any person and will not operate to bind APHIS or the public. Further, the VICH guidelines specifically provide for the use of alternative approaches if those approaches satisfy the requirements of applicable regulatory requirements.

Ultimately, APHIS intends to adopt the VICH Steering Committee's final guidance document and publish it for use by U.S. veterinary biologics licensees, permittees, and applicants. In addition, APHIS intends to use it as a basis for the approval of shipments of veterinary biological products for experimental use under 9 CFR 103.3. APHIS may also use the final guidance document as the basis for proposed additions or amendments to its regulations in 9 CFR subchapter E (Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors). Given that we anticipate that the applicable provisions of ''Guideline on Good Clinical Practices'' will be introduced into APHIS' veterinary biologics regulatory program in the future, we encourage your comments on the draft version of those guidelines.

Authority: 21 U.S.C. 151 *et seq.*

Done in Washington, DC, this 24th day of June 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–16500 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

U.S. Warehouse Act Fees

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: This notice publishes a schedule increasing the annual operational fee warehouse operators are charged under the United States Warehouse Act (USWA). This action is needed to increase the amount of revenue generated to recover operational costs projected for operations under the USWA in fiscal year 2000. This notice does not change any of the other various license or inspection fees charged under the USWA.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Steve Mikkelsen, Deputy Director, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0553, Washington, DC 20250–0553, telephone (202) 720–2121 FAX: (202) 690–3123, E–Mail: Steve__Mikkelsen@wdc.fsa.usda.gov.

Background

The Secretary has the authority to license public warehouses and assess warehouse operators fees under the United States Warehouse Act (USWA) (7 U.S.C. 241 *et seq*). Warehouse operators licensed under the USWA understand that fees will be imposed to cover the costs of the program. Specifically, section 10 of the USWA (7 U.S.C 249) mandates the imposition of fees for USWA licensed warehouses. The USWA provides for licensing warehouses, for examining licensed warehouses, and for the collection of fees to sustain the USWA warehouse licensing and examination programs. In keeping with that responsibility the Department of Agriculture's Farm Service Agency (FSA) is raising USWA annual operational fees charged to licensed warehouses in order to assure the recovery of operational costs projected for USWA activities in fiscal year 2000. The fiscal year 2000 fee adjustment reflects a 2.0 percent increase in the annual fees. No increase is being made in other license or inspection fees charged under the USWA.

USWA fees vary by the type of storage warehouse and were last amended effective October 1, 1998, (63 FR 35186, June 29, 1998). None of last year's increases for any particular type of warehouse exceeded 7.5 percent and varied based on FSA's direct costs with respect to warehouse examinations for that type of warehouse. The regulations issued under the USWA, codified at 7 CFR Parts 735 through 743, provide that fees charged warehouse operators under the USWA could be adjusted annually. The schedule below sets out all of the relevant fees and charges for licensing and examination and reflects the increased annual fees noted above.

USWA Schedule for License, Inspection and Annual Operational Fees To Be Paid by Warehouse Operators

Warehouse and Service License Fees

The fee for original issuance, reissuance, or duplication of a license for cotton, grain, tobacco, wool, dry beans, nut, syrup, and cottonseed is $80 for each license issued.

The fee charged to license individuals to inspect, sample, grade, classify, or weigh commodities is $35 for each service license issued.

Warehouse Annual and Inspection Fees

These fees are shown in the following tables by agricultural product. Inspection fees are assessed for each original examination or inspection, or reexamination or reinspection for modification of an existing license. Annual fees are assessed independently of inspection fees and of the license fees set forth in the preceding paragraph.

COTTON

[In bales]

Licensed capacity	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
1–20,000	$600	$1,095
20,001–40,000	785	1,430
40,001–60,000	965	1,755
60,001–80,000	1,210	2,200
80,001–100,000	1,510	2,745
100,001–120,000	1,810	3,290
120,001–140,000	2,110	3,840
140,001–160,000	2,410	4,385
160,001+	*2,410	**4,385

*Plus $60 per 5,000 bale capacity above 160,000 bales or fraction thereof.
**Plus $110 per 5,000 bale capacity above 160,000 bales or fraction thereof.

Inspection fees will be charged at the rate of $80 for each 1,000 bales of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

GRAIN

[In bushels]

Licensed capacity	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
1–150,000	$160	$285
150,001–250,000	315	575
250,001–500,000	470	850
500,001–750,000	635	1,150
750,001–1,000,000	785	1,430
1,000,001–1,200,000	945	1,715
1,200,001–l,500,000	1,095	1,995
1,500,001–2,000,000	1,255	2,280
2,000,001–2,500,000	1,415	2,570
2,500,001–5,000,000	1,565	2,845
5,000,001–7,500,000	1,730	3,140
7,500,001–10,000,000	1,885	3,430
10,000,001+	*1,885	**3,430

*Plus $50 per million bushels above 10,000,000 or fraction thereof.

** Plus $90 per million bushels above 10,000,000 or fraction thereof.

Inspection fees will be charged at the rate of $16 for each 10,000 bushels of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

DRY BEANS

[In hundredweight]

Licensed capacity	Annual fee
100–90,000	$785
90,001–150,000	1,095
150,001–300,000	1,415
300,001–450,000	1,730
450,001–600,000	2,040
600,001–720,000	2,350
720,001–900,000	2,670
900,001–1,200,000	2,985
1,200,001–1,500,000	3,290
1,500,001–3,000,000	3,605
3,000,001+	3,920

Inspection fees will be charged at the rate of $16 for each 1,000 hundredweight of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

Tobacco and Wool

Annual fee: $16 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $630.

Inspection fee: $16 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

Nuts

Annual fee: $14 for each 100 short tons of licensed capacity, or fraction thereof, but in no case less than $630.

Inspection fee: $8 for each 100 short tons of licensed capacity, or fraction thereof, of peanuts and $14 for each 1,000 hundredweight, or fraction thereof, of other nuts, but in no case less than $160 nor more than $1,600.

Syrup

Annual fee: $6 for each 5,000 gallons of licensed capacity, or fraction thereof, but in no case less than $630.

Inspection fee: $6 for each 5,000 gallons of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

Cottonseed

Annual fee: $16 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $630.

Inspection fee: $16 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $160 nor more than $1,600.

Signed at Washington, DC, on June 21, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–16434 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Intermountain Region; Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 36 CFR 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after June 1, 1999. The list of newspapers will remain in effect until January 1, 2000 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald W. Murphy, Regional Appeals Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, Phone (801) 625–5274.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 CFR 215 and 36 CFR 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in additions to direct notice to those who have requested notice in writing and to those who requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In additions, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho:

The Idaho Statesman, Boise, Idaho

For decisions made by the Regional Forester affecting National Forests in Nevada:

The Reno Gazette-Journal, Reno, Nevada

For decisions made by the Regional Forester affecting National Forests in Wyoming:

Casper Star-Tribune, Casper, Wyoming

For decisions made by the Regional Forester affecting National Forests in Utah:
Salt Lake Tribune, Salt Lack City, Utah
If the decisions made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in:
Salt Lake Tribune, Salt Lack City, Utah

Ashley National Forest

Ashley forest Supervisors decisions:
Vernal Express, Vernal, Utah
Vernal District Ranger decisions:
Vernal Express, Vernal, Utah
Flaming Gorge District Ranger for decisions affecting Wyoming:
Casper Star-Tribune, Casper, Wyoming
Flaming Gorge District Ranger for decisions affecting Utah:
Vernal Express, Vernal, Utah
Roosevelt and Duchesne District Ranger Decisions:
Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions:
The Idaho Statesman, Boise, Idaho
Mountain Home District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Idaho City District Ranger decisions:
The Idaho Statesman, Boise, Idaho
Cascade District Ranger decisions:
The Advocate. Cascade, Idaho
Lowman District Ranger decisions:
The Idaho City World, Idaho City, Idaho
Emmett District Ranger decisions:
The Messenger-Index, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions:
Casper Star-Tribune, Casper, Wyoming
Jackson District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming
Buffalo District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming
Big Piney District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming
Pinedale District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming
Greys River District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming
Kemmerer District Ranger decisions;
Casper Star-Tribune, Casper, Wyoming

Caribou National Forest

Caribou Forest Supervisions decisions;
Idaho State Journal, Pocatello, Idaho
Soda Springs District Ranger decisions;
Idaho State Journal, Pocatello, Idaho
Montipelier District Ranger decisions;
Idaho State Journal, Pocatello, Idaho
Westside District Ranger decisions;
Idaho State Journal, Pocatello, Idaho

Dixie National Forest

Dixie Forest Supervisor decisions;
The Daily Spectrum, St. George, Utah
Pine Valley District Ranger decisions;
The Daily Spectrum, St. George, Utah
Cedar City District Ranger decisions;
The Daily Spectrum, St. George, Utah
Power District Ranger decisions;
The Daily Spectrum, St. George, Utah
Escalante District Ranger decisions;
The Daily Spectrum, St. George, Utah
Teasdale District Ranger decisions;
The Daily Spectrum, St. George, Utah

Fishlake National Forest

Fishlake Forest Supervisor decisions;
Richfield Reaper, Richfield, Utah
Loa District Ranger decisions;
Richfield Reaper, Richfield, Utah
Richfield District Ranger decisions;
Richfield Reaper, Richfield, Utah
Beaver District Ranger decisions;
Richfield Reaper, Beaver, Utah
Fillmore District Ranger decisions;
Richfield Reaper, Fillmore, Utah

Humboldt-Toiyabe National Forests

Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion:
Elko Daily Free Press, Elko, Nevada
Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion:
Reno Gazette-Journal, Reno, Nevada
Sierra Ecosystem Coordination Center (SECO):
Carson District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Bridgeport District Ranger, decisions:
The Review-Herald, Mammoth Lakes, California
Spring Mountains National Recreation Area Ecosystem (SMNRAE):
Spring Mountain National Recreation Area District Ranger decisions:
Las Vegas Review Journal, Las Vegas, Nevada
Central Nevada Ecosystem (CNECO):
Austin District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada
Tonopah District Ranger decisions:
Tonopah Times Bonanza-Goldfield News, Tonopah, Nevada
Ely District Ranger decisions:
Ely Daily Times, Ely, Nevada
Northeast Nevada Ecosystem (NNECO):
Mountain City District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Ruby Mountains District Ranger decisions:
Elko Daily Free Press, Elko, Nevada
Jarbidge District Range decisions:
Elko Daily Free Press, Elko, Nevada
Santa Rosa District Ranger decisions:
Humboldt Sun, Winnemucca, Nevada

Manti-Lasal National Forest

Manti-LaSal Forest Supervisor decisions:
Sun Advocate, Price, Utah
Sampete District Ranger decisions:
The Pyramid, Mt. Pleasant, Utah
Ferron District Ranger decisions:
Emery County Progress, Castle Dale, Utah
Price District Ranger decisions:
Sun Advocate, Price, Utah
Moab District Ranger decisions:
The Times Independent, Moab, Utah
Monticello District Ranger decisions:
The San Juan Record, Monticello, Utah

Payette National Forest

Payette Forest Supervisor decisions:
Idaho Statesman, Boise, Idaho
Weiser District Ranger decisions:
Siganl American, Weiser, Idaho
Council District Ranger decisions:
Council Record, Council, Idaho
New Meadows, McCall, and Krassel District Ranger decisions:
Star News, McCall, Idaho

Salmon and Challis National Forests

Salmon Forest Supervisor decisions:
The Recorder-Herald, Salmon Idaho
Cobalt District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
North Fork District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Leadore District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Salmon District Ranger decisions:
The Recorder-Herald, Salmon, Idaho
Challis Forest Supervisor decisions:
The Challis Messenger, Challis, Idaho
Middle Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Challis District Ranger decisions:
The Challis Messenger, Challis, Idaho
Yankee Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho
Lost River District Range decisions:
The Challis Messenger, Challis, Idaho

Sawtooth National Forest

Sawtooth Forest Supervisor decisions:
The Times News, Twin Falls, Idaho
Burley District Ranger decisions:
Ogden Standard Examiner, Ogden, Utah for those decisions on the Burley District involving the Raft River Unit.
South Idaho Press, Burley, Idaho, for decisions issued on the Idaho portions of the Burley District.
Twin Falls District Ranger decisions:
The Times News, Twin Falls, Idaho
Ketchum District Ranger decisions:
Wood River Journal, Hailey, Idaho

Sawtooth National Recreation Area:
Challis Messenger, Challis, Idaho
Fairfield District Ranger decisions:
The Times News, Twin Falls, Idaho

Targhee National Forest

Targhee Forest Supervisor decisions:
The Post Register, Idaho Falls, Idaho
Dubois District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Island Park District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Ashton District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Palisaded District Ranger decisions:
The Post Register, Idaho Falls, Idaho
Teton Basin District Ranger decisions:
The Post Register, Idaho Falls, Idaho

Uinta National Forest

Uinta Forest Supervisor decisions:
The Daily Herald, Provo, Utah
Pleasant Grove District Ranger decisions:
The Daily Herald, Provo, Utah
Heber District Ranger decisions:
The Daily Herald, Provo, Utah and
Spanish Fork District Ranger decisions:
The Daily Herald, Provo, Utah

Wasatch-Cache National Forest

Wasach-Cache Forest Supervisor decisions:
Salt Lake Tribune, Salt Lake City, Utah
Salt Lake District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Kamas District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah
Evanston District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Mountain View District Ranger decisions:
Uintah County Herald, Evanston, Wyoming
Ogden District Ranger decisions:
Ogden Standard Examiner, Ogden, Utah
Logan District Ranger decisions:
Logan Herald Journal, Logan, Utah

Dated: June 23, 1999.

Jack A. Blackwell,

Regional Forester.

[FR Doc. 99–16478 Filed 6–28–99; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

TwoBee Landscape Management Project, Willamette National Forest, Lane and Linn Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to thin and regenerate forest stands, construct and reconstruct roads, decommission and obliterate roads, restore and maintain ecosystem function, and use prescribed fire within the Two Bee project area in the Upper McKenzie River drainage. The project area is about 60 miles east of Springfield/Eugene, and is in portions of the Hackleman, Smith, and Browder Creek drainages. The purpose and need for action is to provide timber products from this area as part of the Willamette National Forest annual harvest and to maintain and restore ecosystem function. Harvest and regeneration would provide both short-term and long-term benefits to society in the form of wood fiber and economic opportunity. The project is proposed for fiscal years 2001 and 2002. The Willamette National Forest invites written comment on this proposal and the scope of analysis. The agency will give notice of the full environmental analysis and decision making process for the proposal so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by August 30, 1999.

ADDRESSES: Send written comments to John Allen, District Ranger, McKenzie Ranger District, McKenzie Bridge, OR 97413.

FOR FURTHER INFORMATION CONTACT: Norm Michaels, TwoBee project leader, McKenzie Ranger District, McKenzie Bridge, OR 97413, phone (541) 822–3381.

SUPPLEMENTARY INFORMATION: The USDA, Forest Service Proposed Action is to reintroduce natural fire through the prescribed burning of understory layers in selected stands. Trees will be harvested through commercial thinning, selection harvest, and regeneration harvest on an estimated 1,000 acres, removing about 20 million board feet of timber. There will be permanent roads constructed and temporary roads constructed to access treatment units. There will also be roads repaired and decommissioned or obliterated. This proposed action will continue to develop opportunities for post/pole/chip/firewood products from small-sized trees; and develop habitat improvement projects for a variety of wildlife, fish, and sensitive plant species.

These activities will be consistent with the 1990 Final EIS for the Willamette National Forest Land and Resource Management Plan and the Willamette Land and Resource Management Plan as amended by the 1994 Record of Decision for management of habitat for late-successional and old-growth forest related species within the range of the Northern Spotted Owl. This project will be guided by the recommendations in the Upper McKenzie Watershed Analysis.

The decision-to-be-made will include whether and/or how much harvest should occur, whether and/or which activities should be accomplished to maintain or improve the ecosystem function such as prescribed burning of natural fuels, whether and/or how much road decommissioning, repair, obliteration, or construction should occur, and whether and/or which activities would be appropriate for improvement of habitat for fish, wildlife, and plants.

The project area includes all or portions of T13S, R6E, Sec 25; T13S, R7E, Sec 29, 30, 31, 32; T14S, R6E, Sec 12, 13, 23, 24, 25–28, 34–36; T14S, R7E, Sec 5–8, 17–20, 29–31; T15S, R6E, Sec 1, 2, 11, 12; T14S, R7E, Sec 6.

Preliminary issues have been identified: landscape level pattern and vegetative diversity; stand health and vigor; water quality; proposed endangered; threatened or sensitive species; heritage resources; big game habitat; and recreational activities.

Alternatives to be considered will include the no action alternative, plus action alternatives that will be developed in response to key issues. The action alternatives will include various levels of timber harvest, prescribed fire, road work, and other activities which may be identified.

Initial scoping will begin in June 1999. The public is invited to offer suggestions and comments in writing. Comments received in response to this notice, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d); any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is

denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The draft EIS expected to be completed in April 2000. The comment period on the draft EIS will be 45 days from the date of the Environmental Protection Agency publishes the notice of availability in the **Federal Register**,

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed in November 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the TwoBee Landscape Management Project.

The Forest Service is the lead agency. John Allen, District Ranger, is the Responsible Official. As the Responsible Official, he will decide whether to implement the project. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: June 16, 1999.

John Allen,

District Ranger.

[FR Doc. 99–16474 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Mining Specifications for Prime Farmland

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Final notice.

SUMMARY: The Natural Resources Conservation Service (NRCS) of the Department of Agriculture (USDA) is issuing specifications for soil handling in relation to mining activities on prime farmland, as provided for in the Surface Mining Control and Reclamation Act of 1977 (SMCRA). SMCRA requires the Secretary of Agriculture to establish specifications for the removal, storage, replacement, and reconstruction of prime farmland soils.

The Soil Conservation Service, now called the Natural Resources Conservation Service, first proposed these specifications on February 19, 1988 (53 FR 4989). Beginning in 1997, NRCS and the Office of Surface Mining (OSM) began reviewing and updating these specifications to be published as a rule in the **Federal Register**. The process included reviewing comments received from the 1988 **Federal Register**, knowledge gained from field experiences since 1988, and field reviews conducted with state regulatory authorities.

During the process of developing these specifications, we concluded that these specifications should be published through a notice rather than a rule because the specifications are not regulatory. These specifications serve as guidelines to NRCS State Conservationists for developing state-specific specifications and may assist the various states in developing state standards. They will also help the mining industry, state regulatory authority, and OSM develop reclamation plans, which if implemented, will provide the best opportunity to meet the post-reclamation crop production standards required by SMCRA.

General Background on Proposed Specifications

Section 515(b)(7) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1265(b)(7), authorizes the Secretary of Agriculture to establish specifications for soil removal, storage, replacement, and reconstruction for all prime farmlands, as identified in Section 507(b)(16) of the Act 30 U.S.C. 1257(b)(16), to be mined and reclaimed. This authority is delegated to NRCS in 7 CFR 2.61(a)(22).

NRCS determined that national specifications for soil handling must allow for consideration of the wide diversity of soils, geology, climate, mining equipment, and crops in coal mining areas across the nation. These differences are recognized in the permanent program regulations published by the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, specifically in 30 CFR 823.4(a) which states that ''NRCS within each State shall establish specifications for prime farmland soil removal, storage, replacement, and reconstruction.''

Accordingly, NRCS developed the specifications set forth in this notice to ensure that local and site-specific factors are considered. Within the individual States, each NRCS State Conservationist will maintain and make available a local version of these specifications that incorporates the general criteria set forth in these specifications and any modifications made for the respective State. To the fullest extent possible, the basic specifications and the applicable modifications for individual States reflect the latest scientific information and experience regarding reclamation techniques.

During the development of these specifications, NRCS' national office provided certain general guidelines to assist the NRCS State staffs in developing specifications at the local level. These guidelines were set out in the advance notice of the proposed rule published on August 26, 1985 (50 FR 34490). The first version of these proposed specifications was published on February 19, 1988 (53 FR 4989). The specifications set forth in this notice reflect comments received as a result of the 1988 publication and include technical revisions based on research results and improvements in

technology, which have occurred since the 1988 publication.

Discussion of These Specifications

The Soil Removal section provides guidance on the identification of prime farmland soils where a published survey is not available and outlines how a soil scientist should proceed with identifying and sampling the soils to be removed for later replacement and reconstruction. This section identifies needed documentation of field conditions, including rooting zones; surface relief; pre-mining drainage conditions (including subsurface); flood frequency; physical, chemical, and morphological soil properties of the soils to be removed; and the procedures to be used in soil removal. The soil removal specifications address the handling of the various soil horizons encountered on prime farmland and the procedures to be followed if substitute materials are to be used. NRCS recognizes that compaction of prime farmland soils during removal and reconstruction is a significant factor in prime farmland reclamation and therefore, the specifications include guidance to avoid compaction problems.

In the Soil Stockpiling section, NRCS recognizes that stockpiling of soil horizons, while not the preferred procedure for reclamation, is often necessary because of weather conditions, limitations or availability of equipment, or the reclamation method utilized. These specifications provide guidance to ensure that if stockpiling is utilized, the soil resources will be protected until reconstruction begins. This section provides criteria for stockpile site selection, protection against contamination and loss, and temporary distribution if long-term stockpiling is required.

In the Soil Reconstruction section, NRCS incorporates the principle of SMCRA that the reclamation of prime farmland requires the re-establishment of the pre-mining productivity of the disturbed soils. The soil reconstruction specifications provide a framework which, if followed and the required conditions are achieved, should maximize the probability that the reconstructed soil will achieve the required productivity.

Many factors contribute to the pre-mining productivity of prime farmland, including the chemical and physical characteristics of the soil horizons, the soil depth, the soil slope, and the drainage conditions. Research has shown that when the post-mining soil characteristics are similar to the pre-mining characteristics, pre-mining productivity can be achieved. These specifications provide for documentation of the characteristics of original soil, as required by SMCRA, 30 U.S.C. 1257 and 1258, and provide that the reconstructed soils should achieve these characteristics to the greatest extent possible. These specifications provide guidance on how to utilize pre-mining information in the development of a reconstruction plan for successful reclamation. This guidance includes provisions regarding rooting depths, chemical and physical characteristics of the soil horizons, and site conditions. These specifications also include erosion control measures to ensure that the reconstructed soils remain in place after reclamation.

NRCS has attached appendices A and B for informational and compliance assistance. These appendices do not establish an obligation not otherwise imposed by other rules and regulations, nor do they detract from obligations imposed by other rules and regulations. Appendix A contains information describing the procedures for determining the rooting zone of the pre-mined prime farmland soil. Appendix B contains information describing the procedure and quantitative specifications, which can be used to evaluate the rooting zone of the reconstructed soil in relation to the pre-mined soil.

Response to Comments

We received 17 comments. A majority of the commentors had multiple responses to the notice. Therefore, we have grouped the responses by issue to address each of the comments received.

Comment: One commenter stated that NRCS should withdraw this national guidance and proceed with state specific guidance. The commenter apparently believes that these specifications were to be implemented as national standards for removal, storage, replacement and reconstruction of prime farmland soils. The commenter also believes NRCS has no reason for proposing national guidance. Furthermore, commentor states that national guidance is contradictory to NRCS long-standing position that national specifications are not possible or appropriate.

Response: We agree with the commenter that national specifications are not appropriate. These specifications will not be published in 7 CFR 652 as national specifications. As stated in the preamble of the *Mining Specifications for Prime Farmland* (63 FR 57651) this guidance is advisory in nature, not regulatory. These specifications are intended only to serve as guidance for development of state specific specifications for the removal, storage, replacement and reconstruction of prime farmland soils.

Comment: This same commenter also argued that NRCS is not obligated to publish a national ''rule'' or guidance.

Response: We disagree. SMCRA at Sec. 515(b)(7) requires the Secretary of Agriculture to publish specifications for removal, storage, replacement and reconstruction of prime farmland soils. We see these specifications as necessary guidance and an integral part of the process that will result in state specific prime farmland specifications. To reiterate, these specifications are not intended to be implemented as they stand; they are to be used as a basis for developing state specific prime farmland specifications.

Comment: Commenters suggested that the specifications should not use binding language.

Response: We agree and the mandatory or binding language has been changed in this final document to better indicate the advisory nature of the specifications.

Comment: Commenters questioned whether specifications and performance standards are both necessary.

Response: The specifications are required by the SMCRA to address soil removal, storage, replacement and reconstruction. Both the establishment of specifications and the achievement of performance standards (crop production) are required by SMCRA and the OSM regulations.

Comment: Commenters questioned why a soil scientist, as defined in these guidelines, should locate and mark on the ground and on the plan map the boundaries of prime farmland soils that will be removed during mining.

Response: As used in this final notice, a soil scientist ''means a technical specialist with the academic credentials or work experience, which enables the specialist to use established procedures to collect the required soil information.'' We believe this is a very liberal definition of soil scientist, which allows anyone with the appropriate knowledge to carry out the required operations. Several commenters argued that only certified professional soil scientists should be considered soil scientists for the purposes of these specifications. These specifications are guidelines and individual states may set their own standards for who qualifies as a soil scientist under their own state specific specifications.

Comment: Commenters identified a potential conflict in the discussion of removal of topsoils less than six inches thick.

Response: We agree with the comments and we have removed that discussion from these specifications.

Comment: Commenters objected to the requirement under item (iii) in section entitled ''Specifications for Soil Removal'' that says ''In no case will prime farmland topsoil be mixed with topsoil containing rocks larger than 2mm.''

Response: This section has been rewritten in the final guidance to require that prime farmland topsoil not be mixed with topsoil, which will result in an increase in the amount of rock fragments in the resulting soil mix.

Comment: Commenters objected to the specification at part a (v) of ''Soil Removal Specifications'' that states ''soil removal should occur only in water state classes that are slightly dry or dryer.'' The commenters also contend that this specification contradicts the goal of restoring prime farmland and is impossible to comply with.

Response: We disagree with this comment. We recognize that prime farmland soils will be handled in other water state classes, however, this results in a greater degradation in the quality of the replaced prime farmland soil. Collectively these specifications are designed to maximize the probability of reclamation success.

Comment: One respondent commented that the provision of ''Soil Stockpiling,'' stating that stockpiling is permitted only if the soil removal and reclamation cannot occur at the same time, is not consistent with SMCRA.

Response: The sentence has been reworded to reflect the advisory nature of these guidelines.

Comment: Commenters pointed out that there appeared to be language missing from paragraph (b) of ''Soil Stockpiling.''

Response: The missing language has been replaced.

Comment: One commenter noted that paragraph (f) of ''Soil Stockpiling'' is unclear.

Response: This paragraph has been revised to allow topsoil and topsoil substitutes and subsoil and subsoil substitutes to be handled together.

Comment: One commenter stated that the language of paragraph (b) of ''Soil Replacement and Reconstruction,'' which states that the depth and quality of the replaced subsoil should be verified before replacement of topsoil, may conflict with contemporaneous mining operations where such activity would be impractical.

Response: We disagree. The specification is intended to prevent topsoil from being placed over subsoil not meeting the reclamation plan requirements. This could result in having to remove the topsoil. It does not conflict with the direct haul back situation.

Comment: Several commenters stated that they were not able to understand the meaning of the section on Root Permissive Structure in Appendix B.

Response: This section describes a soil test that is applicable only under semiarid conditions and may not be familiar to some persons involved in coal mining and reclamation. However, it is a legitimate test under some reclamation conditions. This section has been retained.

Comment: Several commenters pointed out conflict between the soil strength discussions in the original Appendices A and B.

Response: We accept the comment and have removed the soil strength discussion from Appendix A. The soil strength discussion in Appendix B has been simplified.

Comment: Commenters requested that the references and sources of values given in Appendices A and B be included.

Response: This has been done.

Comment: One commenter stated that we have not provided needed references for data, research or other scientific information that was relied on to establish these specifications. The commenter also states that an agency must disclose this type of information to afford interested parties a reasonable opportunity to comment on the agency's proposal. They further stated that ''(i) interested persons, as well as reviewing courts, have great difficulty analyzing agency decisions when there is no indication in the rulemaking record as to how the agency arrived at its decisions.''

Response: We have provided appropriate references in this final notice.

Comment: One commenter states that there is no indication that the agency has complied with the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Paperwork Reduction Act, or Executive Order 12866.

Response: NRCS reviewed the Environmental Impact Statement developed by the Department of the Interior for the SMCRA regulatory program and determined that this action is covered by that document. Based on the amount of time since the SMCRA EIS, the agency, though it is not necessary for publication of guidelines, developed an Environmental Assessment (EA). This EA is on file at the agency's headquarters. As with the NEPA requirements, the other requirements identified by the commenter are not necessary for the publication of these guidelines.

Comment: One commenter felt that the guidelines are written with detailed specifications that undermine the stated purpose of providing a national guideline to support state specific guidelines.

Response: We do not agree with this comment because the specific parameter values and guidance are included to provide a basis for developing state specific specifications, as stated in the preamble. Some of the specific examples they identify in the comment letter contain items that have been addressed in the response to other commenters. The purpose of the appendices is given in the section titled ''Discussion of the Proposed Specifications.''

Comment: Commenters questioned the use of 0.06 inches per inch of available water capacity to determine the limit for fragipans or other root inhibiting layers in Appendix A: Criteria for Determining Pre-Mining Rooting Zone.

Response: We have not changed this value because it is generally accepted by NRCS, and the guidance provided by this document may be modified to accommodate state specific conditions.

Comment: Commenters felt that the listing of root inhibiting layers and repetition of statements was not necessary.

Response: We agree with this comment and have removed the language.

Comment: Commenters felt that the lack of comparability of chemical property values specified in Appendix A and Appendix B was inappropriate.

Response: We disagree with this comment because the values in Appendix A address root inhibiting horizons in undisturbed soils, whereas values in Appendix B address desirable chemical properties of reconstructed soils.

Comment: One commenter felt that the list of physical and chemical properties in these guidelines should be expanded to include additional soil properties.

Response: We have not made this change. These guidelines were not developed to be all inclusive, but to serve as the basis for state specific specifications.

Comment: One commenter requested that the guidelines include a mechanism to resolve soil mapping differences when a soil survey is done for

permitting and may be more detailed than the published soil survey.

Response: We feel that this issue is better addressed by the regulatory authority consulting with the appropriate NRCS State Conservationist.

Comment: Some commenters suggested that the SAR values in these guidelines be changed, based on experience in their respective states.

Response: This was not done because the stated values provide a greater chance of achieving performance standards.

Comment: One commenter suggested that inclusion of Bw and Bt horizons in ''Specifications for Soil Removal'' should be conditioned on the structure and texture being similar to the topsoil.

Response: We agree and the language has been changed.

Comment: One commenter noted the difficulty in interpreting Table 2 of Appendix B.

Response: We have simplified the table and accompanying explanation.

Comment: One commenter expressed concern about the definition of prime farmland.

Response: To address this concern, we have clarified the definition of prime farmland as used in this document. The definition is consistent with Office of Surface Mining regulations at 30 CFR, Part 700. Office of Surface Mining regulations protect prime farmland soils (defined in 7 CFR 657) which have been historically used for crop production. These definitions are found at 30 CFR 701.5, which can be accessed on the OSM internet home page (www.osmre.gov).

Comment: One commenter stated that ''Section 507(b)(16) of the Surface Mining Control and Reclamation Act of 1977 contemplate that the Secretary of Agriculture will establish standards for the conducting of soil surveys.

Response: With regard to the conducting of soil surveys, OSM regulations require that soil surveys meet the standards of the National Cooperative Soil Survey. Therefore, the standards for the soil survey have been established by the Secretary of Agriculture.

Comment: This same commenter also stated that Sec. 515(b)(7) mandates that specifications for soil removal, storage, replacement and reconstruction shall be established. The commenter further states that these standards are substantive rules under the Administrative Procedure Act in that they require actions to be taken by regulated entities, and effect the rights of third-party landowners by establishing the standards for handling and replacement of the soil in prime farmland mining situations. The commenter asserts that the specifications are not merely interpretive in nature, but are intended to bind the regulated entities through the vehicle of surface coal mining permit and reclamation plan.

Response: We agree with the commenter that Section 515(b)(7) of SMCRA, 30 U.S.C. 1265(b)(7), is the authority that requires the Secretary of Agriculture to establish specifications for the removal, storage, replacement, and reconstruction of prime farmland soils that are disturbed by coal mining. This section also outlines certain minimum requirements for soil handling and replacement. However, we disagree with the next assertions of the commenter. These specifications are not substantive rules and do not bind the RA to issue permits under these specifications. Section 515(b)(7) does not, nor does any section of SMCRA, establish these specifications as law or regulation that is binding on OSM or any other RA. Section 510(d)(1) of SMCRA, 30 U.S.C. 1260(d)(1), states that permits for mining of prime farmland will be issued under regulations issued by the Secretary of the Interior (OSM) after consultation with the Secretary of Agriculture (NRCS). SMCRA and its regulations, found at 30 CFR Chapter 7, consistently rely on the Secretary of Agriculture (NRCS) for concurrence or advice, not regulation, on matters dealing with mining and reclamation of prime farmland. In conclusion, the prime farmland specifications published here are a useful tool for reclamation planning in that they are all known components of a soil's capacity to support crop yields and not the basis for measuring successful restoration of capacity.

Implementation Issues

It is important that the implementation and administration of the specifications be understood by everyone with an interest in the successful reclamation of surface mined prime farmlands. Once these specifications are finalized, NRCS will distribute these specifications to each NRCS State Office for use in the development or revision of State specifications. NRCS will send copies to each State Regulatory Authority (RA) and each OSM office so that the specifications can be used in carrying out their responsibilities for prime farmland reclamation. The applicant for a mining permit on prime farmland will prepare a reclamation plan, as required by sections 507 and 508 of SMCRA, 30 U.S.C. 1257 and 1258, based upon the particular prime farmland soils proposed to be mined, the equipment to be used, and the physical characteristics of the site. Because these conditions vary considerably among sites, the mining and reclamation plans will also vary.

The RA must rely on its technical staff to assure the proposed reclamation plan will likely yield the required results. The RA technical staff will utilize NRCS specifications in making their recommendations for approving, disapproving, or revising the proposed reclamation plan. In addition to the plan review by the RA technical staff, the RA will consult with the NRCS State Conservationist on the plan prior to a final decision. The NRCS State Conservationist will review and comment on the proposed reclamation plan and, if the plan does not reflect NRCS specifications, the NRCS State Conservationist will suggest appropriate plan revisions to the RA.

The RA will make a final decision on the reclamation plan based, in part, on its review of NRCS specifications and consideration of comments received from the NRCS State Conservationist. The decision will be specific to the particular permit under review.

If a NRCS State Conservationist determines that a revision in the State reconstruction specifications is desirable, then NRCS, in consultation and cooperation with the RA, will utilize a public outreach process to obtain comments on the proposed revision. Under no circumstances will the State reconstruction specifications be less effective than the National specifications. After a public comment process, including publication in the **Federal Register** and internal review by NRCS and RA, the NRCS State Conservationist will incorporate the changes into the specifications and distribute them to the NRCS local offices within the State and to the RA. The RA will make the revised specifications available to mine operators and other interested parties.

Questions and Answers

NRCS lists below questions related to implementation of NRCS specifications, which have arisen during their development along with answers to those questions.

Question 1: Are the RAs required to incorporate the NRCS specifications into their approved state program through the formal amendment process?

Answer: The RA will use the specifications in making their determinations on prime farmland reclamation plans, but NRCS specifications are not required to be a part of the approved state program.

Question 2: What if the RA decides not to incorporate the State Conservationist's recommendations into a reclamation plan?

Answer: The RA is required, under , 30 U.S.C.1260(d)(1), to consult with the State Conservationist and to consider any suggested revisions. It is not mandatory that NRCS recommendations be adopted on the permit application and reclamation plan. Under the OSM regulations, 30 CFR 823.15, success of prime farmland reclamation is based on crop production. NRCS specifications are provided to aid the permittee and RA in reviewing and approving reclamation plans and in achieving productivity standards. The specifications are not performance standards. Section, 30 U.S.C. 1265(6)(7), sets forth the general performance standards for mining and reclamation activities on prime farmland. Under the OSM regulation, the ultimate standard, which must be met, is the production standard. The specifications were not developed to restrict prime farmland reclamation, but rather to provide a basis upon which a prime farmland reclamation plan can be developed. A reclamation plan that differs from the specification can be approved if, in consultation with NRCS, the RA determines that a plan takes into consideration the particular soil conditions, equipment, and mining reclamation methods applicable to a site and will yield the desired results.

Question 3: The proposed specifications would require permit applicants to submit information which may not be required under the current RA regulations or in the current permit application form. What will be required of the RA's to address this issue?

Answer: The proposed specifications allow for a variety of options in the area of needed information. This approach is consistent with the variable site conditions, mining and reclamation equipment, and procedures inherent in mining. Individual State RA's will determine their informational needs using NRCS specifications. Some RA's, at their discretion, may wish to change permit information requirements.

Question 4: How will the adoption of NRCS Soil Reconstruction Specifications change the manner in which prime farmland plans are currently being approved?

Answer: Adoption of these specifications will formalize the knowledge and expertise that NRCS has brought to prime farmland reclamation for over 20 years. State and Federal RA's and mine operators have always relied upon NRCS for technical advice relating to prime farmland reconstruction. State RA's have been required to consult with NRCS on every acre of non-exempted prime farmland which has been mined since enactment of SMCRA. Prior to the enactment of SMCRA, many State RAs with a large amount of prime farmland being mined, such as Illinois, have included NRCS in their mine plan review. Because of this long relationship and prior history of consultation, we anticipate that adoption of the specifications will not change the manner in which plans are approved. Formalization of the specifications will provide a written framework developed during many years of experience and research, from which RA's and permittee can operate. The specifications will be available to all that have an interest in prime farmland restoration.

Applicability

The specifications apply to the removal, stockpiling, replacement, and reconstruction of soil materials during surface coal mining and reclamation operations on prime farmland, as defined and regulated by the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* These specifications are to be used in conjunction with the permanent program performance standards of the Office of Surface Mining Regulation and Enforcement, Department of the Interior, which are set forth in 30 CFR 785.17, 816.22, and part 823. These specifications apply to prime farmlands as defined by the Secretary of Agriculture in 7 CFR part 657 and historically used for cropland.

Definitions

The following definitions apply to all documents issued in accordance with these specifications, unless specified otherwise:

Prime farmland (as used in this document) means those lands which are defined by the Secretary of Agriculture in 7 CFR part 657 and which have historically been used for cropland.

Reclamation Plan means the part of a permit application that details the actions a mine operator will take to restore the area to be mined to an approved post-mining land use.

Rooting zone means the part of the soil that can be penetrated by plant roots. The rooting zone of a soil can be obtained from a published NRCS soil survey or determined in the field by a soil scientist in accordance with procedures.

Soil characteristics mean properties of the soil, which can be described or measured by field or laboratory observations, such as color, temperature, water content, structure, pH, and exchangeable cations.

Soil morphology means:

(a) The physical constitution of a soil profile as exhibited by the kinds, thickness, and arrangement of the horizons in the profile, and by the texture, structure, consistence, and porosity of each horizon; or

(b) The visible characteristics of the soil or any of its parts.

State regulatory authority means the agency in each State, which has the primary responsibility at the state level for administering the initial or permanent state regulatory program relating to mining of prime farmland.

Soil scientist means a technical specialist with the academic credentials or work experience, which enables the specialist to use, established procedures to collect the required information about soils.

Soil survey means field and other investigations which result in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use, and which meets the standards of the National Cooperative Soil Survey as incorporated by reference in 30 CFR 785.17(c)(1).

Soil Removal

Specifications for designating prime farmland soils for removal.

(a) A soil scientist should locate and mark, on the ground and on the plan map, the boundaries of prime farmland soils that will be removed during mining. Prime farmland soils on the proposed mining site will be identified from a published NRCS soil survey. If a soil survey is not available or does not provide the physical, chemical, and morphological soil properties described in 30 CFR 785.17(c)(1), a soil scientist should sample and document those properties for the identified prime farmland soils using the following procedures:

(i) Soil laboratory analysis for testing any sample will use the procedures described in Soil Survey Investigations Report No. 42.

(ii) Identify the rooting zone of the undisturbed prime farmland soils in the reclamation plan.

(iii) Identify the original topography of prime farmland soils to be mined in the reclamation plan.

(iv) Identify the pre-mining surface and internal drainage conditions, flooding frequency, and surface or subsurface drainage systems of the prime farmland in the reclamation plan.

(v) Identify the equipment that will be used for soil removal in the reclamation plan.

Specifications for Soil Removal

(a) Soil removal should be accomplished with adherence to the following principles;

(i) Minimize pre-mining compaction and destruction of the soil structure by using equipment that will have the least impact on the natural soil.

(ii) Route soil removal equipment and adjust removal depth with each cycle of that equipment to minimize the compaction and destruction of soil structure in the natural soil.

(iii) Remove the topsoil layer (A, AP, AE, AB, E horizons and where the structure and texture are similar to the A horizon, dark noncalcareous Bw and Bt horizons). If there is not an area to use the topsoil, place it in a designated stockpile. The topsoil of prime farmlands may be mixed with other topsoils or substitute materials only if the resulting topsoil will have greater productivity. In no case should prime farmland topsoil be mixed with other material that will result in an increase in the amount of rock fragments.

(iv) Remove the B horizon and/or C horizon, or an RA approved substitute rooting media and, if there is not a currently or a recently mined area to concurrently place the rooting media, place it in a designated stockpile.

(v) Soil removal should occur only in water state classes that are slightly dry or dryer, as defined in the Soil Survey Manual, United States Department of Agriculture, Handbook No. 18, October 1993.

(b) Substitution of any material for naturally occurring prime farmland topsoil should be approved by the RA, in consultation with the NRCS, only when the substitute material will have a demonstrated productivity that is higher than the original topsoil. Substitution of any material, or mixing of the existing layers, for a naturally occurring prime farmland subsoil should be approved by the RA, in consultation with the NRCS, only when the substitute material will have a demonstrated productivity that is equal to or higher than the original subsoil.

Soil Stockpiling

Specifications For Stockpiling: Stockpiling should only occur only if the soil removal and reconstruction operations cannot be carried out concurrently.

(a) Stockpiled materials should:

(i) Be placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the regulatory authority; and

(iv) Not be moved until required for redistribution.

(b) Where long-term surface disturbances will result from facilities, such as support facilities and preparation plants, and where stockpiling of soils would be detrimental to the quality or quantity of those soils, the RA may approve the temporary distribution of the removed soil materials to an approved site within the permit area to enhance the current use of that site until needed for later reclamation, provided that it does not diminish the capability of host site and the soil material will be retained in a condition more suitable for redistribution than if stockpiled.

(c) Sites subject to flooding or slippage are to be avoided for stockpiling of soil. The soil survey map for the proposed stockpiling site, as well as a field investigation, should be used to determine if a proposed soil stockpile location will be subject to flooding or slippage.

(d) Ponding of water should be avoided on all stockpiles.

(e) All woody vegetation and any other materials on the stockpile site that may degrade the quality of stored material or interfere with placement or removal of stockpiled soils should be removed.

(f) The topsoil, or approved substitute material, should be stockpiled separately from the subsoil or approved substitute material.

(g) If possible, topsoil and subsoil stockpiles should not be located on prime farmland soils. If prime farmland must be used as a stockpile site, actions should be taken to avoid and mitigate any adverse effects such as compaction.

Soil Replacement and Reconstruction

Specifications for soil replacement and reconstruction are as follows:

(a) The minimum depth of soil and substitute soil material to be reconstructed should be 48 inches; or (1) a lesser depth equal to the depth of a sub-surface horizon in the natural soil that inhibits or prevents root penetration; or (2) a greater depth if determined by the RA, in consultation with the NRCS, to be necessary to restore the original soil productive capacity.

(b) The rooting zone of the pre-mining soils will be used as a basis for determining the replacement soil depth. Appendix A provides guidance for establishing the pre-mining rooting zone depth. The depth and quality of the rooting zone of the reconstructed prime farmland soils should be equal to or greater than the pre-mined soil rooting zone. The depth and quality of the replaced subsoil should be verified, using characteristics in Appendix B, before replacement of the topsoil.

(c) Topsoil, or the approved substitute material, should be returned to the mined area to a thickness not less than that of the pre-mined topsoil.

(d) The reconstructed soil should have a hydraulic conductivity, texture, porosity, consistency, penetration resistance, and other physical properties which approximates the pre-mined soil or are more favorable for plant growth as outlined in Appendix B.

(e) The reaction (pH) and other chemical properties of the major horizon of the reconstructed soil must be within the ranges of the pre-mined soil or be more favorable for plant growth. (Appendix B provides additional guidance on desirable physical and chemical properties for the reconstructed soils).

(f) Final grading of the reconstructed soil should provide for adequate surface drainage and for slope gradients within the range of the pre-mined prime farmland mapping units. In semi-arid and arid regions, surface drainage patterns and slope gradients must be reestablished to ensure that reconstructed prime farmland soils receive approximately the same amount of surface water run-on from adjacent areas as they did in their pre-mined condition.

(g) Soon after topsoil replacement, the soil should be tilled at sufficient depth to encourage root and water penetration into the subsoil to reduce runoff and erosion.

(h) Erosion control measures contained in the approved reclamation plan should be implemented immediately after replacement of the topsoil. These erosion control measures should meet, at a minimum, the specifications found in Section IV of the local NRCS Field Office Technical Guide for seeding, mulching, and other appropriate erosion control methods.

All field observation and testing should be performed by a soil scientist or persons under the direction of a soil scientist.

Appendices

An Introduction to Appendices A and B

Appendices A and B illustrates the importance of soil chemical and physical properties during the reconstruction of prime farmland in the restoration of productivity. These appendices do not establish an obligation not otherwise imposed by other rules and regulations, nor do they detract from obligations imposed by other rules and regulations. Appendix A contains information describing the procedures for determining the rooting zone of the pre-mined farmland soil. Appendix B contains information describing the procedure and quantitative specifications, which can be used to evaluate the rooting zone of the reconstructed soil in relation to the pre-mined soil.

Appendix A: Criteria for Determining Pre-Mining Rooting Zone

Soil horizons are considered as preventing root penetration if their physical or chemical properties or water holding capacity cause them to prevent penetration by roots of plants common to the area. Soil features, e.g. tillage pan, formed during mechanical disturbance are not to be considered as root inhibiting for purposes of determining pre-mining rooting zone.

Most prime farmland soils have a favorable rooting depth of at least 48 inches and, for such soils, proper soil reconstruction to this depth will help in the restoration of productivity. However, there may be some prime farmland soils for which reconstruction to a greater depth is needed. Where bedrock or approved root inhibiting horizons are at a depth of less than 48 inches, reconstruction is thus required to a lesser depth. Fragipans or other root inhibiting layers, in order to qualify for exclusion from reconstruction, must contribute little or nothing to the productive capacity of the soil. This contribution must be less than 0.06 inches per inch of available water capacity to qualify for such exclusion.

The rooting zone of the prime farmland soils before mining will be determined and documented in the reclamation plan. The rooting zone can be obtained from published soil surveys or field determination.

If a soil survey or field determination (observation of rooting depth in an excavation) is not used to determine the rooting zone, the following guidelines will be used to determine depth (below 20 inches) to a root inhibiting soil layer for each of the following factors.

Sodium Adsorption Ratio (SAR): This is a measure of the amount of sodium (Na^+) relative to calcium (Ca^{++}) and magnesium (Mg^{++}) in the water extract from saturated soil paste. SAR is calculated from the following equation:

$$SAR = Na^+ / \sqrt{\left(CA^{++} + Mg^{++}\right)/2}$$

Soils having the SAR values listed below will have increased dispersion of organic matter and clay particles, reduced permeability and aeration, and a degradation of soil structure.

SAR Values

A value of greater than 30 is a root inhibiting soil layer.

Electrical Conductivity: This is a measure of the concentration of water soluble salts in a soil (from an extract of saturated soil paste) and is used to indicate saline soils. High concentrations of neutral salts interfere with the absorption of water by plants because the osmotic pressure in the soil solution is higher than that in the plant cells.

Salts in a soil layer can interfere with the exchange capacity of nutrient ions, thereby resulting in nutritional deficiencies in plants. Soils having the following value will be root inhibiting: A value of greater than 8 mmho/cm.

Aluminum Saturation: Excess aluminum restricts plant root penetration and proliferation in acid subsoils by decreasing water uptake in plants. Aluminum toxicity damage roots to the extent that they cannot absorb adequate water. High concentrations of aluminum are linked to adverse interaction with other elements, e.g., iron and calcium. The relationship of aluminum and calcium is the most important factor affecting calcium uptake by plants. Aluminum toxicity is linked to phosphorus deficiency, and conversely, aluminum tolerance is related to the efficient use of phosphorus. A value of equal to or more than 55 percent aluminum saturation for cotton, peanuts, soybeans, and other similar crops and equal to or more than 60 percent aluminum saturation for corn, wheat, sorghum, and other similar crops is a root inhibiting soil layer using the following equation

$$\frac{\text{Potassium chloride (KCI) extractable aluminum} \times 100}{NH_4OA_c \text{ Extractable bases} + \text{KCI extractable aluminum}}$$

Root Inhibiting Structures: Any structural unit that prevents root penetration is considered root inhibiting. Structural units that have an average spacing of more than 4 inches on the horizontal dimension may be considered root inhibiting structures even though roots penetrate between the structural units. The determination of structures must occur at a consistency of firm or firmer. The kind and size of structure and consistency are always evaluated under moderately moist or very moist conditions.

Moist Bulk Density: Bulk density is an indicator of the soil's ability for root development, both vertically and horizontally. A soil having moist bulk density equal to or more than values shown in table 1 is considered having a soil root inhibiting layer:

TABLE 1.—ROOT-LIMITING BULK DENSITIES FOR EACH FAMILY TEXTURE CLASS

Family texture class	Rooting-limiting bulk density (g/cm^3)
Sandy	1.85
Coarse loamy	1.80
Fine loamy	1.78
Coarse silty	1.79
Fine silty	1.65
Clayey: 35–45% clay	1.58
>45% clay	1.47

Appendix B: Desirable Characteristics for Physical and Chemical Properties of Reconstructed Soils

The reconstructed soils should have the following characteristics. These characteristics will help ensure the success of meeting the performance standards. Terms used in this Appendix are explained in Appendix A. All rooting media must meet the following chemical and physical properties to have the minimal favorable environment for root growth:

Sodium Adsorption Ratio

$$SAR = Na^+ / \sqrt{\left(CA^{++} + Mg^{++}\right)/2}$$

SAR: A value of less than 4.

Electrical Conductivity: A value of less than 4 mmho/cm.

Aluminum Saturation: Aluminum saturation value of less than 20 percent for cotton, peanuts, soybeans, and other similar crops and less than 35 percent aluminum saturation for corn, wheat sorghum, and other similar crops using the following equation—

$$\frac{\text{Potassium chloride (KCI) extractable aluminum} \times 100}{NH_4OA_c \text{ Extractable bases} + \text{KCI extractable aluminum}}$$

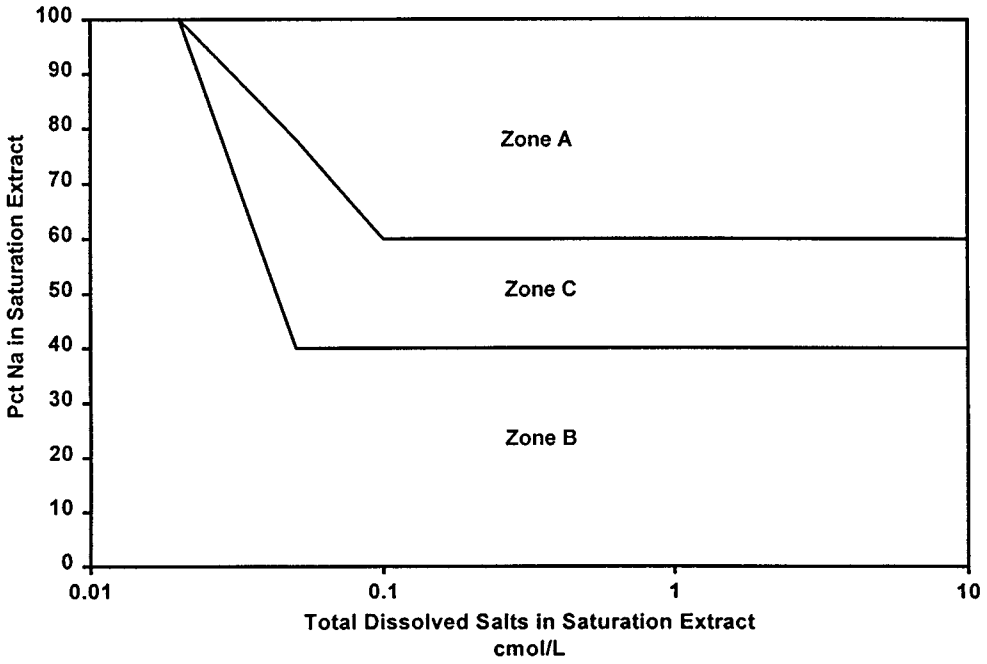
Root Permissive Structure: The reconstructed soil must have a root permissive structure after the soil material has been subject to the passage of at least 1.5 pore volumes of water in excess of the retention at 15 bar bringing all parts through the depth of consideration at least one time to very moist or wet. The pore volume is obtained by multiplying the depth zones by the water holding capacity volume fractions to follow: stratified by family particle-size class excluding the effect of those larger than 2 mm:

Family particle size [a]	Volume fraction
Sandy	0.10
Coarse-loamy	0.18
Fine-loamy	0.20
Coarse-silty	0.25
Fine-Silty	0.23
Clayey	0.15

[a] Family particle size classes defined in Soil Taxonomy Agriculture Handbook 436.

Alternative volume fractions may be substituted if documented. The volume of water for the family particle-size class is multiplied by the thickness of the zone and the amounts of zones are added through to 48 inches. Under raid fed conditions, the water addition is taken as the aggregate of successive monthly positive differences between precipitation and the evapotranspiration as computed by an acceptable method. Figure 1 is a method for determination of soluble salts and percent sodium for extract for identifying dispersive soils. Irrigation *should be considered* when precipitation is insufficient to subject the reclaimed soil to the passage of at least one pore volume of water while all parts of the soil are very moist or wet. The water added must not change the soil solution chemistry from indicative of dispersion (zone A in figure 1) to non-dispersive (zone B).

Figure 1. The field of percent sodium and total dissolved solids, both for the saturation extract, divided into a non-dispersive part (zone A), a dispersive part (zone B), and a transitional part (zone C). From Flanagan, C.P. and G.G.S. Holmgren. 1977. Field methods for determination of soluble salts and percent sodium from extract for identifying dispersive soils. Am. Soc. Test Mat. STP 623. Reference Address: American Society of Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohcken, PA 19428–2959



Moist Bulk density is an indicator of the soil's ability to allow root development, both vertically and horizontally. Table 2 has values for bulk densities, by family soil texture class, that are non-limiting to root development. Soil handling methods can result in reclaimed soils that do not have continuity of pores or interpedal voids: therefore, values in table 2 are an important consideration during the reconstruction and reclamation of mined soils. A bulk density value above those shown may be associated with reduced crop yields.

TABLE 2.—NON-LIMITING BULK DENSITY FOR EACH FAMILY TEXTURE CLASS

Family texture class	Nonlimiting bulk density
Sandy	1.60
Coarse loamy	1.50
Fine loamy	1.46
Coarse silty	1.43
Fine silty	1.34
Clayey: 35–45% clay	1.40
≤45% clay	1.30

Caution—Because of the diversity of soil texture, rock fragments, climate, mining equipment, and other variables during reclamation, moist bulk density values are only a guide. In spite of overall high bulk density, there are cases where good root deployment and targeted crop yields have been achieved, mainly because the pattern of pore spaces was favorable. On the other hand, there are cases in which the overall bulk density is not high and good root deployment was expected, but a very thin highly compacted layer that could not be detected in a standard test method prohibited the entry of plant roots.

Soil Strength: Soil strength is highly correlated to crop yields on reclaimed and reconstructed mined soils. The response is curvilinear with crop yield decreasing as soil strength increases. There appears to be a threshold where soil strength has an effect on crop yield. A soil strength value above 100 PSI may be associated with reduced crop yields. The PSI values are determined by inserting into the soil profile a 3/4 inch rod with a 300 right circular cone point on the end of the rod.

Even when soil strength is not the limiting factor (<100 PSI), the quality of rooting

material and the practices used during reconstruction and reclamation can have a significant impact on crop yields.

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Signed at Washington, DC on June 23, 1999.

Danny D. Sells,

Associate Chief, Natural Resources Conservation Service.

[FR Doc. 99–16470 Filed 6–28–99; 8:45 am]

BILLING CODE 3410–16–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, July 13–14, 1999, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, July 13, 1999

1:30 p.m.–3:30 p.m. Technical Programs Committee

3:30 p.m.–5:00 p.m. Planning and Budget Committee

Wednesday, July 14, 1999

9:00 a.m.–10:00 a.m. Committee of the Whole Meeting on Play Areas—Final Rule (Closed Meeting).

10:00 a.m.–Noon Ad Hoc Committee on Section 508—NPRM (Closed Meeting).

1:30 p.m.–3:00 p.m. Board Meeting.

ADDRESSES: The meetings will be held at the Marriott at Metro Center, 775 12th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434, ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's Report
- Approval of the Minutes of the May 12, 1999, Board Meeting
- Planning and Budget Committee Report—Fiscal Year 1999 Spending Plan and Fiscal Year 2000 Budget
- Technical Programs Committee Report—Status Report Fiscal Years 1998, 1999, and 2000 Projects

Closed Meeting

- Committee of the Whole Report—Play Areas
- Committee of the Whole Report—Section 508

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–16515 Filed 6–28–99; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–846]

Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan

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

ACTION: Notice of antidumping duty order.

EFFECTIVE DATES: June 29, 1999.

FOR FURTHER INFORMATION CONTACT: John Totaro at (202) 482–1374, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Scope of the Order

The products covered by this order are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (''HTSUS'') definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.012 percent of boron, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Mo
0.10–0.16%	0.70–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max	10.21% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	V(wt.)	Cb
0.10–0.14%	1.30–1.80%	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max	0.10 Max	0.08% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Nb	Ca	Al
0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max	0.005% Min	Treated	0.01–0.07%

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

- Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm^2 and 640 N/mm^2 and an elongation percentage ≥26 percent for thicknesses of 2 mm and above; or (ii) a tensile strength between 590 N/mm^2 and 690 N/mm^2 and an elongation percentage ≥25 percent for thicknesses of 2mm and above.
- Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.
- Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20%.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00,

7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered by this order, including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of the order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, the Department made its final determinations that certain hot-rolled flat-rolled carbon-quality steel products from Japan are being sold at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan*, 64 FR 24329, (May 6, 1999). This determination included a finding that critical circumstances existed with respect to Kawasaki Steel Corporation (Kawasaki) and the ''All Others'' exporter/producer category, but not with respect to Nippon Steel Corporation and NKK Corporation.

On June 18, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Japan. The Commission further found that critical circumstances do not exist with respect to imports of the subject merchandise from Japan. As a result, the Department will direct Customs officers to refund any cash deposits made or bonds posted, pursuant to the Department's final determination of critical circumstances, on merchandise produced/exported by Kawasaki and by any of the ''All Others'' companies which were entered on or after November 21, 1998 (90 days prior to the Department's preliminary determination publication date of February 19, 1999) and before February 19, 1999.

Moreover, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of hot-rolled carbon-quality steel products from Japan. These antidumping duties will be assessed on all unliquidated entries of certain hot-rolled flat-rolled carbon-quality steel products from Japan entered, or withdrawn from warehouse, for consumption on or after February 19, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 8291). Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rates apply to all exporters of subject hot-rolled flat-rolled carbon-quality steel products not specifically listed. Imports of hot-rolled flat-rolled carbon-quality steel products, not described above under ''Scope of the Order,'' will not be covered by this order. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter (company)	Cash deposit rate (margin in percent)
Nippon Steel Corporation	19.65
NKK Corporation	17.86
Kawasaki Steel Corporation	67.14
All Others	29.30

This notice constitutes the antidumping duty order with respect to certain hot-rolled flat-rolled carbon-quality steel products from Japan. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect. These orders are published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: June 23, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–16549 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062199E]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held on July 12–15, 1999.

ADDRESSES: These meetings will be held at the Pier House, One Duval Street, Key West, FL; telephone: 305–296–4600.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

July 14, 1999

1:00 p.m.—Convene.

1:15 p.m. - 5:00 p.m.—Receive public testimony on Mackerel Amendment 12, Reef Fish Amendment 17, and the Gag Regulatory Amendment.

5:00 p.m. - 5:30 p.m.—(Closed Session) Receive the AP Selection Committee report and the Marine Reserves Committee Report.

July 15, 1999

8:00 a.m. - 11:30 a.m.—Receive the Reef Fish Management Committee Report.

1:00 p.m. - 1:15 p.m.—Receive the Mackerel Management Committee Report.

1:15 p.m. - 1:30 p.m.—Receive the Shrimp Management Committee Report.

1:30 p.m. - 2:00 p.m.—Receive the Law Enforcement Committee Report.

2:00 p.m. - 2:15 p.m.—Receive the Administrative Policy Committee Report.

2:15 a.m. - 2:45 p.m.—Receive the Data Collection Committee Report.

2:45 p.m. - 3:00 p.m.—Receive the Council Chairman's Meeting Report.

3:00 p.m. - 3:15 p.m.—Receive the South Atlantic Fishery Management Council Liaison Report.

3:15 p.m. - 3:30 p.m.—Receive Enforcement Reports.

3:30 p.m. - 3:45 p.m.—Receive Director's Reports.

3:45 p.m.- 4:00 p.m.—Other Business.

Committees

July 12, 1999

9:30 a.m. - 10:30 a.m.–-(Closed Session) Convene the Advisory Panel Selection Committee to select members for an advisory panel.

10:30 a.m. - 11:00 a.m.—(Closed Session) Convene the Marine Reserves Committee to potentially approve a contractual agreement for a facilitator.

11:00 a.m. - 12:00 noon—Convene the Marine Reserves Committee to hear a report of the Tortugas 2000 working group that was charged with developing plans for marine reserves in the Florida Keys National Marine Sanctuary.

1:00 p.m. - 5:30 p.m.—Convene the Law Enforcement Committee to hear reports on enforcement and non-compliance issues related to the red snapper fishery, the Tortugas Shrimp Sanctuary, the Southwest Florida seasonal shrimp closure, the Florida Middle Grounds Habitat Area of Particular Concern (HAPC), the Eastern Gulf long-line closed area, and implementation of Reef Fish Amendment 16A.

July 13, 1999

8:00 a.m. - 12:00 noon—Convene the Reef Fish Management Committee to develop its recommendations to the Council on Reef Fish Amendment 17 and the Gag Regulatory Amendment. The Committee will also determine whether to recommend that Council staff begin development of a resubmission document to readdress the portion of Reef Fish Amendment 16A that was disapproved by NMFS. That portion would have phased out the fish trap fishery in the Florida Keys by February 7, 2001. The Committee will also hear a report projecting when the 1999 recreational red snapper season will be closed, and hear updates on the pending approval of the regulatory amendment and emergency rules for red snapper.

2:00 p.m. - 5:00 p.m.—Council members will take a field trip on a U.S. Coast Guard cutter to examine enforcement procedures.

July 14, 1999

8:00 a.m. - 9:00 a.m.—Convene the Mackerel Management Committee to develop its recommendations to the Council on Mackerel Amendment 12.

9:00 a.m.- 10:00 a.m.—Convene the Shrimp Management Committee will hear a NMFS report on the Tortugas Shrimp fishery and annual reports assessing the status of the shrimp stocks. The Committee will also discuss workshop(s) to assess the impacts of shrimp trawl bycatch in the eastern Gulf, which will be held in late Summer or Fall.

10:00 a.m. - 11:00 a.m.—Convene the Data Collection Committee to hear a report on the pilot study on recreational data collection via MRFSS vs. Logbooks.

11:00 a.m. - 12:00 noon—Convene the Administrative Policy Committee to discuss reauthorization of the Magnuson-Stevens Act.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by July 2, 1999.

Dated: June 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16522 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062199D]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Social Sciences Advisory Committee on July 12, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on July 12, 1999 at 10 a.m.

ADDRESSES: The meeting will be held at the Council Office conference room; 5 Broadway (Route 1 South); Saugus, MA 01906; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION: The committee will develop recommendations concerning improvements to the social and economic impacts analyses contained in New England Council fishery management plans. They also will develop recommendations for peer review of these analyses.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: June 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16511 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062199C]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Council (Council) will hold a meeting of its Coral Reef Ecosystem Plan Team (CREPT) in Honolulu, HI. The meeting will also serve as a public scoping hearing on the management alternatives to be analyzed in a Draft Environmental Impact Statement (DEIS) for the Coral Reef Ecosystem Fishery Management Plan (FMP).

DATES: The CREPT meeting will be held on July 13–15, 1999, from 8:30 a.m. to 5:00 p.m., each day.

ADDRESSES: The meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808–522–8220).

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The CREPT will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

Tuesday, July 13, 1999, 8:30 a.m.

1. Summary of progress to date on Coral Reef Ecosystem Fishery Management Plan (CRE-FMP)
2. Implementation plan/timetable for completion of CRE-FMP
3. Review of fishery management units
   A. Fish
   B. Invertebrates
   C. Other
4. Review of initial proposed measures/alternatives/impacts
   A. Permit and reporting requirement
   B. Designation of Marine Protected Areas(MPAs)
   (1) Criteria
   (2) Specific candidate sites
   C. Allowable harvest gear/prohibited practices

Wednesday, July 14, 1999, 8:30 a.m.

   D. Framework regulatory process
   (1) Aquaculture/possession permit for live rock/coral
   (2) Prohibit anchoring by fishing vessels on Guam's offshore banks
   (3) Designate zones for mooring buoy installation and anchoring requirement
   (4) Require permanent marking of passive fishing gear
   (5) Other
5. Proposed non-regulatory management measures
   A. Facilitate local management
   B. Create incentives for sustainable use
   C. Public education outreach
6. Suggestions to address other existing laws and policies
   A. Endangered Species Act
   B. Marine Mammal Protection Act
   C. Administrative Procedure Act
   D. Coastal Zone Management Act
   E. Regulatory Flexibility Act
   F. Executive Orders
   G. Magnuson-Stevens Act/Sustainable Fisheries Act/Essential Fish Habitat
   H. Other
7. Preliminary draft regulations
8. Other concerns regarding developing CRE-FMP

Thursday, July 15, 1999. 8:30 a.m.

9. Public scoping hearing for National Environmental Policy Act/ Environmental Impact Statement
   A. Review of public comments received
   B. Public hearing for additional comments
10. Other business
   A. Scheduling of next CREPT meeting
   B. Upcoming coral reef meetings
11. Other business
   A. Scheduling of next meeting

Although other issues not contained in this agenda may come before this team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: June 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16510 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062199F]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will hold a meeting of its Precious Corals Plan Team and Advisory Panel.

DATES: The meeting will be held on July 20, 1999, from 2:00 p.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at NMFS Honolulu Laboratory, 2570 Dole St., Rm. 112, Honolulu, HI 96822–2396, telephone: 808–983–5300.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: Members of the Precious Corals Plan Team and Advisory Panel will discuss the findings of recent research on precious corals in the waters around Hawaii, including information on the size and condition of certain classified precious coral beds, potential increases in fishing pressure on black corals, the presence of a new precious coral bed near French Frigate Shoals and the possible importance of precious coral beds as foraging areas for Hawaiian monk seals. Based on this new information, the plan team will discuss possible modifications to the precious corals fishery management plan. Possible changes in the FMP include suspending the harvest quota for live gold coral at the Makapu'u Bed; redefining live precious coral as precious coral thathas live coral polyps or tissue and redefining dead precious coral as precious coral that no longer has any live coral polyps or tissue; applying size limits to harvested live coral only; implementing a minimum size limit for black coral; prohibiting the use of non-selective gear except for scientific research activity; prohibiting the harvest of pink coral from any established or conditional bed unless it has attained a minimum height of 10 inches; revising the boundaries of Brooks Bank; increasing the annual harvest quota for live pink coral at Brooks Bank; suspending the harvest quota for live gold coral at Brooks Bank; restricting the harvest quota for all types of live precious coral at the newly-discovered bed near French Frigate Shoals; and revising the fishing logbooks to require additional information.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal action during this meeting.

Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: June 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–16512 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Form for Certain Textile Products Produced or Manufactured in Sri Lanka

June 23, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa form.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Effective on July 1, 1999, goods produced or manufactured in Sri Lanka and exported to the United States must be accompanied by Sri Lanka's Textile Quota Board export visa form printed on a white form with the term ''non-negotiable'' printed on it. This replaces the light green security paper form currently in use. The visa stamp remains unchanged. There will be a grace period from July 1, 1999 through July 31, 1999, during which products exported from Sri Lanka may be accompanied by either the old or new export visa form. Products exported from Sri Lanka on or after August 1, 1999 must be accompanied by the new export visa form.

See 53 FR 34573, published on September 7, 1988.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 23, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 1, 1988, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain cotton, wool and man-made fiber apparel, produced or manufactured in Sri Lanka for which the Government of Sri Lanka has not issued an appropriate export visa.

Effective on July 1, 1999, you are directed to amend further the directive dated September 1, 1988 to provide for the use of a new export visa form issued by the Government of Sri Lanka to accompany shipments of textile products, produced or manufactured in Sri Lanka and exported from Sri Lanka on or after July 1, 1999. This new visa form is Sri Lanka's Textile Quota Board export visa form printed on a white form with the term ''non-negotiable'' printed on it. This replaces the light green security paper form currently in use. The visa stamp remains unchanged.

Textile products exported from Sri Lanka during the period July 1, 1999 through July 31, 1999 may be accompanied by either the old or new export visa form. Products exported from Sri Lanka on or after August 1, 1999 must be accompanied by the new export visa form.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–16507 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on a Request that the United States Consult with Mexico and Canada Concerning a Certain Rayon Filament Yarn

June 23, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for consultations on certain rayon filament yarn.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The purpose of this notice is to advise the public that CITA has been petitioned to initiate consultations with Mexico and Canada under Section 7(2) of Annex 300–B of the North American Free Trade Agreement (NAFTA) for the purpose of amending the NAFTA rules of origin for HTS subheading 5806.32 to permit the use of non-North American rayon filament yarn classified in HTS subheading 5403.31.00 of the Harmonized Tariff Schedule of the United States, in NAFTA originating goods.

There will be a 30-day comment period beginning on June 29, 1999 and extending through July 29, 1999. Anyone wishing to comment or provide data or information regarding domestic production or availability of rayon filament yarn classified in HTS subheading 5403.31.00 is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute a ''foreign affairs function of the United States.''

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–16506 Filed 6–28–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Acquisition Management Systems and Data Requirements Control List (AMSDL); Numerous Forms; OMB Number 0704–0188.

Type of Request: Revision.

Number of Respondents: 886.

Responses per Respondent: 540.

Annual Responses: 478,440.

Average Burden Per Response: 110 hours.

Annual Burden Hours: 52,628,400.

Needs and Uses: The Acquisition Management Systems and Data Requirements Control List (AMSDL) is a list of data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapon systems critical to the national defense. Information collection requests are contained in DoD contract actions for supplies, services, hardware, and software. The collection of such data is essential to accomplishing the assigned mission of the Department of Defense. Failure to collect this information would have a detrimental effect on the DoD acquisition programs and the National Security.

Affected Public: Business or Other For Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 23, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–16436 Filed 6–28–99; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–21]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: None.

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 99–21, with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE: 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

16 JUN 1999
In reply refer to:
I-99/07095

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. 99-21, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $210 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A.R. KELTZ
ACTING DIRECTOR

Attachments

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. 99-21

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$ 60 million
Other	$ 150 million
TOTAL	$ 210 million

(iii) Description of Articles or Services Offered: The upgrade of five E-2C Update Group II Mission Suite retrofit kits including AN/APS-145 Radar (Category XII) for existing E-2C aircraft, spare and repairs parts, support equipment, personnel training and training equipment, technical data and publications, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support.

(iv) Military Department: Navy (SBJ)

(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 attached

(vii) Date Report Delivered to Congress: 16 JUN 1999

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

POLICY JUSTIFICATION

Egypt - Upgrade of E-2C Update Group II Mission Suite Retrofit Kits

The Government of Egypt (GOE) has requested a possible sale for the upgrade of five E-2C Update Group II Mission Suite retrofit kits including AN/APS-145 Radar (Category XII) for existing E-2C aircraft, spare and repairs parts, support equipment, personnel training and training equipment, technical data and publications, system software development and installation, testing of new system modifications, U.S. Government and contractor engineering and logistics services and other related elements of program support. The estimated cost is $210 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 Eastern region.

The GOE needs this upgrade of the retrofit kits to help maintain the operational readiness of its extended Airborne Early Warning (AEW) system and continue the interoperability with United States. Egypt will have no difficulty absorbing this logistics support 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 Northrop Grumman Aircraft Corporation, Bethpage, New York. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will require the assignment of approximately seven contractor representatives in-country the first year for installation technical assistance. Six contractor personnel will be required at the main operation base for one year after the completion of the first installation to assist with training, operation, and maintenance. U.S. Government personnel will be required for an additional period to implement the system.

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

Transmittal No. 99-21

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The E-2C contains sensitive state-of-the-art technology. Some of the hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through depot level) of the E-2C aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–16437 Filed 6–28–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Senior Executive Service Performance Review Board

AGENCY: Office of the Inspector General, Department of Defense (OIG, DOD).

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service (SES) Performance Review Board (PRB) for the OIG, DoD, as required by 5 U.S.C. 4314 (c) (4). The PRB provides fair and impartial review of SES performance appraisals and makes recommendations regarding performance ratings, performance awards and recertification to the Inspector General.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Dona Seracino, Deputy Director for Operations, Personnel and Security Directorate, Office of the Assistant Inspector General for Administration and Management, OIG, DoD, 400 Army Navy Drive, Arlington, VA 22202, (703) 604–9716.

Charles W. Beardall, Deputy Assistant Inspector General for Criminal Investigative Policy and Oversight, OAIG for Investigations.

David A. Brinkman, Director, Audit Followup and Technical Support, OAIG-Auditing.

C. Frank Broome, Director, Office of Departmental Inquiries.

David M. Crane, Director, Office for Intelligence Review.

Donald E. Davis, Deputy Assistant Inspector General for Audit Policy and Oversight, OAIG-Auditing.

Thomas F. Gimble, Director, Acquisition Management, OAIG-Auditing.

Paul J. Granetto, Director, Contract Management, OAIG-Auditing.

John F. Keenan, Assistant Inspector General for Investigations.

Frederick J. Lane, Director, Finance and Accounting, OAIG-Auditing.

Joel L. Leson, Deputy Assistant Inspector General for Administration and Information Management.

Carol L. Levy, Deputy Assistant Inspector General for Investigations.

Robert J. Lieberman, Assistant Inspector General for Auditing.

Nickolas T. Lutsch, Assistant Inspector General for Administration and Information management.

Donald Mancuso, Deputy Inspector General.

David K. Steensma, Deputy Assistant Inspector General for Auditing.

Alan W. White, Director, Investigative Operations, OAIG for Investigations.

Shelton R. Young, Director, Readiness and Logistics Support, OAIG-Auditing.

Robert L. Ashbaugh, Deputy Inspector General, Department of Justice.

Raymond J. DeCarli, Deputy Inspector General, Department of Transportation.

John C. Payne, Deputy Inspector General, Department of State.

Joseph R. Willeven, Deputy Inspector General, Office of Personnel Management.

Dated: June 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 99–16438 Filed 6–28–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend record systems.

SUMMARY: The Department of the Air Force proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on July 29, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 588–6187.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice as amended, published in its entirety.

Dated: June 22, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AF PC L

SYSTEM NAME:

Unfavorable Information Files (UIF) *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Complete UIFs are maintained in the Unit Orderly Room, the Military Personnel Flight (MPF), Headquarters Air Reserve Personnel Center (HQ ARPC), or HQ Air National Guard Readiness Center (HQ ANGRC). A copy of the UIF summary sheet is maintained at: Individual's unit of assignment; geographically separated units not co-located with a servicing MPF. For officers only the UIF Summary Sheet is also maintained at major command level; for colonels, colonel selects, and general officers at the Headquarters Air Force level; and the gaining unit for individuals selected for reassignment. For Reserve personnel, to the unit of assignment/attachment. Official mailing addresses are published as an appendix to the Air Force's compilation of system of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All active or Reserve component (AF Reserve and Air National Guard) military personnel who are the subject of an Unfavorable Information File'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'For enlisted personnel, UIFs are maintained for one year from the effective date of the most recent correspondence, except when the file contains documentation pertaining to Article 15, court-martial or certain civil court convictions, in which case the retention period is two years from the date of that correspondence. UIFs are automatically destroyed upon discharge (no military service obligation) or retirement and on an individual basis when the individual's commander so determines. UIFs are transferred to the active or reserve component to which the enlisted member is transferring, if known, or if unknown or upon separation to HQ AFRC or HQ ANGRC.

For officer personnel UIFs are maintained for two years from the

effective date of the most recent correspondence, except when the file contains documentation pertaining to court-martial convictions or civil court convictions, in which case the retention period is four years from the date of that correspondence or one year from the date of arrival at a new permanent change of station or one year after date of separation, whichever is longer. UIFs are transferred to the Reserve component to which the officer is transferring, if known or upon separation to HQ ARPC or HQ ANGRC. UIFs are automatically destroyed upon retirement. If a Reserve officer is discharged, (no military service, obligation), the UIF is destroyed. UIFs for regular officers discharged are maintained by HQ ARPC for one year from date of discharge and then destroyed.

UIF records are destroyed on officer or enlisted personnel by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.'

* * * * *

F036 AF PC L

SYSTEM NAME:

Unfavorable Information Files (UIF).

SYSTEM LOCATION:

Complete UIFs are maintained in the Unit Orderly Room, the Military Personnel Flight (MPF), Headquarters Air Reserve Personnel Center (HQ ARPC), or HQ Air National Guard Readiness Center (HQ ANGRC). A copy of the UIF summary sheet is maintained at: Individual's unit of assignment; geographically separated units not co-located with a servicing MPF. For officers only the UIF Summary Sheet is also maintained at major command level; for colonels, colonel selects, and general officers at the Headquarters Air Force level; and the gaining unit for individuals selected for reassignment. For Reserve personnel, to the unit of assignment/attachment. Official mailing addresses are published as an appendix to the Air Force's compilation of system of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active or Reserve component (AF Reserve and Air National Guard) military personnel who are the subject of an Unfavorable Information File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Derogatory correspondence determined as mandatory for file or as appropriate for file by an individual's commander. Examples include written admonitions or reprimands; court-martial orders; letters of indebtedness, or control roster correspondence and drug/alcohol abuse correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Instruction 36–2907, Unfavorable Information File Program.

PURPOSE(S):

Reviewed by commanders and personnel officials to assure appropriate assignment, promotion and reenlistment considerations prior to effecting such actions. UIFs also provide information necessary to support administrative separation when further rehabilitation efforts would not be considered effective.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets and in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Computer records are protected by computer software.

RETENTION AND DISPOSAL:

For enlisted personnel, UIFs are maintained for one year from the effective date of the most recent correspondence, except when the file contains documentation pertaining to Article 15, court-martial or certain civil court convictions, in which case the retention period is two years from the date of that correspondence. UIFs are automatically destroyed upon discharge (no military service obligation) or retirement and on an individual basis when the individual's commander so determines. UIFs are transferred to the active or reserve component to which the enlisted member is transferring, if known, or if unknown or upon separation to HQ AFRC or HQ ANGRC.

For officer personnel UIFs are maintained for two years from the effective date of the most recent correspondence, except when the file contains documentation pertaining to court-martial convictions or civil court convictions, in which case the retention period is four years from the date of that correspondence or one year from the date of arrival at a new permanent change of station or one year after date of separation, whichever is longer. UIFs are transferred to the Reserve component to which the officer is transferring, if known or upon separation to HQ ARPC or HQ ANGRC. UIFs are automatically destroyed upon retirement. If a Reserve officer is discharged, (no military service, obligation), the UIF is destroyed. UIFs for regular officers discharged are maintained by HQ ARPC for one year from date of discharge and then destroyed.

UIF records are destroyed on officer or enlisted personnel by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel, Headquarters Air Force Personnel Center, 550 C Street W, Randolph AFB, TX 78150–4703.

For Reserve system management: Headquarters Air Force Reserve Command/Directorate of Personnel, 155 2nd Street, Robins AFB, GA 31098–1635.

NOTIFICATION PROCEDURE:

Personnel for whom optional UIFs exist are routinely notified of a file. In all cases personnel have had the opportunity or are authorized to rebut the correspondence in the file.

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the servicing Military Personnel Flight, Unit Orderly Room, Headquarters Air Reserve Personnel Center or Headquarters Air National Guard Readiness Center. Official mailing addresses are published as an appendix to the Air Force's

compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address inquiries to the servicing Military Personnel Flight, Unit Orderly Room, Headquarters Air Reserve Personnel Center, or Headquarters Air National Guard Readiness Center. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Supervisory reports or censures and documented records of poor performance or conduct.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–16439 Filed 6–28–99; 8:45 am]
BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.
ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 29, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0680–31a TAPC

SYSTEM NAME:

Officer Personnel Management Information System (OPMIS) *(May 11, 1998, 63 FR 25840).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPD-S, Information Management Officer, 200 Stovall Street, Alexandria, VA 22332–0414.'

* * * * *

A0680–31a TAPC

SYSTEM NAME:

Officer Personnel Management Information System (OPMIS).

SYSTEM LOCATION:

Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPD-S, Information Management Officer, 200 Stovall Street, Alexandria, VA 22332–0414.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals projected for entrance into the Active officer corps, active duty commissioned and warrant officers, officers in a separated or retired status, activated/mobilized U.S. Army Reserve and National Guard officers, and DoD civilians and military officers who serve as rating officials on the Officer Evaluation Reports (OERs) of Army officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Total Army Personnel Data Base - Active Officer (TAPDB-AO) is the active officer component data base of Total Army Personnel Data Base. It is comprised of approximately 100 data tables containing the official automated personnel records for active component Army officers. Data maintained in the Total Army Personnel Data Base - Active Officer includes Social Security Number, name, grade, personal and family information, service, security clearance, assignment history, strength management data, civilian and military education, awards, training, branch and occupational specialties/areas of concentration, mailing addresses, telephone numbers, facsimile numbers, email addresses, physical location, languages, career pattern, performance, command and promotion history, retirement/separation information and service agreement information. TAPDB-AO is updated in both on-line and batch mode from various source data bases and applications including the Standard Installation Division Personnel System (SIDPERS), the Total Officer Personnel Management Information System (TOPMIS), the Officer Evaluation Reporting System (OERS) and Accessions Management Information Systems (AMIS).

Accessions Management Information Systems (AMIS) contains selected officer personnel data from the Total Army Personnel Data Base - Active Officer, the date of entry on active duty, selected information regarding current location/school for pre-accessed officers, demographic data and assignment information on new officer accessions. It includes individual and mass record processing, erroneous record processing, report generation, Regular Army integration processing, Accessions Management Information Systems (AMIS) active record data, Officer Record Brief (ORB) information and strength data. Accessions Management Information Systems (AMIS) is used to manage Reserve Officer Training Corps (ROTC), U.S. Military Academy (USMA), Officer Candidate School (OCS), Judge Advocate General Corps (JAG) Recalls, Chaplains Corps, Warrant Officer and Surgeon General Reserve officers accessions. Accessions Management Information Systems (AMIS) data is stored on the Total Army Personnel Data Base - Active Officer. Some users enter new accession data directly to the Total Army Personnel Data Base - Active Officer via Accessions Management Information Systems (AMIS). For Reserve Officer Training Corps (ROTC), and U.S. Military Academy (USMA) new accessions, data extracts are batch loaded to the Total Army Personnel Data Base - Active Officer annually.

Assignments and Training Selection for Reserve Officer Training Corps (ROTC) graduates contains selected information from the Total Army

Personnel Data Base - Active Officer (TAPDB-AO), the cadet's preference statement for specialty (branch), duty and initial training; Reserve Forces duty or delay selection, Regular Army selection and branch selection.

The Officer Evaluation Reporting System (OERS) contains selected information from the Total Army Personnel Data Base - Active Officer (TAPDB-AO); selection board status; OER suspense indicator for action being taken to obtain missing or erroneous OERs; selected information for each OER; and the name, Social Security Number, and rating history of each individual, military and civilian, who has served as the senior rating official for an active duty Army officer.

Total Officer Personnel Management Information System (TOPMIS) provides the display and update of selected data on Total Army Personnel Data Base - Active Officer (TAPDB-AO) and comprises an extensive variety of automated officer personnel management functions. These functions include, officer personnel record display and update, requisition validation and processing, active officer strength management, Officer Distribution Plan (ODP) goaling management, officer asset reports, centralized command slate development, assignment stabilization break processing, electronic mail, Officer Record Brief (ORB) display and interactive telephonic/voice response retrieval of selected information from Total Army Personnel Data Base - Active Officer (TAPDB-AO).

Reserve Officer Training Corps (ROTC) Instructor File contains selected information from the Total Army Personnel Data Base - Active Officer (TAPDB-AO) and the following information pertaining to ROTC instructors; ROTC detachment, duty station, date assigned to ROTC detachment, date projected to be reassigned. This information is maintained in a local data base by the Cadet Command Distribution Account Manager in Officer Distribution Division, OPMD, TAPC-OPD-O.

Advanced Civil Schools Management Information System (ACSMIS) contains selected information from the Total Army Personnel Data Base - Active Officer and the following information concerning commissioned and warrant officer personnel currently participating, or who have previously participated, in one of the following: Army sponsored college degree completion program, Training With Industry (TWI) program, special fellowship/scholarship programs, or the fully funded degree program. Data maintained also includes schooling start/stop dates, degree level, educational discipline and Army duty positions.

Army Education Requirements System (AERS) contains selected information from the Total Army Personnel Data Base - Active Officer (TAPDB-AO) for officer and warrant officer personnel who are serving or are projected to serve in an AERS approved position requiring graduate level education.

U.S. Army Military Academy (USMA) Potential Instructor File contains selected information from the OMF and the following information pertaining to previous, current, and potential instructors for the USMA teaching staff; academic department and projected availability for USMA instructor duty. This information is maintained in a local data base by the USMA Distribution Account Manager in Officer Distribution Division, OPMD, TAPC-OPD-O.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013; and E.O. 9397 (SSN).

PURPOSE(S):

Information is used for personnel management strength accounting, manpower management, accessioning and determining basic entry specialty (branch) and initial duty assignments; tracking Officer Evaluation Reports, the rating history of senior rating official's rating history on individual OERs producing reports on active duty officers who have served as senior rating officials; managing instructor population at ROTC detachments and USMA; tracking information relating to the Army Degree Completion Civil School Program; transmitting necessary assignment instructions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Social Security Administration to verify Social Security Numbers.

To the Smithsonian Institution (The National Museum of American History): Copy of the U.S. Army Active Duty Register, for historical research purposes (not authorized for public display).

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronically on computer magnetic tapes and disc.

RETRIEVABILITY:

By Social Security Number, name, or other individual identifying characteristics.

SAFEGUARDS:

Physical security devices, guards, computer hardware and software features, and personnel clearances. Automated media and information are protected by authorized user ids, passwords for the system, a tiered system of security for access to officer data provided via Interactive Voice Response Systems based on the sensitivity of the data items provided, encryption of data transmitted via networks, controlled access to operator rooms and controlled output distribution.

RETENTION AND DISPOSAL:

Records are retained on the active TAPDB-AO files for 4 months after separation. Historical TAPDB-AO records are retained dating back to FY 1970. Accessions in AMIS are retained on active file until effective date of accession and are then placed on a history file for a period of 6 months. Records in the ROTC Graduate Assignment and Training Selection File are retained for approximately 400 days after the file is created (approximately December each year). Historic files for the OER system are kept for the life of the system. All other records are retained for active duty only until the individual is released from active duty and then destroyed. There are still hard copies in their Official Military Personnel Files (OMPFs).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPD-S, Information Management Officer, 200 Stovall Street, Alexandria, VA 22332–0414.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPD-S, Information Management Officer, 200 Stovall Street, Alexandria, VA 22332–0414.

Individual should provide the full name, Social Security Number, current address, and identify the specific category of record involved, whether awaiting active duty, active retired, or separated and give return address.

Blanket requests for information from this consolidated system will not be accepted. If awaiting active duty, specify the date thereof; if separated, individual must state date of separation.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Total Army Personnel Command, ATTN: TAPC-OPD-S, Information Management Officer, 200 Stovall Street, Alexandria, VA 22332–0414.

Individual should provide the full name, Social Security Number, current address, and identify the specific category of record involved, whether awaiting active duty, active retired, or separated and give return address.

Blanket requests for information from this consolidated system will not be accepted. If awaiting active duty, specify the date thereof; if separated, individual must state date of separation.

Selected data from the Total Army Personnel Data Base - Active Officer is also accessible to records subjects through an Interactive Voice Response Systems (IVRS). Access to the data made available through the IVRS is controlled by a tiered security system which is based on the sensitivity of the data being accessed.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, civilian Educational Institutions, Army records and reports, other Federal, state, and local agencies and departments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–16440 Filed 6–28–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend record system.

SUMMARY: The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on July 29, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The record system being amended is set forth below, as amended, published in its entirety.

Dated: June 22, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05300–1

SYSTEM NAME:

Organization Locator and Social Roster (February 22, 1993, 58 FR 10749).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'N05000–3'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Military and civilian personnel attached to the activity, Departments of the Navy and Defense, or other government agencies; family members; and guest or other invitees.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Manual and automated records which include names; Social Security Numbers; dates of birth; next of kin information; dependent information; addresses; telephone numbers; official titles; organization identification; invitations, acceptances, regrets, protocol, and other information associated with attendance at functions; disability data; and locator records of personnel attached to the organization.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To notify personnel of arrival of visitors; recall personnel to duty station when required; locate individuals on routine matters; provide mail distribution and forwarding addresses; compile a social roster for official and non-official functions; send personal greetings and invitations; and locate individuals during medical emergencies, facility evacuations, and similar threat situations.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Documents are marked 'FOR OFFICIAL USE ONLY—PRIVACY SENSITIVE' and are only distributed to those persons having an official need to know. Computerized records are password protected and only accessible by those persons with an official need to know.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individual and records of the activity.'

* * * * *

N05000–3

SYSTEM NAME:

Organization Locator and Social Roster.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel attached to the activity, Departments of the Navy and Defense, or other government agencies; family members; and guests or other invitees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual or mechanized records. Includes information such as names, addresses, telephone numbers; official titles or positions and organizations; invitations, acceptances, regrets,

protocol, and other information associated with attendants at functions. Locator records of personnel attached to the organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To notify personnel of arrival of visitors; recall personnel to duty station when required; locate individuals on routine matters; provide mail distribution and forwarding addresses; compile a social roster for official and non-official functions; send personal greetings and invitations; and locate individuals during medical emergencies, facility evacuations, and similar threat situations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and automated records.

RETRIEVABILITY:

Name, Social Security Number, and/or organization code.

SAFEGUARDS:

Documents are marked 'FOR OFFICIAL USE ONLY—PRIVACY SENSITIVE' and are only distributed to those persons having an official need to know. Computerized records as password protected and only accessible by those persons with an official need to know.

RETENTION AND DISPOSAL:

Records are destroyed upon update of roster to add/delete individuals who have arrived/departed the organization.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and records of the activity.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–16441 Filed 6–28–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF ENERGY

Notice of Floodplain and Wetlands Involvement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy, Los Alamos National Laboratory, New Mexico

AGENCY: Los Alamos Area Office, Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: In compliance with the requirements of Public Law 105–119, DOE proposes to convey to the Incorporated County of Los Alamos, and transfer to the Secretary of the Department of the Interior in trust for San Ildefonso Pueblo, ten (10) tracts of land located at Los Alamos National Laboratory in Los Alamos, New Mexico. The conveyance and transfer involves about 4,800 acres located within various canyon systems and over several mesa tops. Some of these tracts encompass floodplains and wetlands located in Los Alamos and Santa Fe Counties, New Mexico.

In accordance with 10 CFR part 1022, DOE has prepared a floodplain and wetlands assessment. This assessment is included as part (Appendix D) of the Draft *Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico,* prepared for the proposed project in accordance with the National Environmental Policy Act.

DATE: Comments are due to the address below no later than July 15, 1999.

ADDRESS: Comments should be addressed to: Elizabeth Withers, CT EIS Document Manager, U.S. Department of Energy, Los Alamos Area Office 528 35th Street, Los Alamos, New Mexico 87544, PHONE: (505) 667–8690; FAX: (505) 665–4872.

The Draft Environmental Impact Statement is available for review at the Los Alamos Outreach Center, 1619 Central Avenue, Los Alamos, New Mexico 87544; and the Government Information Department, Zimmerman Library, University of New Mexico, Albuquerque, New Mexico 87131. The Draft CT EIS is also available under the NEPA Analysis Module of the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Elizabeth Withers, CT EIS Document Manager, at the above listed address.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U. S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: In compliance with the requirements of Pub. L. 105–119, DOE is proposing to convey and transfer ten (10) tracts of land, totaling about 4,800 acres, to the Incorporated County of Los Alamos, and to the Secretary of the Interior in trust for San Ildefonso Pueblo. Six (6) of the ten tracts encompass wetlands and floodplains within their boundaries: the Rendija Canyon Tract, TA–21 Tract, Airport Tract, White Rock ''Y'' Tract, TA–74 Tract and the White Rock Tract. These tracts are located within or contain portions of Rendija Canyon, DP Canyon, Los Alamos Canyon, Bayo/Pueblo Canyons confluence, and in Canada del Buey. Future use of the tracts as established by Pub. L. 105–119 is limited to historic, cultural, or environmental preservation, economic diversification, and community self-sufficiency purposes. The two named recipients identified their contemplated uses of the tracts as follows:

Rendija Canyon Tract (about 910 acres)—environmental preservation (including recreational use) and residential development or cultural preservation.

TA–21 Tract (about 260 acres)—commercial and industrial development.

Airport Tract (about 205 acres)—commercial and industrial development or commercial development.

White Rock ''Y'' Tract (about 540 acres)—environmental preservation or cultural preservation.

TA–74 Tract (about 2715 acres)—cultural preservation or environmental preservation.

White Rock Tract (about 100 acres)—cultural preservation and commercial development or commercial and residential development.

Each of these tracts may have existing or future infrastructure uses that include utility lines, utility support structures, water supply wells, storage tanks or structures, water or effluent treatment structures and transportation routes.

The proposed action encompasses floodplains and wetlands because Pub. L. 105–119 requires DOE to identify land that may meet the criteria established by the Law. The suitability criteria does not exclude land containing wetland and floodplain areas; therefore, potentially suitable land in wetland and floodplain areas was included in the tracts DOE identified for possible conveyance and transfer. The conveyance or transfer of each tract, in whole or in part, constitutes DOE's Proposed Action Alternative. The only alternative to the proposed action considered is the No Action Alternative. The proposed action of conveying or transferring each of the tracts, either in whole or in part, conforms to applicable State or local floodplain protection standards. Contemplated use of the tracts as articulated to DOE by the named recipients would also conform to applicable State or local floodplain protection standards. Both Los Alamos and Santa Fe Counties have protective ordinances pertaining to flood damage prevention that is inclusive of language requiring new construction to be placed outside of floodplains. The pertinent Los Alamos County Code Ordinance is: 85–70 ''An Ordinance Repealing Chapter 15.16 of the Los Alamos County Code Adopting a New Chapter 17.70 Pertaining to Flood Damage prevention.'' The pertinent Santa Fe County Code Ordinances are: 1988–1 ''An Ordinance to Establish Regulations for Development in Flood Hazard Areas, Set Minimum Floor Elevations for Compliance, Define Flood Plains, Address Required Building Improvements, and Establish Variance Regulations for Cases Where There Isn't an Ability to Comply with Adopted Standards,'' and 1996–1 ''Flood Hazards.''

A floodplain statement of findings will be published in the *Final Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico* in accordance with the National Environmental Policy Act. The anticipated issuance date for the Final Environmental Impact Statement is August 1999. Notice of its availability will be announced in the **Federal Register**.

Issued in Los Alamos, NM on June 16, 1999.

David A. Gurulé,

Area Manager, U.S. Department of Energy, Los Alamos Area Office.

[FR Doc. 99–16517 Filed 6–28–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah Gaseous Diffusion Plant

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, July 15, 1999: 5:30 p.m.–8:30 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard Paducah, Kentucky

OTHER INFORMATION CONTACT: John D. Sheppard, Site Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda:

5:30 p.m. Call to order/Discussion
6:00 p.m. Approve Meeting Minutes
6:05 p.m. Public Comment/Questions
6:30 p.m. Presentations
7:15 p.m. Sub Committee Reports
8:15 p.m. Administrative Issues
8:30 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday thru Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (502) 441–6804.

Issued at Washington, DC on June 21, 1999

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–16516 Filed 6–28–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–557–000]

Columbia Gas Transmission Corporation; Notice of Application

June 23, 1999.

Take notice that on June 15, 1999, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Ave, SE, Charleston, WV 25314, tendered for filing in Docket No. CP99–557–000 an

application, pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations seeking permission and approval to abandon by sale 1.9 Bcf of base gas in Columbia's Lucas Storage Field (Lucas Field) located in Ashland and Richland Counties, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc/online/rims.htm (call 202–208–2222 for assistance).

Columbia states that operational efficiencies within the Lucas Field have reduced the need to maintain the historic levels of base gas in Lucas Field. Columbia further states that the disposition of proceeds from the proposed sale of the base gas will be made pursuant to Section C. of Article IV, of Stipulation II of the Settlement in Docket No. RP95–408 Columbia Gas Transmission Corp., 79 FERC ¶ 61,044 (1997).

Any questions regarding the application should be directed to either Ronald L. Binford at (304) 357–2489 (voice) 357–2926 (fax) or Fredric J. George at (304) 357–2359 (voice) (304) 357–3206 (fax), Columbia Gas Transmission Corporation, P.O. Box 1273; Charlestown, West Virginia 25325–1273.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before July 14, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–16450 Filed 6–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3253–000]

Mid-Continent Area Power Pool; Notice of Filing

June 21, 1999.

Take notice that on June 15, 1999, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, filed short-term firm and non-firm service agreements under MAPP Schedule F with AES Power, Incorporated; Ameren Services Company; Ames Municipal Electric System; Basin Electric Power Cooperative (Basin Electric); Central Iowa Power Cooperative; Conagra Energy Services, Inc.; GEN–SYS Energy; Great River Energy; Koch Energy Trading, Incorporated; Lincoln Electric System (LES); Madison Gas and Electric Company; Minnesota Municipal Utilities Association; Minnesota Power; Minnkota Power Cooperative, Incorporated; Missouri River Energy Services; Northern AES; Rainbow Energy Marketing Corporation; Rochester Public Utilities; Southern Minnesota Municipal Power Agency; St. Joseph Light & Power Company; Tenaska Power Services Co.; and TransCanada Power. MAPP also filed, on behalf of its public utility members, service specifications for long-term service under Schedule F with Basin Electric; Interstate Power Company—Marketing; LES; MidAmerican Energy Company; Nebraska Public Power District; Wisconsin Power & Light Company—Bulk Power Marketing; and Wisconsin Public Power, Inc.

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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 6, 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).

David P. Boergers,

Secretary.

[FR Doc. 99–16448 Filed 6–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–558–000]

National Fuel Gas Supply Corporation; Notice of Application

June 23, 1999.

Take notice that on June 15, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, field in Docket No. CP99–558–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the storage service it provides to Colonial Gas Company (Colonial) and Boston Gas Company (Boston Gas) under its SS–1 and SS–2 Rate Schedules, all as more fully set forth in the application 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).

Specifically, National Fuel seeks permission and approval to abandon the storage service it provides to Colonial under National Fuel's SS–1 Rate Schedule, and Boston Gas under National Fuel's SS–2 Rate Schedule, effective April 1, 2000. National Fuel states that both customers, as provided in their service agreements, submitted written notice of termination to National Fuel, effective at the end of the gas day on March 31, 2000.

Any questions regarding the application should be directed to David

W. Reitz at (716) 857–7949, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203.

Any person desiring to be heard or to make protest with reference to said application should on or before July 14, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–16449 Filed 6–28–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Project Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of proposed extension.

SUMMARY: The Current Sam Rayburn Dam Project rate was approved by the Federal Energy Regulatory Commission (FERC) on December 7, 1994, Docket No. EF94–4021–000. These rates were effective October 1, 1994, through September 30, 1998. On August 14, 1998, the Deputy Secretary of Energy approved a one-year extension of the Sam Rayburn Dam rate schedule for the period October 1, 1998 through September 30, 1999. The Administrator, Southwestern, has prepared Current and Revised 1999 Power Repayment Studies for the Sam Rayburn Dam Project which show the need for a minor rate adjustment of $4,692 (0.2 percent increase) in annual revenues. In accordance with Southwestern's rate adjustment threshold, dated June 23, 1987, the Administrator, Southwestern, may determine, on a case by case basis, that for a revenue decrease or increase in the magnitude of two percent, deferral of a formal rate filing is in the best interest of the Government. The Secretary of Energy has the authority to extend rates, previously confirmed and approved by FERC, on an interim basis, pursuant to 10 CFR 903.22(h) and 903.23(a)(3). In accordance with Department of Energy (DOE) rate extension authority and Southwestern's rate adjustment threshold, the Administrator is proposing that the rate adjustment be deferred and that the current rates be extended for a one-year period effective through September 30, 2000.

DATES: Written comments are due on or before July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 595–6696, reeves@swpa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

Southwestern markets power from 24 multiple-purpose reservoir projects with power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the States of Arkansas, Missouri, Oklahoma and Texas. Southwestern's marketing area includes these states plus Kansas and Louisiana. Of the total, 22 projects comprise an Integrated System and are interconnected through Southwestern's transmission system and exchange agreements with other utilities. The other two projects (Sam Rayburn and Robert Douglas Willis) are not interconnected with Southwestern's Integrated System. Instead, their power is marketed under separate contracts through which two customers purchase the entire power output of each of the projects at the dams.

Following DOE Order Number RA 6120.2, the Administrator, Southwestern, prepared a 1999 Current Power Repayment Study (PRS) using the existing Sam Rayburn Dam Project rate schedule. This PRS, like the previous year's, includes estimates for both Southwestern's and the Corps' portions of the unfunded Civil Service Retirement Service and post retirement life/health costs. The PRS shows the cumulative amortization through FY 1998 at $12,339,699 on a total investment of $25,734,878. The FY 1999 Revised PRS indicates the need for an increase in annual revenues of $4,692, or 0.2 percent.

As a matter of practice, Southwestern would defer an indicated rate adjustment that falls within Southwestern's plus-or-minus two percent rate adjustment threshold. The threshold was developed to add efficiency to the process of maintaining adequate rates and is consistent with cost recovery criteria within DOE Order Number RA 6120.2 regarding rate adjustment plans. The Sam Rayburn Dam Project's FY 1998 (last year's) PRS concluded that the annual revenues needed to be decreased by 0.2 percent. At that time, it was determined prudent to defer the decrease in accordance with the established threshold and the current rate schedule was continued for one year. It once again seems prudent to defer this rate adjustment of 0.2 percent, or $4,692 per year in accordance with Southwestern's rate adjustment threshold and reevaluate the ability of the existing rate to provide sufficient revenues to satisfy costs projected in the FY 2000 (next year's) PRS.

On December 7, 1994, the current rate schedule for the Sam Rayburn Dam Project was confirmed and approved by the FERC on a final basis for a period that ended September 30, 1998. In accordance with 10 CFR 903.22(h) and 903.23(a)(3), the Secretary may extend existing rates on an interim basis beyond the period specified by the FERC.

As a result of the benefits obtained by a rate adjustment deferral (reduced Federal expense and rate stability) and the Secretary's authority to extend a previously approved rate, Southwestern's Administrator is proposing to extend the current Sam

Rayburn Dam Project rate schedule. The schedule is to be effective for the one-year period beginning October 1, 1999, and extending through September 30, 2000.

Opportunity is presented for customers and interested parties to receive copies of the study data for the Sam Rayburn Dam Project. If you desire a copy of the Repayment Study data package for the Sam Rayburn Dam Project, please submit your request to: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, P.O. Box 1619, Tulsa, OK 74101, call (918) 595–6696 or e-mail *reeves@swpa.gov*.

Following review of the written comments (absent any substantive reasons to do otherwise), the Administrator will submit the rate extension proposal for the Sam Rayburn Dam Project to the Secretary of Energy for confirmation and approval.

Dated: June 16, 1999.

Michael A. Deihl,

Administrator.

[FR Doc. 99–16518 Filed 6–28–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6369–3]

Clean Air Act Advisory Committee, Notice of Meeting

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2 Section 10(a)(2) notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Tuesday, July 27, 1999, from approximately 8:30 a.m. to 3:30 p.m. at the Washington Marriott Hotel, 1221 22rd Street, N.W., Washington, D.C. Seating will be available on a first come, first served basis. The CAAAC's four Subcommittees (The Energy, Clean Air and Climate change Subcommittee; Linking Energy, Land Use, Transportation, and Air Quality Concerns Subcommittee; the Permits/NSR/Toxics Integration Subcommittee; and the Economic Incentives and Regulatory Innovations Subcommittee) will hold meetings on July 26. The Climate Change Subcommittee is scheduled to meet from 1 p.m. to 4 p.m.; the Economics Incentives and Regulatory Innovations Subcommittee is scheduled to meet from 4 p.m. to 6 p.m.; the Permits/NSR/Toxics Subcommittee is scheduled to meet from 5:30 p.m. to 7:30 p.m.; and the Linking Transportation Land Use and Air Quality Subcommittee is scheduled to meet from 7 p.m. to 10 p.m. All subcommittee meetings will be held at the Washington Marriott Hotel, the same location as the full Committee.

INSPECTION OF COMMITTEE DOCUMENTS: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A–94–34 (CAAAC). The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

For Further Information concerning this meeting of the full CAAAC, please contact Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, FAX (202) 260–8509 or by mail at US EPA, Office of Air and Radiation (Mail code 6102), 401 M St. S.W. Washington, D.C. 20460. For information on the Subcommittee meetings, please contact the following individuals: (1) Energy, Clean Air and Climate Change—Anna Garcia, 202–564–9492; (2) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919 541–5354; (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202–260–7433; and (4) Linking Transportation Land Use and Air Quality Concerns—Gay MacGregor, 734–668–4438.

Dated: June 17, 1999.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–16540 Filed 6–28–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6369–2]

Gulf of Mexico Program's Citizens Advisory Committee Meeting

AGENCY: U.S. Environmental Protection Agency (US EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, P.L. 92463, EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee (CAC).

DATES: The CAC meeting will be held on Thursday, July 29, 1999 from 1:00 p.m. to 5:30 p.m. and on Friday, July 30, 1999 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the River House Conference Facility, Stennis Space Center, Mississippi (228) 688–7618.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items will include: Watershed Targeting, Coastal Sewage Initiative Discussion, Membership & Attendance Follow-up, GMP Project Presentations, and Ecoventures Project Presentation.

The meeting is open to the public.

Dated: June 21, 1999.

James D. Giattina,

Director, Gulf of Mexico Program Office.

[FR Doc. 99–16539 Filed 6–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6368–9]

Notice of Proposed Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), 42 U.S.C. 9601–9675, notice is hereby given that a proposed purchaser agreement (''Purchaser Agreement'') associated with the Warwick Township Creek Road Superfund Site (''Site'') in Warwick Township, Bucks County, Pennsylvania, was executed by the United States Environmental Protection Agency (''EPA'' or ''Agency'') and the Department of Justice and is now subject to public comment, after which the United States may modify or withdraw its consent if comments

received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement will resolve certain potential EPA claims under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against LC Associates, L.P., General Land Partners, Inc., Heritage Creek Associates, L.P. and Heritage Creek Associates, Inc. (referred to herein collectively as the ''Purchaser''). The property subject to the Purchaser Agreement is located at the 13 acre +/ −Warwick Township Creek Road Superfund Site. The town of Hartsville, Pennsylvania is situated west of the Site. A small stream, which is a tributary to the Little Neshaminy Creek and the Little Neshaminy Creek are located in the area.

The Property was used primarily for farming, however, a portion of the Property was utilized as an auto-body, sandblasting, automotive and swimming pool painting operation. On or about January 1997, EPA initiated a response action at the Site. EPA removed numerous drums, containers and contaminated soil. Hazardous substances released at the Site include polychlorinated biphenyls (''PCBs'') and lead. The Purchaser intends to construct a golf course on the Site.

For fifteen (15) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before July 14, 1999.

ADDRESSES: *Availability:* The proposed Purchaser Agreement and additional background information relating to the proposed Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Purchaser Agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Warwick Township Creek Road Site Prospective Purchaser Agreement'' and ''EPA Docket No. III–CERC–PPA–99–05,'' and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Benjamin Cohan (3RC41), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2618.

Dated: June 21, 1999.

W. Michael McCabe,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 99–16535 Filed 6–28–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority.

June 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, Pub. L. 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 August 30, 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 Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0209.

Title: Section 73.1920 Personal attacks.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 698 AM/FM/TV stations.

Estimated Time Per Response: 30 minutes.

Frequency of Response: Reporting, on occasion.

Total Annual Burden: 349 hours.

Total Annual Cost: $0.

Needs and Uses: During the presentation of views on a controversial issue of public importance, an attack may be made upon the honesty, character, integrity, or like personal qualities of an identified person or group. Section 73.1920 requires that a licensee of a broadcast station must transmit to the person or group attacked a notification of the date, time and identification of the broadcast of a personal attack, a script or tape of the attack, and an offer of a reasonable opportunity to respond to the attack over the licensee's facilities. This data is used to notify a person or group that a personal attack has been made and to afford that person or group attacked an opportunity to respond to the attack over the licensee's facilities.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–16483 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–809]

List of Foreign Telecommunications Carriers that are Presumed To Possess Market Power in Foreign Telecommunications Markets

AGENCY: Federal Communications Commission

ACTION: Notice.

SUMMARY: This document contains a list of carriers that are presumed to possess market power in foreign telecommunications markets. Carriers will be precluded from exchanging traffic outside of the international

settlements policy with carriers on the list unless otherwise allowed by the rules. The Commission developed this list to provide carriers with a means of identifying carriers that lack market power in the foreign market.

FOR FURTHER INFORMATION CONTACT: Robert McDonald, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION:

Released: May 6, 1999.

In the *1998 Biennial Regulatory Review—Reform of the International Settlements Policy and Associated Filing Requirements*, IB Docket No. 98–148 and CC Docket No. 90–337, Report and Order and Order on Reconsideration FCC 99–73 (released May 6, 1999 and published elsewhere in this issue), the Federal Communications Commission (Commission) modified its rules to remove its requirement that agreements between U.S. telecommunications carriers and foreign carriers that lack market power in the foreign telecommunications market conform to the Commission's international settlements policy (ISP). The Commission's rules include a presumption that a foreign carrier does not possess market power on the foreign end of a U.S. international route if it possesses less than 50 percent market share in each of three relevant foreign product markets: international transport facilities, including cable landing station access and backhaul facilities; intercity facilities and services; and local access facilities and services on the foreign end.

The Commission stated that it would issue a list of carriers that do not qualify for this presumption. U.S. international carriers would be precluded from exchanging traffic outside of the ISP with carriers on the list unless otherwise allowed. U.S.-authorized carriers would also be precluded from agreeing to accept special concessions (as defined in Section 63.14 of the Commission's rules) from carriers on the list unless otherwise allowed under the Commission's rules. The Commission found that this approach best advances the policy of allowing U.S. carriers to enter into arrangements with foreign carriers that lack market power with a minimum of regulatory oversight, while maintaining the ISP for certain arrangements with foreign carriers that possess market power in the foreign market.

The following list specifies particular foreign carriers that do not qualify for this presumption. The list is based on publicly available information, compiled from official sources, including the International Telecommunication Union. Interested parties may challenge the inclusion or exclusion of any carrier on the list by submitting a petition for declaratory ruling and the appropriate supporting documentation to demonstrate that a carrier included on the list lacks market power or that a carrier not included does not lack market power. This list applies only for purposes of determining those foreign carriers that are subject to our ISP, our rules on providing switched services over private lines, and the No Special Concessions rule. It does not apply for purposes of market power determination under Sections 63.10 (Regulatory classification of international carriers) or 63.18 (Contents of applications for international common carriers).

The list below will be posted on the International Bureau's World Wide Web site. (http://www.fcc.gov/ib).

Destination market	Dominant operators
Afghanistan:	Cable Alcao Kabul.
Albania	Albania Telecom.
Algeria	Ministére des Postes et Télécommunications (MPT).
Angola	Angola Telecom.
Antigua and Barbuda	Cable & Wireless.
Argentina	Telintar.
Armenia	Armentel.
Australia	Telstra.
Austria	Post and Telekom Austria AG (PTA).
Azerbaijan	Ministry of Communication.
Bahamas	Bahamas Telecommunications Corporation (Batelco).
Bahrain	Bahrain Telecommunications Company (BATELCO).
Bangladesh	Bangladesh Telegraph & Telephone Board.
Barbados	Barbados External Telecommunications Ltd. (BET).
Belarus	Beltelecom.
Belgium	Belgacom.
Belize	Belize Telecommunications Ltd.
Benin	Office des postes et télécommunications (OPT).
Bermuda	Cable & Wireless Bermuda.
Bhutan	Bhutan Telecom.
Bolivia	Empresa Nacional de Telecomunicaciones S.A.
Bosnia and Herzegovina	Post Telephone & Telegraph of Bosnia and Herzegovina. Telekom Republike Srpske.
Botswana	Botswana Telecommunications Corporation (BTC).
Brazil	Embratel.
Brunei	Jabatan Telekom Brunei (JTB).
Bulgaria	Bulgarian Telecommunications Company (BTC).
Burkino Faso	Office national des télécommunications (ONATEL).
Burma	Myanmar Posts & Telecommunications.
Burundi	Office National des Télécommunications (ONATEL).
Cambodia	Directorate of Posts and Telecommunications (DPTK).
Cameroon	Société des Télécommunications Internationales du Cameroun (INTELCAM).
Canada	Stentor Alliance (BC Tel, Bell Canada, Island Tel. Manitoba Telecom Services, Inc., Maritiem Tel&Tel, NewTel Communications, NBTel, and Telus).
Cape Verde	Cabo Verde Telecom Sarl.
Central African Rep	Société Centrafricaine des Télécommunications (SOCATEL).
Chad	Société des Télécommunications Internationales du Tchad (TIT).
Chile	CTC.

Destination market	Dominant operators
China	China Telecom.
Colombia	Empresa Nacional de Telecomunicaciones.
Comoros	Société Nationale des Postes et Télécommunications (SNPT).
Congo	Office National des Postes et des Télécommunications (ONPT).
Costa Rica	Instituto Costariccense de Electicidad (ICE).
Côte d'Ivoire	Société Côte d'Ivoire-TELECOM (CI–TELECOM).
Croatia	Croatian Post and Telecommunications (HPT).
Cuba	Empresa Telecomunicaciones de Cuba S.A. (ETECSA).
Cyprus	Cyprus Telecommunications Company.
Czech Rep	SPT Telecom.
Dem. Rep. of Congo	Office Congolais des Postes et des Télécommunications (OCPT).
Denmark	Tele Danmark A/S.
Djibouti	Société Telecom International (STID).
Dominica	Telecommunications of Dominica.
Dominican Republic	Compañía Dominicana de Teléfonos (CODETEL).
Ecuador	Emetel.
	Andinatel.
	Pacifictel.
Egypt	Egypt Telecom.
El Salvador	Compañía de Telecomunicaciones de El Salvador.
Equatorial Guinea	La Sociedad Anonima de Telecomunicaciones de la.
Republica de	Guinea Ecuatorial (GETESA).
Eritrea	Telecommunications Services of Eritrea (TSE).
Estonia	Estonian Telephone Company.
Ethiopia	Ethipian Telecommunications Corporation (ETC).
Finland	Sonera Ltd.
France	France Télécom.
Gabon	Télécommunications Internationales Gabonaises (TIG).
Gambia	Gambia Telecommunications Company, Ltd. (GAMTEL).
Georgia	Georgia Telecom.
Germany	Deutsche Telekom AG.
Ghana	Ghana Telecommunications Company.
Greece	Hellenic Telecommunications Organization (OTE).
Grenada	Grenada Telecommunications.
Guatemala	Telecomunicaciones de Guatemala (Telgua).
Guinea	Société des Télécommunications de Guinée (SOTELGUI).
Guinea-Bissau	Companhia de Telecomunicaoes da Guiné-Bissau, sarl (Guiné-Telecom).
Guyana	Guyana Telephone and Telegraph Ltd.
Haiti	Telecommunications d'Haiti S.A.M.
Holy See (Vatican City)	Telecom Italia.
Honduras	Empresa Hondureña de Telecomunicaciones.
Hong Kong	Hong Kong Telecom.
Hungary	Hungarian Telecommunication Co. (MATAV).
Iceland	Landssiminn.
India	Videsh Sanchar Nigam Limited (VSNL).
Indonesia	PT Indosat.
Iran	Telecommunciations Company of Iran.
Iraq	Ministry of Telecommunications.
Ireland	Telecom Eireann.
Israel	Bezeq.
Italy	Telecom Italia.
Jamaica	Cable & Wireless Jamaica.
Japan	Kokusai Denshin Denwa Co., Ltd. (KDD).
	Nippon Telegraph & Telephone Corporation (NTT).
Jordan	Jordan Telecommunications Corporation (JTC).
Kazakhstan	Kazakhtelecom.
Kenya	Kenya Posts and Telecommunication Corporation (KPTC).
Kiribati	Telecom Services Kiribati Limited.
Korea (South)	Korea Telecom.
Korea (North)	Pycompute Pyongyang.
Kuwait	Ministry of Communications.
Kyrgyszstan	Kyrgyztelecom.
Laos	Enterprise of Telecommunications Lao (ETL).
	Lao Shinawatra Telecom Company.
Latvia	Lattelekom.
Lebanon	Ministry of Posts and Telecommunications.
Lesotho	Lesotho Telecommunications Corporation (LTC).
Liberia	Ministry of Posts and Telecommunications.
Libya	General Post and Telecommunications Company (GPTC).
Liechtenstein	Swiss Telecom PTT.
Lithuania	Lietuvos Telekom.
Luxembourg	Luxembourg PTT.
Macedonia	Macedonian Telecom.
Madagascar	Telecom Malagasy (TELMA).

Destination market	Dominant operators
Malawi	Malawi Posts and Telecommunications Corporation (MPTC).
Malaysia	Telecom Malaysia.
Maldives	DHIRAAGU.
Mali	Société des Télécommunications du Mali (SOTELMA).
Malta	Telemalta Corporation.
Marshall Islands	National Telecommunications Authority.
Mauitania	Office des postes et des télécommunications (OPT).
Mauritius	Mauritius Telecom Limited.
Mayotte	France Télécom.
Mexico	Telefonos de Mexico (TelMex).
Micronesia	FSM Telecommunications.
Moldova	Moldtelecom.
Monaco	France Télécom.
Mongolia	Mongolia Telecommunications Company.
Morocco	Itissalat Al Maghrib.
Mozambique	Telecomunicaçoes de Moçambique.
Namibia	Telecom Namibia.
Nauru	Nauru Telcom.
Nepal	Nepal Telecommunications Company.
Netherlands	KPN Telecom N.V.
Netherlands Antilles	Antelecom N.V.
New Zealand	Telecom Corporation of New Zealand Ltd. (TCNZ).
Nicaragua	Enitel.
Niger	Société nigérinne des télécommunications (SONITEL).
Nigeria	Negerian Telecommunications plc.
Norway	Telenor AS.
Oman	General Telecommunications Organization (GTO).
Pakistan	PAK-Telecom.
Palau	Palau National Communications Corporation (PNCC).
Palestine	Palestine Telecommunications Company P.L.C. (PALTEC).
Panama	INTEL.
Papua New Guinea	Post & Telecommunications Commission.
Paraguay	Antelco.
Peru	Telefónica del Peru.
Philippines	Philippines Long Distance Telephone Company (PLDT).
Poland	Telekomunikacja Polska S.A.
Portugal	Portugal Telecom S.A.
Qatar	Qatar Public Telecommunications Corporation.
Réunion	France Télécom.
Romania	Romtelecom.
Russia	Rostelecom.
Rwanda	Rwandatel S.A. (RWANDATEL).
St. Kitts and Nevis	Cable & Wirless.
St. Lucia	Cable & Wireless.
St. Vincent and the Grenadines	Cable & Wireless.
San Marino	Telecom Italia.
Sao Tomé & Principe	Companhia Santomense de Telecomunicações, s.a.r.l. (CST).
Saudi Arabia	Saudi Telecommunications Company.
Senegal	Société Nationale des Télécommunications du Sénégal (SONATEL).
Serbia and Montenegro	Serbija Telecom.
Seychelles	Cable & Wireless (Seychelles) Ltd.
Sierra Leone	Sirra Leone Telecommunications Company (SIRRATEL).
Singapore	Singapore Telecom.
Slovakia	Slovak Telecom (ST).
Slovenia	Telecom Slovenia.
Solomon Islands	Solomon Telekom Company.
Somalia	Ministry of Posts and Telecommunications.
South Africa	Telkom SA Limited.
Spain	Telefónica.
Sri Lanka	Sri Lanka Telecom.
Sudan	Sudan Telecommunications Company Ltd. (Sudatel).
Suriname	Telesur.
Swaziland	Swaziland Posts and Telecommunications Corporation (SPTC).
Sweden	Telia.
Switzerland	Swisscomm.
Syria	Syrian Telecommunications Establishment (STE).
Taiwan	Chunghwa Telecom.
Tajikistan	Tajiktelecom.
Tanzania	Tanzania Telecommunications Company Limited (TTCL).
Thailand	Telephone Organization of Thailand (TOT).
Togo	Société des Télécommunications du Togo (TOGO TELECOM).
Trinidad and Tobago	Telecom Services of Trinidad and Tobago
Tunisia	Tunisie Telecom.
Turkey	Turk Telekomunikasyon A.S.

Destination market	Dominant operators
Turkmenistan	Turkmentelecom.
Tuvalu	Ministry of Labor, Works and Communications.
Uganda	Uganda Posts and Telecommunications Corporation (UPTC).
Ukraine	Utel.
United Arab Emirates	The Emirates Telecommunications Corp. Ltd. (Etisalat).
United Kingdom	British Telecom.
Uruguay	Administración Nacional de Telecomunicationes.
Uzbekistan	Halqaro Telecom.
Vanuatu	Vanuatu Telecom.
Venezuela	Compañia Anónima Nacional Teléfonos de Venezuela.
Vietnam	Viet Nam Post and Telecommunications Corporation (VNPT).
Western Samoa	Postal and Telecommunications Department.
Yemen	Yemen International Telecommunications Company (TELEYEMEN).
Zambia	Zambia Telecommunications Company Limited (Zamtel).
Zimbabwe	Posts and Telecommunications Corporation (PTC).

Additional Carriers Included on This List

All incumbent local exchange carriers in the destination markets above.

All carriers that control, are controlled by, or are under common control with, a carrier listed above in the particular destination market.

For additional information, please contact Robert McDonald or Kathy O'Brien, Telecommunications Division, International Bureau, (202) 418–1470.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–16033 Filed 6–28–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of Certain Receiverships by the FDIC in the Third Quarter of 1999

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: Notice is hereby given that the FDIC, for itself or as successor in interest to the Resolution Trust Corporation, in its capacity as Receiver for the Institutions set forth below (the Receiver) intends to terminate these receiverships during the third calendar quarter of 1999.

FOR FURTHER INFORMATION CONTACT: Division of Resolutions and Receiverships, Terminations Section, 1–800–568–9161.

SUPPLEMENTARY INFORMATION:

Financial institution No. and name	City	State
1123 United American Bank in Knoxville	Knoxville	TN
1213 First Federal Savings Bank of South Dakota	Rapid City	SD
1245 Potomac Federal Savings Bank	Silver Spring	MD
1262 Jacksonville Federal Savings Association	Jacksonville	FL
1264 Goldome Federal Savings Bank	St. Petersburg	FL
2117 First Federal Savings Association of Toledo	Toledo	OH
2132 The First, F.A.	Orlando	FL
2136 Atlantic Financial Federal—West Virgina, F.S.A.	Charleston	WV
2195 Trustbank Federal Savings Bank	Tysons Corner	VA
4245 Milford Savings Bank	Milford	MA
4286 First American Bank for Savings	Boston	MA
4309 Bank of New England	Boston	MA
4310 Connecticut Bank & Trust Co., N.A.	Hartford	CT
4311 Maine National Bank	Portland	ME
4371 First Mutual Bank for Savings	Boston	MA
4434 The Bank Mart	Bridgeport	CT
4450 The Central Savings Bank	Lowell	MA
4550 The Merchants Bank	Kansas City	MO
4588 Jefferson Bank & Trust	Lakewood	CO
4606 Mechanics National Bank	Paramount	CA
4620 First Trust Bank	Ontario	CA
4627 The First National Bank of the Panhandle	Panhandle	TX
4629 Commonwealth Thrift and Loan	Torrance	CA
4634 Victory State Bank	Columbia	SC
6852 Heritage Bank & Trust	Salt Lake	UT
6915 Enterprise Federal Savings and Loan Association	Marrero	LA
6959 San Antonio Savings Association, F.A.	San Antonio	TX
7047 Lincoln Federal Savings and Loan Association	Miami	FL
7064 Lincoln Federal Savings and Loan Association	Mt. Carmel	TN
7070 Gill Savings Association	Hondo	TX
7093 Universal Federal Savings Association	Houston	TX
7094 Metropolitan Financial Federal Savings and Loan Association	Dallas	TX
7098 Frontier Federal Savings Association	Walla Walla	WA
7164 Independence Federal Bank, Federal Savings Bank	Batesville	AR
7169 City Federal Savings and Loan Association	Birmingham	AL

Financial institution No. and name	City	State
7220 Nassau Savings and Loan Association F.A.	Brooklyn	NY
7258 Mid-America Federal Savings and Loan Association	Columbus	OH
7277 Statesman Federal Savings Bank	Des Moines	IA
7364 First Federal Savings Association of Conroe	Conroe	TX
7590 Silverado Banking, Savings and Loan Association	Denver	CO
7793 Goldome Savings Bank, FSB	St. Petersburg	FL
7964 Jacksonville Federal Savings Bank	Jacksonville	FL
8235 Nassau Federal	Brooklyn	NY

The liquidation of the assets of these receiverships is expected to be completed no later than September 30, 1999. To the extent permitted by available funds and in accordance with law, the Receiver for these institutions will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of such receiverships will serve no useful purpose. Consequently, notice is given that the receiverships will be terminated, as soon as practicable but no sooner than thirty (30) days after the date this Notice is published.

If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date this Notice is published to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Terminations Department, 1910 Pacific Avenue, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

FederaL Deposit Insurance Corporation.

Dated: June 23, 1999.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–16435 Filed 6–28–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Tuesday, July 6, 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: June 25, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–16692 Filed 6–25–99; 3:39 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Premerger Notification: Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of amendment of Formal Interpretation 15.

SUMMARY: The Premerger Notification Office (''PNO'') of the Federal Trade Commission (''FTC''), with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (''DOJ''), is amending a Formal Interpretation of the Hart-Scott-Rodino Act, which requires persons planning certain mergers, consolidations, or other acquisitions to report information about the proposed transactions to the FTC and DOJ. The Interpretation concerns the reportability of certain transactions involving the formation of a Limited Liability Company (''LLC''), a relatively new form of entity authorized by state statutes, resulting in the combination of businesses into the new LLC.

This Formal Interpretation was first published on October 13, 1998, together with a request for comments, to become effective on December 14, 1998. 63 FR 54713 (October 13, 1998). The PNO received six comments which were placed on the public record. On December 2, 1998, the effective date of this Interpretation was postponed until February 1, 1999, to give the PNO staff more time to analyze and respond to the comments. 63 FR 66546 (December 2, 1998).

Formal Interpretation 15 was modified in response to the comments and republished on February 5, 1999. 64 FR 5808 (February 5, 1999). Under the revised Interpretation, the formation of an LLC which combines under common control in the LLC two or more pre-existing businesses will be treated as subject to the requirements of the HSR act under § 801.2(d) of the HSR rules, 16 CFR 801.2(d), which governs mergers and consolidations. Because Formal Interpretation 15 had been modified substantially, the effective date of the Interpretation was postponed until March 1, 1999. *Id.*

Shortly after the Interpretation became effective, it became apparent that the Interpretation as it applies to transactions involving existing LLCs does not give clear guidance. The section of the Interpretation dealing with acquisitions of and by existing LLCs has therefore been amended in a number of respects to explain how much transactions are to be analyzed. First, the first full paragraph in the third column 64 FR 5809 (February 5, 1999) has been deleted. Second, the four paragraphs in this notice which begin with the phrase ''The acquisition of a membership interest in an existing LLC will be a potentially reportable event * * *'' and end with phrase ''* * * whether there is a change in any member's membership interest.'' have been inserted between the carryover paragraph and the first full paragraph in the second column at 64 FR 5810. Third, Example 2, at 64 FR 5811, has been revised in a number of respects. Fourth, a new Example 3 has been added, and current Examples 3 and 4 at 64 FR 5811 have been renumbered as Examples 4 and 5, Fifth, a new Example 6 has been added, and current Examples

6–8 at 64 FR 5811 have been renumbered as Example 8–10. Finally, current Example 8 (now Example 10) has been revised a number of respects. The new language in the Interpretation is shown in italics.

Formal Interpretation 15, as published on February 5, 1999, will continue in effect until the Amended Formal Interpretation 15 becomes effective.

DATES: The Amended Formal Interpretation 15 will become effective on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Richard B. Smith, Deputy Assistant Director, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone (202) 326–2850. Thomas F. Hancock, Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–2946.

SUPPLEMENTARY INFORMATION: The text of Formal Interpretation Number 15, as amended, is set out below.

Formal Interpretation Number 15

Formal Interpretation pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR 803.30, Concerning the Reporting Requirements for the Formation of Certain Limited Liability Companies (''LLCs'').

This is a Formal Interpretation pursuant to § 803.30 of the Premerger Notification Rules (''the rules''). The rules implement Section 7A of the Clayton Act, 15 U.S.C. 18a, which was added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''the act''). This Formal Interpretation and a request for comments were originally published on October 13, 1998, to become effective on December 14, 1998. *See* 63 FR 54713 (October 13, 1998). The PNO staff received six comments. The staff postponed the effective date until February 1, 1999, in order to have more time to analyze these comments. 63 FR 66546 (December 2, 1998). Formal Interpretation 15, published here, has been modified substantially in response to the comments received and postpones the effective date until March 1, 1999.

The act requires the parties to certain acquisitions of voting securities or assets to notify the FTC and the DOJ and to wait a specified period of time before consummating the transaction. The purpose of the act and the rules is to ensure that such transactions receive meaningful scrutiny under the antitrust laws, with the possibility of an effective remedy for violations, prior to consummation. Under the rules, certain types of transactions, such as mergers, consolidations, and the formation of corporate joint ventures, are treated as acquisitions of voting securities potentially subject to the act, while other transactions, such as the formation of partnerships, are deemed non-reportable. See §§ 801.2(d) and 801.40 of the rules, 16 CFR 801.2(d) and 801.40.

The LLC [1] is a relatively new form of business organization that is neither a partnership nor a corporation but a hybrid legal entity that combines certain desirable features of both partnerships and corporations. Specifically, an LLC is taxed as a partnership but shields its members from liability as a corporation shields its shareholders. The first LLC statute was passed in 1977 by Wyoming [2] and a trickle of other states followed. The use of LLC's expanded significantly after 1988 when the Internal Revenue Service (''IRS'') concluded that an LLC organized under the Wyoming statute was taxable as a partnership.[3] By 1993 all 51 jurisdictions had LLC laws of one form or another.

When it first encountered these types of organizational structures, the PNO concluded that as ''companies'' LLCs are ''entities'' within the meaning of § 801.1(a)(2), 16 CFR 801.1(a)(2), and that, until it had more experience with them, the PNO would treat LLCs like corporations. Initially, therefore, § 801.40 of the rules, 16 CFR 801.40, ''Formation of joint venture or other corporations,'' governed the formation of LLCs and an interest in an LLC was treated as a voting security for HSR purposes.

On further analysis, the PNO concluded that this initial approach was too inclusive. LLCs at the time were primarily used as vehicles for the creation of start-up businesses. The PNO's treatment of LLCs resulted in requiring HSR filings in a large number of transactions that did not raise antitrust concerns. Furthermore, the PNO believed that in most LLCs the interest held by the members of the LLC was more like a partnership interest than a voting security interest. Consequently, in 1994, the PNO began to informally advise parties that the treatment of LLCs for reporting purposes would depend on a determination of whether the interest acquired in the LLC was more like a voting security interest or more like a partnership interest.[4]

This treatment of LLCs has not been completely satisfactory. The use of LLCs has evolved, and while LLCs continue to be used as vehicles for start-up enterprises, they are now often used to combine competing businesses under common control. Indeed, the Commission's litigation staff has investigated several transactions raising potential antitrust concerns involving the formation of LLCs. In these transactions, previously separate businesses were combined under common control when they were both contributed to a single, newly-formed LLC. Nevertheless, the creation of the LLC to combine competing businesses under common control was typically not treated as reportable under the PNO's then-current treatment. However, the union of competing businesses under common control is of obvious potential antitrust concern. Since the past treatments of LLCs have not been satisfactory at singling out those transactions that were the most likely to have anticompetitive effects, the PNO staff has decided to revise its approach to LLCs in order to better carry out the purposes of the act.

The formation of an LLC into which two or more businesses are contributed, like other unions of businesses under common control, is a kind of merger or consolidation.[5] Section 801.2(d)(1)(i) of the rules, 16 CFR 801.2(d)(1)(i), states that ''[m]ergers and consolidations are transactions subject to the act * * *.'' [6]

[1] This Formal Interpretation applies only to the reportability of the formation of certain LLC's. The position of the FTC staff on the status and treatment under the act of other non-corporate entities such as partnerships remains unchanged.

[2] *Wyo Stat.* §§ 17–15–101 to —135 (Supp. 1989).

[3] Rev. Rul. 88–76, 1988–2 C.B. 360, 361.

[4] Specifically, the information of an LLC was treated as potentially reportable only if the LLC had a group that functioned like a board of directors and the LLC ownership interest resulted in the holders appointing person(s) other than their employees, officers, or directors (or those of entities controlled by such holder or its ultimate parent entity) to that group. In such cases, the LLC interest was treated as a voting security interest. In all other instances, LLC interests were treated as partnership interests and the acquisition of these interests was not reportable (unless the acquiring person would hold 100 percent of the interests as a result of the acquisition).

[5] While combining businesses in an LLC may not be a ''merger'' or ''consolidation'' in the strictest sense because they do not involve corporations, the rationale of this interpretation is similar to that used by the PNO under § 801.2(d) to require filing for acquisitions of non-profit corporations which, like LLCs, typically do not issue voting securities. (See ABA, The Premerger Notification Practice Manual, 1991 ed., Interp. #109.)

[6] In fact, as it was originally promulgated in 1978, § 801.2(d)(1)(I), 16 CFR 801.2(d)(1)(I), stated that ''[a] merger, consolidation, or *other transaction combining all or any part of the business of two or more persons* shall be an acquisition subject to the act * * *.'' (emphasis added) 43 FR 33539, July 31, 1978. In 1983, this section was changed to clarify the treatment of mergers and consolidations under the rules, and the italicized wording was eliminated. However, there is no indication that

Continued

A filing requirement for those LLC formations that involve the combination of businesses is appropriate and advances the purposes of the act and the rules, namely, to ensure that the antitrust enforcement agencies have advance notice of, and a timely opportunity to challenge, transactions which may violate the antitrust laws.

This Formal Interpretation, therefore, changes the PNO's treatment of LLC's as follows: The PNO will henceforth treat as reportable the formation of an LLC if (1) two or more preexisting, separately controlled businesses will be contributed, and (2) at least one of the members will control the LLC (i.e., have an interest entitling it to 50 percent of the profits of the LLC or 50 percent of the assets of the LLC upon dissolution.[7] The formation of all other LLCs will be treated similar to the formation of a partnership which, under the PNO's longstanding position on partnership formations, will not be reportable.

In determining what is a ''business'' for purposes of this Interpretation, the PNO will look to the definition of ''operating unit'' for purposes of § 802.1(a) of the rules, 16 CFR 802.1(a), namely, ''* * * assets that are operated * * * as a business undertaking in a particular location or for particular products or services, even though those assets may not be organized as a separate legal entity.'' In addition, for purposes of this Formal Interpretation, the contribution to an LLC of an interest in intellectual property, such as a patent, a patent license, know-how, and so forth, which is exclusive against all parties including the grantor, is the contribution of a business, whether or not the intellectual property has generated any revenues.

Under this Interpretation, the approach of § 801.2(d) will be used to determine the acquiring person(s) and acquired person(s) for potentially reportable LLC formations.[8] Section 801.2(d)(2)(i) states that ''[a]ny person party to a merger or consolidation is an *acquiring person* if as a result of the transaction such person will hold any *assets or voting securities* which it did not hold prior to the transaction'' (emphasis added). In the context of the formation of a new LLC, this means that any person that will control an LLC in which two or more previously separate businesses will be combined will be an acquiring person. Thus, if ''A'' and ''B'' form a 60–40 LLC, the 60 percent member, ''A,'' will be an acquiring person with respect to the contributions of ''B.'' Section 801.2(d)(2)(ii) states that ''[a]ny person party to a merger or consolidation is an *acquired person* if as a result of the transaction the assets or voting securities of any entity included within such person will be held by any other person'' (emphasis added). In the above example of the formation of a 60–40 LLC, ''B'' would therefore be an acquired person. If ''A'' and ''B'' were to form a 50–50 LLC to which both were to contribute businesses, both would be both acquiring and acquired persons because both would control the LLC and thus hold assets or voting securities it did not hold prior to the transaction. ''A'' and ''B'' would file in both capacities, assuming the relevant size criteria were met. Thus, both the acquiring and acquired persons will be required to file notification and, in accordance with § 803.10 of the rules, the 30-day waiting period will begin when both persons have substantially complied with the notification requirements.

Under this Interpretation, the nature of the acquisition(s) taking place when an LLC is formed, that is, whether it is an acquisition of assets or of voting securities, depends on what is being contributed by the other member(s) of the LLC.[9] In the 50–50 LLC described above, suppose that ''A'' contributes a group of assets constituting a business and ''B'' contributes 50 or more percent of the voting securities of a corporate subsidiary, S. In this example, ''B'' will be deemed to have made an acquisition of assets and ''A,'' an acquisition of voting securities.

In addition, any exemption in the act of rules that would make any other acquisition non-reportable may make the acquisition by one or more of the contributors to an LLC non-reportable. If, for example, ''A's'' asset contribution consists of hotel properties the acquisition of which would be exempt under § 802.2(e), ''B's'' acquisition in the formation of this LLC would not be reportable. Similarly, if S has sales and assets of less than $25 million and the value of the S stock that will be held by ''A'' as a result of the acquisition is $15 million or less, then ''A's'' acquisition in the formation would be exempted by § 802.20(b).

To determine whether a filing is required, the parties to potentially reportable formation transactions also must determine the size-of-person and size-of-transaction, which should be done just as in any other asset or voting securities acquisition in accordance with §§ 801.10 and 801.11 of the HSR rules. Since these transactions are similar to asset exchanges, for most such transactions there will not be a determined acquisition price for the acquired assets or voting securities to use in applying the size-of-transaction test. For such transactions, parties should use the market price or fair market value where another contributor contributes 50 or more percent of the voting securities of an issuer (see § 801.10(a)), or the fair market value where another contributor puts assets constituting a business into the LLC (see § 801.10(b)).

The acquisition of a membership interest in an existing LLC will be a potentially reportable event (1) if it results in the acquiring person holding 100 percent of the membership interests in that LLC, and (2) that person had not previously filed for and consummated the acquisition of control of that LLC. Such an acquisition is reportable as the acquisition of all the assets of the LLC. This is similar to the PNO's treatment of acquisitions of partnership interests.

Acquisitions of additional businesses by existing LLCs fall into one of two categories. First, those that result in a change in the percentage membership interest of any member will be treated by the PNO as the formation of a new LLC under this Interpretation. In such a new formation, the acquisition by any person that will control the new LLC of the assets or voting securities of the business(es) being contributed that it did not previously control is potentially reportable. Both additional businesses and the business(es) already in the existing LLC are regarded as being contributed to the new LLC. These transactions should be analyzed using the criteria for formations. Accordingly, persons will be regarded as acquiring only those businesses that they come to control as a result of the transaction.

Second, those acquisitions of businesses by existing LLCs that do not result in a change in the percentage

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this change was intended to narrow the scope of § 801.2(d). Rather, according to the Statement of Basis and Purpose to the 1983 changes, 48 FR 34430, July 29, 1983, the Commission simply sought to make clear that mergers and consolidations are treated as acquisitions of voting securities and to aid the parties to a merger in determining which is the acquiring person and which is the acquired person.

[7] Of course, as with all transactions, the HSR size of person and size of transaction requirements need to be met as well, and exemptions may apply.

[8] The Formal Interpretation as published in October described a method to determine reportability that was based on concepts found in § 801.40 of the HSR rules, 16 CFR 801.40. Certain comments suggested that such an approach was confusing and would increase the likelihood that parties would make erroneous conclusions on their reporting obligations. In light of those comments, and the change in approach this Formal Interpretation adopts, there will no longer be any need to look to § 801.40 to determine reporting obligations.

[9] In this respect, the Interpretation necessarily departs from the text of § 801.2(d)(1)(i), which provides that all mergers and consolidations shall be treated as acquisitions of voting securities.

membership interest of any member are not treated as new formations but, rather, as the acquisition of the assets or voting securities of the business by the LLC or, if it is controlled, by its ultimate parent entity, or entities, and, as such, are potentially reportable.

The acquisition by an existing LLC of assets or voting securities not constituting a business will be treated as the acquisition of assets or voting securities by the LLC or, if it is controlled, by its post-acquisition ultimate parent entity, or entities, and, as such, is potentially reportable. This treatment will pertain without regard to whether there is a change in any member's membership interest.

This Formal Interpretation will not require reporting of some LLC formations and some acquisitions of existing LLC interests that would have required reporting under the Interpretation announced by the PNO in October of 1998. Unlike the October version, this Formal Interpretation requires reporting of the formation of an LLC only if the formation brings together with the LLC two formerly separately controlled businesses. Comments received suggested that the treatment announced in the October version would have covered a substantial number of LLCs that are not likely to raise competitive concerns. For example, the October Formal Interpretation would have viewed LLCs that are created solely as financing vehicles as reportable. In these transactions, a financial institution (or other party providing financing) in the ordinary course of its business contributes only cash or other financial assets and one other party contributes one or more operating units to a new LLC that the financial institution may control for HSR purposes, at least for a period of time. Under this revised Interpretation, so long as such financing transactions do not result in the contribution of a business to the LLC by two or more members, it will not be treated as reportable.[10]

As described above, except for a situation where, as a result of an acquisition, the acquiring person would hold 100 percent of the interests in an existing LLC, no acquisition of an interest in an existing LLC is reportable under this Interpretation. Several comments indicated that LLC agreements are sometimes entered into in which the right to receive more than 50 percent of the LLC's profits shifts from one member to another upon the happening of some event outside the control—or even the knowledge—of the members. Under the definition of control applicable to LLCs (*i.e.*, § 801.1(b)(ii)), under the October Interpretation, such a shift in the right to receive profits might have created a reporting obligation. The commenters argued that it would be unduly burdensome to require the beneficiaries of such shifts to file and that no substantive law enforcement interest would be served. The PNO does not intend that such shifts be reportable under this Formal Interpretation. Since such a shift would be the post-formation acquisition of any interest in an existing LLC without the contribution of another business, it will not be treated as subject to the reporting requirements of the act.

Some of the reasons for concluding that the formation of certain LLCs should be treated as reportable may apply equally well to partnerships. The position of the PNO, however, is that the formation of a partnership is not reportable and acquisitions of partnership interests that do not result in one person's holding 100 percent of the interests in a partnership are non-reportable. Several comments received on the Formal Interpretation published in October suggested that no change to the treatment of partnerships was necessary at this time. The treatment of partnerships was originally adopted, in part, because of the difficulty of monitoring compliance with HSR reporting obligations since many partnerships can be formed informally or by implication in many typical business arrangements. Furthermore, there has been no suggestion in any of the comments that partnerships are being used with any greater frequency now to combine competing businesses. Consequently, the PNO has decided not to change its treatment of partnerships at this time, but it may re-visit this issue in the future as developments require.

The following examples are an integral part of this Formal Interpretation:

1. ''A'' and ''B'' both plan to contribute businesses to a new LLC in which each will acquire a 50 percent interest. This LLC formation would involve both ''A'' and ''B'' making reportable acquisitions if the size-of-person and size-of-transaction tests are met. Each acquisition would be reportable unless exempted by Section 7A(c) of the act or Part 802 of the HSR rules. ''A'' would file as an acquiring person and ''B'' as an acquired person for ''A's'' acquisition of the assets being contributed by ''B,'' and ''B'' would file as an acquiring person and ''A'' as an acquired person for ''B's'' acquisition of the assets contributed by ''A.'' If ''A'' or ''B'' (or both) contributed 50 percent or more of the voting securities of a corporation, the acquisition(s) would be treated as an acquisition of voting securities of the issuer whose shares are contributed.

2. ''A,'' ''B,'' and ''C'' form an LLC in year 1 in which each receives a one-third interest and to which each contributes a business valued at approximately $20 million. ''A,'' ''B,'' and ''C'' are $100 million persons. This formation would not be reportable because no member controls the LLC. In year 2, ''X,'' also a $100 million person, acquires the membership interests of ''A'' and ''B'' for cash. This would not be reportable because *acquisitions of membership interests in existing LLCs are potentially reportable only if they result in one person holding 100 percent of the interests in the LLC. Note that if ''X'' also contributes a business to the LLC in exchange for the LLC membership interest it receives, the transaction will be treated as the formation of a new LLC. The acquisition of the new business will not be reportable because ''X'' already controls it. ''X'' may, however, have a filing obligation as an acquiring person with respect to the businesses already in the LLC if the size tests are met and no exemption applies. The existing LLC would be the acquired person because no member controls it.* Note also that in the example where ''X'' contributed only cash and did not file under HSR, if ''X'' were subsequently also to acquire ''C's'' membership interest it would then hold 100 percent of the interests in this LLC and would therefore have to file for the acquisition of all of the assets of the LLC.

3. In year 1, ''A'' and ''B'' form an LLC to which ''A'' contributes a business and takes back a 60 percent interest and ''B'' contributes cash and takes back a 40 percent interest. This transaction is not reportable. Suppose, however, that in year 4:

a. ''B'' contributes a new business, ''A'' contributes cash, and there is no change in percentage membership interests. This would not be analyzed as a new formation but would be treated as an acquisition by the LLC. ''A,'' as the ultimate parent entity of the LLC, would file as acquiring and ''B'' as acquired for the acquisition of the business.

b. ''A'' contributes a business, ''B'' contributes cash, and their interests change so that ''A'' has 61 percent and ''B'' has 39 percent. This is a new formation because of the changes in the

[10] There is no evidence to suggest now that LLC formations where only one business is contributed are being used to accomplish a merger or consolidation of two businesses. However, the PNO will look carefully at these transactions in the future and, it they begin to be used to accomplish a merger or consolidation, will re-visit this issue.

membership interests but it is not reportable because two or more separately controlled businesses are not being contributed, as ''A'' controlled both businesses before the transaction.

c. ''B'' contributes a business, ''A'' contributes cash, and their interests change so that ''A'' has 59 percent and ''B'' has 41 percent. This is also a new formation. ''A'' will file to acquire the business being contributed by ''B.''

d.''B'' contributes a business and the membership interests change so that ''B'' has 60 percent and ''A'' has 40 percent. This is a new formation, and ''B'' would file to acquire the business contributed by the LLC. ''A,'' as the ultimate parent entity of the existing LLC, would file as the acquired person.

e. ''C'' contributes assets not constituting a business and the percentage interests are adjusted so that ''A'' has 50 percent, ''B'' has 30 percent, and ''C'' has 20 percent. This is not a new formation because the assets being contributed are not a business. ''A,'' as ultimate parent entity of the LLC, will file to acquire these assets from ''C.''

4. ''A'' and ''B'' form a new LLC, to which ''A'' will contribute its widget business and ''B'' will contribute cash for operating capital. This formation would not be reportable because two previously separate businesses are not being contributed to the LLC.

5. ''A,'' ''B,'' and ''C'' form a 60–20–20 LLC to which ''A'' contributes cash and receives a 60 percent membership interest and ''B'' and ''C'' each contribute an operating unit for a 20 percent interest. This is a kind of a consolidation of ''B's'' and ''C's'' operating units into the new LLC and ''A'' will control the LLC. There are two reportable transactions (assuming the size criteria are met and no exemption applies): ''A'' acquiring the operating unit contributed by ''B,'' and ''A'' acquiring the operating unit contributed by ''C''.

6. In year 1, ''A,'' ''B,'' and ''C'' form a new LLC to which each contributes a business and takes back a one-third membership interest. In year 4, the LLC acquires all the voting securities of another business from ''D'' in exchange for certain assets not constituting a business. This acquisition would not be analyzed as the formation of a new LLC because no member's percentage interest changes as a result of the transaction. Rather, the LLC would be viewed as acquiring the voting securities of the new business from ''D.'' This transaction will be reportable if the size criteria are met and no exemption applies. ''D'' will, of course, have to analyze its acquisition of assets from the LLC to determine if it is also reportable.

7. ''A'' proposes to consolidate its widget business, which it has conducted in two subsidiaries and a division, into a newly-formed LLC in which it will hold a 60 percent membership interest. This would not be reportable because, although separate businesses are being combined, they were not under separate control prior to the transaction.

8. ''A,'' ''B,'' and ''C'' form a new LLC in which ''A'' will have a 60 percent interest and ''B'' and ''C'' each will have 20 percent interests. ''A,'' a large, international pharmaceutical company, contributes $100 million in cash and the assets of a pharmaceutical product which is currently on the market. This pharmaceutical product line constitutes a business. ''B'' contributes licenses to several patents which it will also continue to use to manufacture various drugs. ''C'' will contribute licenses which are exclusive even against itself for several drugs which are still at the testing stage and which have never been marketed. With a 60 percent interest, ''A'' will control the LLC. Since the licenses ''B'' will contribute are not exclusive as against it, they do not constitute a business. However, the licenses being contributed by ''C'' do constitute a business, even though they have not generated any revenue. ''A'' has a potential reporting obligation for the formation of this LLC for acquiring assets from ''C.'' This formation combines two pre-existing, separately controlled businesses in an LLC which ''A'' will control.

9. ''A'' and ''B'' are both regional grocery store chains which do their data processing in-house. ''A's'' data processing unit does work only for ''A'' and ''B's'' only for ''B.'' ''A'' and ''B'' decide to contribute the assets used in their data processing operations to a new jointly-controlled LLC which will provide data processing services to ''A'' ''B.'' Assume the size tests are met. This would not be reportable because the assets used to provide such management and administrative support services do not constitute businesses. *Cf* § 802.1(d)(4) of the rules and Examples 10 and 11, 16 CFR 802.1(d)(4). This would be the case even if the new LLC intends to begin offering data processing services to third parties, since this would be beginning a new business rather than uniting existing businesses. Note, however, that the result would be different if ''A'' and ''B'' had used their equipment to provide any data processing services to others prior to contributing it to the new LLC, for then each would be contributing an existing business.

10. In year 1, ''A,'' ''B,'' and ''C'' form a new LLC to which each contributes a business in exchange for a one-third interest. This formation is not reportable because no member controls the LLC. Suppose that in year 2 ''A'' sells additional assets to the LLC for cash. This transaction is not analyzed as a new formation under this Formal Interpretation. However, the LLC has a potential filing obligation as the acquiring person of those assets and ''A'' as the acquired person. Note that it is irrelevant whether the assets sold by ''A'' in year 2 constitute a business. *Note also that if assets not constituting a business are acquired by an LLC, even if the percentage membership interests change in the transaction, this is not analyzed as the formation of a new LLC, either, but as an acquisition by the LLC (or its post-acquisition ultimate parent entity).*

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99–16398 Filed 6–28–99; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR G–202]

Aviation, Transportation, and Motor Vehicles

To: Heads of Federal agencies

Subject: Eliminating the Use of Standard Form (SF) 1169, U.S. Government Transportation Request (GTR)

1. *What is the purpose of this bulletin?* This bulletin notifies Federal agencies of the proposed elimination of Standard Form (SF) 1169, U.S. Government Transportation Request (GTR).

2. *When does this bulletin expire?* This bulletin will remain in effect until specifically canceled.

3. *What is the background?*

a. Currently, Federal Property Management Regulations (FPMR) (41 CFR 101–41) require that SF 1169 be used to procure all passenger transportation services. For many years, the GTR has been recognized as the primary source document required to obtain passenger transportation services payable by the U.S. Government.

b. As we enter the 21st century, innovative ideas and methods are being applied to change the way the Government transacts its business. The General Services Administration (GSA) has already successfully:

(1) Implemented simplified travel regulations,

(2) Reduced the costs of administering travel programs, and

(3) Employed the use of a Government travel card to pay for travel expenses to reduce the Government's cash flow.

c. GSA is issuing the guidelines contained in this bulletin to inform agencies that, although a final decision has not been made, SF 1169 may become obsolete.

d. GSA's final review is anticipated by September 30, 2000.

e. Final action is anticipated early in the calendar year 2001.

4. *What are the guidelines?* To continue on the road of improvement, Federal agencies are encouraged to:

a. Focus attention on eliminating outdated methods of payment for passenger transportation services by adopting such payment methods as:

(1) Direct centrally billed accounts arranged through the Government travel card program,

(2) Direct charge to an employee's individual Government travel card, and

(3) Use of electronic fund payments.

b. Seek innovative ideas for ways to:

(1) Pay for passenger transportation services, and

(2) Eliminate the use of the GTR to the maximum extent possible.

5. *Why should the GTR be eliminated?* The GTR should be eliminated because:

a. Most travelers are not familiar with the form and process,

b. It is an accountable form and must be controlled,

c. The administrative burden of reconciling charges, unused tickets, and refund applications is significant,

d. The form and the process are outdated, and

e. There are better and more efficient ways for the Government to pay for commercial passenger transportation services.

6. *Why is elimination of SF 1169 in the interest of the Government?* If agencies can and will adopt best business practices for the payment of passenger transportation services, the Government can eliminate a significant Policy, General Services Administration, Washington, DC 20405; telephone, (202) 501–0483; e-mail, *jim.harte@gsa.gov*.

Dated: June 22, 1999.

Becky Rhodes,

Acting Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 99–16502 Filed 6–28–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions and Delegations of Authority; Program Support Center

Part P (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (60 FR 51480, October 2, 1995 as amended most recently at 64 FR 9996, March 1, 1999) is amended to reflect changes in Chapter PB within Part P, Program Support Center, Department of Health and Human Services. The Program Support Center is reorganizing and realigning the division level structure of the *Human Resources Service*, specifically the *Training and Career Development Division. The Training and Career Development Division* is being abolished and its functions are being realigned within the *Division of Personnel Operations—Parklawn* and the *Division of Personnel Operations—Switzer.*

Program Support Center

Under *Part P, Section P–20, Functions,* change the following: Under *Chapter PB, Human Resources Service (PB),* delete the title and functional statement for the *Training and Career Development Division (PBO)* in its entirety.

Under the heading *Division of Personnel Operations—Parklawn (PBS),* add the following new item after item (8): ''(9) Administers comprehensive training and career development services for the Program Support Center, and other external customers.''

Under the heading *Division of Personnel Operations—Switzer (PBT),* add the following new item after item (11): ''(12) Administers comprehensive training and career development services for the Office of the Secretary, the Office of the Inspector General, the Administration on Aging, and other external customers.

Dated: June 18, 1999.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 99–16443 Filed 6–28–99; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99129]

Enhanced Surveillance for Newly Vaccine Preventable Diseases; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for a New Vaccine Surveillance Network (NVSN). This program will compliment existing local, State, and national surveillance efforts and will facilitate research on issues related to new vaccine introduction and impact. This program addresses the ''Healthy People 2000'' priority area, Immunization and Infectious Diseases. The purpose of the program is to create a surveillance network that can provide surveillance and data collection on new vaccine use and impact through enhanced surveillance, applied epidemiologic research, and investigator initiated studies to investigate the impact of new vaccines on the overall vaccination program.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $900,000 is available in FY 1999 to fund two awards of approximately $450,000 each. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Programmatic Interest

As new vaccines are licensed and recommended for use in children, new strategies are needed for surveillance and monitoring. CDC has identified several areas that are considered programmatic priorities: (1) Improving identification of cases, for some conditions using enhanced diagnostic testing; (2) monitoring outpatient reports of clinical diagnoses (such as otitis media) or inpatient conditions (such as lobar pneumonia or diarrhea and dehydration); (3) evaluating immunological responses to new vaccines and laboratory testing of isolates from patients with vaccine preventable diseases; and (4) assessing the impact of new vaccines on clinical practices. CDC also values the flexibility to respond to emerging issues as new vaccines are introduced and new questions arise.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities) and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

A. Establish and operate a NVSN site. The site should have the following characteristics:

1. Be established in a defined population, which could include either an entire State or a geographically defined area (or areas) within a State. (A minimum population base of approximately 500,000 may be necessary to accomplish the objectives of certain NVSN activities.)

2. Have the capacity to conduct up to four concurrent projects; accommodate changes in specific projects and priorities as the public health system's need for information changes or new vaccines are licensed and implemented into the vaccination program; and function effectively as part of a network to further local, State, and national efforts to monitor introduction of new vaccines.

3. Maintain participation of pediatric care providers and all facilities providing inpatient pediatric care. This provider network should participate in required surveillance activities (see D.1.–D.3. below), enroll patients in studies and participate in health services research (D.4. and D.5. below).

B. Develop plans for obtaining additional support to supplement assistance from CDC.

C. Establish collaboration in accomplishing program activities between public and private organizations that have an interest in addressing public health issues relating to new vaccines.

D. Conduct activities addressing sections D.1.-D.3. below, and either D.4 or D.5 below. Specific protocols for the activities to be conducted at all surveillance sites will be developed jointly by investigators at those sites and CDC.

1. Impact of incorporation of new vaccines on provider policies, practices, and utilization. Collect data from the network of pediatric care providers to document the impact of rotavirus and other new vaccines recommended for routine use among children (including combination vaccines).

2. Enhance surveillance for vaccine preventable diseases, including reporting of specific clinical diagnoses from the network of pediatric care providers, improving diagnosis through enhanced etiological diagnostic testing, and reporting of all hospitalizations for vaccine preventable diseases at inpatient facilities in the surveillance area.

3. Conduct serologic surveillance of 2-year-old children who received recommended childhood vaccines as part of routine pediatric care in an ongoing evaluation of the immunogenicity of vaccines administered as part of the recommended childhood immunization series.

4. Develop and conduct other applied epidemiologic research projects. See Appendix II for examples of potential projects.

5. Develop and conduct health services research. See Appendix II for examples of potential projects.

E. Routinely evaluate progress in achieving the purpose of this program.

F. Analyze and interpret data from NVSN projects, and publish and disseminate findings.

2. CDC Activities

A. Assist in the development of a research protocol for IRB review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

B. Provide consultation, scientific, and technical assistance in designing and conducting individual NVSN projects.

C. Assist with analysis and interpretation of data, dissemination of findings.

D. As needed and arranged with investigators, perform laboratory evaluation of specimens or isolates (e.g., molecular epidemiologic studies, evaluation of diagnostic tools) obtained in NVSN projects; and assist with integrating results with data from other NVSN site.

E. As needed, store serum specimens at the CDC specimen bank, arrange for routine serological testing of a sample of isolates, and bank specimens for later evaluations, as appropriate.

F. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application. Your application will be evaluated on the criteria listed, so it is important to follow them in preparing your program plan. The narrative (excluding budget, appendices, and required forms) should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font. Only the following information should be presented in appendices: Letters of support, documentation of bona fide agent status, curricula vitae of key project personnel, and budget. Letters of support should clearly indicate collaborators' willingness to be participants in the NVSN activities. All other materials or information that should be included in the narrative will not be accepted if placed in the appendices.

Applicants should propose a total of 4 projects from the list of activities provided in Program Requirements, 1. Recipient Activities, paragraphs D.1. through D.5. Projects described in paragraphs D.1. through D.3., above, must be proposed along with one project as described in D.4. and D.5. Each specific project proposal should be clearly identified in a distinct portion of the Operational Plan and should not exceed 5 pages. Although the specific activities described address distinct issues and needs, they may be implemented in an integrated manner such that staff members work on more than one activity and supplies and equipment are shared, etc.

Since enhanced surveillance will be done in collaboration with the other NVSN site, the project should be designed so that data can be integrated with data from the other site.

Applicants should detail a plan for establishing collaboration between public and private organizations that have an interest in addressing public health issues relating to new vaccines. Such a plan should document meaningful collaboration in accomplishing project objectives including developing inpatient and outpatient surveillance networks, collecting data, and analyzing results.

In describing the impact of incorporation of new vaccines on provider policies, practices, and utilization (Recipient activities, D.1.), applicants may include but need not be limited to description of the number of vaccines and injections offered at visits during the first two years of life; vaccine-specific coverage rates of all recommended vaccines at specified ages, before and after incorporating new vaccines; the number of visits used to complete administration of all recommended vaccines by ages 1 and 2; and revenues and costs associated with incorporating new vaccines in practice.

In describing plans to enhance surveillance for newly vaccine preventable diseases (Recipient activities, D.2.), applicants may include but need not be limited to a description of approaches to collecting outpatient data from the network of pediatric care providers who can report specified clinical diagnoses, therapy, and outcome, and enhance etiological diagnosis of infections such as rotavirus, pertussis, and/or influenza; enhancing laboratory diagnosis which could be conducted as an ongoing or periodic activity (e.g., one day per week) depending on the needed sample size; and estimating the completeness of case detection using an appropriate method such as focused chart reviews. Detection and reporting of inpatient conditions may include but need not be limited to data on all children in the surveillance area hospitalized for varicella, gastroenteritis, pneumonia, and documented pneumococcal or influenza infections. In addition, applicants should describe approaches to obtaining additional data on etiological diagnosis (where available), demographic data, and clinical course (for example, through chart reviews), and data on vaccination status.

In describing plans for serological testing (Recipient activity D.3.), applicants description may include but need not be limited to an approach to recruiting through the provider network; age group of children tested (e.g., 20–28 months); plans for phlebotomy, storage and shipping of serum samples to CDC; and plans for providing additional doses of vaccine to children who are found to have less than protective levels of antibody for one or more vaccines (where good correlates of protection exist). An illustrative sample size calculation should be included recognizing that data from 2 sites will be aggregated for analysis.

Budget Instructions

For each line-item (as identified on the Form 424a of the application), show both Federal and non-Federal (e.g., State or other funding) shares of total cost for the NVSN. For each staff member listed under the Personnel line item, indicate their specific responsibilities relative to each of the proposed projects. Include provisions for travel of the principal investigator and one NVSN participant to two meetings at CDC in Atlanta during the first year of the program.

G. Submission and Deadline

Letter of Intent (LOI)

In order to assist CDC with planning, your letter of intent should include: (1) Name and address of institution, and (2) name, address, and telephone number of contact person. The letter of intent must be submitted on or before July 16, 1999, to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and two copies of PHS 5161–1. Forms are available in the application kit. On or before August 18, 1999, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline; or

(b) Sent on or before the deadline date and received in time for submission to the review panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier of U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Late Applications: Applications which do not meet the criteria (a) or (b) above a considered late applications, will not be considered, and will be returned to the applicant.

H. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. *Understanding the objectives of the NVSN (5 points)*

a. Demonstration of a clear understanding of the background and objectives of this cooperative program.

b. Demonstration of a clear understanding of the requirements, responsibilities, problems, constraints, and complexities that may be encountered in establishing and operating the NVSN site.

c. Demonstration of a clear understanding of the roles and responsibilities of participation in the NVSN network.

2. *Description of the population base and the vaccine providers in the NVSN site. (10 points)*

a. Clear definition of the geographic area and population base in which the NVSN site will operate. Detailed description of the demographics of the proposed population base.

b. Clear description of various special populations within the defined population base as they relate to the proposed activities of the NVSN site. Extent to which the population base is diverse in terms of demographics and special populations.

c. Description of vaccination providers within the NVSN site and the representativeness of the providers and patient populations included in the study network.

3. *Description of existing capacity to implement new vaccines and assess their impact: (15 points)*

a. Description of applicant's past experience in conducting studies of vaccines including monitoring coverage, disease, and impact; and in applied epidemiologic research and health services research, in general.

b. Demonstration of applicant's ability to develop and maintain strong cooperative relationships with both public and private vaccine providers at the NVSN site, public health agencies, academic centers, managed care organizations, and community organizations. Evidence of applicant's ability to solicit and secure programmatic collaboration, and financial and technical support from such organizations.

c. Demonstration of support from non-applicant participating agencies, institutions, organizations, laboratories, individuals, consultants, etc., indicated in applicant's operational plan.

4. *Operational plan (30 points)*

a. The extent to which the applicant's plan for establishing and operating the NVSN site clearly describes the proposed organizational and operating structure/procedures and clearly identifies the roles and responsibilities of all participating agencies, organizations, institutions, and individuals. The extent to which the applicant describes plans for collaboration with the other NVSN site and CDC in the establishment and operation of the NVSN and individual NVSN projects, including project design/development (e.g., protocols), management and analysis of data, and synthesis and dissemination of findings.

b. Description of a plan to solicit and secure financial and technical assistance from other public and private organizations (e.g., schools of public health, university medical schools, public health laboratories, community-based organizations, other Federal and State government agencies, research organizations, foundations, etc.) to supplement the proposed funding from CDC.

c. Quality of the proposed projects regarding consistency with public health needs, intent of this program, feasibility, methodology/approach, and collaboration/participation of partner organizations. The degree 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: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; and (4) 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.

5. *Collaborative relationships (15 points)*

If applicant is a state or local health department, description of applicant's partnerships with necessary and appropriate non-governmental organizations for establishing and operating the proposed NVSN and for conducting individual NVSN projects. If applicant is a non-governmental organization, description of applicant's plans for collaboration with State public health officials for establishing and operating the proposed NVSN and for conducting individual NVSN projects.

6. *Personnel qualifications and management plan (15 points)*

a. Identification of applicant's key professional personnel to be assigned to the NVSN site and NVSN projects. Clear identification of their respective roles in the management and operation of the NVSN site. Descriptions of their experience in conducting work similar to that proposed in this announcement.

b. Identification of key professional personnel from other participating or collaborating institutions, agencies, organizations outside of the applicant's agency that will be assigned to NVSN activities. Clear identification of their respective roles.

c. Description of all support staff and services to be assigned to the NVSN.

d. Description of approach to maintaining sufficiently flexible NVSN staffing to accommodate the likelihood that the requirements of NVSN projects will change from time to time due to changes in the public health system's need for information or licensure of new vaccines.

7. *Evaluation (10 points)*

a. Quality of plan for monitoring and evaluating the quality of vaccine coverage data, the completeness of case ascertainment, and the scientific and operational accomplishments of the NVSN site and of individual NVSN projects

b. Quality of plan for monitoring and evaluating progress in achieving the purpose and overall goals of this cooperative program.

8. *Budget (not scored)*

If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

9. *Human Subjects (not scored)*

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports. The first semiannual report is required with each year's continuation application and should cover program activities from beginning of the current budget period to date of report/application preparation. The second semiannual report is due 90 days after the end of each budget period and should cover activities for the entire budget period.

2. Financial Status Report (FSR), no more than 90 days after the end of the budget period; and

3. Final FSR and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–12 Lobbying Restrictions

J. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(1),(2) of the Public Health Service Act (42 U.S.C. sections 241(a) and 247b(k)(1),(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.185.

K. Where To Obtain Additional Information

Copies of this and other announcements and application forms may be downloaded from the CDC homepage address on the Internet: http://www.cdc.gov. Click on ''funding''.

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and you will be instructed to identify the Announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sharron Orum, Grants Management Specialist, Grants Management Branch, Procurement & Grants Office, Announcement 99129, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2716, Fax: (770) 488–2716, E-mail: spo2@cdc.gov

For program technical assistance, contact: Benjamin Schwartz, M.D., or Melinda Wharton, M.D., Epidemiology and Surveillance Division, National Immunization Program, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mailstop E–61, Atlanta, GA 30333, Telephone: (404) 639–8254 and (404) 639–8253, E-mail: bxs1@cdc.gov and mew2@cdc.gov

Dated: June 23, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–16475 Filed 6–28–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99131]

Active Sentinel Hospital Surveillance and Epidemiologic Studies for Rotavirus Gastroenteritis; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement for Active Sentinel Hospital Surveillance and Epidemiologic Studies for Rotavirus Gastroenteritis. This program addresses the ''Healthy People 2000'', Immunization and Infectious Diseases.

The purpose of the program is to provide assistance to recipients to develop, maintain, and evaluate surveillance for hospitalizations among children <5 years of age due to rotavirus gastroenteritis and to conduct case-control studies (enrolling patients hospitalized with rotavirus gastroenteritis and appropriate control subjects) to evaluate vaccine effectiveness and risk factors for severe rotavirus disease and hospitalization due to rotavirus gastroenteritis.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian Tribal Organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $250,000 is available in FY 1999 to fund four cooperative agreement awards. It is expected that there will be two awards at an average of $105,000 (direct and indirect costs) for sites which conduct active surveillance and epidemiologic studies and two awards at an average of $20,000 (direct and indirect costs) for sites which only conduct active surveillance. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 2 years. Funding estimates may change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Applicants may request Federal personnel, equipment, or supplies (such as rapid antigen EIA test kits for testing hospitalized patients with gastroenteritis) as direct assistance, in lieu of a portion of financial assistance.

D. Program Requirements

In conducting the activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under A. (Recipient Activities) and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

1. Meet three or four times each year with other funded sites to develop standardized research protocols (surveillance and epidemiologic studies).
2. Establish, maintain, and evaluate a surveillance system for hospitalizations due to rotavirus gastroenteritis among children <5 years of age in the hospital(s) affiliated with recipient institution.
3. Collect and analyze data.
4. Collaborate with a clinical laboratory to ensure: (1) Cases of pediatric gastroenteritis in the surveillance population are examined for rotavirus; and (2) cases of rotavirus gastroenteritis are strain typed.
5. Summarize the data and disseminate findings in peer-reviewed journals and at professional meetings.
6. For sites conducting both active surveillance and epidemiologic studies only: Conduct case-control studies. Enroll and interview hospitalized case-patients and age-matched control subjects from appropriate groups of children in order to examine vaccine effectiveness and identify risk factors for severe rotavirus disease and hospitalization due to rotavirus disease.

B. CDC Activities

1. Provide scientific and technical assistance and coordination, as requested, for all phases of the study.
2. As needed, participate in the analysis of data gathered from research projects and the reporting of results.
3. Facilitate group meetings with the sites to allow for the exchange of information and for input into the development and refinement of the research and intervention protocol.
4. Assist in the development of a research protocol for IRB review by each institution participating in the research project as well as the CDC IRB. CDC IRB will review the projects on at least an annual basis until the research is complete.
5. As needed, provide clinical laboratory services, at no charge, to ensure cases of rotavirus gastroenteritis are strain typed.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application. Your application will be evaluated on the criteria listed, so it is important to follow them in preparing your research plan.

Applicants must indicate whether they are applying to be a site where active surveillance will be performed (''surveillance site''), or to be a site where active surveillance and case-control studies will be performed (''combined study site''). Applicants may apply to be considered for either one or both study sites, but must submit separate applications for each type—one for funding to conduct active surveillance only and one to conduct surveillance and case-control studies only.

The research plan for each application should include the sections listed in the table of contents on page CC of form PHS 398:

1. Specific aims of the proposed rotavirus sentinel hospital surveillance system.
2. Background and Significance. This section should include the following:

—the demographic characteristics of the population served by the pediatric hospital including race, ethnicity, and socio-economic data,
—detailed characteristics of the hospital including size, number of admissions, academic affiliation, previous experience with pediatric research,
—information to demonstrate that the applicant has the appropriate organizational structure, administrative and laboratory support, and ability to access appropriate target populations, current hospital guidelines (if any) and information about hospital practice regarding testing for rotavirus in cases of gastroenteritis, and current laboratory testing procedures for rotavirus.

3. Preliminary studies. This section should include the following:

—number of admissions for gastroenteritis in children <5 years of age (by year of age)
—data on the number of admissions for laboratory confirmed rotavirus gastroenteritis for the target age group,

—other available data or previous studies on rotavirus gastroenteritis in the surveillance population,
—information on coverage with the current routine infant immunizations, including rotavirus vaccine, in this population.

4. Research Design and Methods. This section should include the following:

—the proposed operation of surveillance for rotavirus gastroenteritis in the hospital, to include details of how cases of gastroenteritis will be detected, how routine testing of each case for rotavirus will be organized, how the immunization status of case-patients will be verified, the type and format of data to be collected, mechanism for monitoring the system, and type of personnel required for obtaining and managing data.
—The proposed operation of case-control studies of cases of rotavirus gastroenteritis (if applying to perform epidemiologic studies). This should include a description of the populations from which control subjects will be selected, details of how case and control subjects will be selected and enrolled, possible sources of bias in selection of control subjects, how the immunization status of case-patients and control subjects will be verified, the type and format of data to be collected, and type of personnel required for obtaining, managing, and analyzing data.

5. Current letters of support should be included if applicant anticipates the participation of other organizations in conducting proposed activities.

F. Submission and Deadline

Letter of Intent

In order to assist CDC in planning and executing the evaluation of applications submitted under this announcement, all parties intending to submit an application are requested to submit a letter of intent. Your letter of intent should include the following information. (1) Name and address of institution, and (2) name, address, and telephone number of contact person, (3) identification of type site(s). On or before July 16, 1999, submit the letter of intent to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS 398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet). Forms are in the application kit. On or before August 18, 1999, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. Applications for ''Surveillance Sites'' will be evaluated against Criteria A., and applications for ''Combined Sites'' will be Evaluated against Criteria B.

A. Surveillance sites

11. Specific aims: (5 percent)

The extent to which the applicant demonstrates an understanding of the purpose of the proposed rotavirus sentinel hospital surveillance system activity and the feasibility of accomplishing the outcomes described.

2. Background and Significance: (15 percent)

The extent to which background information and other data demonstrate that the applicant (a) has the appropriate organizational structure, administrative and laboratory support, and the ability to access and test cases of gastroenteritis admitted to the hospital and affiliated emergency department and (b) has experience with conducting pediatric research.

3. Preliminary Studies: (30 percent)

(a) The extent to which the applicant demonstrates that the participating hospital(s) will have sufficient rotavirus admissions among children <5 years of age to provide adequate statistical power for surveillance studies (i.e. >150 admissions per year due to gastroenteritis or >75 admissions per year due to rotavirus gastroenteritis),

(b) The extent to which background information and other data demonstrate that uptake of rotavirus vaccine is likely to be substantial in the population served by the hospital in the first 2 years of surveillance, and the extent to which the applicant demonstrates capacity for estimation of rotavirus immunization coverage rates during the study period,

(c) The extent to which previous studies demonstrate experience and expertise in conducting studies on rotavirus in this population.

4. Research Design and Methods: (35 percent)

The adequacy of the plan for detecting, testing for rotavirus, and obtaining and reporting information, including verified immunization histories on cases of childhood gastroenteritis, and the extent to which these proposed methods of testing will ensure complete monitoring for rotavirus of all cases of gastroenteritis admitted.

5. Qualifications of Key Personnel: (15 percent)

Qualifications, including training and experience, of key project personnel and the projected level of effort by each toward accomplishment of the proposed activities.

6. Budget (not scored)

Extent to which the line-item budget is detailed, clearly justified, and consistent with the purpose and objectives of this program.

7. Human Subjects (not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

8. Inclusion of Women and Racial and Ethnic Minorities in Research (not scored)

The degree 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:

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

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

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

D. 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.

B. Combined Study Sites

1. Specific Aims: (5 percent)

The extent to which the applicant demonstrates an understanding of the purpose of the proposed rotavirus sentinel hospital surveillance system activity and the feasibility of accomplishing the outcomes described.

2. Background and Significance: (10 percent)

The extent to which background information and other data demonstrate that the applicant (a) Has the appropriate organizational structure, administrative and laboratory support, and the ability to access and test cases of gastroenteritis admitted to the hospital and affiliated emergency department and (b) has experience with conducting pediatric research.

3. Preliminary studies: (25 percent)

(a) The extent to which the applicant demonstrates that the participating hospital(s) will have sufficient rotavirus admissions among children <5 years of age to provide adequate statistical power for surveillance studies (i.e., >150 admissions per year due to gastroenteritis or >75 admissions per year due to rotavirus gastroenteritis),

(b) The extent to which background information and other data demonstrate that uptake of rotavirus vaccine is likely to be substantial in the population served by the hospital in the first 2 years of surveillance, and the extent to which the applicant demonstrates capacity for estimation of rotavirus immunization coverage rates during the study period,

(c) The extent to which previous studies demonstrate experience and expertise in conducting studies on rotavirus in this population.

4. Research design and methods: (45 percent)

(a) The adequacy of the plan for detecting, testing for rotavirus, and obtaining and reporting information, including verified immunization histories on cases of childhood gastroenteritis, and the extent to which these proposed methods of testing will ensure complete monitoring for rotavirus of all cases of gastroenteritis admitted.

(b) Ability to enroll and interview an adequate (>50 per year) number of hospitalized children with cases of rotavirus gastroenteritis.

(c) Adequacy of the plan for selecting, enrolling, and interviewing suitable controls, including the plan for obtaining a suitable number of controls per case to obtain a study with adequate power to assess vaccine effectiveness and risk factors; adequacy of the plan to minimize potential sources of bias in the selection of control populations.

5. Qualifications of key personnel: (15 percent)

Qualifications, including training and experience, of key project personnel and the projected level of effort by each toward accomplishment of the proposed activities.

6. Budget (not scored)

Extent to which the line-item budget is detailed, clearly justified, and consistent with the purpose and objectives of this program.

7. Human Subjects (not scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects?

8. Inclusion of Women and Racial and Ethnic Minorities in Research (not scored)

The degree 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:

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

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

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

D. 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.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports.

2. Financial Status Report (FSR), no more than 90 days after the end of the budget period

3. Final FSR and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I in the application kit.

AR 98–1 Human Subjects Requirements
AR 98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR 98–7 Executive Order 12372 Review
AR 98–9 Paperwork Reduction Act Requirements
AR 98–10 Smoke-Free Workplace Requirements
AR 98–11 Healthy People 2000
AR 98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(1) and (K)(2) of the Public Health Service Act [42 U.S.C. 241(a), 247b(K)(1) and (k)(2)].

The Catalog of Federal Domestic Assistance Number is 93.185.

J. Where To Obtain Additional Information

This and other CDC announcements may be viewed and downloaded from the CDC homepage on the Internet, at: http://www.cdc.gov. Click on ''funding opportunities.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and you will be instructed to identify the Announcement number of interest. If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Sharron Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2716, E-Mail: spo2@cdc.gov.

Programmatic technical assistance may be obtained from:

Charles Vitek, M.D., Medical Epidemiologist, Epidemiology and Surveillance Division, National Immunization Program, Mailstop E–61, Centers for Disease Control and Prevention (CDC), Telephone: (404) 639–8715, E-Mail: cxv3@cdc.gov

OR

Rebecca Prevots, Ph.D., Epidemiologist, Epidemiology and Surveillance Division, National Immunization Program, Mailstop E–61, Centers for Disease Control and Prevention (CDC), Telephone (404) 639–8255, E-Mail: ryp0@cdc.gov

OR

Joseph Bresee, M.D., Medical Epidemiologist, Viral and Rickettsial Diseases, Natl. Center for Infectious

Diseases, Mailstop A–34, Centers for Disease Control and Prevention (CDC), Atlanta, GA 30333, Telephone: (404) 639–4651, E-Mail: jsb6@cdc.gov

Dated: June 23, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–16473 Filed 6–28–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98C–0431]

EM Industries, Inc.; Filing of Color Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a color additive petition filed by EM Industries, Inc., to clarify that the petitioner's request is to amend the color additive regulations to provide for the safe use of composite pigments made from synthetic iron oxide, titanium dioxide, and mica to color ingested drugs.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 22, 1998 (63 FR 33934), FDA announced that a color additive petition (CAP 8C0257) had been filed by EM Industries, Inc., 7 Skyline Dr., Hawthorne, NY 10532. The petition proposed to amend the color additive regulations to provide for the safe use of synthetic iron oxide to color ingested drugs at levels higher than the current limit and to provide for the safe use of mica to color ingested drugs.

The data in the petition indicated that the petitioner manufactured color additives, to color ingested drugs, by combining synthetic iron oxide, mica, and titanium dioxide. Based on these data, at the time of the filing of the petition, FDA considered the color additive combinations the petitioner prepared from synthetic iron oxide, mica, and titanium dioxide to be color additive mixtures. Titanium dioxide was already listed as a color additive for ingested drug use and the petition did not propose to amend the existing regulation.

To more accurately describe the pigments that are the subjects of this petition, FDA is amending the filing notice of June 22, 1998, to indicate that the petition proposes to amend the color additive regulations to provide for the safe use of composite pigments prepared from synthetic iron oxide, mica, and titanium dioxide to color ingested drugs.

The agency has determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 2, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–16527 Filed 6–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Biological Response Modifiers Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Biological Response Modifiers Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 15, 1999, 8 a.m. to 5:45 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Gail M. Dapolito or Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12389. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 15, 1999, the committee will discuss the following issues: (1) An update of FDA's regulatory policy concerning the implications on biological product development of fast track and the recent pediatric rule, (2) a scientific discussion concerning immune reactions to therapeutic and diagnostic biological products, (3) the report of the June 3 through 4, 1999, meeting of the xenotransplantation subcommittee, and (4) an update of research programs in the Laboratory of Cytokine Research, Office of Therapeutics Research and Review, Center for Biologics Evaluation and Research.

Procedure: On July 15, 1999, from 8 a.m. to approximately 1 p.m., and from 1:30 p.m. to approximately 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 8, 1999. Oral presentations from the public will be scheduled between approximately 8:10 a.m. to 9:10 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 8, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 15, 1999, from 1 p.m. to 1:30 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). The meeting will be closed to discuss issues relating to pending or proposed investigational new drug applications. The meeting will also be closed from 5 p.m. to 5:45 p.m., to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). This portion of the meeting will be closed to permit discussion of this information.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 21, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–16442 Filed 6–28–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request Physician Survey on Genetic Testing

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register**, on January 21, 1999, Volume 64, pages 3305 and 3306 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

Proposed Collection

Title: American Stop Smoking Intervention Study for Cancer Prevention (ASSIST) Final Evaluation: ''Strength of Tobacco Control Survey''. *Type of Information Request:* New. *Need and Use of Information Collection:* ''The Strength of Tobacco Control Survey'' will collect data on financial resources, capacity, and specific efforts to control tobacco use. The data will be collected from professionals working in the field, in project management, and in senior agency administration within major state-level organizations concerned with tobacco control, in all 50 states and the District of Columbia. The data will be used by the National Cancer Institute to evaluate the effectiveness of the American Stop Smoking Intervention Study for Cancer Prevention (ASSIST), a large-scale, 17-state demonstration project. Data will be used to develop a ''strength of tobacco control'' construct for use in evaluation of the overall ASSIST intervention. This study will also provide valuable information to Government agencies and to the general public necessary for tobacco control research. Data will be collected from September to November 1999, from approximately 1,428 individuals in 357 organizations in the 50 states and the District of Columbia. *Frequency of Response:* One-time study. *Affected Public: Individuals. Type of Respondents:* Professionals in tobacco control organizations. The annual reporting burden is as follows: Estimated Number of Respondents: 1,428; Estimated Number of Responses per Respondent: 1; Average Burden Hour per Response: .54; and Estimated Total Annual Burden Hours Requested: 774. The annualized cost to respondents is estimated at $31,852. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (3) Ways to enhance the quality, utility and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms on information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Frances Stillman, Ed.D., Public Health Advisor, National Cancer Institute, Executive Plaza North, Room 241, 6130 Executive Boulevard MSC 7337, Bethesda, Maryland 20892–7337, or call non-toll free number (301) 496–8584, or FAX your request to (301) 496–8675.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 18, 1999.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 99–16463 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Physicians' Resolution of Ethical Problems and Use of Institutional Consultation Services

Summary

Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Clinical Bioethics, Warren G. Magnuson Clinical Center, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 4, 1998, vol. 63, no. 172, pages 47310–47311 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Physicians' Resolution of Ethical Problems and Use of Institutional Consultation Services. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* The survey asks for information about: (1) The ways that physicians address ethical problems that arise in their practice; (2) the types of questions that physicians perceive to raise ethical issues, and how often these arise; (3) how frequently physicians use the ethics consultation service (if any) at their primary institution; and (4) the reasons why physicians do and do not request formal ethics consultation through their institution's ethics consultation service. The information collected will help the NIH and other health care institutions to structure their ethics consultation service, and other ethics resources, to provide more helpful and responsive ways of addressing ethical problems and dilemmas. *Frequency of Response:* One time. *Affected Public:* Internal medicine doctors throughout the U.S. *Type of Respondents:* Clinical Oncologists, Critical Care Specialists and other Internal Medicine physicians. The

annual reporting burden is as follows: *Estimated Number of Respondents:* 450; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response: 5; and Estimated Total Annual Burden Hours requested:* 225. The annualized cost to respondents is estimated at: $nil. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request For Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to 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.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH.

To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Gordon DuVal, Department of Clinical Bioethics, Building 10, Room C118, National Institutes of Health, Bethesda, MD 20892–1156, or telephone (301) 435–8717, or e-mail your request, including your address to: gduval@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: May 31, 1999.

David K. Henderson, M.D.,

Deputy Director for Clinical Care, Warren G. Magnuson Clinical Center, National Institutes of Health.

[FR Doc. 99–16464 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to spaceavailable. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C., as amended. The discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation of recommendations.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee B—Basic Sciences.

Date: July 12, 1999.

Open: 8:30 AM to 8:50 AM.

Agenda: Chairman's Remarks and Review Issues Update.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: 8:50 AM to 5:00 PM.

Agenda: To review and evaluate Site Visit Reports; Status Report; Division Director's Report and Discussion of personnel and programmatic issues.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Florence E. Farber, Ph.D., Executive Secretary, Institute Review Office, office of the Director, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN 609, Rockville, MD 20892, (301) 496–2378.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 21, 999.

La Verne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 16459 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C., as amended. The discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation recommendations.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology.

Date: July 19, 1999.

Open: 9:00 AM to 10:00 AM.

Agenda: Chairman's Remarks; Review Issues Update; Ethics Review; and Legislative Update.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: 10:00 AM to 4:00 PM.

Agenda: To review and evaluate Site Visit Report; Brain Tumor/EMF Study; Division Director's Reports; Discussion of personnel and programmatic issues.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Judy A. Aietz, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN 609, Rockville, MD 20892, (301) 496–2378.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 21, 1999.

La Verne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–16460 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program for Cancer Epidemiology.

Date: July 13, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contract Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852 (301) 496–7903.

(Catalog of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–16461 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: July 19, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: The National Cancer Program—History and Future.

Place: The Schepens Eye Research Institute, Starr Center for Scientific Communications, 20 Staniford Street, Boston, MA 02114–2500.

Contact Person: Maureen O. Wilson, PHD, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 18, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc 99–16462 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine Review Committee.

Date: July 28, 1999.

Time: 8:00 AM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: John D. Harding, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0820.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: June 22, 1999.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–16457 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: July 29–30, 1999.

Time: 8:30 AM to 1:00 PM.

Agenda: To review and evaluate grant application.

Place: National Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PHD, Scientific Review Administrator, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: June 22, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–16453 Filed 6–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 12, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel , 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Jack D. Maser, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 13, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Fred Altman, PHD, Scientific Review Administrator, Fellowships and Merit Programs, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6220, MSC 9621, Bethesda, MD 20892–9621, (301) 443–9700.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 22, 1999.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–16454 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority programs Review Committee, Mbrs Subcommittee B.

Date: July 15–16, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael A. Sesma, PHD, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS19H, 45 Center Drive, Bethesda, MD 20892 (301) 594–2048.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 22, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–16456 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: July 23, 1999.

Time: 9:00 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PHD, Acting Director, NIH/NIDCD/DEA, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8693.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: July 27, 1999.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Westin Fairfax Hotel, 2100 Massachusetts Ave., NW, Washington, DC 20008.

Contact Person: Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: June 21, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–16458 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Chronic Fatigue Syndrome Coordinating Committee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH) announces the following committee meeting.

NAME: Chronic Fatigue Syndrome Coordinating Committee (CFSCC).

TIME AND DATE: 1 p.m.–5 p.m., July 26, 1999.

PLACE: Hubert H. Humphrey Building, Room 505A, 200 Independence Avenue, SW, Washington, DC.

STATUS: Open to the public, limited only by the space available. The meeting room will accommodate approximately 80 people.

NOTICE: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

PURPOSE: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA), to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and other related issues; facilitating increased Department of Health and Human Services (HHS) and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities for collaborative and/or coordinated efforts in research and education; and developing informed responses to constituency groups regarding HHS and SSA efforts and progress.

MATTERS TO BE DISCUSSED: The Office of Inspector General Report, Audit of Costs Charged to the Chronic Fatigue Syndrome Program at the Centers for Disease Control and Prevention (CIN:A–04–98–04226). Because this is a briefing session there will be no public testimony.

CONTACT PERSON FOR MORE INFORMATION: Lillian Abbey, Executive Secretary, NIAID, NIH, 6700B Rockledge Drive, Room 3140, MSC 7630, Bethesda, Maryland 20817, telephone 301–496–1884, fax 301–480–4528.

Dated: June 23, 1999.

Anthony S. Fauci,

Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 99–16514 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personnel information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel Fogarty SEP, for ZLM1 SRC (99) study section.

Date: July 23, 1999.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, 4300 Military Road, NW, Chevy Chase, MD 20015.

Contact Person: Sharee Pepper, PHD., Scientific Review Administrator, Health Scientist Administrator, Office of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive Suite 301, Bethesda, MD 20817.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 23, 1999.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–16452 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: July 1, 1999.

Time: 8:30 AM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jerrold Fried, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIRS.

Date: July 1, 1999.

Time: 1:00 AM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Arnold Revzin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: July 1, 1999.

Time: 3:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Quadri, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: July 2, 1999.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Jefferson Hotel, 1615 Rhode Island Avenue, NW Washington, DC 20036.

Contact Person: Robert Weller, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7848, Bethesda, MD 20892, (301) 435–0694.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: July 2, 1999.

Time: 1:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, PHD,, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, leving@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cardiovascular Sciences Initial Review Group Cardiovascular and Renal Study Section.

Date: July 6–7, 1999.

Time: 8:30 AM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Anthony C. Chung, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7802, Bethesda, MD 20892, (301) 435–1213.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93–837–93.844, 93.846–93.878, 93–892, 93.893, National Institutes of Health, HHS)

Dated: June 22, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–16455 Filed 6–28–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Booker T. Washington National Monument Draft General Management Plan and Environmental Impact Statement

AGENCY: National Park Service, DOI.

ACTION: Notice of availability of Booker T. Washington National Monument Draft General Management Plan and Environmental Impact Statement.

SUMMARY: The National Park Service has prepared and released a Draft General Management Plan and Environmental Impact Statement for the management, protection, use, and development of Booker T. Washington National Monument, Hardy, Virginia. The public is invited to review and comment on the Booker T. Washington National Monument Draft General Management Plan and Environmental Impact Statement. Copies are available at Booker T. Washington National Monument and at the Franklin County Public Library in Rocky Mount, Virginia. The document can be viewed on the monument's web site (*http://www.nps.gov/bowa*), which also contains information on scheduled public meetings. Comments will be accepted until August 11, 1999. For more information about this document, contact the Superintendent, Booker T. Washington National Monument, 12130 Booker T. Washington Highway, Hardy, VA 24101–9688. The phone number 540–721–2094.

Dated: June 19, 1999.

Marie Rust,

Northeast Regional Director, National Park Service.

[FR Doc. 99–16496 Filed 6–28–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Citizen Advisory Commission Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces two upcoming meetings of the Delaware Water Gap National Recreation Area Citizen Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Saturday, September 25, 1999 at 9:00 a.m.

Address: Pocono Environmental Education Center, RR 2 Box 1010, Brisco Mountain Road, Dingmans Ferry PA 18328.

Meeting Date and Time: Thursday, January 13, 2000 at 7:00 p.m.

Address: New Jersey District Office, Route 615, Walpack, NJ.

The agenda for the meeting consists of reports from Citizen Advisory Commission committees including: Natural Resources and Recreation, Cultural and Historical Resources, Intergovernmental and Public Affairs, Construction and Capital Project Implementation, and Interpretation, as well as Special Committee Reports. Superintendent William G. Laitner will give a report on various park issue.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizen Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

Congressional Listing for Delaware Water Gap NRA.

Honorable Frank Lautenberg, U.S. Senate SH–506 Hart Senate Office Building, Washington, D.C. 20510–3002

Honorable Robert G. Torricelli, U.S. Senate, Washington, D.C. 20510–3001
Honorable Richard Santorum, U.S. Senate, SR 120 Senate Russell Office Bldg., Washington, D.C. 20510
Honorable Arlen Specter, U.S. Senate, SH–530 Hart Senate Office Bldg., Washington, D.C. 20510–3802
Honorable Pat Toomey, U.S. House of Representatives, Cannon House Office Bldg., Washington D.C. 20515
Honorable Don Sherwood, U.S. House of Representatives, 2370 Rayburn House Office Bldg., Washington, D.C. 20515–3810
Honorable Margaret Roukema, U.S. House of Representatives, 2244 Rayburn House Office Bldg., Washington, D.C. 20515–3005
Honorable Tom Ridge, State Capitol, Harrisburg, PA 17120
Honorable Christine Whitman, State House, Trenton, NJ 08625

The meetings will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizen Advisory Commission, P. O. Box 284, Bushkill, PA 18324. Minutes of the meetings will be available for inspection several weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 570–588–2418.

Dated: June 16, 1999.

J. Robert Kirby,

Acting Superintendent.

[FR Doc. 99–16495 Filed 6–28–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Revision of the National Park Service Strategic Plan; Notice of Meetings

Notice is hereby given that in accordance with the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62, Sec. 3) the National Park Service will hold seven public meetings from July 20 through August 5, 1999. The Act requires all federal agencies to have strategic plans and to revise and update those plans at least one every three years. This revision covers the period FY 2000—FY 2005. The National Park Service is seeking pubic participation in the goal review process while revising its strategic plan. The public meetings will provide the public the opportunity to learn about the long-term strategic goals of the National Park Service and to comment on those goals.

All meetings are open to the public. Interested persons may make oral or written comments during and after the public meetings. Written comments must be received within seven days of the public meeting.

The meetings will be held at the following times and locations.

Alaska: Tuesday, July 20, 1999, 3–7 PM, 2525 Gambell, Room 300, Anchorage, AK. Point of Contact: Lou Waller 907–257–2548.

Colorado: Tuesday, July 20, 1999, 4–7 PM, Vitamin Cottage Natural Food Market, 12612 West Alameda Parkway, Lakewood, CO. Point of Contact: Ron Thoman 303–987–6702.

California: Thursday, July 22, 1999 , 5—8 PM, Fort Mason Center, Landmark Building A, Golden Gate Room, San Francisco, CA. Point of Contact: Joan Chaplick 415–427–1444.

Washington, DC: Tuesday, July 27, 1999, 4–7 PM, National Capital Region Headquarters Building, Cafeteria Room, 1100 Ohio Drive, SW, Washington, DC. Pont of Contact: Earle Kittleman 202–619–7051.

Pennsylvania: Wednesday, July 28, 1999, 4–7 PM, Arch Street Meeting House, 320 Arch Street, Philadelphia, PA. Pont of Contact: Lee Gurney 215–597–2284.

South Dakota: Tuesday, August 3, 1999, 7 PM–10 PM, City and School Administration Building, Community Room, first floor, 300 6th Street, Rapid City, SD. Point of Contact: Bill Fink 906–487–9597 or Mike Pflaum, Chief Ranger, Mount Rushmore National Memorial 605–574–2523.

Georgia: Thursday, August 5, 1999, 4–7 PM, Martin Luther King, Jr. National Historic Site, 450 Auburn Avenue, N.E. Atlanta, GA. Point of Contact: Troy Lissimore 404–562–3278.

Further information concerning these meetings may be obtained by contacting the Point of Contact listed for each meeting.

Dated: June 22, 1999.

Richard L. Harris,

Strategic Planning Officer, National Park Service.

[FR Doc. 99–16494 Filed 6–28–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 19, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by July 14, 1999.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Garland County

Quapaw—Prospect Historic District, Roughly bounded by Quapaw and Prospect Aves., Hot Springs, 99000821

Jefferson County

Dollarway Road (Boundary Increase), AR 365, Redfield vicinity, 99000822

COLORADO

Denver County

Stanley Arms, 1321–1333 E. Tenth Ave., Denver, 99000823

Garfield County

Citizens National Bank Building, 801 Grand Ave., Glenwood Springs, 99000824

FLORIDA

Collier County

Bank of Everglades Building, 201 W. Broadway, Everglades City, 99000825

IDAHO

Ada County

Boise City-Silver City Road—Fick Property Segment, 3232 W. Kuna-Mora Rd., Kuna vicinity, 99000852

INDIANA

Grant County

Marion Branch, National Home for Disabled Volunteer Soldiers Historic District, 1700 E 38th St., Marion, 99000833

IOWA

Henry County

Hult, Charles E., House, Summer Kitchen and Wood Shed (Henry County, Iowa MPS) 1904 140th St., Swedesburg vicinity, 99000830
Hultquist, John, House (Henry County, Iowa MPS) 105 Park, Swedesburg, 99000828
Red Ball Garage (Henry County, Iowa MPS) 1901 140th St., Swedesburg vicinity, 99000826
Swedesburg Historic Commercial District (Henry County, Iowa MPS) 107 IA 218, Swedesburg, 99000829
Swedish Evangelical Lutheran Church (Henry County, Iowa MPS) 1897 140th St., Swedesburg vicinity, 99000827

Taylor County

Bedford Oil Company Station, 601 Madison, Bedford, 99000831

Van Buren County

Bonaparte Pottery Archeological District, 411–419 First St., Bonaparte, 99000832

KANSAS

Bourbon County

Fort Scott National Cemetery (Civil War Era National Cemeteries MPS) 900 East National Ave., Fort Scott, 99000835

Leavenworth County

Fort Leavenworth National Cemetery (Civil War Era National Cemeteries MPS) Within Fort Leavenworth military reservation, Fort Leavenworth, 99000834

LOUISIANA

Union Parish

Lindsey Bonded Warehouses, Holly and 2nd Sts., Bernice, 99000836

MISSISSIPPI

Clay County

Waide Archeological Site, Address Restricted, Palo Alto vicinity, 99000842

Lafayette County

Hopewell Presbyterian Church, 2070 MS 10, Oxford vicinity, 99000837

Leflore County

Stratton Archeological Site, Address Restricted, Sidon vicinity, 99000840

Lincoln County

Downtown Brookhaven Historic District, Roughly bounded by Court St., W. Chichasaw St., S. First St., and jct. of W. Cherokee and W. Monticello, Brookhaven, 99000839

Newton County

Boler's Inn, Jackson Rd., Union, 99000838

Sunflower County

Ruleville Depot, E side of RR tracks, jct. of E. Floyce St. and N. Front St., Ruleville, 99000841

NORTH CAROLINA

Forsyth County

Indera Mills, 400 S. Marshall St., Winston-Salem, 99000843

NORTH DAKOTA

Grand Forks County

Sorlie Memorial Bridge (Historic Roadway Bridges of North Dakota MPS) E end of Demers Ave., Grand Forks, 99000844

OHIO

Ottawa County

St. Thomas Episcopal Church, 214 E. Second St., Port Clinton, 99000845

UTAH

Davis County

Atkinson, James and Hannah, House, 1510 S 1100 W, Woods Cross, 99000847

Stayner—Steed House, 79 S 100 E, Farmington, 99000846

VIRGINIA

Albemarle County

East Belmont, jct. of VA 22 and VA 616, Keswick vicinity, 99000853

Charles City County

Fort Pocahontas, Address Restricted, Charles City vicinity, 99000848

WISCONSIN

La Crosse County

LaCrosse State Teachers College Training School Building, 1615 State St., LaCrosse, 99000850

Washington County

Groth, Friedrich, House, N12297 Pleasant View Dr., Germantown, 99000851

Waukesha County

Newhall Avenue Pump House and Reservoir, 445 W. Newhall Ave., Waukesha, 99000849

A request for a removal has been made for the following resource:

ARKANSAS

Pulaski County

Bragg, Richard, House 305 E. 16th St., Little Rock, 79000450

A request for a move has been made for the following resource:

NORTH CAROLINA

Wake County

Polk, Leonidus L., House, 612 N. Blount St., Raleigh, 77001012

[FR Doc. 99–16485 Filed 6–28–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; COPS Distressed Neighborhood Process Evaluation Survey.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date listed at the top of this page in the **Federal Register**. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are requested. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the COPS Office, PPSE Division, 1100 Vermont Ave, NW, Washington, DC 20530–0001. Additionally, comments may be submitted to COPS via facsimile to 202–633–1386. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530.

Overview of this information collection:

(1) Type of Information Collected: New collection.

(2) Title of the Form/Collection: COPS Distressed Neighborhood Process Evaluation Survey.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: N/A. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Agencies that have received funding under the COPS Distressed Neighborhood grant program are required to respond.

The COPS Distressed Neighborhood Process Evaluation Survey will collect basic information about recipient's hiring and deployment processes, training, plans for internal assessment and reallocation of resources. The COPS office will use the information collected to assess whether the pilot Distressed Neighborhood sites met the goal of allocating personnel resources to the neighborhoods with the greatest need for additional police presence. A comprehensive report of the sites' deployment and hiring processes, training, and perceptions of the grant will assist the COPS Office to make future funding determinations and with future program development.

(5) An estimate of the total number of respondents and the amount of time

estimated for an average respondent to respond: COPS Distressed Neighborhood Process Evaluation Survey: Eighteen respondents, at 1.5 hours per respondent (including record-keeping).

(6) An estimate of the total public burden (in hours) associated with the collection: Approximately 27 hours. If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: June 23, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–16445 Filed 6–28–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 21, 1999, Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylmamphetamine (1480).	I
4-Methylaminorex (cis isomer) (1590).	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl) pyrrolidine (7458).	I
1-[1-(2-Thienyl) cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: June 22, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–16415 Filed 6–28–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 27, 1999, Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II

The firm plans to manufacture the listed controlled substances to supply their customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: June 22, 1999.

John H. King,

Deputy Assistant Administrator Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 99–16416 Filed 6–28–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 27, 1999, Radian International LLC, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78720–1088, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Ibogaine (7260)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I

Drug	Schedule
4-Methyl-2, 5-dimethoxyamphetamine (7395).	I
2, 5-Dimethozyamphe- tamine (7396).	I
3, 4-Methylenediozyam- phetamine (7400).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Etorphine (except HC1) (9056)	I
Heroin (9200)	I
Pholcodine (9314)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Dextropropoxyphene, bulk (Non-dosage forms) (9273) ().	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II

The firm plans to import small quantities of the listed controlled substances for the manufacture of analytical reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.4 in such form as prescribed by 21 FR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 F.R. 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonsrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated June 10, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–16417 Filed 6–28–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval; Immigration Bond.

The Department of Justice, Immigration and Naturalization Service has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' from August 30, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement with change of a previously approved collection.

(2) *Title of the Form/Collection:* Immigration Bond.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–352. Detention and Deportation Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This information will be used by the Service to determine eligibility release of a detained alien on bond, and will collect information of the obligor of the bond who is taking the responsibility of the released alien.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 30 minutes or (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestion regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center Building, 1001 G Street, NW., Washington, DC 20430.

Dated: June 22, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–16465 Filed 6–28–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 17, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Rehabilitation Action Report.

OMB Number: 1215–0182.

Frequency: On occassion.

Affected Public: Businesses or other for-profit; Individuals or households.

Number of Respondents: 7,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 3,500.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The OWCP–44 is the rehabilitation action report, submitted by the rehabilitation counselor to report transition periods and to request prompt adjudicatory claims action.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 99–16491 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

June 21, 1999.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by June 20, 1999. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Ira Mills Departmental Clearance Officer, ((202) 219–5095, x 143). Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of response.

Agency: Employment and Training Administration.

Title: Workforce Investment Act Cumulative Quarterly Financial Reporting for Funds Allotted to States for: (1) Services to Youth (2) Services to Adults (3) Services to Dislocated Workers (4) Local Area Administration (5) Statewide Activities (15% of Total Federal Allotment) and (6) Statewide Rapid Response.

OMB Number: 1205–0New.

Frequency: Quarterly.

Affected Public: States, local governments, and Private Industry Councils.

Number of Respondents: 56.

See Burden and Cost Estimate below:

DOL–ETA REPORTING BURDEN FOR WIA TITLE I STATES

Requirements	PY 1999	PY 2000	PY 2001	PY 2002
Number of Reports Per Entity Per Quarter	3	3	3	3
Total Number of Reports Per Entity Per Year	12	12	12	12
Number of Hours Required Per Report	1	1	1	1
Total Number of Hours Required for Reporting Per Entity Per Year	12	12	12	12
Number of Entities Reporting	10	56	56	56
Total Number of Hours Required for Reporting Burden Per Year	120	672	672	672
Total Burden Cost @ $23.45 per hour	$2,814	$15,758	$15,758	$15,758

Note: Number of reports required per entity per quarter/per year is impacted by the 3 year life of each year of appropriated funds, *i.e.,* PY 1997 and 1998 funds are available for expenditure in PY 1999, thus 3 reports reflect 3 available funding years.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The proposed ICR incorporates the necessary reporting instructions for States to report financial data related to Workforce Investment Act programs to DOL. These instructions have been prepared in response to the requirement set forth at 20 CFR 667.300, for DOL to issue financial reporting instructions to States; and to ensure State compliance with the reporting elements contained in the Workforce Investment Act of 1998, Subtitle E, Sec. 185.

The WIA requires quarterly financial reports which ''shall include information identifying all programs and activity costs by cost category in accordance with generally accepted accounting principles and by year of appropriation''. The WIA also requires reporting ''any income or profits earned, including such income or profits earned by subrecipients''; and any cost incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.'' In addition, WIA requires the reporting of costs only as administrative or programmatic, with computerization/technology costs not included in the administrative cost limit calculation.

The Standard Form 269 has been modified to provide the six reporting formats which will be used for WIA reporting. Separate reporting formats will be needed for (1) Local area youth (2) local area adults (3) local area dislocated workers (4) local administration (5) Statewide activities (15% total Federal allotment) and (6) Statewide rapid response.

ETA is designing software that will contain the data elements required for each of the reporting formats. Instructions corresponding to the required data elements will also be provided to the States in the software package. Transmittal of this data will occur on a quarterly basis via the Internet. The data collection and reporting requirements requested by the Employment and Training Administration are necessary to effectively manage and evaluate the financial status of the WIA program, to measure regulatory compliance, to prepare required reports to Congress and for audit purposes.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 99–16492 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills (202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collect; 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 submission of responses.

Agency: Employment Standards Administration.

Title: Report of Constructor's Wage Rates.

OMB Number: 1215–0046.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 37,500.

Estimated Time Per Respondent: 75,000.

Total Burden Hours: 25,000.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing service: $0.

Description: Form WD–10 is used by the U.S. Department of Labor to elicit construction project data from contractor associations, contractors, and unions. The wage data is used to determine locally prevailing wages under the Davis-Bacon and related Acts.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–16493 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–8]

Construction Records for Tests and Inspections of Personnel Hoists; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction, and extension of, the information collection requirements contained in the standard on Construction Record for Test and Inspections of Personnel Hoists (29 CFR 1926.552(c)(15)).

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before August 30, 1999.

ADDRESSES: Submit comments to the Docket Office, Docket No. ICR–99–8, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution

Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. You may transmit written comments 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements on Construction Records for Tests and Inspections of Personnel Hoists is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR on Construction Records for Test and Inspection for Personnel Hoists, contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and the impact of information collection requirements on respondents properly assessed. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act of for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

II. Proposed Actions

The certification record required in 29 CFR 1926.552(c)(15) is necessary to assure compliance with the requirement for personnel hoists. It assures that the hoists have initial, periodic, and regular maintenance checks. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Construction Records for Test and Inspections of Personnel Hoists (29 CFR 1926.552(c)(15)).

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Construction Records for Test and Inspections of Personal Hoists (29 CFR 1926.552(c)(15)).

OMB Number: 1218–0231.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 14,400.

Fequency: Every 3 months.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 15,840.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, DC, this 21st day of June, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–16309 Filed 6–28–99; 8:45am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–10]

Rigging Equipment—Proof Testing of Welded End Wire Rope Attachment; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction, and extension of, the information collection requirements contained in the standard on Rigging Equipment—Proof-Testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before August 30, 1999.

ADDRESSES: Submit comments to the Docket Office, Docket No. ICR–99–10, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–2350. You may transmit written comments 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements on Rigging Equipment—Proof-Testing of Welded End Wire Rope attachments is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR on Rigging Equipment—Proof-Testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)), contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and the

impact of information collection requirements on respondents can be properly assessed. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

II. Proposed Actions

Paragraph (c)(15)(ii) of 29 CFR 1926.251 requires employers to retain a certificate of proof-test from the manufacturer. The retention of manufacturer certificates is necessary to assure proof-testing of the welded end wire rope attachment and also to assure testing of all welded end attachments at twice their rated capacity.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Rigging Equipment—Proof testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Rigging Equipment—Proof testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

OMB Number: 1218–0233.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 18,940.

Frequency: On occasion.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 1,515 hours.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, DC, this 21st day of June, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–16311 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–7]

Trucks Used Underground To Transport Explosives—Inspection Record; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSH solicits comments concerning the proposed reduction, and extension of, the information collection requirements contained in the standard on Trucks Used Underground to Transport Explosives (29 CFR 1926.903(e))—Inspection Certification.

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before August 30, 1999.

ADDRESSES: Submit comments to the Docket Office, Docket No. CR–99–7, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone; (202) 693–2350. You may transmit written comments 10 pages or less in length by fascimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements on Trucks used Underground to Transport Explosives—Inspection Certification is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR on Trucks used Underground to Transport Explosives—Inspection Certification, contact OSHA on the Internet at http://www.osha-slc-gov.

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and the impact of information collection requirements on respondents properly assessed. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the cause and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

II. Proposed Actions

The inspection certification required in 29 CFR 1926.903(e) is necessary to assure compliance with the requirement for inspection of the electrical system in trucks used for the undergound transportation of explosives. The inspection assures that the truck have a weekly maintenance check of the electrical system to detect any failures which may constitute an electrical hazard. Employers must prepare and retain a cerification record of the inspection.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Truck used Underground to Transport Explosives—Inspection Certification (29 CFR 1926.903(e)).

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Trucks used Underground to Transport Explosives—Inspection Certification (29 CFR 1926.903(e)).

OMB Number: 1218–0227.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 1.

Frequency: Weekly.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 9 hours.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, DC, this 21st day of June, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–16312 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–6]

Construction Records for Blasting Operations; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction, and extension of, the information collection requirements contained in the standard on Construction Records for Blasting Operations (29 CFR 1926.900(k)(3)(i)).

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before August 30, 1999.

ADDRESSES: Submit comments to the Docket Office, Docket No. ICR–99–6, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. You may transmit written comments 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements on Construction Records for Blasting Operations is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR Construction Records For Blasting Operations, contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments is clearly understood, and the impact of information collection requirements on respondents can be properly assessed. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

II. Proposed Actions

This provision requires employers to post a sign warning against the use of mobile radio transmitters on all roads within 1000 feet of blasting operations. When this requirement creates an ''operational handicap,'' the employer must develop and implement an alternative method that will prevent the premature detonation of electric blasting caps. The alternative method must be in writing, and a competent person must certify its adequacy.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Construction Records for Blasting Operations.

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Construction Records for Blasting Operations (29 CFR 1926.900(k)(3)(i)).

OMB Number: 1218–0217.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 3,000 work sites.

Frequency: Once per 160 work sites.

Average Time per Response: 8 hours.

Estimated Total Burden Hours: 640.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, D.C., this 21st day of June, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–16313 Filed 6–28–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–092]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Wednesday, July 28, 1999, 8:15 a.m. to 5:30 p.m.; Thursday, July 29, 1999, 8 a.m. to 5:30 p.m.; Friday, July 30, 1999, 8:15 a.m. to 12:15 p.m.

ADDRESSES: NASA Headquarters, Conference Room 6H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—OSS Program and Budget Status
—Theme Status Reports/Reports from Subcommittees
—Research Program Update
—Education Program Update
—Roadmapping Status/Programs and Priorities
—Technology Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–16419 Filed 6–28–99; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection*: NRC Form 396, Certification of Medical Examination by Facility Licensee.

2. *Current OMB approval number*: 3150–0024.

3. *How often the collection is required*: Upon application for an initial operator license, and every six years for the renewal of operator or senior operator licenses, and upon notices of disability.

4. *Who is required or asked to report*: Facility licensees who are tasked with certifying the medical fitness of an applicant or licensee.

5. *The number of annual respondents*: 141.

6. *The number of hours needed annually to complete the requirement or request*: 730 hours (244 hours for reporting [.25 hours per response] and 486 hours for recordkeeping [3.4 hours per recordkeeper]).

7. *Abstract*: NRC Form 396 is used to transmit information to the NRC regarding the medical condition of applicants for initial or renewal operator licenses and for the maintenance of medical records for all licensed operators. The information is used to determine whether the physical condition and general health of applicants for operator licenses is such that the applicant would not be expected to cause operational errors endangering public health and safety.

Submit, by August 30, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of June 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–16486 Filed 6–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York, Indian Point Nuclear Generating Unit No. 3; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Power Authority of the State of New York (the licensee) to withdraw its May 29, 1997, application for proposed amendment to Facility Operating License No. DPR–64 for the Indian Point Nuclear Generating Unit No. 3 located in Westchester County, New York.

The proposed amendment would have revised the Technical Specifications pertaining to containment integrity.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 27, 1997 (62 FR 45461). However, by letter dated May 3, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 29, 1997, and the licensee's letter dated May 5, 1999, which withdrew the application for license amendment. The above documents 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 room located at the White Plains Public Library, 100 Martine Ave., White Plains, New York, 10601.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 22nd day of June, 1999.

George F. Wunder,

Project Manager, Section 1, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–16487 Filed 6–28–99; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–335 and 50–389]

Florida Power & Light Company, Inc., et al., St. Lucie Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–67 and NPF–16, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Nuclear Plant, Units 1 and 2 located in St. Lucie County, Florida.

Environmental Assessment

Identification of the Proposed Action

The proposed amendments would revise the St. Lucie Plant, Units 1 and 2, Technical Specifications, Appendix B, ''Environmental Protection Plan (Non-Radiological)'' (EPP), to incorporate the terms and conditions of the Incidental Take Statement in the Biological Opinion issued by the National Marine Fisheries Service (NMFS) on February 7, 1997, and subsequently modified on May 8, 1998. The proposed amendments will replace Section 4, ''Environmental Conditions,'' of the EPPs for both Units 1 and 2, and add Section 5, ''Administrative Procedures,'' to the Unit 1 EPP and revise the current EPP Section 5 for Unit 2.

The proposed action is in accordance with the licensee's application for amendment dated December 1, 1997, as supplemented in a letter dated August 26, 1998.

The Need for the Proposed Action

The proposed action would incorporate the terms and conditions of the Incidental Take Statement of the Biological Opinion issued by NMFS into St. Lucie Units 1 and 2 operating licenses as well as provide consistency between the Unit 1 and Unit 2 Environmental Protection Plans.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that implementation of the Incidental Take Statement in St. Lucie's Environmental Protection Plan for Units 1 and 2 would support the National Marine Fisheries Service conclusion that the continued operation of the circulating water system at St. Lucie Plant is not likely to jeopardize the continued existence of threatened or endangered sea turtle species under NMFS jurisdiction. The Incidental Take Statement identifies actions that have been or will be taken by St. Lucie to ensure the takes of endangered sea turtles are limited. These actions include the use of two different mesh barrier nets across the intake canal, a capture and release program for endangered sea turtles found in the intake canal, a program to monitor for endangered sea turtles at the cooling water intakes on a regular basis, and a study to elucidate the effect of various factors on turtle entrapment.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. 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 application would result in St. Lucie not implementing the Incidental Take Statement which would lead to takes of endangered sea turtles outside the NMFS Biological Opinion. The environmental impacts of the proposed action are less than the alternative action.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the St. Lucie Nuclear Plant.

Agencies and Persons Consulted

On June 9, 1999, the staff consulted with William Passetti, Chief, Department of Health, Bureau of Radiation Control, for the state of Florida, regarding the environmental impact of the proposed action. The state official had no comments.

Finding of No Significant Impact

On the basis of 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 letter dated December 1, 1997, as supplemented in a letter dated August 26, 1998, 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 room located at the Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 23rd day of June, 1999.

William C. Gleaves,

Project Manager, Section 2, and Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–16488 Filed 6–28–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of June 28, July 5, 12, and 19, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 28

Tuesday, June 29
9:00 a.m. Affirmation Session (Public Meeting) (If needed)

Week of July 5—Tentative

There are no meetings scheduled for the Week of July 5.

Week of July 12—Tentative

Tuesday, July 13
9:30 a.m. Briefing on Treatment of Existing Programs for License Renewal (Public Meeting)
Thursday, July 15
10:00 a.m. Briefing on Existing Event Response Procedures (Including Federal Response Plan and Coordination of Federal Agencies in Response to Terrorist

Activities) (Public Meeting)
11:30 a.m. Affirmation Session (Public Meeting) (If needed)

Week of July 19—Tentative

There are no meetings scheduled for the Week of July 19.

Note: The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: June 24, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–16596 Filed 6–25–99; 10:44 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1805; File No. 803–134]

CSX Financial Management, Inc.; Notice of Application

June 23, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

Applicant: CSX Financial Management, Inc.

Relevant Advisers Act Sections: Exemption requested under section 202(a)(11)(F) from section 202(a)(11).

Summary of Application: Applicant requests an order declaring it to be a person not within the intent of section 202(a)(11), which defines the term ''investment adviser.''

Filing Dates: The application was filed on January 25, 1999 and amended on June 1, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1999, and should be accompanied by proof of service or applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549–0609. Applicant, CSX Financial Management, Inc., One James Center, 16th Floor, 901 East Cary Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Karen L. Goldstein, Staff Attorney, at (202) 942–0646, Jennifer L. Sawin, Special Counsel, at (202) 942–0532 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was organized as a Delaware corporation in 1989. Sea-Land Service, Inc. (''Sea-Land''), a wholly-owned subsidiary of CSX Corporation (''CSX''), owns all of the outstanding stock of Applicant.

2. Applicant serves as an investment adviser for CSX and certain CSX subsidiaries, now existing or to be formed in the future, of which CSX owns, directly or indirectly, more than 50% of the outstanding voting shares (such existing and future subsidiaries, together with CSX, the ''CSX Companies''). From time to time there are more than 15 companies included within the CSX Companies.

3. Since 1993, Applicant has been registered with the SEC as an investment adviser. Applicant has never provided advisory services to any other person or entity other than the CSX Companies.

Applicant's Legal Analysis

1. Section 202(a) (11) of the Advisers Act defines the term ''investment adviser'' to mean ''any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. . .'' Section 202(a) (11) (F) of the Advisers Act authorizes the SEC to exclude from the definition of ''investment adviser'' persons that are not within the intent of section 202(a)(11).

2. Section 203(a) of the Advisers Act requires investment advisers to register with the SEC. Section 203(b) of the Advisers Act provides exemptions from this registration requirement. Applicant asserts that it does not appear to qualify for any of the exemptions provided by section 203(b).

3. Applicant requests that the SEC declare it to be a person not within the intent of section 202(a) (11). Applicant submits that its advisory services to the CSX Companies should not be considered services to ''others''. Although Applicant is a corporation, and therefore a separate legal entity from the CSX Companies, Applicant describes its relationship to the CSX Companies as internal. Applicant's financial results are reported in CSX's financial statements, which reflect results for all the CSX Companies on a consolidated basis. Applicant states that CSX owns more than 50% of the outstanding voting shares of Applicant and of each CSX Company.

4. Applicant submits that the protections of the Advisers Act may be considered unnecessary when an adviser and client, although separate legal entities, in reality, form a single economic entity. Applicant states that it exists solely to provide investment advisory services to the CSX Companies. Applicant represents that it has never provided, and does not intend to provide in the future, any investment advisory services to the general public or to any persons or entities other than the CSX Companies. Applicant states the CSX, the indirect parent of Applicant, views its investment in Applicant as a method of obtaining advisory services for the CSX Companies and not as a portfolio asset. Applicant asserts that there is no public interest in requiring it to be registered under the Advisers Act.

5. Applicant states that it does not hold itself out to the public as an investment adviser. Applicant states that it is not listed in the phone book under ''investment advisory services.'' Applicant represents that it does not engage in any advertising, attend investment management conferences as a vendor, or conduct any marketing activities.

Applicant's Condition

Applicant agrees that the requested order shall be subject to the condition that Applicant continues to provide investment advisory services only with respect to the assets of the CSX Companies and does not solicit public clients.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–16497 Filed 6–28–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41543; File No. SR–NASD–99–20]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating To Firm Quotation Requirements

June 22, 1999.

I. Introduction and Background

On April 20, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change would require a market maker to disseminate an inferior quote whenever the market maker fails to execute the full size of an incoming order that is at least one normal unit of trading greater than the market maker's published quotation size. The proposal also would prohibit the use of automatic quote updating in such circumstances.

Notice of the proposed rule change was published for comment in the **Federal Register** on May 18, 1999.[3] The Commission received four comment letters regarding the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposal

Nasdaq proposes to amend NASD Rule 4613(b), ''Firm Quotations,'' and IM–4613, ''Autoquote Policy,'' to require a market maker to disseminate an inferior quote whenever the market maker fails to execute the full size of an incoming order that is at least one normal unit of trading greater than the market maker's published quotation size. The proposal also will prohibit the use of automatic quote updating in such circumstances.

According to Nasdaq, the proposal is designed to correct the inefficiencies that arise when a market participant must use multiple small orders to accomplish the objectives of a single large order. In this regard, Nasdaq notes that a market participant may be required to enter multiple small orders when a market maker enters a minimum quotation size, receives an order larger than its quoted size, fills the order only up to its quoted size (as currently required under NASD Rule 4613(b)), and remains at the inside quote prepared to accept another order at the minimum quotation size. The following example illustrates this scenario:

Market Maker #1 (''MM1'') is bidding $10 for 100 shares of ABCD. Order Entry Firm # (''OE1'') sends a preferenced SelectNet order to MM1 to sell 1000 shares of ABCD at $10, MM1 partially executes OE1's 1000-share order by buying 100 shares of ABCD, and does not move its quotation. Assuming MM1 is alone at the inside (i.e. at the best bid), OE1 may be compelled to send multiple SelectNet messages to MM1, potentially resulting in a total of ten transactions to complete its 1000-share order.

Nasdaq maintain that although MM1 has complied with NASD Rule 3320, ''Offers at Stated Prices,'' IM–3320, ''Firmness of Quotations,' current NASD Rule 4613(b), and Exchange Act Rule 11Ac1–1 [5] executing a presented order up to its published quotation price and size, it is apparent that MMI was willing to buy more than the 100 shares displayed. Nasdaq believes that MM1's actions result in increased transaction costs, impede the price discovery process, and preclude other market makers from positiving executing large orders.

In addition, Nasdaq believes that MM1's actions may hinder price continuity and lead to increased instances of locked and crossed markets. For example, if MM1 is bidding 100 shares at $20, and MM2 wishes to lower its offer from $20 1/16 to $20, MM2 would send MM1 a SelectNet message for 100 shares (or more) in an attempt to exhaust MM1's quote. After sending multiple SelectNet messages to take out MM1, MM2 may move its quote to $20, thereby locking the market.[6]

Nasdaq states that the proposal is designed to effectuate the display of a market maker's true and intended quotation size. Nasdaq believes that when a market maker receives an order larger than the market maker's displayed size and completes the order only at its displayed size, the market maker has indicated clearly that its interest in trading at that price level has been depleted. Accordingly, the proposal will require a maket maker that has partially filled an incoming order that is greater than the market maker's displayed size to adjust its quote to an inferior price level.

Nasdaq proposes to modify IM–4613(b) to mandate compliance with proposed NASD Rule 4613(b)(2). IM–4613(a) generally prohibits the use of ''autoquote'' mechanisms to generate automatically a new quote that would keep a market maker's quote away from the best market. IM–4613(b)(1) provides an exception to this rule that permits the use of autoquote functions when the update is in response to an execution in the security by that firm. Nasdaq proposes to revise IM–4613(b)(1) to require that the market maker comply with proposed NASD Rule 4613(b)(2) by allowing the market maker to update automatically its quote only after fully executed the incoming order. If the order is not executed in full, the autoquote functionality must be discontinued and the market maker must revise its quote to an inferior price level.

III. Summary of Comments

The Commission received four comment letters regarding the proposal.[7] All four commenters generally supported the proposed rule change. One commenter argued, for example, that the proposal will increase

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41390 (May 12, 1999) 64 FR 27016.

[4] *See* Letter from Richard Y. Roberts, Esquire, Thelen Reid & Priest LLP, on behalf of the Electronic Traders Association (''ETA'') to Jonathan Katz, Secretary, SEC, dated June 8, 1999 (''ETA Letter''); Letter from Gerald S. Putnam, Chief Executive Officer, Archipelago, LLC to Jonathan G. Katz, Secretary, SEC dated June 8, 1999 (''Archipelago Letter''), Letter from Mike Cormack, Manager, Equity Trading, American Century Investment Management (''ACIM'') to Jonathan Katz Secretary, SEC, dated June 3, 1999 (''ACIM Letter''); Letter from Matthew W. Johnson, Managing Director, Lehman Brothers, to Jonathan G. Katz, Secretary, SEC, dated June 9, 1999 (''Lehman Letter'').

[5] 17 CFR 240.11Ac1–1 (requiring a broker-dealer to execute orders at prices at least as favorable as its published quotation in an amount up to its published quotation size).

[6] The Commission notes that market makers are required to use reasonable means to avoid locking and crossing the market. *See* Securities Exchange Act Release No. 40455 (September 22, 1998), 63 FR 51987 (September 29, 1998) (order approving File No. SR–NASD–98–01).

[7] *See Supra* Note 4.

efficiency by providing a mechanism that will assist the marketplace in expeditiously assesing the size of trading interest by market participants.[8] Another commenter maintained that the proposal will reduce the long-standing problem associated with market makers who inhibit price discovery and market liquidity of remaining at the inside bid or offer for extended periods of time. The commenter also stated that the proposal will reduce transction costs, allow for more orderly executions of trades, and increase transparency in the marketplace.[9] A third commenter believed that the proposed represents a sound solution to a inefficient market situation, but urged the Commission and the NASD to review the continuing need for the autoquote policy contained in IM–4613.[10]

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations applicable to the NASD. In particular, the Commission finds that the proposal is consistent with the requirements of Sections 15A(b)(6), 15A(b)(11), and Section 11A(a)(1)(C) of the Act.[11] Section 15A(b)(6) requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impedments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 15A(b)(11) requires that the rules of a registered national securities association be designed to produce fair and informative quotations, prevent fictious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations. In Section 11A(a)(1)(C), Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities of securities transactions; (2) fair competition among brokers and dealers; (3) the availability of brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer.

Specifically, the Commission finds that the proposal to amend NASD Rule 4613 by requiring that a market revise its quotation to disseminate an inferior quote whenever the market maker fails to execute the full size of an incoming order that is at least one normal unit of trading greater than the market maker's published quote size is consistent with Sections 15A(b)(6), 15A(b)(11), and 11A(a)(1)(C) of the Act because it will encourage market makers to display quotations that accurately reflect their trading interest, thereby producing more informative quotation information and increasing market transparency. Increased transparency, in turn, will enhance the integrity of the market and facilitate price discovery by helping market participants asesss the supply and demand for securities.

In addition, the Commission finds that the proposal may help to reduce instances of locked and crossed markets which may occur, according to Nasdaq, when a market maker is unable to exhaust the bid or offer of another market maker after sending the market maker multiple SelectNet messages.[12] The Commission believes that continued locking and crossing of the market can negatively impact market quality.[13] By reducing the frequency of locked and crossed markets, the Commission believes that the proposal should improve market quality and help to maintain a fair and orderly market, to the benefit of all market participants.

The Commission also finds that the proposal could help to reduce the transaction costs that arise currently when a market participant must execute multiple small orders rather than a single large order because a market maker does not trade to the full extent of its interest at its displayed price in a single transaction. By reducing transaction costs, the proposal should help to provide for the economically efficient execution of securities transactions, consistent with Section 11A(a)(1)(C) of the Act.

The Commission finds that the amendment to IM–4613 is appropriate and consistent with the Act because it will help to effectuate compliance with NASD Rule 4613, as amended. Specifically, IM–4613, as amended, will allow a market maker to update automatically its quote only after executing an incoming order in full. If the market maker fails to execute fully the incoming order, the market maker must discontinue the autoquote functionality and revise its quotation to disseminate an inferior price. Accordingly, IM–4613, as amended, will help to ensure that a market maker does not automatically update its quote to remain at the inside after it has failed to execute fully an incoming order that is greater than the market maker's published quote size.

V. Conclusion

The Commission finds that the proposed rule change is consistent with the Act, in general, and in particular, with Sections 15A(b)(6), 15A(b)(11), and Section 11A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NASD 99–20) be, and hereby is, approved.[15]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–16446 Filed 6–28–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41547; File No. SR–NASD–99–30]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Entry Fees and Annual Fees for Foreign Issuers Quoted on the Nasdaq National Market

June 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed

[8] *See* Archipelago Letter *Supra* note 4.

[9] *See* Lehman Letter, *supra* note 4.

[10] *See* ETA Letter, *supra* note 4.

[11] 15 U.S.C. 78o–3(b)(6), 15 U.S.C. 78o–3(b)(11), and 15 U.S.C. 78k–1.

[12] As noted above, market makers are required to use reasonable means to avoid locking and crossing the market. *See* Securities Exchange Act Release No. 40455, *supra* note 6.

[13] *Id.*

[14] 15 U.S.C. 78s(b)(2).

[15] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rule change as described in Items I and II below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has filed with Commission a proposed rule change regarding entry fees and annual fees for foreign issuers quoted on the Nasdaq National Market. Below is the text of the proposed rule change. The proposed new language is italicized.

* * * * *

4510. The Nasdaq National Market

(a) Entry Fee

(1) No change.

(2) Total shares outstanding means the aggregate of all classes of equity securities to be included in the Nasdaq National Market as shown in the issuer's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the issuer's appropriate regulatory authority. *In the case of foreign issuers, total shares outstanding shall include only those shares issued and outstanding in the United States.*

(3) No change.

(4) No change.

(b) Additional Shares

No change.

(c) Annual Fee—Domestic and Foreign Issues

(1)–(3) No change.

(4) The annual fee shall be based on the total shares outstanding of the class included in the Nasdaq National Market as shown in the issuer's most recent periodic report required to be filed with the issuer's appropriate regulatory authority or in more recent information held by Nasdaq. In the case of foreign issuers, total shares outstanding shall include only those shares issued and outstanding in the United States.

(d) Annual Fee—American Depository Receipts (ADRs)

No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Association included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Association has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Effective January 1, 1998, the NASD adjusted the Entry Fee and the Annual Fee for Nasdaq National Market issuers (''the 1998 fee change''),[3] The 1998 fee change was justified, in part, by the increased costs associated with efforts to communicate with investors and to support the continued expansion and technological enhancements of Nasdaq's qualification and market surveillance systems and programs.

As a result of the 1998 fee change, the method for computing entry fees and annual fees on the Nasdaq Stock Market was changed to rely solely on the issuer's total shares outstanding. The NASD now believes that with respect to foreign issuers whose shares are quoted on the Nasdaq National Market, total shares outstanding is not the best benchmark upon which to base listing fees. In particular, the NASD notes that only those shares outstanding in the United States typically trade on the Nasdaq Stock Market, and it is the holders of these shares that primarily receive the benefits of a listing on the Nasdaq Stock Market, including those benefits detailed when the 1998 fee change was approved. Accordingly, the Association proposes to charge entry fees and annual fees for such foreign issuers based on the total shares outstanding in the United States.

In order to effectuate this change, the Association will request that foreign issuers provide Nasdaq with the total number of shares outstanding in the United States. In the event that a foreign issuer does not provide that information, the NASD will assess fees for that issuer based upon the total shares outstanding as shown in the most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the issuer's appropriate regulatory authority.

The NASD requests that this proposal be made effective as of January 1, 1999, with respect to annual fees. Accordingly, issuers will be given a credit for the difference between the 1999 annual fee that they have paid and the fee as computed for 1999 under this proposed rule change. This credit can be used to offset future fees owed to Nasdaq.

With respect to entry fees, the Association requests that this proposal be effective immediately upon approval.

2. Basis

The Association believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[4] and (6)[5] of the Act. The NASD believes the proposed rule change is consistent with Section 15A(b)(5) because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers using the Nasdaq system. The NASD also believes the proposed rule change is consistent with Section 15A(b)(6) because it is designed to promote just and equitable principles of trade and does not permit unfair discrimination between customers, issuers, brokers or dealers. As noted above, the proposed rule change allocates fees for foreign issuers based on the number of shares that trade on the Nasdaq Stock market and the shareholders that receive the benefit of the Nasdaq listing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements

[3] Securities Exchange Act Release No. 39613 (February 2, 1998); 63 FR 6789 (February 10, 1998).

[4] 15 U.S.C. 78o–3(b)(5).

[5] 15 U.S.C. 78o–3(b)(6).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–30 and should be submitted by July 20, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a registered securities association,[6] and, in particular, the requirements of Section 15A(b)(5) and Section 15A(b)(6) of the Act.

Section 15A(b)(5) requires that the rules of a registered securities association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers using any facility or system which the association operates or controls. The proposal amends the entry fees and annual fees paid by foreign issuers listed on the Nasdaq National Market. These fees are proposed to be based on a foreign issuer's number of outstanding shares trading in the United States [7] The Commission finds that this number is reasonable because it represents the number of shareholders that receive the benefits of listing on Nasdaq Stock Market. The Commission also finds that the new fees are equitably allocated among foreign issuers because all foreign issuers are subject to the same fee calculation. Moreover, the Commission finds that the fees are reasonably allocated among all issuers, foreign and domestic, because they are based upon the benefits derived by each issuer.

Section 15A(b)(6) requires, among other things, that the rules of a registered securities association be designed to promote just and equitable principles of trade and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal applies equally to all foreign issuers that trade in the United States on the Nasdaq stock Market, thus it is not designed to permit unfair discrimination among foreign issuers. In addition, as discussed above, the proposal should not permit unfair discrimination among all issuers because the fees are based upon an issuer's usage of the Nasdaq Stock market.

Finally, the Commission notes that the proposed change to the annual fees are to be made effective as of January 1, 1999. The Commission finds that since the proposed change reduces the amount of fees owed by foreign issuers and that as a result of this proposed change foreign issuers will be given a credit for the higher fees paid thus far in 1999 to be applied to future annual fees that it is consistent with the Act to make these changes effective retroactively.

The Commission finds good cause to approve the proposal prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register.** The proposal reduces the amount of entry fees and annual fees to be paid by foreign issuers. These reductions do not raise any new or novel regulatory issues. Accordingly, the Commission believes that it is consistent with Sections 15A(b)(5) and (6) to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–NASD–99–30) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–16498 Filed 6–28–99; 8:45 am]

BILLING CODE 8010–01–M

[6] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] The Commission notes that the New York Stock Exchange (''NYSE'') employs the same calculation for determining initial fees and annual fees for its foreign issuers. *See* NYSE Listed Company Manual 902.04.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending June 18, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5839
Date Filed: June 14, 1999
Parties: Members of the International Air Transport Association
Subject: PTC2 AFR 0059 dated 15 June 1999 Mail Vote 009—Resolution 010o TC2 Within Africa Special Passenger Amending Resolution from Malawi
Intended effective date: 21 June 1999.

Docket Number: OST–99–5842
Date Filed: June 15, 1999
Parties: Members of the International Air Transport Association
Subject: PAC/Reso/405 dated June 2, 1999
22nd PAC—Expedited Resolution 808
Intended effective date: 1 August 1999.

Docket Number: OST–99–5849
Date Filed: June 17, 1999
Parties: Members of the International Air Transport Association
Subject: PTC31 S/CIRC 0068 dated 28 May 1999
South Pacific Resolutions r1–r33
Minutes—PTC31 S/CIRC 0069 dated 15 June 1999
Tables—PTC31 S/CIRC 0020 dated 4 June 1999
Intended effective date: 1 October 1999.

Docket Number: OST–99–5852
Date Filed: June 17, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC2 AFR 0060 dated 18 June 1999 Mail Vote 011—Resolution 010q TC2 Within Africa Special Passenger Amending Resolution from Zimbabwe
Intended effective date: 1 July 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–16482 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending June 18, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following

the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–5846
Date Filed: June 16, 1999
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 14, 1999
Description: Application of United Air Lines, Inc. pursuant to 49 U.S.C. Section 41101 and Subpart Q, applies for renewal of segments 1, 2, 3, and 6 of its Certificate of Public Convenience and Necessity for Route 566, authorizing United to engage in scheduled foreign air transportation of persons, property and mail between San Francisco and Mexico City; Chicago and Mexico City; Washington, D.C. and Mexico City; and Denver and Mexico City.

Docket Number: OST–99–5861
Date Filed: June 17, 1999
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 15, 1999
Description: Application of Delta Air Lines, Inc. pursuant to 49 U.S.C. Sections 41102, 41108 and Subpart Q, applies for renewal of its Certificate of Public Convenience and Necessity for Route 562, segments 1 and 2, which authorizes Delta to engage in scheduled foreign air transportation of persons, property and mail between (1) the terminal point Atlanta, Georgia, and the terminal point Mexico City, Mexico (segment 1); and (2) the terminal point Dallas/Ft. Worth, Texas, and the terminal point Mexico City, Mexico (segment 2).

Docket Number: OST–99–5865
Date Filed: June 18, 1999
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 16, 1999
Description: Application of Northwest Airlines, Inc. pursuant to 49 U.S.C. Section 41101, 14 CFR section 302.1750 (a) (3), 14 CFR part 377 and Subpart Q, applies for Renewal of Segment 1 and Segments 3–8 of its Experimental Certificate of Public Convenience and Necessity for Route 564, which authorizes Northwest to engage in foreign air transportation of persons, property and mail on the following U.S.-Mexico routes: Memphis-Cancun; Minneapolis/St. Paul-Puerto Vallarta; Detroit-Mexico City; Detroit-Puerto Vallarta; Minneapolis/St. Paul-Ixtapa/Zihuatanejo; Minneapolis/St. Paul-Cozumel; and Minneapolis/St. Paul-Ixtapa/Zihuatanejo.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–16481 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on July 22, 1999, at 9 a.m. Arrange for oral presentations by July 7, 1999.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers.

FOR FURTHER INFORMATION CONTACT: Marisa Mullen, Transportation Industry Analyst, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7653, fax: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on July 22, 1999, at 9:00 a.m. at the General Aviation Manufacturers Association, 1400 K Street, NW., Suite 801, Washington, DC 20005–2485.

The agenda for this meeting will include:

(1) Approval of the ARAC draft meeting minutes of April 15, 1999.

(2) A progress report on the Parts and Production Certification Working Group tasking (FAA Form 8130–3/JAA Form 1 harmonization);

(3) A status report on the Delegation Working Group tasking;

(4) A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 7, 1999, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 21, 1999

Brian Yanez,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–16532 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 194; ATM Data Link Implementation

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 194 meeting to be held July 22, 1999, starting at 9:00 a.m. The committee was formed in May 1999 to produce the guidance and performance requirements necessary to implement data link in the U.S. National Airspace System (NAS), further developing work resulting from the FAA Administrator's NAS Modernization Task Force. The meeting will be held at RTCA, 1140 Connecticut Ave., NW, Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome and Introductions; (2) Report on trip to SC–189 plenary, Canberra, Australia, June 21–25; (3) Review draft P–PUB–01, Organization, Work Structure, and Operating Procedures; (4) Discuss email exploders and web pages; (5) Working group reports; (6) Other Business; (7) Summarize action items; (8) Schedule for future meetings; (9) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–16528 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 195; Flight Information Services Communications (FISC)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)—195 meeting to be held July 20–22, starting at 8:30 a.m. each day. This new committee has been approved by the Program Management Committee to replace SC–169 and Working Group 3. The meeting will be held at National Center for Atmospheric Research, 3450 Mitchell Lane, Boulder, Colorado.

The agenda will include: July 20: (1) Welcome and Introductions; (2) Final Review of Automet Minimum Operational Performance Standards; (3) Review of FIS–B Minimum Aviation System Performance Standards (MASPS) Action Items; (4) Page-by-Page review of FIS–B MASPS. July 21: (5) Continue Page-by-Page review of FIS–B. July 22: (6) Review new FIS–B MASPS actions; (7) Determine location/date of next meeting; (8) Closing.

Attendance is open the the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Person wishing to present statements or obtain information should contact Tenny Lindholm with NCAR at (303) 497–8448 or the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–16529 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Bradley International Airport, Windsor Locks, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a Passenger Facility Charge at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert Juliano, A.A.E., Bureau of Chief, State of Connecticut, Department of Transportation, Bureau of Aviation and Ports at the following address: 2800 Berlin Turnpike, P.O. Box 317546, Newington, CT. 06131–7546.

Air carriers and foreign air carriers may submit copies of written comments previously provided the State of Connecticut under § 158.23 of part 158 of the Federal Aviation Regulation.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (781) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a Passenger Facility Charge (PFC) at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 15, 1999, the FAA determined that the application to impose a PFC submitted by the State of Connecticut was substantially complete within the requirements of § 158.25 of part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than August 27, 1999.

The following is a brief overview of the impose application.

PFC Project #: 99–09–I–00–BDL.

Level of the proposed PFC: $3.00.

Charge effective date: November 1, 1999.

Estimated charge expiration date: June 1, 2000.

Estimated total net PFC revenue: $4,400,000.

Brief description of projects: Reconstruction of the eastern end of taxiway ''S''.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On demand Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Connecticut Department of Transportation Building, 2800 Berlin Turnpike, Newington, Connecticut 06131–7546.

Issued in Burlington, Massachusetts on June 18, 1999.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 99–16531 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment

period soliciting comments on the following information collection was published on March 22, 1999 [64 FR 13843].

DATES: Comments must be submitted on or before July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Gorman, (202) 366–5001, Office of Intermodal and Statewide Planning, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Ferry Study.

*Type of Request: A*pproval of a new information collection.

Affected Public: 250 ferry operators nationwide.

Abstract: The Transportation Equity Act for the 21st Century (TEA–21), section 1207 (c), directs the Secretary of Transportation to conduct a study of ferry transportation in the United States and its possessions. The Federal Highway Administration (FHWA) will conduct the study which will be used to: (1) Inventory existing ferry operations; (2) determine the potential for new ferry routes; (3) determine the potential for alternative fuel ferries; and (4) determine the potential for high speed ferries. Information for the study will be collected from operators of existing ferry services and will include: (1) the points served; (2) the amount and source of Federal, State, and/or local funds used in the past three years; (3) the type of ownership; (4) the number of passengers and vehicles carried in the past year; (5) any new routes expected to be added within the next five years; and (6) the highways that are connected by the ferries.

Frequency: The survey will be conducted once.

Estimated Burden: The estimated total annual burden is 84 hours (20 minutes per respondent).

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

Issued on: June 22, 1999.

Lawrence I. Neff,

Acting Director, Office of Information and Management Services.

[FR Doc. 99–16414 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Alaska Railroad Corporation; FRA Waiver Petition No. FRA–1999–5105

Alaska Railroad Corporation (ARR) seeks a permanent waiver of compliance from certain provisions of the Roadway Worker Protection Standards, 49 CFR Part 214, Subpart C. ARR seeks a waiver of 49 CFR 214.327(c) which states:

(c) No operable locomotives or other or other items of on-track equipment, except those present or moving under the direction of the roadway worker in charge of the working limits, shall be located within working limits established by means of inaccessible track.

The ARR requests this waiver so it can use a procedure that will utilize a General Order or Special Instruction to assure that locomotives or other items of on track equipment located within working limits can not be operated until an advisory from the Anchorage Terminal Superintendent has been obtained. ARR desires to use this procedure during inclement weather to facilitate snow removal operations. Anchorage yard would be made into working limits by establishing a track warrant on the entrance to the yard in accordance with Sec. 214.327 (a) (4), inaccessible track. All movements within the yard would be under the control of the roadway worker that is in charge of the working limits.

ARR intends to create ''zones'' within Anchorage yard for the purpose of delineating specific groups of tracks that could be fouled during snow removal, and further define those groups of tracks (in zones) which would not be involved in the snow removal process.

Interested parties are invited to participate in this proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA 1999–5105) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on June 23, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–16466 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Canadian National Railway; Docket Number FRA–1999–5756

The Canadian National Railway (CN) seeks a permanent waiver of compliance with the Locomotive Safety Standards, 49 CFR Part 229.47(a), which requires each car body type road locomotive be equipped with an emergency brake valve adjacent to each end exit door, that these brake pipe valve locations shall be stencilled as ''EMERGENCY BRAKE VALVE'' or shall be identified on adjacent badge plate. The CN seeks this waiver for 178 car body locomotives built between 1985 and 1990, utilized to haul freight that have never been equipped with an emergency brake valve at the rear exit door. CN states that they do not believe that the emergency brake valve at the rear exit of these locomotives is needed.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–5756) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street SW, Washington. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC on June 23, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–16469 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Honey Creek Railroad; Docket Number FRA–1999–4988

The Honey Creek Railroad (HCRR) seeks a permanent waiver of compliance with the Safety Glazing Standards, 49 CFR Part 223.11(c), which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The HCRR seeks this waiver for locomotive number 7898. The owner states the locomotive is equipped with FRA approved glazing in all locations but two sections of glass. The owner also states they operate six miles of track and that there has never been a glazing related accident.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–4988) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street S.W., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on June 23, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–16468 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Southeastern Pennsylvania Transportation Authority; Docket Number FRA–1999–5802

The Southeastern Pennsylvania Transportation Authority (SEPTA) seeks a temporary waiver of compliance with the Passenger Equipment Safety Standards, 49 CFR Part 238.235, which requires that by December 31, 1999, each power operated door that is partitioned from the passenger compartment shall be equipped with a manual override adjacent to that door. SEPTA requests that the temporary waiver extend the December 31, 1999 compliance date to July 12, 2001. SEPTA states that they need the added time to meet this requirement. SEPTA seeks this waiver for 231 MU's and 35 passenger coaches with power operated side doors.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these 2 proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–5802) and must be submitted to the Docket Clerk, DOT Central Docket

Management Facility, Room PL–401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street S.W., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC on June 23, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–16467 Filed 6–28–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33769]

Canadian National Railway Company—Trackage Rights Exemption—New York Central Lines LLC

New York Central Lines LLC (NYC) has agreed to grant limited, non-exclusive overhead trackage rights to Canadian National Railway Company (CN) over a segment of NYC's lines between the NYC/CN connection at CP ''H'', at Belt Line Branch MP 7.2 near Black Rock, and the NYC/Pennsylvania Lines LLC connection at CP 5, at Chicago Line MP 5.4 near the south end of Seneca Yard, both in the vicinity of Buffalo, NY, via: (i) NYC's Belt Line Branch between CP ''H'' and CP ''T'; (ii) NYC's Bailey Avenue Branch between CP ''T'' and CP 437; (iii) NYC's Compromise Branch between CP 437 and CP 2; and (iv) NYC's Chicago Line between CP 2 and CP 5, a total distance of approximately 12.8 miles.

The transaction is scheduled to be consummated on or after June 25, 1999.

The purpose of the trackage rights is generally to improve service and transit times for CN's traffic moving through the Buffalo area, and to facilitate CN's interchange with Norfolk Southern Railway Company.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33769, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert P. vom Eigen, Esq., Hopkins & Sutter, 888 16th Street, N.W., Washington, DC 20006.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 22, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–16551 Filed 6–28–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Renewal of Information Collection; Comment Request

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

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its extension, without change, for an information collection titled, ''Interpretive Rulings—12 CFR 7.''

DATES: You should submit written comments by August 30, 1999.

ADDRESSES: You should direct all written comments to the Communications Division, Attention: 1557–0204, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, you may send comments by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Jacqueline Lussier, Senior Attorney, (202) 874–5090; or a copy of the collection from Jessie Gates or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0204), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Interpretive Rulings—12 CFR 7.

OMB Number: 1557–0204.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requets only that OMB renew its approval of the information collections in the current regulation.

National banks need these collections of information to ensure that they conduct their operations in a safe and sound manner and in accordance with applicable federal banking statutes and regulations. The collections of information provide needed information for examiners and provide protections for national banks. The collections of information are necessary for regulatory and examination purposes and for national banks to ensure their compliance with federal law and regulations.

The information requirements in 12 CFR part 7 are located as follows:

12 CFR 7.1000(d)(1) (Lease financing of public facilities): The lease agreement must provide that the lessee will become the owner of the building or facility upon the expiration of the lease.

12 CFR 7.1014 (Sale of money orders at nonbanking outlets): The written agreement between a national bank and bonded agent to sell the bank's money orders at a nonbanking outlet should define the responsibilities of both parties, set forth their respective duties, and provide for remuneration of the agent.

12 CFR 7.2000(b) (Other sources of guidance for corporate governance procedures): A national bank shall designate in its bylaws the body of law selected for its corporate governance procedures.

12 CFR 7.2004 (Honorary directors or advisory boards): Any listing of a

national bank's honorary or advisory directors (who act in advisory capacities without voting power or the power of final decision in matters concerning bank business) must distinguish between them and the bank's board of directors, or indicate their advisory status.

12 CFR 7.2014(b) (Indemnification of institution-affiliated parties in administrative proceedings or civil actions not initiated by a federal banking agency): A national bank shall designate in its bylaws the body of law selected for making indemnification payments in administrative proceedings or civil actions not initiated by a federal banking agency.

National banks use the information to ensure their compliance with applicable federal banking law and regulations. Further, the collections of information evidence bank compliance with various regulatory requirements. This information assists bank management in the safe and sound operation of the bank. The OCC uses the information in the conduct of bank examinations and as an audit tool to verify bank compliance with law and regulations.

Type of Review. Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 2,430.

Estimated Total Annual Responses: 2,430.

Frequency of Response: Recordkeeping.

Estimated Total Annual Burden: 4,156 burden hours.

Comments

Comments submitted in response to this notice will be summarized and 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 has 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 22, 1999.

Mark Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 99–16472 Filed 6–28–99; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 99–06]

FEDERAL RESERVE SYSTEM

[Docket No. R–1036]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket No. 99–33]

Branch Closings

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint policy statement.

SUMMARY: The OCC, the Board, the FDIC, and the OTS (the agencies) are revising their joint policy statement regarding branch closings by insured depository institutions. This action is needed to incorporate changes in the underlying statute made by section 106 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and section 2213 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The action is intended to clarify the additional steps regarding notice and consultation for proposed branch closings by interstate banks in low- or moderate-income areas, and to clarify the status of automated teller machines, relocations and consolidations, and branch closings in connection with emergency acquisitions or assistance by the FDIC.

EFFECTIVE DATE: June 29, 1999.

FOR FURTHER INFORMATION CONTACT:

OCC: Crystal Maddox, National Bank Examiner, Licensing Policy and Systems Analyst, Bank Organization and Structure Division (202/874–5060); Sue Auerbach, Senior Attorney, Bank Activities and Structure Division (202/874–5300); Beth Knickerbocker, Senior Attorney, Community and Consumer Law Division (202/874–5750); Office of the Comptroller of the Currency, 250 E Street, SW., Washington DC 20219.

Board: Rick Heyke, Senior Attorney, Legal Division (202/452–3688), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

FDIC: Curtis Vaughn, Examination Specialist, Division of Supervision (202/898–6759); Gladys C. Gallagher, Counsel, Legal Division (202/898–3833); Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Larry Clark, Director of Trust Programs, Compliance Policy and Specialty Examinations (202/906–5628); Lucrecia R. Moore, Attorney (202/906–6161); Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION:

Background Information

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) (FDI Act) requires an insured depository institution to give 90 days prior written notice of any branch closing to its primary Federal regulator and to branch customers, to post a notice at the branch site at least 30 days prior to closing, and to develop a policy with respect to branch closings. The notice to the regulator must include a detailed statement of the reasons for the decision to close the branch and information in support of those reasons.

On September 21, 1993 (58 FR 49083), the agencies issued a joint policy statement to provide guidance to institutions in complying with section 42 of the FDI Act. The 1993 joint policy statement defines a branch for purposes of section 42, clarifies what constitutes a branch closing, and provides guidance to institutions in identifying customers to be notified in the event of a branch closing.

On September 29, 1994, section 42 of the FDI Act was amended by section 106 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338) (Interstate Act). The Interstate Act changed section 42 of the FDI Act in two ways, both relating to proposed closings by interstate banks (banks which maintain branches in more than one state) of branches in low- or moderate-income areas: First, by providing a new notice procedure; and second, by requiring the appropriate Federal banking agency to convene a meeting of community leaders and other

persons to discuss the feasibility of obtaining adequate alternative facilities and services if a person from the affected area requests such a meeting and other prescribed requirements are satisfied.

On September 30, 1996, section 42 of the FDI Act was amended by section 2213 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104–208, 110 Stat. 3009) (Regulatory Relief Act). The Regulatory Relief Act amended section 42 of the FDI Act to clarify that section 42 does not apply to: (1) An automated teller machine; (2) the relocation of a branch or consolidation of one or more branches into another branch, if the relocation or consolidation occurs within the immediate neighborhood and does not substantially affect the nature of the business or customers served; and (3) a branch that is closed in connection with an emergency acquisition under sections 11(n), 13(f), or 13(k) of the FDI Act, or any assistance provided by the FDIC under section 13(c) of the FDI Act. (12 U.S.C. 1821(n), 1823(f) and (k), and 1823(c)).

The agencies are revising the 1993 joint policy statement to reflect the changes to section 42 of the FDI Act made by the Interstate Act and the Regulatory Relief Act. The revised policy statement incorporates the new procedure and provides for banks to inform customers in affected areas of their ability to comment on a particular branch closing. The agencies are also clarifying that main offices, remote service facilities, loan production offices, and insured branches of foreign banks are not branches for purposes of section 42. A reference to the Resolution Trust Corporation (RTC) is being eliminated since the agency ceased to exist on December 31, 1995. The agencies are also clarifying the section on allocation of customers to branches.

The text of the revised joint policy statement follows:

Policy Statement of Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision Concerning Branch Closing Notices and Policies

Purpose

This policy statement provides guidance to each insured depository institution concerning requirements that an institution provide prior notice of any branch closing and establish internal policies for branch closings.[1]

Background

The Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236) (FDICIA) was enacted on December 19, 1991. Section 228 of the FDICIA added a new section 42 to the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) (FDI Act) that imposes notice requirements on insured depository institutions that intend to close branches. The provision became effective on December 19, 1991. Section 42 was amended on September 29, 1994, by section 106 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338), and on September 30, 1996, by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104–208, 110 Stat. 3009).

The law requires an insured depository institution to submit a notice of any proposed branch closing to the appropriate Federal banking agency no later than 90 days prior to the date of the proposed branch closing. The required notice must include a detailed statement of the reasons for the decision to close the branch and statistical or other information in support of such reasons.

The law also requires an insured depository institution to notify its customers of the proposed closing. The institution must mail the notice to the customers of the branch proposed to be closed at least 90 days prior to the proposed closing. The institution also must post a notice to customers in a conspicuous manner on the premises of the branch proposed to be closed at least 30 days prior to the proposed closing.

An interstate bank (defined in section 42 as a bank that maintains branches in more than one state) proposing to close a branch located in a low- or moderate-income area is required to include in its notice to customers the mailing address of the appropriate Federal banking agency and a statement that comments on the closing may be mailed to the agency.[2] In those cases, a person from the affected area may submit a written request relating to the proposed closing to the agency, stating specific reasons for the request and including a discussion of the adverse effect the closing may have on the availability of banking services in the affected area. If the agency determines that the request is nonfrivolous, then the agency shall convene a meeting of appropriate individuals, organizations, depository institutions, and agency representatives, as determined by the agency in its discretion, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area following the closing of the branch.

Finally, the law requires each institution to adopt policies regarding closings of branches of the institution.

Applicability

Section 42 of the FDI Act applies to the closing of a ''branch'' by an insured depository institution.[3] The agencies consider a ''branch'' for purposes of section 42 to be a traditional brick-and-mortar branch, or any similar banking facility other than a main office, at which deposits are received or checks paid or money lent. Notice pursuant to section 42 would not be required for the closing of non-branch facilities, such as an ATM, remote service facility, or loan production office, or of a temporary branch.[4] The law also does not apply to mergers, consolidations, or other acquisitions, including branch sales, that do not result in any branch closings. Institutions that are in doubt about the coverage of a particular closing should consult the appropriate Federal banking agency.

Mergers

An institution must file a branch closing notice whenever it closes a branch, including when the closing occurs in the context of a merger, consolidation or other form of acquisition.[5] Branch closings that occur in the context of transactions subject to the Bank Merger Act (12 U.S.C. 1828) require a branch closing notice, even if the transaction received expedited treatment under that Act. The responsibility for filing the notice lies with the acquiring or resulting institution, but either party to such a transaction may give the notice. Thus, for example, the purchaser may give the notice prior to consummation of the transaction where the purchaser intends to close a branch following consummation, or the seller may give the notice because it intends to close a branch at or prior to consummation. In the latter example, if the transaction

[1] An ''insured depository institution'' means any bank or savings association, as defined in Section 3 of the FDI Act (12 U.S.C. 1813), the deposits of which are insured by the FDIC.

[2] Under section 42, this requirement does not apply when a savings association closes a branch.

[3] Insured branches of foreign banks are not considered ''branches'' for purposes of section 42 because they are subject to separate liquidation procedures as specified in 12 CFR 28.22 (Federal branches of foreign banks) and 12 CFR 211.25(f) (state branches of foreign banks).

[4] Consistent with the agencies' original interpretation, the 1996 amendment expressly stated that section 42 of the FDI Act ''shall not apply with respect to automated teller machines.'' (Pub. L. 104–208, 110 Stat. 3009.)

[5] See ''Other'' below for certain branches closed in connection with emergency acquisitions or FDIC assistance or subsequently transferred back to the FDIC.

were to close ahead of schedule, the purchaser, if authorized by the appropriate Federal banking agency, could operate the branch to complete compliance with the 90-day requirement without the need for an additional notice.

Relocations and Consolidations

The law does not apply when a branch is relocated or consolidated with one or more other branches if the relocation or consolidation occurs within the immediate neighborhood and does not substantially affect the nature of the business or customers served. For purposes of this policy statement, a branch relocation is a movement within the same immediate neighborhood that does not substantially affect the nature of the business or customers served. Generally, relocations will be found to have occurred only when short distances are involved: For example, moves across the street, around the corner, or a block or two away. Moves of less than 1,000 feet will generally be considered to be relocations. In less densely populated areas or where neighborhoods extend farther, and a long move would not significantly affect the nature of the business or the customers served by the branch, a relocation may occur over substantially longer distances.[6] Institutions that are in doubt about whether a relocation or a closing has occurred should consult the appropriate Federal banking agency.

Consolidations of branches are considered relocations for purposes of this policy statement if the branches are located within the same neighborhood and the nature of the business or customers served is not affected. Thus, for example, a consolidation of two branches on the same block following a merger would not constitute a branch closing. The same guidelines apply to consolidations as to relocations.

Other

Changes of services at a branch are not considered a branch closing, provided that the remaining facility constitutes a branch (as defined herein).[7]

Section 42 also does not apply when a branch ceases operation but is not closed by an institution. Thus, the law does not apply to:

- A temporary interruption of service caused by an event beyond the institution's control (e.g., a natural catastrophe), if the insured depository institution plans to restore branching services at the site in a timely manner;[8]
- Transferring back to the FDIC, pursuant to the terms of an acquisition agreement, a branch of a failed bank or savings association operated on an interim basis in connection with the acquisition of all or part of a failed bank or savings association, so long as the transfer occurs within the option period or within an occupancy period, not to exceed 180 days, provided in the agreement.
- A branch that is closed in connection with an emergency acquisition under sections 11(n), 13(f), or 13(k) of the FDI Act, or any assistance provided by the FDIC under section 13(c) of the FDI Act. (12 U.S.C. 1821(n), 1823(f) and (k), and 1823(c)).

Notice of Branch Closing to the Agency

The law requires an insured depository institution to give notice of any proposed branch closing to the appropriate Federal banking agency no later than 90 days prior to the date of the proposed branch closing. The required notice must include the following:

- Identification of the branch to be closed;
- The proposed date of closing;
- A detailed statement of the reasons for the decision to close the branch; and
- Statistical or other information in support of such reasons consistent with the institution's written policy for branch closings.

If an institution believes certain information included in the notice is confidential in nature, the institution should prepare such information separately and request confidential treatment. The agency will decide whether to treat such information confidentially under the Freedom of Information Act (5 U.S.C. 552).

If a notice provided to a state supervisory agency pursuant to state law contains the information outlined above, then the institution may provide a copy of that notice to the appropriate Federal banking agency in satisfaction of section 42, provided that the notice is filed at least 90 days prior to the date of the branch closing.

Notice of Branch Closing to Customers

Customer Allocation

The law requires an insured depository institution that proposes to close a branch to provide notice of the proposed closing to the customers of the branch. A customer of a branch is a patron of an institution who has been identified with a particular branch by such institution through use, in good faith, of a reasonable method for allocating customers to specific branches. An institution that allocates customers based on where a customer opened his or her deposit or loan account will be presumed to have reasonably identified each customer of a branch. The agencies recognize that use of this means of allocation, and perhaps others, may result in certain facilities which technically constitute branches not being assigned any customers, but believe that this result is permissible so long as the means of allocation is reasonable; if such a branch is closed, then notification to the appropriate agency and posting of a notice on the branch premises will suffice. Finally, an institution need not change its recordkeeping system in order to make a reasonable determination of who is a customer of a branch.

Timing

Under section 42, an institution must include a customer notice at least 90 days in advance of the proposed closing in at least one of the regular account statements mailed to customers, or in a separate mailing. If the branch closing occurs after the proposed date of closing, no additional notice is required to be mailed to customers (or provided to the appropriate Federal banking agency) if the institution acted in good faith in projecting the date for closing and in subsequently delaying the closing.

Content

The mailed customer notice should state the location of the branch to be closed and the proposed date of closing, and either identify where customers may obtain service following the closing date or provide a telephone number for customers to call to determine such alternative sites. If a notice of branch closing provided to customers pursuant to state law contains this information, then a separate notice need not be sent, provided that the notice is sent at least 90 days prior to the closing.

Low- or Moderate-Income Areas Served by Interstate Banks

If the institution is a bank that maintains branches in more than one

[6] OCC and OTS regulations specify distances considered short-distance relocations. *See* 12 CFR 5.3(l) (national banks) and 12 CFR 545.95(c) (thrifts).

[7] The agencies note that where, after a reduction in services, the resulting facility no longer qualifies as a branch, section 42 would apply. Thus, notices of branch closing would be required if an institution were to replace a traditional brick-and-mortar branch with an ATM.

[8] Section 42 would apply, however, if the institution did not reopen the branch following the incident. Although prior notice would not be possible in such a case, the institution should notify the customers of the branch and the appropriate Federal banking agency in the manner specified by section 42 to the extent possible and as soon as possible after the decision to close the branch has been made.

state and the branch to be closed is located in a low-or moderate-income area,[9] the notice shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed branch closing may be mailed to that agency. The notice should also state that the agency does not have the authority to approve or prevent the branch closing. If the agency receives a written request by a person from the area in which the branch is located, relating to the proposed closing and stating specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the affected area, and if the agency concludes that the request is nonfrivolous, then the agency shall convene a meeting of agency representatives, other interested depository institution regulatory agencies, community leaders, and other appropriate individuals, organizations, and depository institutions, as determined by the agency in its discretion. The purpose of the meeting shall be to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch. In the case of an institution which will become an interstate bank prior to the closure of a branch in a low-or moderate-income area, such information must be included in the notice unless the closure will occur immediately upon consummation of the transaction that causes the institution to become interstate. No action by the appropriate Federal banking agency under this provision shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of sections 42(a) and 42(b) of the FDI Act (regarding notice to the appropriate Federal banking agency and notice to the institution's customers) have been met by such bank with respect to the branch being closed.

On-Site Notice

Under section 42, an institution also must post notice to branch customers in a conspicuous manner on the branch premises at least 30 days prior to the proposed closing. This notice should state the proposed date of closing and identify where customers may obtain service following that date or provide a telephone number for customers to call to determine such alternative sites. An institution may revise the notice to extend the projected date of closing without triggering a new 30-day notice period.

Contingent Notices

In some situations, an institution, in its discretion and to expedite transactions, may mail and post notices to customers of a proposed branch closing that is contingent upon an event. For example, in the case of a proposed merger or acquisition, an institution may notify customers of its intent to close a branch upon approval by the appropriate Federal banking agency of the proposed merger or acquisition.

Policies for Branch Closings

The law requires all insured depository institutions to adopt policies for branch closings. Each institution with one or more branches must adopt such a policy. If an institution currently has no branches, it must adopt a policy for branch closing when it establishes its first branch. The policy should be in writing and meet the size and needs of the institution.

Each branch closing policy adopted pursuant to section 42 should include factors for determining which branch to close and which customers to notify, and procedures for providing the notices required by the statute.

Compliance

The Federal banking agencies will examine for compliance with section 42 of the FDI Act in accordance with each agency's compliance examination procedures, to determine whether the institution has adopted a branch closing policy and whether the institution provided the required notices when it closed a branch. If an institution fails to comply with section 42, the appropriate Federal banking agency may make adverse findings in the compliance evaluation or take appropriate enforcement action.

[9] The term ''low-or moderate-income area'' means a census tract for which the median family income is: (1) Less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or (2) in the case of a census tract that is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State. (12 U.S.C. 1831r-l(d)(4)).

Dated: May 19, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 22, 1999.

Jennifer J. Johnson,

Secretary of the Board.

Dated: June 3, 1999.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

Dated: June 18, 1999.

Ellen Seidman,

Director, Office of Thrift Supervision.

[FR Doc. 99–16471 Filed 6–28–99; 8:45 am]

BILLING CODE Board of Governors: 6210–01–P (25%) OCC: 4810–33–P (25%) FDIC: 6714–01–P (25%) OTS: 6720–01–P (25%)

DEPARTMENT OF THE TREASURY

Customs Service

Procedures if the Generalized System of Preferences Program Expires

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: The Generalized System of Preferences (GSP) is a renewable preferential trade program that allows the eligible products of designated developing countries to directly enter the United States free of duty. The GSP is currently scheduled to expire at midnight on June 30, 1999, unless its provisions are extended by Congress. This document provides notice to importers that claims for duty-free treatment under the GSP will not be processed by Customs for merchandise entered or withdrawn from a warehouse for consumption on or after July 1, 1999, if the program is not extended before that date. This document also sets forth the mechanisms that will facilitate refunds, should the GSP be renewed with retroactive effect.

DATES: The plan set forth in this document will become effective as of July 1, 1999, if Congress does not extend the GSP program before that date.

FOR FURTHER INFORMATION CONTACT: For specific questions relating to the Automated Commercial System: James Halpin, Office of Information Technology, 703–921–7128. For general operational questions:

Formal entries—John Pierce, 202–927–1249;

Informal entries—John Considine, 202–927–0042;

Mail entries—Robert Woods, 202–927–1236;

Passenger claims—Wes Windle, 202–927–0167

SUPPLEMENTARY INFORMATION:

Background

Section 501 of the Trade Act of 1974 (the Act), as amended (19 U.S.C. 2461), authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary countries. Beneficiary developing countries and articles eligible for duty-free treatment under the GSP are designated by the President by Presidential Proclamation in accordance with sections 502(a) and 503(a) of the Act (19 U.S.C. 2462(a) and 2463(a)). Pursuant to 19 U.S.C. 2465, as amended by section 1011(a) of Pub. L. 105–277, 112 Stat. 2681, duty-free treatment under the GSP is presently scheduled to expire on June 30, 1999.

Congress is currently considering whether to extend the GSP program. If Congress does not pass legislation renewing the GSP before midnight, June 30, 1999, no claims for duty-free treatment under the program will be processed by Customs on entries made after that time. If legislation renewing the GSP is enacted after the GSP expires, language may be included that would make the GSP effective back to the date of its present expiration.

Recognizing the effect that renewing GSP duty treatment with retroactive effect has on both importers, who must request refunds of duties deposited, and Customs, which must liquidate or reliquidate eligible entries, Customs developed a mechanism to facilitate certain refunds. Set forth below is Customs plan that will be implemented on July 1, 1999, if the GSP has not been extended by that date.

Formal Entries

Claims—Duties Must Be Deposited

Although Customs will accept claims for GSP duty-free treatment, as specified below, Customs will not process the claim as duty free under the GSP for merchandise entered, or withdrawn from warehouse for consumption on or after July 1, 1999. Further, duties at the normal-trade-relations rate must be deposited, unless an alternate claim is made under another preferential program for which the merchandise qualifies (for example, the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act).

On or after July 1, 1999, for all merchandise that would qualify for the GSP were the GSP still in effect, Automated Broker Interface (ABI) filers must deposit duties at the normal-trade-relations rate with their entry summaries, but may continue to claim GSP duty-free treatment by using the Special Program Indicator (SPI) ''A'' as a prefix to the tariff number. Customs Automated Commercial System (ACS) will accept the SPI ''A'' transmission with the payment of duty. If the GSP is renewed with retroactive effect, the duties deposited will be refunded by Customs without further action by the ABI filer. In effect, use of the SPI ''A'' will constitute an ABI filer's request for a refund of duties paid for GSP line items if GSP is renewed with retroactive effect. It is noted that for ABI filers to take advantage of this system for receiving an automatic refund if GSP is renewed retroactively, the filers will have to reprogram their software to allow for the submission of estimated duties with the SPI ''A'' designation on entries. ABI filers who do not wish to reprogram their software will be required to request refunds in writing to the appropriate port director identifying the affected entry numbers if the GSP is renewed with retroactive effect.

While reprogramming is strictly voluntary, continued use of the SPI ''A'' has some benefits: one already mentioned is that the filer will not have to request a refund of deposited duties in writing should the GSP be renewed with retroactive effect; another is that ACS will perform its usual edits on the information transmitted by the filer, thereby ensuring that GSP claims are for acceptable country/tariff combinations and eliminating the need for statistical corrections.

Importers may not use the SPI ''A'' if they intend to later claim drawback, because claiming both the refund of duties deposited and drawback would be to request a refund in excess of duties actually deposited. Importers who are unsure as to whether they will claim drawback are advised not to use the SPI ''A''. If the GSP is renewed with retroactive effect, and the importer has not claimed drawback or enabled another person to claim drawback, then the importer may request a refund of duties deposited by writing to the port director at the port of entry. Also, importers may not use the SPI ''A'' if they have made an alternative duty-free treatment claim to GSP (for example, the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act).

Refunds

1. Automatic

If an ABI entry summary was filed with the SPI ''A'', should the GSP be renewed with retroactive effect, then Customs will liquidate or reliquidate all affected ABI entry summaries with a refund for the GSP line items with no further action needed to be taken by the filer to request a refund.

2. Need for Written Request

If an ABI entry summary was filed without the SPI ''A'', then the request for a refund must be in writing. Further, all non-ABI filers must request refunds in writing. Instructions on how to request a refund in writing will be issued if the GSP is renewed with retroactive effect.

Informal Entries

Refunds on informal entries filed through the ABI with the SPI ''A'' designation will be processed in accordance with the automatic refund procedure outlined above.

Baggage Declarations and Non-ABI Informals

When merchandise is presented for clearance, travelers and importers will be advised verbally that they may be eligible for a refund of GSP duties. Travelers/importers desiring such refund should request the Customs Officer to annotate the receipt of payment to indicate that the merchandise would be eligible for GSP duty-free treatment. Then, should the GSP be renewed with retroactive effect, the traveler/importer must request the GSP duty refund in a letter that includes the copy of the receipt of payment and submit the request to the appropriate Customs port of entry.

Mail Entries

Should the GSP be renewed with retroactive effect, those addressees who received GSP eligible merchandise (identified on the CF 3419A, (Mail Entry)) may be eligible for a refund of GSP duties and should submit a separate written claim for a refund. The request for the refund and a copy of the CF 3419A should be submitted to the appropriate International Mail Branch identified at the bottom right-hand corner of the CF 3419A. (The copy of the CF 3419A must be included with the request, as the information contained on the form will be the only record of the GSP merchandise entered and whether the duties and fees were paid).

Dated: June 24, 1999.

Robert J. McNamara,

Acting Assistant Commissioner Field Operations.

[FR Doc. 99–16480 Filed 6–28–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Meeting

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 Tuesday, July 20, 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 Tuesday, July 20, 1999, 6:00 p.m. to 9:00 p.m. at 10 MetroTech Center, 6th Floor, 625 Fulton Street, Brooklyn, N.Y. 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 7:00 p.m. to 8:00 p.m. on Tuesday, July 20, 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, N.Y., 11202.

The Agenda will include the following: Reports of the sub-committees and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: June 14, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–16412 Filed 6–28–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Midwest District.

SUMMARY: An open meeting of the Midwest Citizen Advocacy Panel will be held in Des Moines, Iowa.

DATES: The meeting will be held Thursday, July 22, 1999 and Friday, July 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sandra 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 open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, July 22, 1999 from 12:00 noon to 5:00 p.m. and 7:00 p.m to 9:00 p.m. and Friday, July 23, 1999 from 9:00 a.m. to 4:30 p.m. in Room 207, Best Western, Starlite Village, 929 Third Street, Des Moines, Iowa 50309. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. The public is invited to make oral comments on Thursday, July 22, 1999, 7:00 p.m. to 9:00 p.m.; written comments will be read into the record. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement or pre-register to make an oral comment, please call the CAP office at 1–888–912–1227 or 414–297–1604, FAX (414) 297–1623 or mail to Citizen Advocacy Panel, Mail Stop 1006–MIL, 310 W. Wisconsin Ave, Milwaukee, Wisconsin 53203–2221. If you would like to pre-register for the meeting, the only information needed by the CAP office is number of attendees and zip code.

The Agenda will include the following: Reports by the CAP sub-groups, presentation of taxpayer issues by individual members, CAP office report, report on *Points of Light* conference, and discussion of issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: June 14, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–16413 Filed 6–28–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

June 21, 1999.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before July 29, 1999.

OMB Number: 1550–0015.

Form Number: H–(e)__.

Type of Review: Extension.

Title: S&L Holding Company Applications.

Description: This information is collected to determine whether a company meets the statutory standards to become a savings and loan holding company.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Recordkeepers: 154.

Estimated Burden Hours Per Recordkeeper: 502.6 hours.

Frequency of Response: Once per submission.

Estimated Total Recordkeeping Burden: 77,402 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Frank DiGialleonardo,

CIO and Director, Office of Information Services.

[FR Doc. 99–16524 Filed 6–28–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

June 21, 1999.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift

Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before July 29, 1999.

OMB Number: 1550–0020.

Form Number: H(b)10.

Type of Review: Extension.

Title: S&L Holding Company Registration Statement.

Description: This information is collected to determine if a savings and loan holding company has adhered to the statutes, regulations, and condition of approval to acquire an insured institution and whether any of the holding company?s activities would be injurious to the operation of the subsidiary savings institution.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Recordkeepers: 135.

Estimated Burden Hours Per Recordkeeper: 8 hours.

Frequency of Response: Once per submission.

Estimated Total Recordkeeping Burden: 1,080 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Frank DiGialleonardo,

CIO and Director, Office of Information Services.

[FR Doc. 99–16525 Filed 6–28–99; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register
Vol. 64, No. 124
Tuesday, June 29, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

Alternative Execution, or Block Trading, Procedures for the Futures Industry

Correction

In notice document 99– 14713, beginning on page 31195 in the issue of Thursday, June 10, 1999, make the following corrections:

1. On page 31195, in the third column, in the heading, ''Executive'' should read ''Execution''.

2. On the same page, in the same column, in the summary, in the fourth line, remove ''executive.''

3. On page 31196, in the first column, in the third line, add a comma after ''Trading''.

4. On the same page, in the same column, in the first paragraph, in the eighth line, ''release'' should read ''Release''.

5. On the same page, in the same column, in footnote 1, in the fourth line, ''noncompetitive transaction'' should read ''noncompetitive transactions''.

6. On the same page, in the same column, in footnote 2, in the second line, ''Exchanges'' should read ''exchanges''.

7. On the same page, in the same column, in footnote 2, in the second paragraph, in the third line, ''authorize'' should read ''authorizes''.

8. On the same page, in the third column, in footnote 5, in the first line, ''sections'' should read ''Sections''.

9. On the same page, in the same column, in footnote 5, in the last line, ''rule'' should read ''rules''.

10. On the same page, in the same column, in footnote 6, in the 11th line, ''CMD'' should read ''CME''.

11. On page 31197, in the first column, in the ninth line, ''These'' should read ''these''.

12. On the same page, in the same column, in the second paragraph, in the sixth line, ''the'' should read ''a''.

13. On the same page, in the same column, in footnote 8, in the ninth line from the end, ''transaction'' should read ''transactions''.

14. On the same page, in the same column, in footnote 8, in the second line from the bottom, ''of'' should read ''for''.

15. On the same page, in the second column, in footnote 9, in the 13th line, ''Future'' should read ''Futures''.

16. On the same page, in the same column, in footnote 9, in the third line from the end, ''April 10, 1995'' should read ''April 20, 1995''.

17. On the same page, in the same column, in footnote 11, in the last line, ''ti'' should read ''it''.

18. On the same page, in the third column, in footnote 11, in the second paragraph, in the fifth line from the end, after ''are'' add ''not''.

19. On the same page, in the same column, in footnote 12, in the last line, add end quotation marks after ''up''.

20. On page 31198, in the first column, in the first line of the footnote, ''Inform'' should read ''inform''.

21. On the same page, in the second column, in the first complete paragraph, in the third line from the end, ''transaction'' should read ''transactions''.

[FR Doc. C9–14713 Filed 6–28–99; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Tuesday
June 29, 1999

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT); Final Rule

Process Wastewater Provisions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6346–9]

RIN 2060–AG91, 2060–AF06, 2060–AG94, 2060–AF09, 2060–AE36

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates the consolidated rulemaking proposal published on October 14, 1998. Today's rule establishes our ''generic MACT standards'' program for setting national emission standards for hazardous air pollutants (NESHAP) under section 112 of the Clean Air Act (Act) for certain small source categories consisting of five or fewer major sources. As part of this generic MACT program, we are establishing an alternative methodology for making maximum achievable control technology (MACT) determinations for appropriate small categories by referring to previous MACT standards that have been promulgated for similar sources in other categories. The basic purposes of the generic MACT program are to use public and private sector resources efficiently, and to promote regulatory consistency and predictability in MACT standards development.

Today's consolidated rulemaking package includes promulgated MACT standards that have been developed within the generic MACT framework for four specific source categories that are included on our list of categories for which NESHAP are required: acetal resins (AR) production, acrylic and modacrylic fiber (AMF) production, hydrogen fluoride (HF) production, and polycarbonate(s) (PC) production.

In this consolidated rulemaking package, we are also promulgating general control requirements for certain types of emission points for hazardous air pollutants (HAP), which will then be referenced, as appropriate, in MACT requirements for individual source categories. These general control requirements are set forth in new promulgated subparts and are applicable to storage vessels containing organic materials, process vents emitting organic vapors, and leaks from equipment components. In addition, we are promulgating a separate subpart of requirements for closed vent systems, control devices, recovery devices and routing emissions to fuel gas systems or a process.

We have withdrawn the proposed process wastewater provisions from the promulgated rule. In a supplemental notice of proposed rulemaking (SNPR) published elsewhere in today's **Federal Register**, we reopen the comment period (for 30 days) specifically to request additional comment on amendments to the proposed standards for process wastewater provisions for the AR, AMF, and PC production source categories. We plan to take final action regarding the amendments to the proposed provisions for process wastewater streams by November 15, 1999 (the revised date set forth in a proposed consent decree).

EFFECTIVE DATE: The effective date is June 29, 1999.

ADDRESSES: *Technical Support Document.* The consolidated rulemaking package promulgated today is supported by a background information document (BID) that contains a summary of the public comments received on the proposal and the Administrator's responses to public comments. This document may be obtained from the docket for this rule, A–97–17, or through the Internet at http://www.epa.gov/ttn/oarpg/ramain.html or from the U.S. Environmental Protection Agency Library (MD–35), Research Triangle Park, North Carolina 27711, telephone (919) 541–2777. Please refer to ''National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology—Background Information for Acetal Resins, Acrylic and Modacrylic Fiber, Hydrogen Fluoride, and Polycarbonate Production Promulgated Standards,'' EPA–453/C–99–001.

Docket. A docket, No. A–97–17, containing information considered by us in the development of the proposed and promulgated standards for the generic MACT, is available for public inspection between 8:30 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays), at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW, Washington DC 20460, telephone: (202) 260–7548. Our Air Docket section is located at the above address in Room M–1500, Waterside Mall (ground floor). Dockets established for each of the source categories assimilated under the generic MACT standards with this promulgation include the following: AR production (Docket No. A–97–19); AMF production (Docket No. A–97–18); HF production (Docket No. A–96–54); and PC production (Docket No. A–97–16). These dockets include source category-specific supporting information. The proposed and promulgated standards, and supporting information are available for inspection and copying. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the promulgated standards, contact the following at the Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711:

Information Type	Contact	Group	Phone/Facsimile/ e-mail address
AR Production	John M. Schaefer	Organic Chemicals Group	(919) 541–0296/(919) 541–3470/ schaefer.john@epa.gov
AMF Production	Anthony P. Wayne	Policy, Planning and Standards Group.	(919) 541–5439/(919) 541–0942/ wayne. tony@epa.gov
HF Production	Richard S. Colyer	Policy, Planning, and Standards Group.	(919) 541–5262/(919) 541–0942/ colyer.rick@epa.gov
PC Production	Mark A. Morris	Organic Chemicals Group	(919) 541–5416/(919) 541–3470/ morris.mark@epa.gov
Recordkeeping and Reporting Requirements.	Belinda Breidenbach	Office of Enforcement and Compliance Assurance.	(202) 564–7022
Nonsource category-specific	David W. Markwordt	Policy, Planning and Standards Group.	(919) 541–0837/ (919) 541–0942/ markwordt.david@epa.gov

The EPA Region contacts are as follows:

Information Type	Contact	EPA Office/Region	Phone
AR Production	Lee Page	Region IV	(404) 562–9131
	Robert Todd	Region VI	(214) 665–2156
AMF Production	Lee Page	Region IV	(404) 562–9131
HF Production	Robert Todd	Region VI	(214) 665–2156
PC Production	Lee Page	Region IV	(404) 562–9131
	Bruce Varner	Region V	(312) 886–6793
	Robert Todd	Region VI	(214) 665–2156

SUPPLEMENTARY INFORMATION: The SNPR, the promulgated regulatory text, and supporting documentation are available in Docket No. A–97–17 or by request from our Air and Radiation Docket and Information Center (see **ADDRESSES**). The SNPR and the promulgated regulatory text are also available on the Technology Transfer Network (TTN) on our electronic bulletin boards. The TTN provides information and technology exchange in various areas of air emissions control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 baud per second modem. For further information, contact the TTN HELP line at (919) 541–5384, from 1:00 p.m. to 5:00 p.m. Monday through Friday, or access the TTN web site at: http://www.epa.gov/ttn.

Regulated Entities

Entities potentially regulated are those that produce AR, AMF, HF, and PC and are major sources of HAP as defined in section 112 of the Act. Regulated categories and entities include the following:

Category	Regulated entities [a]
Industry	Producers of homopolymers and/or copolymers of alternating oxymethylene units.
	Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units.
	Producers of, and recoverers of HF by reacting calcium fluoride with sulfuric acid. For the purpose of implementing the rule, HF production is not a process that produces gaseous HF for direct reaction with hydrated aluminum to form aluminum fluoride (i.e., the HF is not recovered as an intermediate or final product prior to reacting with the hydrated aluminum).
	Producers of polycarbonate.

[a] 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 we are 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 facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1104(a)(1), (b)(1), (c)(1), and (d)(1) of the rule. 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.

Judicial Review

Under section 307(b)(1) of the Act, judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by August 30, 1999. Under section 307(d)(7)(B) of the Act, only an objection to this rule which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the Act, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding brought by us to enforce these requirements.

Plain Language

In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of ''we,'' ''us,'' or ''our'' in this notice refers to the EPA. The use of ''you'' refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

The following outline is provided to assist you in reading this preamble.

I. Why Have We Developed These Regulations?

Section 112(b) of the Act (as amended) lists 188 HAP's and directs us to develop rules to control all major and some area sources emitting HAP. On July 16, 1992 (57 FR 31576), we published a list of major and area sources for which NESHAP are to be promulgated. On December 3, 1993 (58 FR 83941), we published a schedule for promulgating standards for the listed major and area sources. Standards for the acetal resins production, acrylic and modacrylic fiber production, and polycarbonate production source categories were scheduled for promulgation by 1997. The hydrogen

fluoride production source category was scheduled for promulgation by the year 2000 but was changed to be scheduled for promulgation by 1997. We are promulgating standards for the AR, AMF, HF, and PC production source categories under a May 15, 1999 court-ordered deadline.

II. What Factors Did We Consider When Developing These Standards?

A. Promotion of Public Health and Welfare

The Act was developed, in part,

> * * * to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and productive capacity of its population [the Act, section 101(b)(1)].

Sources that would be subject to the standards promulgated for each of the source categories (i.e., AR production, AMF production, HF production, PC production) with today's consolidated rulemaking package are major sources of HAP emissions on our list of categories scheduled for regulation under section 112(c)(1) of the Act. Major sources of HAP emissions are those sources that have the potential to emit greater than 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 22.7 Mg/yr (25 tpy) of any combination of HAP. The HAP that would be controlled with today's consolidated rulemaking package are associated with a variety of adverse health effects. Adverse health effects associated with HAP include chronic health disorders (e.g., cancer, aplastic anemia, pulmonary (lung) structural changes), and acute health disorders (e.g., dyspnea (difficulty in breathing), and neurotoxic effects.

B. Statutory and Technical Considerations

We regulate stationary sources of HAP under section 112 of the Act. Section 112(b) (as amended) of the Act lists 188 chemicals, compounds, or groups of chemicals as HAP. Under section 112, we are directed to regulate the emission of HAP from stationary sources by establishing national emission standards.

Section 112(a)(1) of the Act defines a major source as:

> * * * any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential-to-emit, considering controls, in the aggregate 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

The statute requires that we establish standards to reflect the maximum degree of reduction in HAP emissions through application of MACT for major sources on our list of categories scheduled for regulation under section 112(c)(1) of the Act. We are required to establish standards that are no less stringent than the level of control defined under section 112(d)(3) of the Act (this minimal level of control is referred to as the ''MACT floor.''

We chose to regulate the AR production, AMF production, HF production, and PC production source categories under one subpart to streamline the regulatory burden associated with the development of separate rulemaking packages. All of these source categories have four or fewer major sources that would be subject to the standards. This subpart is referred to as the ''generic MACT standards'' subpart. The generic MACT standards subpart has been structured to allow source categories with similar emission points and MACT control requirements to be covered under one subpart.

In the proposal preamble, we provide a discussion on the approach used to collect and evaluate information pertaining to MACT and the rationale for our approach for determining MACT for source categories with a limited population of sources (see 63 FR 55181–55184, October 24, 1998). The rationale for the MACT determination under the MACT standards for the AR production, AMF production, HF production, and PC production source categories is also described in the proposal preamble (see 63 FR 55191–55196, October 24, 1998).

C. Stakeholder and Public Participation

Representatives of the AR production, AMF production, HF production, and PC production industries and State and local agencies were consulted in the development of the proposed standards. Documentation for stakeholder and public participation for these source categories is included in the docket for these standards (Docket No. A–97–17). Source category-specific supporting information is maintained within dockets established for each of these source categories (see **ADDRESSES** section of this preamble for Docket information).

The generic MACT standards were proposed in the **Federal Register** on October 14, 1998 (63 FR 55178). We placed the proposed notice and regulatory text, along with supporting documentation, in a docket open to the public at that time and made them available to interested parties. Public comments were solicited at the time of proposal. Comments were specifically requested on the proposed generic MACT approach and the emission point general control requirement subparts.

To provide interested parties the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was offered on November 25, 1998 in Research Triangle Park, North Carolina.

The public comment period was from October 14, 1998 to January 12, 1999. The most significant comments and responses are discussed in section VI of this preamble.

III. What Are the Final Standards?

The final rule promulgates standards for AR production, AMF production, HF production, and PC production that include requirements that reflect existing emission point control requirements for similar sources; requirements that are source category-specific; and requirements that apply to all source categories that are regulated under the generic MACT standards subpart (e.g., general recordkeeping, reporting, compliance, operation, and maintenance requirements). Section III.A of this preamble presents the generic MACT standards subpart structure, and sections III.B through III.E present a summary of the promulgated standards applicable to each of the source categories in the final rule.

The final rule applies to process units and emission points that are part of a plant site that is a major source as defined in section 112 of the Act. The applicability section of the regulation specifies what source categories are being regulated and defines the emission points subject to the rule.

A. Generic MACT Rule Structure

The following discussion presents a summary of the structure of the standards included in the final rule.

1. Applicability

The final rule allows source categories with similar emission points and MACT control requirements to be covered under one subpart. The applicability section specifies the source categories and affected source for each of the source categories subject to the generic MACT standards. This section also clarifies the applicability of certain emission point provisions for which both the generic MACT standards subpart and other existing Federal regulations might apply.

2. *Definitions*

The definitions section of the final rule specifies definitions that apply across source categories.

3. Compliance Schedule

The compliance schedule section of the final rule provides compliance dates for new and existing sources.

4. Source Category-specific Applicability, Definitions, and Standards

The source category-specific applicability, definitions and standards section of the final rule specifies the definitions, and standards that apply to an affected source based on applicability criteria, for each source category.

5. Applicability Assessment Procedures and Methods

If you are an owner or operator of an affected source, the applicability assessment procedures and methods sections of the final rule provide procedures for you to follow when assessing whether control requirements under the standard applicability section of the rule apply. Standard applicability assessment procedures (as applicable) are footnoted in the standard requirement applicability tables specified for each source category.

6. Generic Standards and Procedures for Approval for an Alternative Means of Emissions Limitation

The remaining sections of the final rule contain provisions that apply across source categories within the generic MACT subpart. These provisions include generic compliance, maintenance, monitoring, recordkeeping, and reporting requirements. An alternative means of emission limitation to the design, operational, work practice, or equipment standards specified for each source category within the generic MACT subpart may also be established as provided in § 63.1113 of 40 CFR part 63, subpart YY (Generic MACT Standards).

B. Acetal Resins Production Standards

The AR production standard regulates HAP emissions from storage vessels storing process feed materials, process vents, and equipment leaks from compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems. Requirements are the same for both existing and new sources.

1. Storage Vessels

Storage vessels with specified sizes that store materials with specified vapor pressures are required to control HAP emissions by using an external floating roof equipped with specified primary and secondary seals; by using a fixed roof with an internal floating roof equipped with specified seals; or by covering and venting emissions through a closed vent system to one of the following:

a. A recovery device or an enclosed combustion device that achieves a HAP control efficiency ≥ 95 percent.

b. A flare.

2. Process Vents From Continuous Unit Operations (Back End and Front End Process Vents)

Front end process vents are required to control HAP or total organic compound (TOC) emissions by venting emissions through a closed vent system to a flare, or venting emissions through a closed vent system to any combination of control devices that reduces emissions of HAP or TOC by 60 percent by weight or to a concentration of 20 ppmv, whichever is less stringent. Back end process vents with a total resource effectiveness index value (TRE) less than 1.0 are required to control HAP or TOC emissions by venting emissions through a closed vent system to a flare, or avoid control requirements venting emissions through a closed vent system to any combination of control devices that reduces emissions of HAP or TOC by 98 percent by weight or to a concentration of 20 parts per million by volume (ppmv), whichever is less stringent; or by achieving and maintaining a TRE index value greater than 1.0.

3. Equipment Leaks

For equipment containing or contacting HAP in amounts ≥ 5 percent, HAP emissions are required to be controlled through the implementation of a leak detection and repair (LDAR) program for affected equipment.

C. Acrylic and Modacrylic Fibers Production Standards

The final standards for AMF production consist of standards that regulate acrylonitrile (AN) emissions from storage vessels, process vents, fiber spinning lines, process wastewater treatment systems; and equipment leaks. Requirements for individual sources are, for the most part, the same for both existing and new sources. The one exception is fiber spinning lines. The requirements for spinning lines at new or modified sources remain the same as those proposed (i.e., an 85 percent AN reduction) with the addition of an alternative performance standard that limits spinning line emissions to 0.25 kilograms AN per megagram (Mg) of fiber produced.

The requirements for existing spinning lines at existing AMF sources have been revised to better reflect existing spinning solution AN concentrations and subsequent emissions relative to the two types of polymerization processes used in the industry. Separate control requirements are being included in the final rule to reflect the differences in the two polymerization processes relative to spinning solution or spin dope residual AN concentrations and the technical feasibility of applying source reduction measures.

As an alternative to these individual source requirements, if you own or operate an affected AMF production facility you can comply with the final rule by controlling facility-wide AN emissions (not including equipment leaks) to a level such that emissions do not exceed 0.5 kilograms of AN per Mg of fiber produced (1.0 pound AN per ton of fiber produced) for existing sources, and 0.25 kilograms of AN per Mg of fiber produced (0.5 pounds AN per ton of fiber produced) for new sources.

1. Storage Vessels

Storage vessels storing process feed material would be required to control AN emissions by using an external floating roof equipped with specified primary and secondary seals; using a fixed roof with an internal floating roof equipped with specified seals; or by venting emissions through a closed-vent system to one of the following:

a. A recovery device that achieves a HAP control efficiency ≥95 percent;

b. An enclosed combustion control device that achieves a HAP control efficiency ≥98 percent; or

c. A flare.

2. Continuous Process Vents

Process vents with vent streams with a HAP concentration ≥50 ppmv would be required to control HAP emissions by venting vapors through a closed-vent system to a recovery or control device that reduces emissions of HAP or TOC by 98 weight-percent or to a concentration of 20 ppmv, whichever is less stringent, by using a flare or by venting and using any combination of combustion, recovery, and/or recapture devices. If the controlled vent stream is halogenated, emissions are required to be vented to a halogen reduction device that reduces hydrogen halides and halogens by 99 percent or to less than 0.45 kilograms per hour (kg/hr) either prior to or after (other than by using a flare) reducing the HAP or TOC by 98 weight-percent.

3. Fiber Spinning Lines

Spinning lines at suspension polymerization existing sources are required to reduce the spin dope AN concentration to 100 (ppmw) or less. No additional AN specific emission reduction levels have been identified in this final rule for these sources. No control requirements are specified in the final rule for existing spinning lines at solution polymerization sources. New and modified sources are required either to reduce AN emissions by greater than or equal to 85 percent, reduce the spin dope AN concentration to 100 ppmw, or limit spinning line emissions to 0.25 kilograms AN per Mg (0.5 lb AN per ton) of fiber produced.

4. Equipment Leaks

For equipment containing or contacting AN in amounts ≥10 percent, HAP emissions would be required to be controlled through the implementation of an LDAR program for affected equipment. This requirement applies to equipment leaks from compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, or instrumentation systems.

We chose to regulate AMF production facilities based on the control of pollutant streams containing AN. This pollutant is the principal HAP associated with and emitted from AMF production facilities. Other organic HAP constituents, where present, would only be associated with those pollutant streams containing AN. We expect that where sources control AN emissions, comparable levels of control will be achieved for other organic HAP emitted from AMF production facilities.

D. Hydrogen Fluoride Production Standards

The HF production standards regulate HAP emissions from storage vessels; process vents on HF recovery and refining vessels; bulk loading of HF liquid into tank trucks and railcars; and equipment leaks from compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, or instrumentation systems. Requirements are the same for both existing and new sources.

1. *Storage Vessels and Transfer Racks*

Storage vessels and transfer loading racks are required to control HF emissions by venting to a recovery system or wet scrubber designed and operated to achieve a 99 percent by weight removal efficiency.

2. *Process Vents From Continuous Unit Operations*

Process vents for HF recovery and refining are required to control HF emissions by venting emissions to a wet scrubber designed and operated to achieve a 99 percent by weight HF removal efficiency.

3. *Equipment Leaks*

All equipment leaks are controlled through a LDAR program.

E. Polycarbonate Production Standards

The PC production standards regulate organic HAP emissions from process vents, storage vessels, and equipment leaks. Different requirements and applicability criteria apply for existing and new sources.

1. *Storage Vessels*

Storage vessels with specified sizes that store materials with specified vapor pressures are required to control organic HAP emissions by using an external floating roof equipped with specified primary and secondary seals; by using a fixed roof with an internal floating roof equipped with specified seals; or by venting emissions through a closed vent system to a control device. Some vessels must use a closed vent system and recovery or control device, based on vessel size and the vapor pressure of the stored material.

2. *Process Vents*

Process vents from continuous unit operations and combined vent streams (combinations of streams from continuous and/or batch unit operations) that have a TRE index value less than or equal to 2.7 are required to control organic HAP emissions by venting emissions through a closed vent system to a control device that reduces total organic HAP by 98 percent by weight, or reduces the concentration of total organic HAP or TOC to 20 ppmv, whichever is less stringent.

3. *Equipment Leaks*

For equipment containing or contacting organic HAP in amounts ≥ 5 percent, organic HAP emissions are required to be controlled through the implementation of an LDAR program for affected equipment.

IV. What Are the Impacts Associated With the Final Rule?

The impacts resulting from the promulgated standards for the source categories (i.e., AR production, AMF production, HF production, and PC production) are determined relative to the baseline that is set at the level of control in absence of the rule. The emissions reductions associated with the application of the control or recovery devices for the regulated source categories are expected to be small as the AR, AMF, HF, and PC production facilities affected by this rule essentially already have a level of control equivalent to that determined to be MACT.

Based on previous impacts analyses associated with the application of the control and recovery devices required under the standards and because each of the four regulated source categories have only five or fewer major sources, we believe that there will be minimal, if any, adverse environmental or energy impacts associated with the final standards.

Likewise, based on available information, we estimate that the cost and economic impacts of the final standards for the four source categories being regulated will be insignificant or minimal. The economic analyses for each of the four source categories can be obtained from the dockets established for these source categories (see **ADDRESSES**).

V. The Legal Basis for Generic MACT Approach

A. The Generic MACT Approach

The basic objectives of generic MACT are to conserve our limited resources, avoid unnecessary duplication of effort, and encourage consistency in our regulatory determinations. The generic MACT concept is based on applying the knowledge that we have already gained in the development of MACT standards under section 112 of the Act to source categories with a small number of facilities. As the source category becomes smaller, the likelihood that the best control strategies will have already been implemented for the sources in that category also becomes smaller. Thus, as the source category becomes smaller, it is more important for us when determining MACT for existing sources to consider control strategies that have been evaluated for similar types of sources in other source categories.

Just as we need to look beyond the source category itself in determining MACT for smaller source categories, the statutory MACT floor becomes increasingly less important as a regulatory safeguard as the number of facilities used to determine it declines. This is not only because the existing emission controls in a small source category are likely to be less representative of the range of practical technologies and strategies. It also is because, in the larger source categories,

the MACT floor is derived from a subset of all sources in the category which have achieved greater control.

While we have concluded that the statutory scheme is in fact somewhat ambiguous with respect to deriving a MACT floor for source categories with five or fewer sources, in developing the generic MACT concept, we have nevertheless assumed that compliance with the MACT floor is required in all instances. However, we also have concluded that there are circumstances where we may reasonably determine compliance with the MACT floor without a separate numerical analysis. One circumstance where we believe a non-quantitative evaluation may be appropriate occurs when the information we have collected concerning sources in a small category (i.e. a category with five or fewer sources) supports a basic premise that they are similar to a larger group of previously regulated sources, and where we adopt a MACT standard which is based on the prior MACT determinations for the larger group of sources. In this circumstance, the small number of sources in the category, our prior experience with MACT determinations for similar sources in other categories, and the efficacious use of public and private resources make a non-quantitative evaluation of MACT floor compliance appropriate.

In each of the prior standards from which a generic MACT standard is derived, we selected a level of control equal to or greater than the MACT floor for the category in question, and each of those MACT floors was itself derived from a subset of the category in question consisting of the best-controlled facilities. So long as our evaluation of the sources in a small category according to our criteria for similarity (as summarized below) indicates that they are like the sources we previously regulated, and we do a separate MACT analysis rather than adopting a generic standard whenever we find that the sources in the small category have achieved greater control or are otherwise unlike the previously regulated sources in a meaningful way, we believe that a generic standard will meet all the statutory requirements.

Several commenters stated that the proposed generic MACT approach does not comply with the statutory scheme because a two-step analysis beginning with a numerical MACT floor determination is mandatory. To the extent that these comments are based on an assumption that our practice has always been to prepare a quantitative MACT floor analysis for a particular group of emission points before determining MACT for those emission points, this premise is incorrect. In some instances, we have determined that a particular MACT requirement is sufficient to assure compliance with the MACT floor based on a qualitative analysis of the emission points in question.

We are not suggesting that the question of compliance with the statutory MACT floor can be disregarded. If the commenters have concluded that we intend to ignore this issue in developing generic MACT standards, they have misunderstood our proposal. However, to the extent that the commenters instead are arguing that we have no discretion to establish alternate methodologies for determining compliance with the MACT floor, we disagree.

Even if we assume that the MACT floor provision applies to small categories, the statute requires only that we conclude that the MACT floor has been met by the promulgated standard. We do not agree that the statute requires us to use exactly the same methodology in every instance. A recent decision by the D.C. Court of Appeals expressly held that we ''have wide latitude in determining the extent of data-gathering'' required to determine compliance with the MACT floor, and that we may base our conclusions on a ''reasonable inference.'' *Sierra Club* v. *EPA*, No. 97–1686 (D.C. Cir. March 2, 1999), slip op. at 7–9.

No source category will be selected for inclusion in the Generic MACT program until we have collected the information pertaining to sources in that category necessary to evaluate such sources according to the specific criteria for similarity set forth below. In practice, these criteria cannot be applied unless we have collected information which would also be sufficient to permit a general qualitative assessment of those existing controls which would represent the MACT floor for that category. If the information we have collected for a category which is a candidate for Generic MACT suggests that a MACT standard derived from our prior MACT determinations for sources in other categories would be less stringent than a MACT floor derived from such existing controls, we will not utilize Generic MACT in that instance. We believe our process for seeking early stakeholder involvement in development of a proposed standard will assure that we have sufficient information concerning existing emission controls at affected facilities to apply these criteria.

Generic MACT standards will always be adopted by notice and comment rulemaking. If we have incorrectly evaluated the issue of MACT floor compliance, affected sources in the category and other interested persons will have an opportunity to point this out during the comment period. If we conclude, based on such comments, that a small source category or one or more facilities within a small source category is not an appropriate candidate for generic MACT, we will not use our generic data base to determine MACT for that category or facility.

There were no commenters who argued directly that a standard developed using the generic MACT approach might be insufficiently stringent to satisfy the MACT floor, although certain industry commenters did state that omission of a separate numerical MACT floor analysis is impermissible. In evaluating this argument, we believe that the key point is that the standard that affected industry sources must ultimately meet is MACT itself, not the MACT floor.

If we were to erroneously adopt a Generic MACT standard less stringent than the MACT floor, this would have no adverse effect on the sources in question. Moreover, if we correctly determine MACT for a small source category and the resultant standard happens to be more stringent than the MACT floor for that category, the manner in which we determined compliance with the MACT floor would not be relevant when assessing any effect on the sources in question.

The commenters may believe that doing a quantitative MACT floor analysis will assist us in discovering meaningful differences between the sources in a small category and the larger groups of facilities used in deriving the generic MACT standard to be applied to that category. These commenters may be concerned that our utilizing a generic approach in developing certain MACT standards will cause us to disregard such differences. This type of concern about the quality of our analysis on the issue of similarity is reasonable. We agree that the issue of similarity must be carefully evaluated before we elect to utilize a generic MACT approach for sources in a small category.

One industry commenter states that the generic MACT approach does not meet statutory requirements because we must perform a ''cost-benefit evaluation'' for each decision to impose control requirements beyond the MACT floor. This commenter contends that this cost-benefit evaluation must be based on the incremental costs and benefits of additional controls as compared to the MACT floor. This

commenter also asserts that this cost-benefit analysis would consider potential differences in ''public exposure'' and ''health benefits'' between the sources in a small category and the sources from which a generic MACT standard was derived. These comments do not correctly interpret statutory requirements.

We are required to consider the cost of achieving emission reductions, and any non-air quality health and environmental impacts and energy requirements, in deciding what level of control constitutes MACT. This basic statutory requirement is applicable to all MACT standards, including any proposed generic MACT standard. Those emission controls which have already been demonstrated at facilities in the source category in question are obviously relevant to our determination of MACT. But the commenter is incorrect in implying that there is a direct connection between calculation of the MACT floor and the determination of MACT itself.

The assertion by this commenter that public exposure or the direct health benefits of reductions in HAP emissions are a factor in establishing MACT is also incorrect. Congress created the present statutory approach requiring MACT standards to replace a prior process where NESHAPs were based on health risks rather than on the practicality of controls. Although we do not consider health risks in determining MACT, the relative magnitude of the incremental emission reductions which particular controls would achieve may be an element in our determination whether particular controls would be cost effective. Moreover, there are other Section 112 programs such as the urban strategy and residual risk assessment where we will be considering the potential health risks presented by HAPs.

If a commenter persuades us that there are differences between a source or group of sources and the source categories from which we derived a generic MACT standard, and that these differences are sufficiently material to make adoption of that standard inappropriate (taking into account the cost of achieving emission reductions, and any non-air quality health and environmental impacts and energy requirements), we will establish MACT for that source or group of sources by an alternative methodology. In instances where it is appropriate, we may adopt such an alternative final standard as part of an existing rulemaking. We may also use elements of one of the standard standards in formulating an alternative standard for that source or group of sources.

Indeed, there is an example of this approach among the standards we are promulgating today. We originally proposed to apply the same generic standard to all AMF production facilities. During the comment period, one of these facilities persuaded us that there are significant differences between AMF spinning operations and the sources from which we derived the proposed standard for spinning operations, which make emission controls based on enclosure of AMF spinning impractical. The degree of control which is attainable without enclosure also differs depending on whether an existing facility uses a suspension polymerization or solution polymerization process. The final standard includes separate requirements for each of these two types of spinning operations, but is otherwise based on generic MACT procedures.

B. Criteria for Determining Suitability of Generic MACT

Three commenters noted that the criteria which we will use in deciding whether a small source category is a suitable candidate for use of generic MACT were discussed in the preamble of the proposal but were not included in the proposed regulatory text. These commenters recommended that we incorporate such criteria in the regulatory text.

We agree that objective criteria for making the determination of similarity are needed and that we should apply such criteria in a consistent manner each time we elect to utilize generic MACT procedures. We also agree that we should discuss the criteria we are utilizing, and the manner in which we have applied such criteria, whenever we decide that a small source category is an appropriate candidate for the generic MACT approach.

Although we do not believe that it is necessary that we incorporate such criteria in specific regulatory text, for the sake of clarity we will restate our criteria here. In deciding whether or not a source category or subcategory is sufficiently similar to a group of sources that we have previously regulated that it would be appropriate for us to derive generic control requirements from prior MACT determinations, we will consider each of the following factors:

(1) Differences in the volume and concentration of HAP emissions,

(2) Differences in the type of HAPs emitted,

(3) Differences in the type of emission points subject to control,

(4) Differences in the technical practicality and cost-effectiveness of emission controls,

(5) Whether the source category or subcategory being considered for generic control requirements presents unusual hazards that may have caused prior adoption of control requirements more stringent than those which would be derived from prior MACT determinations, and

(6) Whether sources in the source category or subcategory being considered for generic control requirements have already achieved emission limitations more stringent than those which would be derived from prior MACT determinations. In addition to these criteria, we may also decide to consider other factors in making future similarity determinations.

One commenter also raised a specific concern about the issue of similarity which suggests that the commenter did not fully understand our position. In the preamble we discussed factors which might undercut ''the basic premise that [a small source category] is similar to the larger group of previously regulated sources.'' The commenter interpreted this statement as indicating that we might start with a basic premise of similarity for source categories under consideration for generic MACT which must then be refuted. This is an incorrect interpretation. We were referring to the basic premise of similarity which must be satisfied before we conclude that use of generic MACT is appropriate. We will apply our criteria first and will not select a source category for inclusion in generic MACT if we conclude that it is different in a material way from the sources we have previously regulated.

C. Adequacy of Notice and Comment

One commenter argues that, since sources in a small source category could not have anticipated that previous MACT determinations for large source categories would serve as precedents for the MACT determination for their source category, generic MACT procedures deny due process to such sources. We strongly disagree with this argument. Things we learn in developing one standard are often useful when we develop subsequent standards. There is no reason why we should not use our previous experience in a constructive manner merely because a regulated party did not participate in the prior rulemaking.

Each time generic MACT procedures are used, we will do notice and comment rulemaking. Each source in a small source category will have a full opportunity to explain why our

previous experience does not apply to its circumstances, or to argue otherwise that the source category is not a suitable candidate for the generic MACT approach.

D. Date for Determining New Sources

One commenter expressed concern that sources in small categories subjected to Generic MACT in the future would be considered new sources if constructed or reconstructed after the proposal date for this current rulemaking. This result would not be reasonable and is not our intention. The date used to determine whether a source is a new source under section 112(a)(4) will be the date on which we specifically propose to apply Generic MACT standards to the source category in question.

VI. What Are the Significant Comments and Changes Made on the Proposed Standards?

A complete summary of the public comments on the generic MACT standards and our responses are presented in the BID for the promulgated standards, as referenced in the **ADDRESSES** section of this preamble. The summary of comments and responses in the BID serve as the basis for the revisions that have been made to the standards between proposal and promulgation. We received many comments addressing a wide variety of issues, including the generic MACT approach and the proposed standards. The comments have been carefully considered, and, where determined to be appropriate by the Administrator, changes have been made in the promulgated standards.

The following sections discuss the most significant issues raised by commenters and our responses to them.

A. MACT for Acrylic and Modacrylic Fiber Production—Changes Made Since Proposal

1. Definitions

In today's final rule for AMF production, a definition of ''spin dope'' has been added to resolve applicability issues and to clarify the intent of the standards for spinning lines under the rules. In the proposed rule, spinning line control requirements were based on an applicability cutoff for AN concentration in the ''spinning solution or spin dope.'' Commenters stated that the use of the term spinning solution alone could cause some confusion because the bath into which the fiber polymer and solvent mixture (i.e., spin dope) is extruded is also referred to in these terms. They also suggested that the term ''spin dope'' be defined to clarify that the concentration cutoff refers to the AN content of the mixture of polymer and solvent that is fed to the spinneret to form the fibers. The final rule contains the definition of spin dope and clarifies the use of both terms, spinning solution and spin dope, for purposes of applicability to control requirements.

2. Standards for Spinning Lines

During the spinning process, unreacted monomer and organic solvent used to dissolve the polymer are volatilized into room air. Major process fugitive emission points include the filtering, spinning, washing, drying and crimping steps.

At proposal, we concluded that if enclosures were constructed to capture the spinning process emissions, the resulting enclosed emission streams would have similar characteristics to the process vent streams covered by other parts of this standard where we had already determined MACT for similar vents in the chemical and related industries. This is the basis for the synthetic fiber new source performance standard (NSPS), 40 CFR Part 60 Subpart HHH, regarding volatile organic compound (VOC) emissions. Because of the AMF industry fiber spinning emission similarities, we concluded that MACT for AMF fiber spinning lines with a spinning monomer AN concentration equal to or greater than 100 ppmw was the use of an enclosure around the spinning and washing areas of the spinning line and venting the captured emissions of the enclosure to an appropriate control device. The overall AN emission reductions proposed were to achieve overall control efficiency of greater than or equal to 85 percent by weight. This value was proposed and is based on the assumption that the enclosure achieves a minimum capture efficiency of 90 percent by weight, and the captured vapor stream is routed to an organic recovery or destruction control device that achieves a total HAP reduction of 95 percent by weight or greater.

The proposed rule contained flexibility for facilities in selecting methods to reduce HAP emissions from their operations. There are two types of polymerization and spinning operations utilized at AMF production plants: solution and suspension processes. Several of the plants using the suspension process have used source reduction/pollution prevention techniques to significantly reduce the amount of residual AN monomer in the fiber spinning solution or spin dope. By reducing the AN content prior to spinning and fiber processing, this source reduction technique reduces the amount of AN that is ultimately volatilized into the room air and emitted to the atmosphere. The proposal preamble argued that it was appropriate to establish an alternative for those owners and operators who prefer to use source reduction or pollution prevention measures to reduce spinning line AN emissions rather than install capture/add-on control systems for their spinning lines under the individual source standards. Specifically, a maximum limit on the residual AN content within the spinning monomer which provided a level of AN emission control comparable to add-on controls was proposed. This was represented by the 100 ppmw cutoff in table 2 of the proposed rule. Therefore, in the proposed rule, capture/add-on control systems were required only for those spinning lines using a spinning solution or spin dope having a total organic HAP (i.e., AN monomer) concentration equal or greater than 100 ppmw. The 100 ppmw criterion or action level was based on estimates of the amount of residual AN monomer in the spin dope found in suspension polymerization process with application of source reduction measures (i.e., pollution prevention) to remove the residual AN prior to spinning.

Public comments on the proposal argued that the similarity arguments regarding capture/add-on control systems were not valid. They also argued that there are differences between existing solution and suspension processes which need to be considered in establishing emission limits for existing processes. We reassessed the control requirements for spinning operations based on these comments. In doing so, a series of questions were considered, as outlined in the following paragraphs.

i. *Are there capture/control systems being used on spinning operations in this industry? Do we have MACT regulations requiring capture/add-on control for similar processes in other industries?* In practice, there are no AMF production facilities within this source category which have enclosed and captured the emissions from their spinning lines and vented them to a control device. The success of add-on controls system applications to existing fiber spinning lines relies on enclosure of the existing spinning lines. The MACT process vent rules used as the basis for the similarity argument in the proposal preamble apply to processes which are typically already enclosed (e.g., reactors) or very easily enclosed as a normal part of the process, whether

the emissions are controlled or not. Enclosing spinning operations requires consideration of a variety of factors such as worker access and safety requirements that must be factored into retrofitting designs unique to this industry. We have not been able, at this time, to identify MACT standards beyond those considered at proposal which apply to situations sufficiently similar to the AMF spinning lines to use as the basis for a similarity argument.

Some existing spinning line processes are subject to the NSPS for synthetic fiber production plants. The commenters pointed out that these spinning lines are in compliance with the NSPS through source reduction measures rather than the NSPS identified reduction techniques of installing enclosures and add-on control devices. As a result of our review of the spinning line emissions and proposed rule basis of enclosure and control, we have concluded that the original assumption of similar enclosure and control applications does not apply to these existing spinning lines.

ii. *Can the pollution prevention control techniques being used by several of the plants with suspension spinning operations be used for the solution process in existing facilities?* Although the air emission and source characteristics for all other emission point types (i.e., tanks, equipment components, wastewater treatment units) are similar throughout the source category, the solution and suspension processes associated with the spinning operations differ from each other in the processing steps and the acrylonitrile concentrations in the process materials and associated emissions. Solution polymerization spin dope for fiber production contains, by product and process design, a significantly higher concentration of residual AN monomer than does suspension polymerization. The public comments argued that the application of the pollution prevention techniques being used for suspension processes (e.g., steam stripping of excess monomer, scavenger solvents) to existing solution processes is not viable because of the physical nature of the solution polymerization process. Specifically, application of high efficiency residual AN polymer steam stripping (incorporated to reduce downstream emissions) is technically feasible to incorporate into the suspension process and is not feasible for a solution polymerization process because the latter does not produce a solid polymer product that can be introduced to direct steam contact without contamination. At solution polymerization facilities, other pollution prevention or source reduction measures which formed the initial technical basis for determining the 100 ppmw action level for all spinning lines may not be capable of achieving the higher AN removal rates of the higher residual monomer concentration present in solution polymerization fiber spinning operations. We agree with the public comments that incorporating the pollution prevention techniques to an existing solution process spinning line is not viable.

iii. *Are there any other control systems that could be applied to the solution process?* We considered control of all HAP emissions from the entire building's exhaust system. Such an exhaust would have very high flow/low pollutant concentration stream; such streams are typically difficult to control to a high level of efficiency and also require very large, expensive control devices. In addition, the public comments pointed out that retrofitting carbon adsorption to the building exhaust may not be a technically viable alternative for existing AMF spinning lines. This is because low volatility organic solvent is typically used in the solution process to provide the reductions of VOC emissions to meet the NSPS. This solvent has a much higher molecular weight and boiling point than either the AN or organic solvents typically used. Solvents are also present in a higher emission exhaust concentration relative to the AN; thus, exacerbating common carbon bed adsorption/desorption problems. This is a reasonable argument with respect to the specific solvent formulation and concentration anticipated at the emission point (building exhaust). The use of activated carbon appears to have limited feasibility because of carbon adsorption interferences caused by the non-HAP, low volatility organic solvent used in the spinning process. In addition, the presence of a solvent with a high boiling point makes cost-effective measures such as on-site regeneration of the activated carbon less effective or viable for consideration. We, therefore, have not identified at this time a basis for requiring building exhaust control systems for solution processes. There can also be potential difficulties associated with retrofitting other conventional control technologies at existing fiber spinning lines. The particular solvents used on some spinning operations may require that a scrubber be installed in addition to a catalytic or thermal incinerator to control pollutants generated as by-products of combustion. In addition, the catalyst used for catalytic incineration devices may also be limited because the solvent used in some of the affected existing operations will foul or poison conventional catalyst.

iv. *What changes need to be made to the final rule for existing sources to reflect these considerations?* We concluded that there is no basis at this time to require capture and control systems for existing AMF fiber spinning operations. Therefore, the 85 percent control requirement is being removed for existing AMF spinning operations.

In addition, the solution and suspension processes are being treated separately in the final rule to better reflect spin dope AN concentrations and subsequent emissions relative to the two types of polymerization processes used in this industry. The performance requirement based on source reduction measures (i.e., formatted in terms of the spin dope AN concentration) is being retained for existing suspension polymerization processes; this will ensure that facilities continue to use the techniques they have already adopted. Therefore, a separate performance requirement or emission limit (i.e., the 100 ppmw spin dope criterion for suspension polymerization) is being included in the final rule to reflect the differences in spinning solution or spin dope residual AN concentrations and the technical feasibility of applying source reduction measures at existing facilities. In the proposed rule, the spin dope concentration limit was formatted as an applicability criterion for the spinning line control requirements; in the final rule, the format has been changed to specify the limit as an alternative performance standard. This is considered a format change only and does not result in any substantive changes to the source requirements. No control requirements are specified for solution polymerization processes at existing sources. We will reexamine the applicability of various control system options for spinning operations using the solution process during the residual risk analysis phase of these standards. Any new information will be collected and the viability of systems designed specifically for this industry will be assessed.

v. *Are there any changes for new sources?* The final requirements for AMF fiber spinning lines that are part of a new or modified source remain as proposed. The operating and design constraints that limit the application of enclosures and controls at new spinning operations (e.g., selection of solvents from a variety of possible solvents used for particular fibers, reactor process

modifications to accommodate new monomers, spin line configuration layouts, and other process and site considerations), are not limiting factors for new and modified sources; therefore, the new and modified source MACT requirements are not being significantly revised. The 85 percent reduction option has been retained for new sources in order to provide flexibility for future development of means to achieve equivalent emission reductions, and the source reduction performance limit (i.e., the 100 ppmw spin dope concentration) is also included to provided operational and control flexibility.

An additional control option for new and modified sources that was not proposed is being added to the final rule. This option is part of the individual source standards in § 63.1103(b)(3)(i) and allows the owner or operator to reduce AN emissions from a spinning line that is a part of a new or modified source to less than or equal to 0.25 kilograms per Mg of fiber produced (i.e., 0.5 lb per ton). This alternative standard will allow greater flexibility to facility owners and operators in selecting the type of controls, including pollution prevention measures, that can be applied to their spinning operations to reduce HAP emissions.

An additional change is being made to the AMF standards to correct an inadvertent typographical error. In Table 3 to § 63.1103 that lists the requirements for owners and operators complying with paragraph (b)(3)(ii) of the section, the facility-wide emission limits are presented as ''. . . less than or equal to 1.0 kilograms (kg) pf acrylonitrile per megagram (mg) of fiber produced'' for existing sources and ''* * * less than or equal to 0.5 kilograms (kg) of acrylonitrile per megagram (mg) of fiber produced'' for new sources. These values should read ''* * * less than or equal to 0.5 kilograms (kg) of acrylonitrile per megagram (mg) of fiber produced (i.e., 1.0 pound AN per ton of fiber produced)'' for existing sources and ''* * * less than or equal to 0.25 kilograms (kg) of acrylonitrile per megagram (mg) of fiber produced (i.e., 0.5 pound AN per ton of fiber produced)'' for new sources. The correct values for the emissions limits are clearly stated in the preamble to the proposed rule (63 FR 55185, October 14, 1998). These same values are also included in our presumptive MACT document (Docket Item 11–A–5 in Docket No. A–97–18) that was developed in collaboration with the industry and State and local agencies.

B. Process and Maintenance Wastewater Stream Provisions

Two commenters provided comment on the process wastewater stream provisions proposed on October 14, 1998. One commenter provided that the proposed provisions do not specify the location for determining HAP concentration. The commenter stated that it seems appropriate to make this determination at the entrance to each wastewater treatment system unit. The commenter recommended that a definition for ''point of determination'' be made and that references to ''point of generation'' be changed to ''point of determination.'' The commenter also stated that an owner or operator should be allowed to use all of the test methods specified in subparts F,G, and H of this part (collectively known as the ''HON'') when determining HAP concentrations in wastewater.

Another commenter stated that there was no information or requirements for treatment or destruction of wastewater streams leaving the process unit, and that the proposal only requires control of secondary emissions from equipment handling the wastewater stream.

Based on comments received, and evaluation of the proposed process and maintenance wastewater stream provisions, we agree that the proposed process and maintenance wastewater stream provisions were not adequate. In addition to the identified applicability procedures and treatment requirement deficiencies, we identified a number of other deficiencies in the proposed standards that were not intended.

Therefore, we have deferred taking final action regarding provisions applicable to process and maintenance wastewater streams for the AR, AMF, and PC production source categories. We have withdrawn the proposed process and maintenance wastewater provisions from the promulgated rule.

In a SNPR published elsewhere in today's **Federal Register**, we reopen the comment period specifically to request additional comment on proposed amendments to the promulgated standards for process and maintenance wastewater for the AR, AMF, and PC production source categories. The amendments to the promulgated standards incorporate and cross-reference appropriate process and maintenance wastewater provisions of the HON for the AR, AMF, and PC production source categories. These amendments respond to comments received, eliminate identified deficiencies that existed in the proposed standards, and reflect our intent.

We plan to take final action regarding the amendments to the proposed provisions for process wastewater streams for the AR, AMF, and PC production source categories by November 15, 1999.

VII. Administrative Requirements

A. Docket

The docket is an organized and complete file of the administrative record compiled by us in the development of this rule. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and our responses to significant comments, the contents of the docket will serve as the record in case of judicial review (except for interagency review materials) (see 42 U.S.C. 7607(d)(7)(A)).

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by us (ICR No. 1871.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, SW, Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

The information collections required under this rule are needed as part of the overall compliance and enforcement program. The information will be used by us to ensure that the regulated entities are in compliance with the rule. In addition, our authority to take administrative action would be reduced significantly without the collected information. The recordkeeping and reporting requirements are mandatory and are being established under section 114 of the Act. The generic MACT standards require owners or operators of affected sources to retain records for a period of 5 years. The 5-year retention period is consistent with the General Provisions (subpart A) of 40 CFR part 63, and with the 5-year record retention requirement in the operating permit program under title V of the Act.

All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies set forth in title 40, chapter 1, part 2, subpart B, Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 3999, September 8, 1978; 43 FR 42251, September 28, 1978; and 44 FR 17674, March 23, 1979).

The total estimated annual average hourly and annual average cost burden per respondent for the standards for the AR production, AMF production, HF production, and PC production source categories are 6,125 hours and $262,700. These burden hour and cost estimates for monitoring, recordkeeping, and reporting are aggregated for affected sources and averaged over the first 3 years of the rule.

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.

Any 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 our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Executive Order 12866

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, we have determined that this final rule may be construed as a ''significant regulatory action'' under criterion (4) above. Today's final rule may be considered novel in certain respects because it includes new policies and procedures pertaining to a generic MACT program, which will be utilized by us in establishing NESHAP under section 112 of the Act for certain small source categories consisting of five or fewer sources. As part of this generic MACT program, we will be using an alternative methodology under which the we will make MACT determinations for appropriate small categories by referring to previous MACT standards that have been promulgated for similar sources in other categories. The basic purposes of this generic MACT program are to use public and private sector resources efficiently and to promote regulatory consistency and predictability in MACT standard development.

D. Executive Order 12875

Under Executive Order 12875, we 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 we consult with those governments. If we comply by consulting, Executive Order 12875 requires us 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 implements requirements specifically set forth by the Congress in section 112 of the Act without the exercise of any discretion by us. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

E. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

Each of the specific MACT standards adopted in this rulemaking applies to a source category with five or fewer major sources; therefore, this rule will not have a significant impact on a substantial number of small entities, and a regulatory flexibility analysis was determined to be unnecessary.

The Generic MACT procedures we are announcing today may also be applied to other small source categories in the future. Moreover, it is possible that the MACT standards for some larger source categories may reference or incorporate some element of the generic standards we are adopting for certain types of emission points. In any case, the nature of any regulatory impacts and the applicability of RFA requirements are matters that will be separately addressed in any subsequent rulemaking that utilizes Generic MACT procedures or incorporates generic standards.

Although it was not required by the statute, we conducted a limited assessment of possible outcomes and the economic effect of the proposed standards on small entities as part of the economic analysis conducted before proposal for each of the source categories for which standards are being promulgated. These limited assessments showed no adverse economic effect for any small entities within any of these source categories. Changes that have been made since proposal do not change the results of these assessments. The economic analysis for each of the source categories for which standards are being promulgated can be obtained from the source category-specific dockets established for each of the source categories (see *Docket* in **ADDRESSES** section for individual docket numbers).

F. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995, Pub. L. 104–4, we must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Section 203 requires us to establish a plan for obtaining input from and

informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of UMRA, we 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 burdensome alternative for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this final rule does not include a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year, we have not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by this rule, we are not required to develop a plan with regard to small governments. Therefore, the requirements of UMRA do not apply to this final rule.

G. Submittal to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA of 1996, 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. Therefore, we will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 29, 1999.

H. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Pub. L. No. 104–113, § 12(d) (15 U.S.C. 272 note), we are directed to use voluntary consensus standards instead of government-unique standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. By doing so, the Act is intended to reduce the cost to the private and public sectors.

Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), International Organization for Standardization (IOS), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like us to provide Congress, through OMB, explanations when the we decide not to use available and applicable voluntary consensus standards.

This action does not require the use of any new technical standards. It does, however, incorporate by reference existing technical standards, including government-unique technical standards. The technical standards included in this final rule are standards that have been proposed and promulgated under other rulemakings for similar source control applicability and compliance determinations. In response to the proposed rule, we received no comments pertaining to the use of additional voluntary consensus standards in lieu of those included under other rulemakings and incorporated by reference in this final rule.

As part of a larger effort, we are undertaking a project to cross-reference existing voluntary consensus standards in testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist us in identifying potentially applicable voluntary consensus standards that can then be evaluated for equivalency and applicability in determining compliance with future regulations.

I. 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 we determine (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, we 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 us.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. No children's risk analysis was performed for this rulemaking because the agency does not have the data necessary to conduct such analysis, and cannot obtain such data with available resources.

J. Executive Order 13084

Under Executive Order 13084, we 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 cost incurred by the tribal governments, or we consult with those governments. If we comply by consulting, Executive Order 13084 requires us 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 our 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 us 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 implements requirements specifically set forth by Congress in section 112 of the Act without the exercise of any discretion by us. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects for 40 CFR Part 63

Environmental protection, Acetal resins production, Acrylic and modacrylic fiber production, Administrative practice and procedure, Air pollution control, Equipment leaks, Fiber spinning lines, Hazardous substances, Hydrogen fluoride production, Intergovernmental relations, Kilns, Polycarbonate production, Process vents, Reporting and recordkeeping requirements, Storage vessels, Transfer.

Dated: May 14, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AFFECTED SOURCE CATEGORIES

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

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

2. Part 63 is amended by adding subpart SS, consisting of §§ 63.980 through 63.999, to read as follows.

Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

Sec.

Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

§ 63.980 Applicability.

The provisions of this subpart include requirements for closed vent systems, control devices and routing of air emissions to a fuel gas system or process. These provisions apply when another subpart references the use of this subpart for such air emission control. These air emission standards are placed here for administrative convenience and only apply to those owners and operators of facilities subject to a referencing subpart. The provisions of 40 CFR part 63, subpart A (General Provisions) do not apply to this subpart except as specified in a referencing subpart.

§ 63.981 Definitions.

Alternative test method means any method of sampling and analyzing for an air pollutant that is not a reference test or equivalent method, and that has been demonstrated to the Administrator's satisfaction, using Method 301 in appendix A of this part 63, or previously approved by the Administrator prior to the promulgation date of standards for an affected source or affected facility under a referencing subpart, to produce results adequate for the Administrator's determination that it may be used in place of a test method specified in this subpart.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator or a process heater.

By compound means by individual stream components, not carbon equivalents.

Closed vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device. Closed vent system does not include the vapor collection system that is part of any tank truck or railcar.

Closed vent system shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a closed vent system or part of a closed vent system consistent with safety constraints and during which repairs can be effected. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a closed vent system shutdown. An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the closed vent system or part of the closed vent system of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled closed vent system shutdown, is not a closed vent system shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not closed vent system shutdowns.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic emissions.

Continuous parameter monitoring system (CPMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters.

Continuous record means documentation, either in hard copy or computer readable form, of data values measured at least once every 15 minutes and recorded at the frequency specified in § 63.998(b).

Control device means, with the exceptions noted below, a combustion device, recovery device, recapture device, or any combination of these devices used to comply with this subpart or a referencing subpart. For process vents from continuous unit operations at affected sources in subcategories where the applicability criteria includes a TRE index value, recovery devices are not considered to be control devices. Primary condensers on steam strippers or fuel gas systems are not considered to be control devices.

Control System means the combination of the closed vent system and the control devices used to collect and control vapors or gases from a regulated emission source.

Day means a calendar day.

Ductwork means a conveyance system such as those commonly used for heating and ventilation systems. It is often made of sheet metal and often has sections connected by screws or crimping. Hard-piping is not ductwork.

Final recovery device means the last recovery device on a process vent stream from a continuous unit operation at an affected source in a subcategory where the applicability criteria includes a TRE index value. The final recovery device usually discharges to a combustion device, recapture device, or directly to the atmosphere.

First attempt at repair, for the purposes of this subpart, means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere, followed by monitoring as specified in § 63.983(c) to verify whether the leak is repaired, unless the owner or operator determines by other means that the leak is not repaired.

Flame zone means the portion of the combustion chamber in a boiler or

process heater occupied by the flame envelope.

Flow indicator means a device which indicates whether gas flow is, or whether the valve position would allow gas flow to be, present in a line.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous streams generated by onsite operations, may blend them with other sources of gas, and transports the gaseous streams for use as fuel gas in combustion devices or in-process combustion equipment such as furnaces and gas turbines, either singly or in combination.

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

High throughput transfer rack means those transfer racks that transfer a total of 11.8 million liters per year or greater of liquid containing regulated material.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas. The above energy recovery section limitation does not apply to an energy recovery section used solely to preheat the incoming vent stream or combustion air.

Low throughput transfer rack means those transfer racks that transfer less than a total of 11.8 million liters per year of liquid containing regulated material.

Operating parameter value means a minimum or maximum value established for a control device parameter which, if achieved by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with an applicable emission limit or operating limit.

Organic monitoring device means a unit of equipment used to indicate the concentration level of organic compounds based on a detection principle such as infra-red, photo ionization, or thermal conductivity.

Owner or operator means any person who owns, leases, operates, controls, or supervises a regulated source or a stationary source of which a regulated source is a part.

Performance level means the level at which the regulated material in the gases or vapors vented to a control or recovery device is removed, recovered, or destroyed. Examples of control device performance levels include: achieving a minimum organic reduction efficiency expressed as a percentage of regulated material removed or destroyed in the control device inlet stream on a weight-basis; achieving an organic concentration in the control device exhaust stream that is less than a maximum allowable limit expressed in parts per million by volume on a dry basis corrected to 3 percent oxygen if a combustion device is the control device and supplemental combustion air is used to combust the emissions; or maintaining appropriate control device operating parameters indicative of the device performance at specified values.

Performance test means the collection of data resulting from the execution of a test method (usually three emission test runs) used to demonstrate compliance with a relevant emission limit as specified in the performance test section of this subpart or in the referencing subpart.

Primary fuel means the fuel that provides the principal heat input to a device. To be considered primary, the fuel must be able to sustain operation without the addition of other fuels.

Process heater means an enclosed combustion device that transfers heat liberated by burning fuel directly to process streams or to heat transfer liquids other than water. A process heater may, as a secondary function, heat water in unfired heat recovery sections.

Recapture device means an individual unit of equipment capable of and used for the purpose of recovering chemicals, but not normally for use, reuse, or sale. For example, a recapture device may recover chemicals primarily for disposal. Recapture devices include, but are not limited to, absorbers, carbon adsorbers, and condensers. For purposes of the monitoring, recordkeeping and reporting requirements of this subpart, recapture devices are considered recovery devices.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. For purposes of the monitoring, recordkeeping, and reporting requirements of this subpart, recapture devices are considered recovery devices.

Referencing subpart means the subpart which refers an owner or operator to this subpart.

Regulated material, for purposes of this subpart, refers to vapors from volatile organic liquids (VOL), volatile organic compounds (VOC), or hazardous air pollutants (HAP), or other chemicals or groups of chemicals that are regulated by a referencing subpart.

Regulated source for the purposes of this subpart, means the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to a referencing subpart.

Repaired, for the purposes of this subpart, means that equipment; is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable sections of this subpart; and unless otherwise specified in applicable provisions of this subpart, is inspected as specified in § 63.983(c) to verify that emissions from the equipment are below the applicable leak definition.

Routed to a process or route to a process means the gas streams are conveyed to any enclosed portion of a process unit where the emissions are recycled and/or consumed in the same manner as a material that fulfills the same function in the process; and/or transformed by chemical reaction into materials that are not regulated materials; and/or incorporated into a product; and/or recovered.

Run means one of a series of emission or other measurements needed to determine emissions for a representative operating period or cycle as specified in this subpart. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

Secondary fuel means a fuel fired through a burner other than the primary fuel burner that provides supplementary heat in addition to the heat provided by the primary fuel.

Sensor means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

Specific gravity monitoring device means a unit of equipment used to monitor specific gravity and having a minimum accuracy of ±0.02 specific gravity units.

Temperature monitoring device means a unit of equipment used to monitor temperature and having a

minimum accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±1.2 degrees Celsius (°C), whichever is greater.

§ 63.982 Requirements.

(a) *General compliance requirements for storage vessels, process vents, transfer racks, and equipment leaks.* An owner or operator who is referred to this subpart for controlling regulated material emissions from storage vessels, process vents, low and high throughput transfer racks, or equipment leaks by venting emissions through a closed vent system to a flare, nonflare control device or routing to a fuel gas system or process shall comply with the applicable requirements of paragraphs (a)(1) through (4) of this section.

(1) *Storage vessels.* The owner or operator shall comply with the applicable provisions of paragraphs (b), (c)(1), and (d) of this section.

(2) *Process vents.* The owner or operator shall comply with the applicable provisions of paragraphs (b), (c)(2), and (e) of this section.

(3) *Transfer racks.* (i) For low throughput transfer racks, the owner or operator shall comply with the applicable provisions of paragraphs (b), (c)(1), and (d) of this section.

(ii) For high throughput transfer racks, the owner or operator shall comply with the applicable provisions of paragraphs (b), (c)(2), and (d) of this section.

(4) *Equipment leaks.* The owner or operator shall comply with the applicable provisions of paragraphs (b), (c)(3), and (d) of this section.

(b) *Closed vent system and flare.* Owners or operators that vent emissions through a closed vent system to a flare shall meet the requirements in § 63.983 for closed vent systems; § 63.987 for flares; § 63.997 (a), (b) and (c) for provisions regarding flare compliance assessments; the monitoring, recordkeeping, and reporting requirements referenced therein; and the applicable recordkeeping and reporting requirements of §§ 63.998 and 63.999. No other provisions of this subpart apply to emissions vented through a closed vent system to a flare.

(c) *Closed vent system and nonflare control device.* Owners or operators who control emissions through a closed vent system to a nonflare control device shall meet the requirements in § 63.983 for closed vent systems, the applicable recordkeeping and reporting requirements of §§ 63.998 and 63.999, and the applicable requirements listed in paragraphs (c)(1) through (3) of this section.

(1) For storage vessels and low throughput transfer racks, the owner or operator shall meet the requirements in § 63.985 for nonflare control devices and the monitoring, recordkeeping, and reporting requirements referenced therein. No other provisions of this subpart apply to low throughput transfer rack emissions or storage vessel emissions vented through a closed vent system to a nonflare control device unless specifically required in the monitoring plan submitted under § 63.985(c).

(2) For process vents and high throughput transfer racks, the owner or operator shall meet the requirements applicable to the control devices being used in § 63.988, § 63.990 or § 63.995; the applicable general monitoring requirements of § 63.996 and the applicable performance test requirements and procedures of § 63.997; and the monitoring, recordkeeping and reporting requirements referenced therein. Owners or operators subject to halogen reduction device requirements under a referencing subpart must also comply with § 63.994 and the monitoring, recordkeeping, and reporting requirements referenced therein. The requirements of § 63.984 through § 63.986 do not apply to process vents or high throughput transfer racks.

(3) For equipment leaks, owners or operators shall meet the requirements in § 63.986 for nonflare control devices used for equipment leak emissions and the monitoring, recordkeeping, and reporting requirements referenced therein. No other provisions of this subpart apply to equipment leak emissions vented through a closed vent system to a nonflare control device.

(d) *Route to a fuel gas system or process.* Owners or operators that route emissions to a fuel gas system or to a process shall meet the requirements in § 63.984, the monitoring, recordkeeping, and reporting requirements referenced therein, and the applicable recordkeeping and reporting requirements of §§ 63.998 and 63.999. No other provisions of this subpart apply to emissions being routed to a fuel gas system or process.

(e) *Final recovery devices.* Owners or operators who use a final recovery device to maintain a TRE above a level specified in a referencing subpart shall meet the requirements in § 63.993 and the monitoring, recordkeeping, and reporting requirements referenced therein that are applicable to the recovery device being used; the applicable monitoring requirements in § 63.996 and the recordkeeping and reporting requirements referenced therein; and the applicable recordkeeping and reporting requirements of §§ 63.998 and 63.999. No other provisions of this subpart apply to process vent emissions routed to a final recovery device.

(f) *Combined emissions.* When emissions from different emission types (e.g., emissions from process vents, transfer racks, and/or storage vessels) are combined, an owner or operator shall comply with the requirements of either paragraph (f)(1) or (2) of this section.

(1) Comply with the applicable requirements of this subpart for each kind of emissions in the stream (e.g., the requirements of § 63.982(a)(2) for process vents, and the requirements of § 63.982(a)(3) for transfer racks); or

(2) Comply with the first set of requirements identified in paragraphs (f)(2)(i) through (iii) of this section which applies to any individual emission stream that is included in the combined stream. Compliance with paragraphs (f)(2)(i) through (iii) of this section constitutes compliance with all other emissions requirements for other emission streams.

(i) The requirements of § 63.982(a)(2) for process vents, including applicable monitoring, recordkeeping, and reporting;

(ii) The requirements of § 63.982(a)(3)(ii) for high throughput transfer racks, including applicable monitoring, recordkeeping, and reporting;

(iii) The requirements of § 63.982(a)(1) or (a)(3)(i) for control of emissions from storage vessels or low throughput transfer racks, including applicable monitoring, recordkeeping, and reporting.

§ 63.983 Closed vent systems.

(a) *Closed vent system equipment and operating requirements.* Except for closed vent systems operated and maintained under negative pressure, the provisions of this paragraph apply to closed vent systems collecting regulated material from a regulated source.

(1) *Collection of emissions.* Each closed vent system shall be designed and operated to collect the regulated material vapors from the emission point, and to route the collected vapors to a control device.

(2) *Period of operation.* Closed vent systems used to comply with the provisions of this subpart shall be operated at all times when emissions are vented to, or collected by, them.

(3) *Bypass monitoring.* Except for equipment needed for safety purposes such as pressure relief devices, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines, the owner or operator shall comply with

the provisions of either paragraphs (a)(3)(i) or (ii) of this section for each closed vent system that contains bypass lines that could divert a vent stream to the atmosphere.

(i) Properly install, maintain, and operate a flow indicator that takes a reading at least once every 15 minutes. Records shall be generated as specified in § 63.998(d)(1)(ii)(A). The flow indicator shall be installed at the entrance to any bypass line.

(ii) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure the valve is maintained in the non-diverting position and the vent stream is not diverted through the bypass line. Records shall be generated as specified in § 63.998(d)(1)(ii)(B).

(4) *Loading arms at transfer racks.* Each closed vent system collecting regulated material from a transfer rack shall be designed and operated so that regulated material vapors collected at one loading arm will not pass through another loading arm in the rack to the atmosphere.

(5) *Pressure relief devices in a transfer rack's closed vent system.* The owner or operator of a transfer rack subject to the provisions of this subpart shall ensure that no pressure relief device in the transfer rack's closed vent system shall open to the atmosphere during loading. Pressure relief devices needed for safety purposes are not subject to this paragraph.

(b) *Closed vent system inspection requirements.* The provisions of this subpart apply to closed vent systems collecting regulated material from a regulated source. Inspection records shall be generated as specified in § 63.998(d)(1)(iii) and (iv) of this section.

(1) Except for any closed vent systems that are designated as unsafe or difficult to inspect as provided in paragraphs (b)(2) and (3) of this section, each closed vent system shall be inspected as specified in paragraph (b)(1)(i) or (ii) of this section.

(i) If the closed vent system is constructed of hard-piping, the owner or operator shall comply with the requirements specified in paragraphs (b)(1)(i)(A) and (B) of this section.

(A) Conduct an initial inspection according to the procedures in paragraph (c) of this section; and

(B) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(ii) If the closed vent system is constructed of ductwork, the owner or operator shall conduct an initial and annual inspection according to the procedures in paragraph (c) of this section.

(2) Any parts of the closed vent system that are designated, as described in § 63.998(d)(1)(i), as unsafe to inspect are exempt from the inspection requirements of paragraph (b)(1) of this section if the conditions of paragraphs (b)(2)(i) and (ii) of this section are met.

(i) The owner or operator determines that the equipment is unsafe-to-inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with paragraph (b)(1) of this section; and

(ii) The owner or operator has a written plan that requires inspection of the equipment as frequently as practical during safe-to-inspect times. Inspection is not required more than once annually.

(3) Any parts of the closed vent system that are designated, as described in § 63.998(d)(1)(i), as difficult-to-inspect are exempt from the inspection requirements of paragraph (b)(1) of this section if the provisions of paragraphs (b)(3)(i) and (ii) of this section apply.

(i) The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters (7 feet) above a support surface; and

(ii) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years.

(c) *Closed vent system inspection procedures.* The provisions of this paragraph apply to closed vent systems collecting regulated material from a regulated source.

(1) Each closed vent system subject to this paragraph shall be inspected according to the procedures specified in paragraphs (c)(1)(i) through (vii) of this section.

(i) Inspections shall be conducted in accordance with Method 21 of 40 CFR part 60, appendix A, except as specified in this section.

(ii) Except as provided in (c)(1)(iii) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 must be for the representative composition of the process fluid and not of each individual VOC in the stream. For process streams that contain nitrogen, air, water, or other inerts that are not organic HAP or VOC, the representative stream response factor must be determined on an inert-free basis. The response factor may be determined at any concentration for which the monitoring for leaks will be conducted.

(iii) If no instrument is available at the plant site that will meet the performance criteria of Method 21 specified in paragraph (c)(1)(ii) of this section, the instrument readings may be adjusted by multiplying by the representative response factor of the process fluid, calculated on an inert-free basis as described in paragraph (c)(1)(ii) of this section.

(iv) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(v) Calibration gases shall be as specified in paragraphs (c)(1)(v)(A) through (C) of this section.

(A) Zero air (less than 10 parts per million hydrocarbon in air); and

(B) Mixtures of methane in air at a concentration less than 10,000 parts per million. A calibration gas other than methane in air may be used if the instrument does not respond to methane or if the instrument does not meet the performance criteria specified in paragraph (c)(1)(ii) of this section. In such cases, the calibration gas may be a mixture of one or more of the compounds to be measured in air.

(C) If the detection instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,500 parts per million.

(vi) An owner or operator may elect to adjust or not adjust instrument readings for background. If an owner or operator elects not to adjust readings for background, all such instrument readings shall be compared directly to 500 parts per million to determine whether there is a leak. If an owner or operator elects to adjust instrument readings for background, the owner or operator shall measure background concentration using the procedures in this section. The owner or operator shall subtract the background reading from the maximum concentration indicated by the instrument.

(vii) If the owner or operator elects to adjust for background, the arithmetic difference between the maximum concentration indicated by the instrument and the background level shall be compared with 500 parts per million for determining whether there is a leak.

(2) The instrument probe shall be traversed around all potential leak interfaces as described in Method 21 of 40 CFR part 60, appendix A.

(3) Except as provided in paragraph (c)(4) of this section, inspections shall

be performed when the equipment is in regulated material service, or in use with any other detectable gas or vapor.

(4) Inspections of the closed vent system collecting regulated material from a transfer rack shall be performed only while a tank truck or railcar is being loaded or is otherwise pressurized to normal operating conditions with regulated material or any other detectable gas or vapor.

(d) *Closed vent system leak repair provisions.* The provisions of this paragraph apply to closed vent systems collecting regulated material from a regulated source.

(1) If there are visible, audible, or olfactory indications of leaks at the time of the annual visual inspections required by paragraph (b)(1)(i)(B) of this section, the owner or operator shall follow the procedure specified in either paragraph (d)(1)(i) or (ii) of this section.

(i) The owner or operator shall eliminate the leak.

(ii) The owner or operator shall monitor the equipment according to the procedures in paragraph (c) of this section.

(2) Leaks, as indicated by an instrument reading greater than 500 parts per million by volume above background or by visual inspections, shall be repaired as soon as practical, except as provided in paragraph (d)(3) of this section. Records shall be generated as specified in § 63.998(d)(1)(iii) when a leak is detected.

(i) A first attempt at repair shall be made no later than 5 days after the leak is detected.

(ii) Except as provided in paragraph (d)(3) of this section, repairs shall be completed no later than 15 days after the leak is detected or at the beginning of the next introduction of vapors to the system, whichever is later.

(3) Delay of repair of a closed vent system for which leaks have been detected is allowed if repair within 15 days after a leak is detected is technically infeasible or unsafe without a closed vent system shutdown, as defined in § 63.981, or if the owner or operator determines that emissions resulting from immediate repair would be greater than the emissions likely to result from delay of repair. Repair of such equipment shall be completed as soon as practical, but not later than the end of the next closed vent system shutdown.

§ 63.984 Fuel gas systems and processes to which storage vessel, transfer rack, or equipment leak regulated material emissions are routed.

(a) *Equipment and operating requirements for fuel gas systems and processes.* (1) Except during periods of start-up, shutdown and malfunction as specified in the referencing subpart, the fuel gas system or process shall be operating at all times when regulated material emissions are routed to it.

(2) The owner or operator of a transfer rack subject to the provisions of this subpart shall ensure that no pressure relief device in the transfer rack's system returning vapors to a fuel gas system or process shall open to the atmosphere during loading. Pressure relief devices needed for safety purposes are not subject to this paragraph.

(b) *Fuel gas system and process compliance assessment.* (1) If emissions are routed to a fuel gas system, there is no requirement to conduct a performance test or design evaluation.

(2) If emissions are routed to a process, the regulated material in the emissions shall meet one or more of the conditions specified in paragraphs (b)(2)(i) through (iv) of this section. The owner or operator of storage vessels subject to this paragraph shall comply with the compliance demonstration requirements in paragraph (b)(3) of this section.

(i) Recycled and/or consumed in the same manner as a material that fulfills the same function in that process;

(ii) Transformed by chemical reaction into materials that are not regulated materials;

(iii) Incorporated into a product; and/or

(iv) Recovered.

(3) To demonstrate compliance with paragraph (b)(2) of this section for a storage vessel, the owner or operator shall prepare a design evaluation (or engineering assessment) that demonstrates the extent to which one or more of the conditions specified in paragraphs (b)(2)(i) through (iv) of this section are being met.

(c) *Statement of connection.* For storage vessels and transfer racks, the owner or operator shall submit the statement of connection reports for fuel gas systems specified in § 63.999(b)(1)(ii), as appropriate.

§ 63.985 Nonflare control devices used to control emissions from storage vessels and low throughput transfer racks.

(a) *Nonflare control device equipment and operating requirements.* The owner or operator shall operate and maintain the nonflare control device so that the monitored parameters defined as required in paragraph (c) of this section remain within the ranges specified in the Notification of Compliance Status whenever emissions of regulated material are routed to the control device except during periods of start-up, shutdown, and malfunction as specified in the referencing subpart.

(b) *Nonflare control device design evaluation or performance test requirements.* When using a control device other than a flare, the owner or operator shall comply with the requirements in paragraphs (b)(1)(i) or (ii) of this section, except as provided in paragraphs (b)(2) and (3) of this section.

(1) *Design evaluation or performance test results.* The owner or operator shall prepare and submit with the Notification of Compliance Status, as specified in § 63.999(b)(2), either a design evaluation that includes the information specified in paragraph (b)(1)(i) of this section, or the results of the performance test as described in paragraph (b)(1)(ii) of this section.

(i) *Design evaluation.* The design evaluation shall include documentation demonstrating that the control device being used achieves the required control efficiency during the reasonably expected maximum storage vessel filling or transfer loading rate. This documentation is to include a description of the gas stream that enters the control device, including flow and regulated material content, and the information specified in paragraphs (b)(1)(i)(A) through (E) of this section, as applicable. For storage vessels, the description of the gas stream that enters the control device shall be provided for varying liquid level conditions. This documentation shall be submitted with the Notification of Compliance Status as specified in § 63.999(b)(2).

(A) The efficiency determination is to include consideration of all vapors, gases, and liquids, other than fuels, received by the control device.

(B) If an enclosed combustion device with a minimum residence time of 0.5 seconds and a minimum temperature of 760 °C is used to meet an emission reduction requirement specified in a referencing subpart for storage vessels and transfer racks, documentation that those conditions exist is sufficient to meet the requirements of paragraph (b)(1)(i) of this section.

(C) Except as provided in paragraph (b)(1)(i)(B) of this section for enclosed combustion devices, the design evaluation shall include the estimated autoignition temperature of the stream being combusted, the flow rate of the stream, the combustion temperature, and the residence time at the combustion temperature.

(D) For carbon adsorbers, the design evaluation shall include the estimated affinity of the regulated material vapors for carbon, the amount of carbon in each bed, the number of beds, the humidity, the temperature, the flow rate of the

inlet stream and, if applicable, the desorption schedule, the regeneration stream pressure or temperature, and the flow rate of the regeneration stream. For vacuum desorption, pressure drop shall be included.

(E) For condensers, the design evaluation shall include the final temperature of the stream vapors, the type of condenser, and the design flow rate of the emission stream.

(ii) *Performance test.* A performance test, whether conducted to meet the requirements of this section, or to demonstrate compliance for a process vent or high throughput transfer rack as required by §§ 63.988(b), 63.990(b), or 63.995(b), is acceptable to demonstrate compliance with emission reduction requirements for storage vessels and transfer racks. The owner or operator is not required to prepare a design evaluation for the control device as described in paragraph (b)(1)(i) of this section if a performance test will be performed that meets the criteria specified in paragraphs (b)(1)(ii)(A) and (B) of this section.

(A) The performance test will demonstrate that the control device achieves greater than or equal to the required control device performance level specified in a referencing subpart for storage vessels or transfer racks; and

(B) The performance test meets the applicable performance test requirements and the results are submitted as part of the Notification of Compliance Status as specified in § 63.999(b)(2).

(2) *Exceptions.* A design evaluation or performance test is not required if the owner or operator uses a combustion device meeting the criteria in paragraph (b)(2)(i), (ii), (iii), or (iv) of this section.

(i) A boiler or process heater with a design heat input capacity of 44 megawatts (150 million British thermal units per hour) or greater.

(ii) A boiler or process heater burning hazardous waste for which the owner or operator meets the requirements specified in paragraph (b)(2)(ii)(A) or (B) of this section.

(A) The boiler or process heater has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H, or

(B) The boiler or process heater has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(iii) A hazardous waste incinerator for which the owner or operator meets the requirements specified in paragraph (b)(2)(iii)(A) or (B) of this section.

(A) The incinerator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O; or

(B) The incinerator has certified compliance with the interim status requirements of 40 CFR part 265, subpart O; or

(iv) A boiler or process heater into which the vent stream is introduced with the primary fuel.

(3) *Prior design evaluations or performance tests.* If a design evaluation or performance test is required in the referencing subpart or was previously conducted and submitted for a storage vessel or low throughput transfer rack, then a performance test or design evaluation is not required.

(c) *Nonflare control device monitoring requirements.* (1) The owner or operator shall submit with the Notification of Compliance Status, a monitoring plan containing the information specified in § 63.999(b)(2)(i) and (ii) to identify the parameters that will be monitored to assure proper operation of the control device.

(2) The owner or operator shall monitor the parameters specified in the Notification of Compliance Status or in the operating permit application or amendment. Records shall be generated as specified in § 63.998(d)(2)(i).

§ 63.986 Nonflare control devices used for equipment leaks only.

(a) *Equipment and operating requirements.* (1) Owners or operators using a nonflare control device to meet the applicable requirements of a referencing subpart for equipment leaks shall meet the requirements of this section.

(2) Control devices used to comply with the provisions of this subpart shall be operated at all times when emissions are vented to them.

(b) *Performance test requirements.* A performance test is not required for any nonflare control device used only to control emissions from equipment leaks.

(c) *Monitoring requirements.* Owners or operators of control devices that are used to comply only with the provisions of a referencing subpart for control of equipment leak emissions shall monitor these control devices to ensure that they are operated and maintained in conformance with their design. The owner or operator shall maintain the records as specified in § 63.998(d)(4).

§ 63.987 Flare requirements.

(a) *Flare equipment and operating requirements.* Flares subject to this subpart shall meet the performance requirements in 40 CFR 63.11(b) (General Provisions).

(b) *Flare compliance assessment.* (1) The owner or operator shall conduct an initial flare compliance assessment of any flare used to comply with the provisions of this subpart. Flare compliance assessment records shall be kept as specified in § 63.998(a)(1) and a flare compliance assessment report shall be submitted as specified in § 63.999(a)(2). An owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet regulated material or total organic compound concentration when a flare is used.

(2) [Reserved]

(3) Flare compliance assessments shall meet the requirements specified in paragraphs (b)(3)(i) through (iv) of this section.

(i) Method 22 of appendix A of part 60 shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours, except for transfer racks as provided in (b)(3)(i)(A) or (B) of this section.

(A) For transfer racks, if the loading cycle is less than 2 hours, then the observation period for that run shall be for the entire loading cycle.

(B) For transfer racks, if additional loading cycles are initiated within the 2-hour period, then visible emissions observations shall be conducted for the additional cycles.

(ii) The net heating value of the gas being combusted in a flare shall be calculated using Equation 1:

$$H_T = K_1 \sum_{j=1}^{n} D_j H_j \qquad \text{[Eq. 1]}$$

Where:

H_T = Net heating value of the sample, megajoules per standard cubic meter; where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 millimeters of mercury (30 inches of mercury), but the standard temperature for determining the volume corresponding to one mole is 20 °C;

$K_1 = 1.740 \times 10^{-7}$ (parts per million by volume)$^{-1}$ (gram-mole per standard cubic meter) (megajoules per kilocalories), where the standard temperature for gram mole per standard cubic meter is 20 °C;

n = number of sample components;

D_j = Concentration of sample component j, in parts per million by volume on a wet basis, as measured for organics by Method 18 of part 60, appendix A and measured for hydrogen and carbon monoxide by American Society for Testing and Materials (ASTM) D1946–90; and

H_j = Net heat of combustion of sample component j, kilocalories per gram

mole at 25 °C and 760 millimeters of mercury (30 inches of mercury).

(iii) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Methods 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(iv) Flare flame or pilot monitors, as applicable, shall be operated during any flare compliance assessment.

(c) *Flare monitoring requirements.* Where a flare is used, the following monitoring equipment is required: a device (including but not limited to a thermocouple, ultra-violet beam sensor, or infrared sensor) capable of continuously detecting that at least one pilot flame or the flare flame is present. Flare flame monitoring and compliance records shall be kept as specified in § 63.998(a)(1) and reported as specified in § 63.999(c)(8).

§ 63.988 Incinerators, boilers, and process heaters.

(a) *Equipment and operating requirements.* (1) Owners or operators using incinerators, boilers, or process heaters to meet a weight-percent emission reduction or parts per million by volume outlet concentration requirement specified in a referencing subpart shall meet the requirements of this section.

(2) Incinerators, boilers, or process heaters used to comply with the provisions of a referencing subpart and this subpart shall be operated at all times when emissions are vented to them.

(3) For boilers and process heaters, the vent stream shall be introduced into the flame zone of the boiler or process heater.

(b) *Performance test requirements.* (1) Except as specified in § 63.997(b), and paragraph (b)(2) of this section, the owner or operator shall conduct an initial performance test of any incinerator, boiler, or process heater used to comply with the provisions of a referencing subpart and this subpart according to the procedures in § 63.997. Performance test records shall be kept as specified in § 63.998(a)(2) and a performance test report shall be submitted as specified in § 63.999(a)(2). As provided in § 63.985(b)(1), a design evaluation may be used as an alternative to the performance test for storage vessels and low throughput transfer rack controls. As provided in § 63.986(b), no performance test is required for equipment leaks.

(2) An owner or operator is not required to conduct a performance test when any of the control devices specified in paragraphs (b)(2)(i) through (iv) of this section are used.

(i) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O;

(ii) A boiler or process heater with a design heat input capacity of 44 megawatts (150 million British thermal units per hour) or greater;

(iii) A boiler or process heater into which the vent stream is introduced with the primary fuel or is used as the primary fuel; or

(iv) A boiler or process heater burning hazardous waste for which the owner or operator meets the requirements specified in paragraph (b)(2)(iv)(A) or (B) of this section.

(A) The boiler or process heater has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or

(B) The boiler or process heater has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(c) *Incinerator, boiler, and process heater monitoring requirements.* Where an incinerator, boiler, or process heater is used, a temperature monitoring device capable of providing a continuous record that meets the provisions specified in paragraph (c)(1), (2), or (3) of this section is required. Any boiler or process heater in which all vent streams are introduced with primary fuel or are used as the primary fuel is exempt from monitoring. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in the referencing subpart and § 63.996.

(1) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the fire box or in the ductwork immediately downstream of the fire box in a position before any substantial heat exchange occurs.

(2) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(3) Where a boiler or process heater of less than 44 megawatts (150 million British thermal units per hour) design heat input capacity is used and the regulated vent stream is not introduced as or with the primary fuel, a temperature monitoring device shall be installed in the fire box.

§ 63.989 [Reserved]

§ 63.990 Absorbers, condensers, and carbon adsorbers used as control devices.

(a) *Equipment and operating requirements.* (1) Owners or operators using absorbers, condensers, or carbon adsorbers to meet a weight-percent emission reduction or parts per million by volume outlet concentration requirement specified in a referencing subpart shall meet the requirements of this section.

(2) Absorbers, condensers, and carbon adsorbers used to comply with the provisions of a referencing subpart and this subpart shall be operated at all times when emissions are vented to them.

(b) *Performance test requirements.* Except as specified in § 63.997(b), the owner or operator shall conduct an initial performance test of any absorber, condenser, or carbon adsorber used as a control device to comply with the provisions of the referencing subpart and this subpart according to the procedures in § 63.997. Performance test records shall be kept as specified in § 63.998(a)(2) and a performance test report shall be submitted as specified in § 63.999(a)(2). As provided in § 63.985(b)(1), a design evaluation may be used as an alternative to the performance test for storage vessels and low throughput transfer rack controls. As provided in § 63.986(b), no performance test is required to demonstrate compliance for equipment leaks.

(c) *Monitoring requirements.* Where an absorber, condenser, or carbon adsorber is used as a control device, either an organic monitoring device capable of providing a continuous record, or the monitoring devices specified in paragraphs (c)(1) through (3), as applicable, shall be used. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in a referencing subpart and § 63.996.

(1) Where an absorber is used, a scrubbing liquid temperature monitoring device and a specific gravity monitoring device, each capable of providing a continuous record, shall be used. If the difference between the specific gravity of the saturated scrubbing fluid and specific gravity of the fresh scrubbing fluid is less than 0.02 specific gravity units, an organic monitoring device capable of providing a continuous record shall be used.

(2) Where a condenser is used, a condenser exit (product side) temperature monitoring device capable of providing a continuous record shall be used.

(3) Where a carbon adsorber is used, an integrating regeneration stream flow monitoring device having an accuracy of ±10 percent or better, capable of recording the total regeneration stream mass or volumetric flow for each regeneration cycle; and a carbon bed temperature monitoring device, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle, shall be used.

§ 63.991 [Reserved]

§ 63.992 [Reserved]

§ 63.993 Absorbers, condensers, carbon adsorbers and other recovery devices used as final recovery devices.

(a) *Final recovery device equipment and operating requirements.* (1) Owners or operators using a final recovery device to maintain a TRE above a level specified in a referencing subpart shall meet the requirements of this section.

(2) Recovery devices used to comply with the provisions of a referencing subpart and this subpart shall be operated at all times when emissions are vented to them.

(b) *Recovery device performance test requirements.* There are no performance test requirements for recovery devices. TRE index value determination information shall be recorded as specified in § 63.998(a)(3).

(c) *Recovery device monitoring requirements.* (1) Where an absorber is the final recovery device in the recovery system and the TRE index value is between the level specified in a referencing subpart and 4.0, either an organic monitoring device capable of providing a continuous record or a scrubbing liquid temperature monitoring device and a specific gravity monitoring device, each capable of providing a continuous record, shall be used. If the difference between the specific gravity of the saturated scrubbing fluid and specific gravity of the fresh scrubbing fluid is less than 0.02 specific gravity units, an organic monitoring device capable of providing a continuous record shall be used. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in § 63.996.

(2) Where a condenser is the final recovery device in the recovery system and the TRE index value is between the level specified in a referencing subpart and 4.0, an organic monitoring device capable of providing a continuous record or a condenser exit (product side) temperature monitoring device capable of providing a continuous record shall be used. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in a referencing subpart and § 63.996.

(3) Where a carbon adsorber is the final recovery device in the recovery system and the TRE index value is between the level specified in a referencing subpart and 4.0, an organic monitoring device capable of providing a continuous record or an integrating regeneration stream flow monitoring device having an accuracy of ±10 percent or better, capable of recording the total regeneration stream mass or volumetric flow for each regeneration cycle; and a carbon-bed temperature monitoring device, capable of recording the carbon-bed temperature after each regeneration and within 15 minutes of completing any cooling cycle shall be used. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in a referencing subpart and § 63.996.

(4) If an owner or operator uses a recovery device other than those listed in this subpart, the owner or operator shall submit a description of planned monitoring, reporting and recordkeeping procedures as specified in a referencing subpart. The Administrator will approve, deny, or modify based on the reasonableness of the proposed monitoring, reporting and recordkeeping requirements as part of the review of the submission or permit application or by other appropriate means.

§ 63.994 Halogen scrubbers and other halogen reduction devices.

(a) *Halogen scrubber and other halogen reduction device equipment and operating requirements.* (1) An owner or operator of a halogen scrubber or other halogen reduction device subject to this subpart shall reduce the overall emissions of hydrogen halides and halogens by the control device performance level specified in a referencing subpart.

(2) Halogen scrubbers and other halogen reduction devices used to comply with the provisions of a referencing subpart and this subpart shall be operated at all times when emissions are vented to them.

(b) *Halogen scrubber and other halogen reduction device performance test requirements.* (1) An owner or operator of a combustion device followed by a halogen scrubber or other halogen reduction device to control halogenated vent streams in accordance with a referencing subpart and this subpart shall conduct an initial performance test to determine compliance with the control efficiency or emission limits for hydrogen halides and halogens according to the procedures in § 63.997. Performance test records shall be kept as specified in § 63.998(a)(2) and a performance test report shall be submitted as specified in § 63.999(a)(2).

(2) An owner or operator of a halogen scrubber or other halogen reduction technique used to reduce the vent stream halogen atom mass emission rate prior to a combustion device to comply with a performance level specified in a referencing subpart shall determine the halogen atom mass emission rate prior to the combustion device according to the procedures specified in the referencing subpart. Records of the halogen concentration in the vent stream shall be generated as specified in § 63.998(a)(4).

(c) *Halogen scrubber and other halogen reduction device monitoring requirements.* (1) Where a halogen scrubber is used, the monitoring equipment specified in paragraphs (c)(1)(i) and (ii) of this section is required for the scrubber. Monitoring results shall be recorded as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring and continuous parameter monitoring systems are contained in a referencing subpart and § 63.996.

(i) A pH monitoring device capable of providing a continuous record shall be installed to monitor the pH of the scrubber effluent.

(ii) A flow meter capable of providing a continuous record shall be located at the scrubber influent for liquid flow. Gas stream flow shall be determined using one of the procedures specified in paragraphs (c)(1)(ii)(A) through (D) of this section.

(A) The owner or operator may determine gas stream flow using the design blower capacity, with appropriate adjustments for pressure drop.

(B) The owner or operator may measure the gas stream flow at the scrubber inlet.

(C) If the scrubber is subject to regulations in 40 CFR parts 264 through 266 that have required a determination

of the liquid to gas (L/G) ratio prior to the applicable compliance date for the process unit of which it is part as specified in a referencing subpart, the owner or operator may determine gas stream flow by the method that had been utilized to comply with those regulations. A determination that was conducted prior to that compliance date may be utilized to comply with this subpart if it is still representative.

(D) The owner or operator may prepare and implement a gas stream flow determination plan that documents an appropriate method that will be used to determine the gas stream flow. The plan shall require determination of gas stream flow by a method that will at least provide a value for either a representative or the highest gas stream flow anticipated in the scrubber during representative operating conditions other than start-ups, shutdowns, or malfunctions. The plan shall include a description of the methodology to be followed and an explanation of how the selected methodology will reliably determine the gas stream flow, and a description of the records that will be maintained to document the determination of gas stream flow. The owner or operator shall maintain the plan as specified in a referencing subpart.

(2) Where a halogen reduction device other than a scrubber is used, the owner or operator shall follow the procedures specified in a referencing subpart in order to establish monitoring parameters.

§ 63.995 Other control devices.

(a) *Other control device equipment and operating requirements.* (1) Owners or operators using a control device other than one listed in §§ 63.985 through 63.990 to meet a weight-percent emission reduction or parts per million by volume outlet concentration requirement specified in a referencing subpart shall meet the requirements of this section.

(2) Other control devices used to comply with the provisions of a referencing subpart and this subpart shall be operated at all times when emissions are vented to them.

(b) *Other control device performance test requirements.* An owner or operator using a control device other than those specified in §§ 63.987 through 63.990 to comply with a performance level specified in a referencing subpart, shall perform an initial performance test according to the procedures in § 63.997. Performance test records shall be kept as specified in § 63.998(a)(2) and a performance test report shall be submitted as specified in § 63.999(a)(2).

(c) *Other control device monitoring requirements.* If an owner or operator uses a control device other than those listed in this subpart, the owner or operator shall submit a description of planned monitoring, recordkeeping and reporting procedures as specified in a referencing subpart. The Administrator will approve, deny, or modify based on the reasonableness of the proposed monitoring, reporting and recordkeeping requirements as part of the review of the submission or permit application or by other appropriate means.

§ 63.996 General monitoring requirements for control and recovery devices.

(a) *General monitoring requirements applicability.* (1) This section applies to the owner or operator of a regulated source required to monitor under this subpart.

(2) Flares subject to § 63.987(c) are not subject to the requirements of this section.

(3) Flow indicators are not subject to the requirements of this section.

(b) *Conduct of monitoring.* (1) Monitoring shall be conducted as set forth in this section and in the relevant sections of this subpart unless the provision in either paragraph (b)(1)(i) or (ii) of this section applies.

(i) The Administrator specifies or approves the use of minor changes in methodology for the specified monitoring requirements and procedures; or

(ii) The Administrator approves the use of alternatives to any monitoring requirements or procedures as provided in the referencing subpart or paragraph (d) of this section.

(2) When one CPMS is used as a backup to another CPMS, the owner or operator shall report the results from the CPMS used to meet the monitoring requirements of this subpart. If both such CPMS's are used during a particular reporting period to meet the monitoring requirements of this subpart, then the owner or operator shall report the results from each CPMS for the time during the six month period that the instrument was relied upon to demonstrate compliance.

(c) *Operation and maintenance of continuous parameter monitoring systems.* (1) All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(2) The owner or operator of a regulated source shall maintain and operate each CPMS as specified in this section, or in a relevant subpart, and in a manner consistent with good air pollution control practices.

(i) The owner or operator of a regulated source shall ensure the immediate repair or replacement of CPMS parts to correct ''routine'' or otherwise predictable CPMS malfunctions. The necessary parts for routine repairs of the affected equipment shall be readily available.

(ii) If under the referencing subpart, an owner or operator has developed a start-up, shutdown, and malfunction plan, the plan is followed, and the CPMS is repaired immediately, this action shall be recorded as specified in § 63.998(c)(1)(ii)(E).

(iii) The Administrator's determination of whether acceptable operation and maintenance procedures are being used for the CPMS will be based on information that may include, but is not limited to, review of operation and maintenance procedures, operation and maintenance records as specified in § 63.998(c)(1)(i) and (ii), manufacturer's recommendations and specifications, and inspection of the CPMS.

(3) All CPMS's shall be installed and operational, and the data verified as specified in this subpart either prior to or in conjunction with conducting performance tests. Verification of operational status shall, at a minimum, include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(4) All CPMS's shall be installed such that representative measurements of parameters from the regulated source are obtained.

(5) In accordance with the referencing subpart, except for system breakdowns, repairs, maintenance periods, instrument adjustments, or checks to maintain precision and accuracy, calibration checks, and zero and span adjustments, all continuous parameter monitoring systems shall be in continuous operation when emissions are being routed to the monitored device.

(6) The owner or operator shall establish a range for monitored parameters that indicates proper operation of the control or recovery device. In order to establish the range, the information required in § 63.999(b)(3) shall be submitted in the Notification of Compliance Status or the operating permit application or amendment. The range may be based

upon a prior performance test meeting the specifications of § 63.997(b)(1) or a prior TRE index value determination, as applicable, or upon existing ranges or limits established under a referencing subpart. Where the regeneration stream flow and carbon bed temperature are monitored, the range shall be in terms of the total regeneration stream flow per regeneration cycle and the temperature of the carbon bed determined within 15 minutes of the completion of the regeneration cooling cycle.

(d) *Alternatives to monitoring requirements.* (1) *Alternatives to the continuous operating parameter monitoring and recordkeeping provisions.* An owner or operator may request approval to use alternatives to the continuous operating parameter monitoring and recordkeeping provisions listed in §§ 63.988(c), 63.990(c), 63.993(c), 63.994(c), 63.998(a)(2) through (4), 63.998(c)(2) and (3), as specified in § 63.999(d)(1).

(2) *Monitoring a different parameter than those listed.* An owner or operator may request approval to monitor a different parameter than those established in paragraph (c)(6) of this section or to set unique monitoring parameters if directed by §§ 63.994(c)(2) or 63.995(c), as specified in § 63.999(d)(2).

§ 63.997 Performance test and compliance assessment requirements for control devices.

(a) *Performance tests and flare compliance assessments.* Where §§ 63.985 through 63.995 require, or the owner or operator elects to conduct, a performance test of a control device or a halogen reduction device, or a compliance assessment for a flare, the requirements of paragraphs (b) through (d) of this section apply.

(b) *Prior test results and waivers.* Initial performance tests and initial flare compliance assessments are required only as specified in this subpart or a referencing subpart.

(1) Unless requested by the Administrator, an owner or operator is not required to conduct a performance test or flare compliance assessment under this subpart if a prior performance test or compliance assessment was conducted using the same methods specified in § 63.997(e) or § 63.987(b)(3), as applicable, and either no process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test or compliance demonstration, with or without adjustments, reliably demonstrate compliance despite process changes. An owner or operator may request permission to substitute a prior performance test or compliance assessment by written application to the Administrator as specified in § 63.999(a)(1)(iv).

(2) Individual performance tests and flare compliance assessments may be waived upon written application to the Administrator, per § 63.999(a)(1)(iii), if, in the Administrator's judgment, the source is meeting the relevant standard(s) on a continuous basis, the source is being operated under an extension or waiver of compliance, or the owner or operator has requested an extension or waiver of compliance and the Administrator is still considering that request.

(3) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notification is given to the owner or operator of the source.

(c) *Performance tests and flare compliance assessments schedule.* (1) Unless a waiver of performance testing or flare compliance assessment is obtained under this section or the conditions of a referencing subpart, the owner or operator shall perform such tests as specified in paragraphs (c)(1)(i) through (vii) of this section.

(i) Within 180 days after the effective date of a relevant standard for a new source that has an initial start-up date before the effective date of that standard; or

(ii) Within 180 days after initial start-up for a new source that has an initial start-up date after the effective date of a relevant standard; or

(iii) Within 180 days after the compliance date specified in a referencing subpart for an existing source, or within 180 days after start-up of an existing source if the source begins operation after the effective date of the relevant emission standard; or

(iv) Within 180 days after the compliance date for an existing source subject to an emission standard established pursuant to section 112(f) of the Act; or

(v) Within 180 days after the termination date of the source's extension of compliance or a waiver of compliance for an existing source that obtains an extension of compliance under § 63.1112(a), or waiver of compliance under 40 CFR 61.11; or

(vi) Within 180 days after the compliance date for a new source, subject to an emission standard established pursuant to section 112(f) of the Act, for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of the relevant standard established pursuant to section 112(f); or

(vii) When the promulgated emission standard in a referencing subpart is more stringent than the standard that was proposed, the owner or operator of a new or reconstructed source subject to that standard for which construction or reconstruction is commenced between the proposal and promulgation dates of the standard shall comply with performance testing requirements within 180 days after the standard's effective date, or within 180 days after start-up of the source, whichever is later. If a promulgated standard in a referencing subpart is more stringent than the proposed standard, the owner or operator may choose to demonstrate compliance initially with either the proposed or the promulgated standard. If the owner or operator chooses to comply with the proposed standard initially, the owner or operator shall conduct a second performance test within 3 years and 180 days after the effective date of the standard, or after start-up of the source, whichever is later, to demonstrate compliance with the promulgated standard.

(2) The Administrator may require an owner or operator to conduct performance tests and compliance assessments at the regulated source at any time when the action is authorized by section 114 of the Act.

(3) Unless already permitted by the applicable title V permit, if an owner or operator elects to use a recovery device to replace an existing control device at a later date, or elects to use a different flare, nonflare control device or recovery device to replace an existing flare, nonflare control device or final recovery device at a later date, the owner or operator shall notify the Administrator, either by amendment of the regulated source's title V permit or, if title V is not applicable, by submission of the notice specified in § 63.999(c)(7) before implementing the change. Upon implementing the change, a compliance demonstration or performance test shall be performed according to the provisions of paragraphs (c)(3)(i) through (v) of this section, as applicable, within 180 days. The compliance assessment report shall be submitted to the Administrator within 60 days of completing the determination, as provided in § 63.999(a)(1)(ii).

(i) For flares used to replace an existing control device, a flare compliance demonstration shall be

performed using the methods specified in § 63.987(b);

(ii) For flares used to replace an existing final recovery device that is used on an applicable process vent, the owner or operator shall comply with the applicable provisions in a referencing subpart and in this subpart;

(iii) For incinerators, boilers, or process heaters used to replace an existing control device, a performance test shall be performed, using the methods specified in § 63.997;

(iv) For absorbers, condensers, or carbon adsorbers used to replace an existing control device on a process vent or a transfer rack, a performance test shall be performed, using the methods specified in § 63.997;

(v) For absorbers, condensers, or carbon adsorbers used to replace an existing final recovery device on a process vent, the owner or operator shall comply with the applicable provisions of a referencing subpart and this subpart;

(d) *Performance testing facilities.* If required to do performance testing, the owner or operator of each new regulated source and, at the request of the Administrator, the owner or operator of each existing regulated source, shall provide performance testing facilities as specified in paragraphs (d)(1) through (5) of this section.

(1) Sampling ports adequate for test methods applicable to such source. This includes, as applicable, the requirements specified in (d)(1)(i) and (ii) of this section.

(i) Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and

(ii) Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

(2) Safe sampling platform(s);

(3) Safe access to sampling platform(s);

(4) Utilities for sampling and testing equipment; and

(5) Any other facilities that the Administrator deems necessary for safe and adequate testing of a source.

(e) *Performance test procedures.* Where §§ 63.985 through 63.995 require the owner or operator to conduct a performance test of a control device or a halogen reduction device, the owner or operator shall follow the requirements of paragraphs (e)(1)(i) through (v) of this section, as applicable.

(1) *General procedures.* (i) *Continuous unit operations.* For continuous unit operations, performance tests shall be conducted at maximum representative operating conditions for the process, unless the Administrator specifies or approves alternate operating conditions. During the performance test, an owner or operator may operate the control or halogen reduction device at maximum or minimum representative operating conditions for monitored control or halogen reduction device parameters, whichever results in lower emission reduction. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test.

(ii) [Reserved]

(iii) *Combination of both continuous and batch unit operations.* For a combination of both continuous and batch unit operations, performance tests shall be conducted at maximum representative operating conditions. For the purpose of conducting a performance test on a combined vent stream, maximum representative operating conditions shall be when batch emission episodes are occurring that result in the highest organic HAP emission rate (for the combined vent stream) that is achievable during the 6-month period that begins 3 months before and ends 3 months after the compliance assessment (e.g. TRE calculation, performance test) without causing any of the situations described in paragraphs (e)(1)(iii)(A) through (C) of this section.

(A) Causing damage to equipment;

(B) Necessitating that the owner or operator make product that does not meet an existing specification for sale to a customer; or

(C) Necessitating that the owner or operator make product in excess of demand.

(iv) *Alternatives to performance test requirements.* Performance tests shall be conducted and data shall be reduced in accordance with the test methods and procedures set forth in this subpart, in each relevant standard, and, if required, in applicable appendices of 40 CFR parts 51, 60, 61, and 63 unless the Administrator specifies one of the provisions in paragraphs (e)(1)(iv)(A) through (E) of this section.

(A) Specifies or approves, in specific cases, the use of a test method with minor changes in methodology; or

(B) Approves the use of an alternative test method, the results of which the Administrator has determined to be adequate for indicating whether a specific regulated source is in compliance. The alternate method or data shall be validated using the applicable procedures of Method 301 of appendix A of 40 CFR part 63; or

(C) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors; or

(D) Waives the requirement for the performance test as specified in paragraph (b)(2) of this section because the owner or operator of a regulated source has demonstrated by other means to the Administrator's satisfaction that the regulated source is in compliance with the relevant standard; or

(E) Approves the use of an equivalent method.

(v) *Performance test runs.* Except as provided in paragraphs (e)(1)(v)(A) and (B) of this section, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for at least 1 hour and under the conditions specified in this section. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.

(A) For control devices used to control emissions from transfer racks (except low throughput transfer racks that are capable of continuous vapor processing but do not handle continuous emissions or multiple loading arms of a transfer rack that load simultaneously), each run shall represent at least one complete tank truck or tank car loading period, during which regulated materials are loaded, and samples shall be collected using integrated sampling or grab samples taken at least four times per hour at approximately equal intervals of time, such as 15-minute intervals.

(B) For intermittent vapor processing systems used for controlling transfer rack emissions (except low throughput transfer racks that do not handle continuous emissions or multiple loading arms of a transfer rack that load simultaneously), each run shall represent at least one complete control device cycle, and samples shall be collected using integrated sampling or grab samples taken at least four times per hour at approximately equal intervals of time, such as 15-minute intervals.

(2) *Specific procedures.* Where §§ 63.985 through 63.995 require the

owner or operator to conduct a performance test of a control device, or a halogen reduction device, an owner or operator shall conduct that performance test using the procedures in paragraphs (e)(2)(i) through (iv) of this section, as applicable. The regulated material concentration and percent reduction may be measured as either total organic regulated material or as TOC minus methane and ethane according to the procedures specified.

(i) *Selection of sampling sites.* Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling sites.

(A) For determination of compliance with a percent reduction requirement of total organic regulated material or TOC, sampling sites shall be located as specified in paragraphs (e)(2)(i)(A)(*1*) and (e)(2)(i)(A)(*2*) of this section, and at the outlet of the control device.

(*1*) With the exceptions noted below in paragraphs (e)(2)(i)(A)(*2*) and (*3*), the control device inlet sampling site shall be located at the exit from the unit operation before any control device.

(*2*) For process vents from continuous unit operations at affected sources in subcategories where the applicability criteria includes a TRE index value, the control device inlet sampling site shall be located after the final recovery device.

(*3*) If a vent stream is introduced with the combustion air or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, selection of the location of the inlet sampling sites shall ensure the measurement of total organic regulated material or TOC (minus methane and ethane) concentrations, as applicable, in all vent streams and primary and secondary fuels introduced into the boiler or process heater.

(B) For determination of compliance with a parts per million by volume total regulated material or TOC limit in a referencing subpart, the sampling site shall be located at the outlet of the control device.

(ii) *Gas volumetric flow rate.* The gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(iii) *Total organic regulated material or TOC concentration.* To determine compliance with a parts per million by volume total organic regulated material or TOC (minus methane and ethane) limit, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A, to measure either TOC minus methane and ethane or total organic regulated material, as applicable. Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A of 40 CFR part 63, may be used. Method 25A of 40 CFR part 60, appendix A may be used for transfer racks as detailed in paragraph (e)(2)(iii)(D) of this section. The procedures specified in paragraphs (e)(2)(iii)(A) through (D) of this section shall be used to calculate parts per million by volume concentration, corrected to 3 percent oxygen if a combustion device is the control device and supplemental combustion air is used to combust the emissions.

(A) *Sampling time.* For continuous unit operations and for a combination of both continuous and batch unit operations, the minimum sampling time for each run shall be 1 hour in which either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(B) *Concentration calculation.* The concentration of either TOC (minus methane or ethane) or total organic regulated material shall be calculated according to paragraph (e)(2)(iii)(B) (*1*) or (*2*) of this section.

(*1*) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be computed for each run using Equation 2.

$$C_{TOC} = \sum_{i=1}^{x} \frac{\left(\sum_{j=1}^{n} C_{ji} \right)}{x} \qquad \text{[Eq. 2]}$$

Where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, parts per million by volume.

x = Number of samples in the sample run.

n = Number of components in the sample.

C_{ji} = Concentration of sample components j of sample I, dry basis, parts per million by volume.

(*2*) The total organic regulated material (C_{REG}) shall be computed according to Equation 2 in paragraph (e)(2)(iii)(B)(*1*) of this section except that only the regulated species shall be summed.

(C) *Concentration correction calculation.* The concentration of TOC or total organic regulated material, as applicable, shall be corrected to 3 percent oxygen if a combustion device is the control device and supplemental combustion air is used to combust the emissions.

(*1*) The emission rate correction factor (or excess air), integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, shall be used to determine the oxygen concentration. The sampling site shall be the same as that of the organic regulated material or organic compound samples, and the samples shall be taken during the same time that the organic regulated material or organic compound samples are taken.

(*2*) The concentration corrected to 3 percent oxygen (C_c) shall be computed using Equation 3.

$$C_c = C_m \left(\frac{17.9}{20.9 - \%O_{2d}} \right) \qquad \text{[Eq. 3]}$$

Where:

C_c = Concentration of TOC or organic regulated material corrected to 3 percent oxygen, dry basis, parts per million by volume.

C_m = Concentration of TOC (minus methane and ethane) or organic regulated material, dry basis, parts per million by volume.

$\%O_{2d}$ = Concentration of oxygen, dry basis, percentage by volume.

(D) *Transfer racks.* Method 25A of 40 CFR part 60, appendix A may be used for the purpose of determining compliance with a parts per million by volume limit for transfer racks. If Method 25A of 40 CFR part 60, appendix A is used, the procedures specified in paragraphs (e)(2)(iii)(D) (*1*) through (*4*) of this section shall be used to calculate the concentration of organic compounds (C_{TOC}):

(*1*) The principal organic regulated material in the vent stream shall be used as the calibration gas.

(*2*) The span value for Method 25A of 40 CFR part 60, appendix A, shall be between 1.5 and 2.5 times the concentration being measured.

(*3*) Use of Method 25A of 40 CFR part 60, appendix A, is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(*4*) The concentration of TOC shall be corrected to 3 percent oxygen using the procedures and Equation 3 in paragraph (e)(2)(iii)(C)(*2*) of this section if a combustion device is the control device and supplemental combustion air is used to combust emissions.

(iv) *Percent reduction calculation.* To determine compliance with a percent reduction requirement, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A; alternatively, any other method or data that have been validated according to the applicable

procedures in Method 301 of appendix A of this part may be used. Method 25A or 25B of 40 CFR part 60, appendix A may be used for transfer racks as detailed in paragraph (e)(2)(iv)(E) of this section. Procedures specified in paragraphs (e)(2)(iv)(A) through (e)(2)(iv)(E) of this section shall be used to calculate percent reduction efficiency.

(A) *Sampling time.* The minimum sampling time for each run shall be 1 hour in which either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15-minute intervals during the run.

(B) *Mass rate of TOC or total organic regulated material.* The mass rate of either TOC (minus methane and ethane) or total organic regulated material (E_I, E_o) shall be computed as applicable.

(*1*) Equations 4 and 5 shall be used.

$$E_i = K_2\left(\sum_{j=1}^{n} C_{ij}M_{ij}\right)Q_i \qquad \text{[Eq. 4]}$$

$$E_o = K_2\left(\sum_{j=1}^{n} C_{oj}M_{oj}\right)Q_o \qquad \text{[Eq. 5]}$$

Where:

E_I, E_o = Emission rate of TOC (minus methane and ethane) (E_{TOC}) or emission rate of total organic regulated material (E_{RM}) in the sample at the inlet and outlet of the control device, respectively, dry basis, kilogram per hour.

K_2 = Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram per gram) (minute per hour), where standard temperature (gram-mole per standard cubic meter) is 20 °C.

n = Number of components in the sample.

C_{ij}, C_{oj} = Concentration on a dry basis of organic compound j in parts per million by volume of the gas stream at the inlet and outlet of the control device, respectively. If the TOC emission rate is being calculated, C_{ij} and C_{oj} include all organic compounds measured minus methane and ethane; if the total organic regulated material emissions rate is being calculated, only organic regulated material are included.

M_{ij}, M_{oj} = Molecular weight of organic compound j, gram per gram-mole, of the gas stream at the inlet and outlet of the control device, respectively.

Q_I, Q_o = Process vent flow rate, dry standard cubic meter per minute, at a temperature of 20° C, at the inlet and outlet of the control device, respectively.

(*2*) Where the mass rate of TOC is being calculated, all organic compounds (minus methane and ethane) measured by method 18 of 40 CFR part 60, appendix A, are summed using Equations 4 and 5 in paragraph (e)(2)(iv)(B)(*1*) of this section.

(*3*) Where the mass rate of total organic regulated material is being calculated, only the species comprising the regulated material shall be summed using Equations 4 and 5 in paragraph (e)(2)(iv)(B)(*1*) of this section.

(C) *Percent reduction in TOC or total organic regulated material for continuous unit operations and a combination of both continuous and batch unit operations.* For continuous unit operations and for a combination of both continuous and batch unit operations, the percent reduction in TOC (minus methane and ethane) or total organic regulated material shall be calculated using Equation 6.

$$R = \frac{E_i - E_o}{E_i}(100) \qquad \text{[Eq. 6]}$$

Where:

R = Control efficiency of control device, percent.

E_I = Mass rate of TOC (minus methane and ethane) or total organic regulated material at the inlet to the control device as calculated under paragraph (e)(2)(iv)(B) of this section, kilograms TOC per hour or kilograms organic regulated material per hour.

E_o = Mass rate of TOC (minus methane and ethane) or total organic regulated material at the outlet of the control device, as calculated under paragraph (e)(2)(iv)(B) of this section, kilograms TOC per hour or kilograms total organic regulated material per hour.

(D) *Vent stream introduced with combustion air or as secondary fuel.* If the vent stream entering a boiler or process heater with a design capacity less than 44 megawatts is introduced with the combustion air or as a secondary fuel, the weight-percent reduction of total organic regulated material or TOC (minus methane and ethane) across the device shall be determined by comparing the TOC (minus methane and ethane) or total organic regulated material in all combusted vent streams and primary and secondary fuels with the TOC (minus methane and ethane) or total organic regulated material exiting the combustion device, respectively.

(E) *Transfer racks.* Method 25A of 40 CFR part 60, appendix A, may also be used for the purpose of determining compliance with the percent reduction requirement for transfer racks.

(*1*) If Method 25A of 40 CFR part 60, appendix A, is used to measure the concentration of organic compounds (C_{TOC}), the principal organic regulated material in the vent stream shall be used as the calibration gas.

(*2*) An emission testing interval shall consist of each 15-minute period during the performance test. For each interval, a reading from each measurement shall be recorded.

(*3*) The average organic compound concentration and the volume measurement shall correspond to the same emissions testing interval.

(*4*) The mass at the inlet and outlet of the control device during each testing interval shall be calculated using Equation 7.

$$M_j = FKV_sC_t \qquad \text{[Eq. 7]}$$

Where:

M_j = Mass of organic compounds emitted during testing interval j, kilograms.

$F = 10^{-6}$ = Conversion factor, (cubic meters regulated material per cubic meters air) * (parts per million by volume)$^{-1}$.

K = Density, kilograms per standard cubic meter organic regulated material.

= 659 kilograms per standard cubic meter organic regulated material. (Note: The density term cancels out when the percent reduction is calculated. Therefore, the density used has no effect. The density of hexane is given so that it can be used to maintain the units of M_j.)

V_s = Volume of air-vapor mixture exhausted at standard conditions, 20 °C and 760 millimeters mercury, standard cubic meters.

C_t = Total concentration of organic compounds (as measured) at the exhaust vent, parts per million by volume, dry basis.

(*5*) The organic compound mass emission rates at the inlet and outlet of the control device shall be calculated using Equations 8 and 9 as follows:

$$E_i = \frac{\sum_{j=1}^{n} M_{ij}}{T} \qquad \text{[Eq. 8]}$$

$$E_o = \frac{\sum_{j=1}^{n} M_{oj}}{T} \qquad \text{[Eq. 9]}$$

Where:

E_i, E_o = Mass flow rate of organic compounds at the inlet (i) and outlet (o) of the control device, kilograms per hour.
n = Number of testing intervals.
M_{ij}, M_{oj} = Mass of organic compounds at the inlet (i) or outlet (o) during testing interval j, kilograms.
T = Total time of all testing intervals, hours.

(3) An owner or operator using a halogen scrubber or other halogen reduction device to control process vent and transfer rack halogenated vent streams in compliance with a referencing subpart, who is required to conduct a performance test to determine compliance with a control efficiency or emission limit for hydrogen halides and halogens, shall follow the procedures specified in paragraphs (e)(3) (i) through (iv) of this section.

(i) For an owner or operator determining compliance with the percent reduction of total hydrogen halides and halogens, sampling sites shall be located at the inlet and outlet of the scrubber or other halogen reduction device used to reduce halogen emissions. For an owner or operator determining compliance with a kilogram per hour outlet emission limit for total hydrogen halides and halogens, the sampling site shall be located at the outlet of the scrubber or other halogen reduction device and prior to any releases to the atmosphere.

(ii) Except as provided in paragraph (e)(1)(iv) of this section, Method 26 or Method 26A of 40 CFR part 60, appendix A, shall be used to determine the concentration, in milligrams per dry standard cubic meter, of total hydrogen halides and halogens that may be present in the vent stream. The mass emissions of each hydrogen halide and halogen compound shall be calculated from the measured concentrations and the gas stream flow rate.

(iii) To determine compliance with the percent removal efficiency, the mass emissions for any hydrogen halides and halogens present at the inlet of the halogen reduction device shall be summed together. The mass emissions of the compounds present at the outlet of the scrubber or other halogen reduction device shall be summed together. Percent reduction shall be determined by comparison of the summed inlet and outlet measurements.

(iv) To demonstrate compliance with a kilogram per hour outlet emission limit, the test results must show that the mass emission rate of total hydrogen halides and halogens measured at the outlet of the scrubber or other halogen reduction device is below the kilogram per hour outlet emission limit specified in a referencing subpart.

§ 63.998 Recordkeeping requirements.

(a) *Compliance assessment, monitoring, and compliance records.* (1) *Conditions of flare compliance assessment, monitoring, and compliance records.* Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of flare compliance assessments performed pursuant to § 63.987(b).

(i) *Flare compliance assessment records.* When using a flare to comply with this subpart, record the information specified in paragraphs (a)(1)(i)(A) through (C) of this section for each flare compliance assessment performed pursuant to § 63.987(b). As specified in § 63.999(a)(2)(iii)(A), the owner or operator shall include this information in the flare compliance assessment report.

(A) Flare design (i.e., steam-assisted, air-assisted, or non-assisted);

(B) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the flare compliance assessment; and

(C) All periods during the flare compliance assessment when all pilot flames are absent or, if only the flare flame is monitored, all periods when the flare flame is absent.

(ii) *Monitoring records.* Each owner or operator shall keep up to date and readily accessible hourly records of whether the monitor is continuously operating and whether the flare flame or at least one pilot flame is continuously present. For transfer racks, hourly records are required only while the transfer rack vent stream is being vented.

(iii) *Compliance records.* (A) Each owner or operator shall keep records of the times and duration of all periods during which the flare flame or all the pilot flames are absent. This record shall be submitted in the periodic reports as specified in § 63.999(c)(8).

(B) Each owner or operator shall keep records of the times and durations of all periods during which the monitor is not operating.

(2) *Nonflare control device performance test records.* (i) *Availability of performance test records.* Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests performed pursuant to §§ 63.988(b), 63.990(b), 63.994(b), or 63.995(b).

(ii) *Nonflare control device and halogen reduction device performance test records.* (A) *General requirements.* Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the data specified in (a)(2)(ii)(B) through (D) of this section, as applicable, measured during each performance test performed pursuant to §§ 63.988(b), 63.990(b), 63.994(b), or 63.995(b), and also include that data in the Notification of Compliance Status required under § 63.999(b). The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device, or the outlet concentration of TOC or regulated material is determined.

(B) *Nonflare combustion device.* Where an owner or operator subject to the provisions of this paragraph seeks to demonstrate compliance with a percent reduction requirement or a parts per million by volume requirement using a nonflare combustion device the information specified in (a)(2)(ii)(B)(*1*) through (*6*) of this section shall be recorded.

(*1*) For thermal incinerators, record the fire box temperature averaged over the full period of the performance test.

(*2*) For catalytic incinerators, record the upstream and downstream temperatures and the temperature difference across the catalyst bed averaged over the full period of the performance test.

(*3*) For a boiler or process heater with a design heat input capacity less than 44 megawatts and a vent stream that is not introduced with or as the primary fuel, record the fire box temperature averaged over the full period of the performance test.

(*4*) For an incinerator, record the percent reduction of organic regulated material, if applicable, or TOC achieved by the incinerator determined as specified in § 63.997(e)(2)(iv), as applicable, or the concentration of organic regulated material (parts per million by volume, by compound) determined as specified in § 63.997(e)(2)(iii) at the outlet of the incinerator.

(*5*) For a boiler or process heater, record a description of the location at which the vent stream is introduced into the boiler or process heater.

(*6*) For a boiler or process heater with a design heat input capacity of less than

44 megawatts and where the process vent stream is introduced with combustion air or used as a secondary fuel and is not mixed with the primary fuel, record the percent reduction of organic regulated material or TOC, or the concentration of regulated material or TOC (parts per million by volume, by compound) determined as specified in § 63.997(e)(2) at the outlet of the combustion device.

(C) *Other nonflare control devices.* Where an owner or operator seeks to use an absorber, condenser, or carbon adsorber as a control device, the information specified in paragraphs (a)(2)(ii)(C)(*1*) through (*5*) of this section shall be recorded, as applicable.

(*1*) Where an absorber is used as the control device, the exit specific gravity and average exit temperature of the absorbing liquid averaged over the same time period as the performance test (both measured while the vent stream is normally routed and constituted); or

(*2*) Where a condenser is used as the control device, the average exit (product side) temperature averaged over the same time period as the performance test while the vent stream is routed and constituted normally; or

(*3*) Where a carbon adsorber is used as the control device, the total regeneration stream mass flow during each carbon-bed regeneration cycle during the period of the performance test, and temperature of the carbon-bed after each regeneration during the period of the performance test (and within 15 minutes of completion of any cooling cycle or cycles; or

(*4*) As an alternative to paragraph (a)(2)(ii)(C)(*1*), (*2*), or (*3*) of this section, the concentration level or reading indicated by an organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber averaged over the same time period as the performance test while the vent stream is normally routed and constituted.

(*5*) For an absorber, condenser, or carbon adsorber used as a control device, the percent reduction of regulated material achieved by the control device or concentration of regulated material (parts per million by volume, by compound) at the outlet of the control device.

(D) *Halogen reduction devices.* When using a scrubber following a combustion device to control a halogenated vent stream, record the information specified in paragraphs (a)(2)(ii)(D)(*1*) through (*3*) of this section.

(*1*) The percent reduction or scrubber outlet mass emission rate of total hydrogen halides and halogens as specified in § 63.997(e)(3).

(*2*) The pH of the scrubber effluent averaged over the time period of the performance test; and

(*3*) The scrubber liquid-to-gas ratio averaged over the time period of the performance test.

(3) *Recovery device monitoring records during TRE index value determination.* For process vents that require control of emissions under a referencing subpart, owners or operators using a recovery device to maintain a TRE above a level specified in the referencing subpart shall maintain the continuous records specified in paragraph (a)(3)(i) through (v) of this section, as applicable, and submit reports as specified in § 63.999(a)(2)(iii)(C).

(i) Where an absorber is the final recovery device in the recovery system and the saturated scrubbing fluid and specific gravity of the scrubbing fluid is greater than or equal to 0.02 specific gravity units, the exit specific gravity (or alternative parameter that is a measure of the degree of absorbing liquid saturation if approved by the Administrator) and average exit temperature of the absorbing liquid averaged over the same time period as the TRE index value determination (both measured while the vent stream is normally routed and constituted); or

(ii) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature averaged over the same time period as the TRE index value determination while the vent stream is routed and constituted normally; or

(iii) Where a carbon adsorber is the final recovery device in the recovery system, the total regeneration stream mass flow during each carbon-bed regeneration cycle during the period of the TRE index value determination, and temperature of the carbon-bed after each regeneration during the period of the TRE index value determination (and within 15 minutes of completion of any cooling cycle or cycles); or

(iv) As an alternative to paragraph (a)(3)(i), (ii), or (iii) of this section, the concentration level or reading indicated by an organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber averaged over the same time period as the TRE index value determination while the vent stream is normally routed and constituted.

(v) All measurements and calculations performed to determine the TRE index value of the vent stream as specified in a referencing subpart.

(4) *Halogen concentration records.* Record the halogen concentration in the vent stream determined according to the procedures specified in a referencing subpart. Submit this record in the Notification of Compliance Status, as specified in § 63.999(b)(4). If the owner or operator designates the vent stream as halogenated, then this shall be recorded and reported in the Notification of Compliance Status report.

(b) *Continuous records and monitoring system data handling.* (1) *Continuous records.* Where this subpart requires a continuous record, the owner or operator shall maintain a record as specified in paragraphs (b)(1)(i) through (iv) of this section, as applicable:

(i) A record of values measured at least once every 15 minutes or each measured value for systems which measure more frequently than once every 15 minutes; or

(ii) A record of block average values for 15-minute or shorter periods calculated from all measured data values during each period or from at least one measured data value per minute if measured more frequently than once per minute.

(iii) Where data is collected from an automated continuous parameter monitoring system, the owner or operator may calculate and retain block hourly average values from each 15-minute block average period or from at least one measured value per minute if measured more frequently than once per minute, and discard all but the most recent three valid hours of continuous (15-minute or shorter) records, if the hourly averages do not exclude periods of CPMS breakdown or malfunction. An automated CPMS records the measured data and calculates the hourly averages through the use of a computerized data acquisition system.

(iv) A record as required by an alternative approved under a referencing subpart.

(2) *Excluded data.* Monitoring data recorded during periods identified in paragraphs (b)(2)(i) through (iii) of this section shall not be included in any average computed to determine compliance with an emission limit in a referencing subpart.

(i) Monitoring system breakdowns, repairs, preventive maintenance, calibration checks, and zero (low-level) and high-level adjustments;

(ii) Periods of non-operation of the process unit (or portion thereof), resulting in cessation of the emissions to which the monitoring applies; and

(iii) Start-ups, shutdowns, and malfunctions, if the owner or operator follows the applicable provisions of the start-up, shutdown, and malfunction plan required by a referencing subpart and maintains the records specified in paragraph (d)(3) of this section.

(3) *Records of daily averages.* In addition to the records specified in paragraph (a), owners or operators shall keep records as specified in paragraphs (b)(3)(i) and (ii) of this section and submit reports as specified in § 63.999(c), unless an alternative recordkeeping system has been requested and approved under a referencing subpart.

(i) Except as specified in paragraph (b)(3)(ii) of this section, daily average values of each continuously monitored parameter shall be calculated from data meeting the specifications of paragraph (b)(2) of this section for each operating day and retained for 5 years.

(A) The daily average shall be calculated as the average of all values for a monitored parameter recorded during the operating day. The average shall cover a 24-hour period if operation is continuous, or the period of operation per operating day if operation is not continuous (e.g., for transfer racks the average shall cover periods of loading). If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the daily average instead of all measured values.

(B) The operating day shall be the period defined in the operating permit or in the Notification of Compliance Status. It may be from midnight to midnight or another daily period.

(ii) If all recorded values for a monitored parameter during an operating day are within the range established in the Notification of Compliance Status or in the operating permit, the owner or operator may record that all values were within the range and retain this record for 5 years rather than calculating and recording a daily average for that operating day. In such cases, the owner or operator may not discard the recorded values as allowed in paragraph (b)(1)(iii) of this section.

(4) [Reserved]

(5) *Alternative recordkeeping.* For any parameter with respect to any item of equipment associated with a process vent or transfer rack (except low throughput transfer loading racks), the owner or operator may implement the recordkeeping requirements in paragraphs (b)(5)(i) or (ii) of this section as alternatives to the recordkeeping provisions listed in paragraphs (b)(1) through (3) of this section. The owner or operator shall retain each record required by paragraphs (b)(5)(i) or (ii) of this section as provided in a referencing subpart.

(i) The owner or operator may retain only the daily average value, and is not required to retain more frequently monitored operating parameter values, for a monitored parameter with respect to an item of equipment, if the requirements of paragraphs (b)(5)(i)(A) through (F) of this section are met. The owner or operator shall notify the Administrator in the Notification of Compliance Status as specified in § 63.999(b)(5) or, if the Notification of Compliance Status has already been submitted, in the Periodic Report immediately preceding implementation of the requirements of this paragraph, as specified in § 63.999(c)(6)(iv).

(A) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation other than start-ups, shutdowns or malfunctions (e.g., a temperature reading of −200° C on a boiler), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(B) The monitoring system generates a running average of the monitoring values, updated at least hourly throughout each operating day, that have been obtained during that operating day, and the capability to observe this average is readily available to the Administrator on-site during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (b)(5)(i)(B)(*1*) through (*3*) of this section. All instances in an operating day constitute a single occurrence.

(*1*) The running average is above the maximum or below the minimum established limits;

(*2*) The running average is based on at least six one-hour average values; and

(*3*) The running average reflects a period of operation other than a start-up, shutdown, or malfunction.

(C) The monitoring system is capable of detecting unchanging data during periods of operation other than start-ups, shutdowns or malfunctions, except in circumstances where the presence of unchanging data is the expected operating condition based on past experience (e.g., pH in some scrubbers), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(D) The monitoring system will alert the owner or operator by an alarm, if the running average parameter value calculated under paragraph (b)(5)(i)(B) of this section reaches a set point that is appropriately related to the established limit for the parameter that is being monitored.

(E) The owner or operator shall verify the proper functioning of the monitoring system, including its ability to comply with the requirements of paragraph (b)(5)(i) of this section, at the times specified in paragraphs (b)(5)(i)(E)(*1*) through (*3*) of this section. The owner or operator shall document that the required verifications occurred.

(*1*) Upon initial installation.

(*2*) Annually after initial installation.

(*3*) After any change to the programming or equipment constituting the monitoring system that might reasonably be expected to alter the monitoring system's ability to comply with the requirements of this section.

(F) The owner or operator shall retain the records identified in paragraphs (b)(5)(i)(F)(*1*) through (*4*) of this section.

(*1*) Identification of each parameter, for each item of equipment, for which the owner or operator has elected to comply with the requirements of paragraph (b)(5)(i) of this section.

(*2*) A description of the applicable monitoring system(s), and of how compliance will be achieved with each requirement of paragraph (b)(5)(i)(A) through (E) of this section. The description shall identify the location and format (e.g., on-line storage; log entries) for each required record. If the description changes, the owner or operator shall retain both the current and the most recent superseded description. The description, and the most recent superseded description, shall be retained as provided in the subpart that references this subpart, except as provided in paragraph (b)(5)(i)(F)(*1*) of this section.

(*3*) A description, and the date, of any change to the monitoring system that would reasonably be expected to affect its ability to comply with the requirements of paragraph (b)(5)(i) of this section.

(*4*) Owners and operators subject to paragraph (b)(5)(i)(F)(*2*) of this section shall retain the current description of the monitoring system as long as the description is current, but not less than 5 years from the date of its creation. The current description shall be retained on-site at all times or be accessible from a central location by computer or other means that provides access within 2 hours after a request. The owner or operator shall retain the most recent superseded description at least until 5 years from the date of its creation. The superseded description shall be retained on-site (or accessible from a central location by computer that provides access within 2 hours after a request) at least 6 months after being superseded.

Thereafter, the superseded description may be stored off-site.

(ii) If an owner or operator has elected to implement the requirements of paragraph (b)(5)(i) of this section, and a period of 6 consecutive months has passed without an excursion as defined in paragraph (b)(6)(i) of this section, the owner or operator is no longer required to record the daily average value for that parameter for that unit of equipment, for any operating day when the daily average value is less than the maximum, or greater than the minimum established limit. With approval by the Administrator, monitoring data generated prior to the compliance date of this subpart shall be credited toward the period of 6 consecutive months, if the parameter limit and the monitoring were required and/or approved by the Administrator.

(A) If the owner or operator elects not to retain the daily average values, the owner or operator shall notify the Administrator in the next Periodic Report, as specified in § 63.999(c)(6)(i). The notification shall identify the parameter and unit of equipment.

(B) If there is an excursion as defined in paragraph (b)(6)(i) of this section on any operating day after the owner or operator has ceased recording daily averages as provided in paragraph (b)(5)(ii) of this section, the owner or operator shall immediately resume retaining the daily average value for each operating day, and shall notify the Administrator in the next Periodic Report, as specified in § 63.999(c). The owner or operator shall continue to retain each daily average value until another period of 6 consecutive months has passed without an excursion as defined in paragraph (b)(6)(i) of this section.

(C) The owner or operator shall retain the records specified in paragraphs (b)(5)(i)(A) through (F) of this section for the duration specified in a referencing subpart. For any week, if compliance with paragraphs (b)(5)(i)(A) through (D) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one parameter value during a period of operation other than a start-up, shutdown, or malfunction.

(6)(i) For the purposes of this section, an excursion means that the daily average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value, except as provided in paragraphs (b)(6)(i)(A) and (B) of this section.

(A) The daily average value during any start-up, shutdown or malfunction shall not be considered an excursion if the owner or operator follows the applicable provisions of the start-up, shutdown, and malfunction plan required by a referencing subpart and maintains the records specified in paragraph (d)(3) of this section.

(B) An excused excursion, as described in paragraph (b)(6)(ii), does not count toward the number of excursions for the purposes of this subpart.

(ii) One excused excursion for each control device or recovery device for each semiannual period is allowed. If a source has developed a start-up, shutdown and malfunction plan, and a monitored parameter is outside its established range or monitoring data are not collected during periods of start-up, shutdown, or malfunction (and the source is operated during such periods in accordance with the start-up, shutdown, and malfunction plan) or during periods of nonoperation of the process unit or portion thereof (resulting in cessation of the emissions to which monitoring applies), then the excursion is not a violation and, in cases where continuous monitoring is required, the excursion does not count as the excused excursion for determining compliance.

(c) *Nonflare control and recovery device regulated source monitoring records.* (1) *Monitoring system records.* For process vents and high throughput transfer racks, the owner or operator subject to this subpart shall keep the records specified in this paragraph, as well as records specified elsewhere in this subpart.

(i) For a CPMS used to comply with this part, a record of the procedure used for calibrating the CPMS.

(ii) For a CPMS used to comply with this subpart, records of the information specified in paragraphs (c)(ii)(A) through (H) of this section, as indicated in a referencing subpart.

(A) The date and time of completion of calibration and preventive maintenance of the CPMS.

(B) The ''as found'' and ''as left'' CPMS readings, whenever an adjustment is made that affects the CPMS reading and a ''no adjustment'' statement otherwise.

(C) The start time and duration or start and stop times of any periods when the CPMS is inoperative.

(D) Records of the occurrence and duration of each start-up, shutdown, and malfunction of CPMS used to comply with this subpart during which excess emissions (as defined in a referencing subpart) occur.

(E) For each start-up, shutdown, and malfunction during which excess emissions as defined in a referencing subpart occur, records whether the procedures specified in the source's start-up, shutdown, and malfunction plan were followed, and documentation of actions taken that are not consistent with the plan. These records may take the form of a ''checklist,'' or other form of recordkeeping that confirms conformance with the start-up, shutdown, and malfunction plan for the event.

(F) Records documenting each start-up, shutdown, and malfunction event.

(G) Records of CPMS start-up, shutdown, and malfunction event that specify that there were no excess emissions during the event, as applicable.

(H) Records of the total duration of operating time.

(2) *Combustion control and halogen reduction device monitoring records.* (i) Each owner or operator using a combustion control or halogen reduction device to comply with this subpart shall keep the following records up-to-date and readily accessible, as applicable. Continuous records of the equipment operating parameters specified to be monitored under §§ 63.988(c) (incinerator, boiler, and process heater monitoring), 63.994(c) (halogen reduction device monitoring), and 63.995(c) (other combustion systems used as control device monitoring) or approved by the Administrator in accordance with a referencing subpart.

(ii) Each owner or operator shall keep records of the daily average value of each continuously monitored parameter for each operating day determined according to the procedures specified in paragraph (b)(3)(i) of this section. For catalytic incinerators, record the daily average of the temperature upstream of the catalyst bed and the daily average of the temperature differential across the bed. For halogen scrubbers record the daily average pH and the liquid-to-gas ratio.

(iii) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible records of periods of operation during which the parameter boundaries are exceeded. The parameter boundaries are established pursuant to § 63.996(c)(6).

(3) *Monitoring records for recovery devices, absorbers, condensers, carbon adsorbers or other noncombustion systems used as control devices.* (i) Each owner or operator using a recovery device to achieve and maintain a TRE index value greater than the control applicability level specified in the referencing subpart but less than 4.0 or using an absorber, condenser, carbon adsorber or other non-combustion

system as a control device shall keep readily accessible, continuous records of the equipment operating parameters specified to be monitored under §§ 63.990(c) (absorber, condenser, and carbon adsorber monitoring), 63.993(c) (recovery device monitoring), or 63.995(c) (other noncombustion systems used as a control device monitoring) or as approved by the Administrator in accordance with a referencing subpart. For transfer racks, continuous records are required while the transfer vent stream is being vented.

(ii) Each owner or operator shall keep records of the daily average value of each continuously monitored parameter for each operating day determined according to the procedures specified in paragraph (b)(3)(i) of this section. If carbon adsorber regeneration stream flow and carbon bed regeneration temperature are monitored, the records specified in paragraphs (c)(3)(ii)(A) and (B) of this section shall be kept instead of the daily averages.

(A) Records of total regeneration stream mass or volumetric flow for each carbon-bed regeneration cycle.

(B) Records of the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle.

(iii) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible records of periods of operation during which the parameter boundaries are exceeded. The parameter boundaries are established pursuant to § 63.996(c)(6).

(d) *Other records.* (1) *Closed vent system records.* For closed vent systems the owner or operator shall record the information specified in paragraphs (d)(1)(i) through (iv) of this section, as applicable.

(i) For closed vent systems collecting regulated material from a regulated source, the owner or operator shall record the identification of all parts of the closed vent system, that are designated as unsafe or difficult to inspect, an explanation of why the equipment is unsafe or difficult to inspect, and the plan for inspecting the equipment required by § 63.983(b)(2)(ii) or (iii) of this section.

(ii) For each closed vent system that contains bypass lines that could divert a vent stream away from the control device and to the atmosphere, the owner or operator shall keep a record of the information specified in either paragraph (d)(1)(ii)(A) or (B) of this section, as applicable.

(A) Hourly records of whether the flow indicator specified under § 63.983(a)(3)(i) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(B) Where a seal mechanism is used to comply with § 63.983(a)(3)(ii), hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanisms has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has been broken.

(iii) For a closed vent system collecting regulated material from a regulated source, when a leak is detected as specified in § 63.983(d)(2), the information specified in paragraphs (d)(1)(iii)(A) through (F) of this section shall be recorded and kept for 5 years.

(A) The instrument and the equipment identification number and the operator name, initials, or identification number.

(B) The date the leak was detected and the date of the first attempt to repair the leak.

(C) The date of successful repair of the leak.

(D) The maximum instrument reading measured by the procedures in § 63.983(c) after the leak is successfully repaired or determined to be nonrepairable.

(E) ''Repair delayed'' and the reason for the delay if a leak is not repaired within 15 days after discovery of the leak. The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

(F) Copies of the Periodic Reports as specified in § 63.999(c), if records are not maintained on a computerized database capable of generating summary reports from the records.

(iv) For each instrumental or visual inspection conducted in accordance with § 63.983(b)(1) for closed vent systems collecting regulated material from a regulated source during which no leaks are detected, the owner or operator shall record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(2) *Storage vessel and transfer rack records.* An owner or operator shall keep readily accessible records of the information specified in paragraphs (d)(2)(i) and (ii) of this section, as applicable.

(i) A record of the measured values of the parameters monitored in accordance with § 63.985(c) or § 63.987(c).

(ii) A record of the planned routine maintenance performed on the control system during which the control system does not meet the applicable specifications of §§ 63.983(a), 63.985(a), or 63.987(a), as applicable, due to the planned routine maintenance. Such a record shall include the information specified in paragraphs (d)(2)(ii)(A) through (C) of this section. This information shall be submitted in the Periodic Reports as specified in § 63.999(c)(4).

(A) The first time of day and date the requirements of §§ 63.983(a), § 63.985(a), or § 63.987(a), as applicable, were not met at the beginning of the planned routine maintenance, and

(B) The first time of day and date the requirements of §§ 63.983(a), 63.985(a), or 63.987(a), as applicable, were met at the conclusion of the planned routine maintenance.

(C) A description of the type of maintenance performed.

(3) *Regulated source and control equipment start-up, shutdown and malfunction records.* (i) Records of the occurrence and duration of each start-up, shutdown, and malfunction of operation of process equipment or of air pollution control equipment used to comply with this part during which excess emissions (as defined in a referencing subpart) occur.

(ii) For each start-up, shutdown, and malfunction during which excess emissions occur, records that the procedures specified in the source's start-up, shutdown, and malfunction plan were followed, and documentation of actions taken that are not consistent with the plan. For example, if a start-up, shutdown, and malfunction plan includes procedures for routing control device emissions to a backup control device (e.g., the incinerator for a halogenated stream could be routed to a flare during periods when the primary control device is out of service), records must be kept of whether the plan was followed. These records may take the form of a ''checklist,'' or other form of recordkeeping that confirms conformance with the start-up, shutdown, and malfunction plan for the event.

(4) *Equipment leak records.* The owner or operator shall maintain records of the information specified in paragraphs (d)(4)(i) and (ii) of this section for closed vent systems and control devices if specified by the equipment leak provisions in a

referencing subpart. The records specified in paragraph (d)(4)(i) of this section shall be retained for the life of the equipment. The records specified in paragraph (d)(4)(ii) of this section shall be retained for 5 years.

(i) The design specifications and performance demonstrations specified in paragraphs (d)(4)(i)(A) through (C) of this section.

(A) Detailed schematics, design specifications of the control device, and piping and instrumentation diagrams.

(B) The dates and descriptions of any changes in the design specifications.

(C) A description of the parameter or parameters monitored, as required in a referencing subpart, to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

(ii) Records of operation of closed vent systems and control devices, as specified in paragraphs (d)(4)(ii)(A) through (C) of this section.

(A) Dates and durations when the closed vent systems and control devices required are not operated as designed as indicated by the monitored parameters.

(B) Dates and durations during which the monitoring system or monitoring device is inoperative.

(C) Dates and durations of start-ups and shutdowns of control devices required in this subpart.

(5) *Records of monitored parameters outside of range.* The owner or operator shall record the occurrences and the cause of periods when the monitored parameters are outside of the parameter ranges documented in the Notification of Compliance Status report. This information shall also be reported in the Periodic Report.

§ 63.999 Notifications and other reports.

(a) *Performance test and flare compliance assessment notifications and reports.* (1) *General requirements.* General requirements for performance test and flare compliance assessment notifications and reports are specified in paragraphs (a)(1)(i) through (iii) of this section.

(i) The owner or operator shall notify the Administrator of the intention to conduct a performance test or flare compliance assessment at least 30 days before such a compliance demonstration is scheduled to allow the Administrator the opportunity to have an observer present. If after 30 days notice for such an initially scheduled compliance demonstration, there is a delay (due to operational problems, etc.) in conducting the scheduled compliance demonstration, the owner or operator of an affected facility shall notify the Administrator as soon as possible of any delay in the original demonstration date. The owner or operator shall provide at least 7 days prior notice of the rescheduled date of the compliance demonstration, or arrange a rescheduled date with the Administrator by mutual agreement.

(ii) Unless specified differently in this subpart or a referencing subpart, performance test and flare compliance assessment reports, not submitted as part of a Notification of Compliance Status report, shall be submitted to the Administrator within 60 days of completing the test or determination.

(iii) Any application for a waiver of an initial performance test or flare compliance assessment, as allowed by § 63.997(b)(2), shall be submitted no later than 90 days before the performance test or compliance assessment is required. The application for a waiver shall include information justifying the owner or operator's request for a waiver, such as the technical or economic infeasibility, or the impracticality, of the source performing the test.

(iv) Any application to substitute a prior performance test or compliance assessment for an initial performance test or compliance assessment, as allowed by § 63.997(b)(1), shall be submitted no later than 90 days before the performance test or compliance test is required. The application for substitution shall include information demonstrating that the prior performance test or compliance assessment was conducted using the same methods specified in § 63.997(e) or § 63.987(b)(3), as applicable. The application shall also include information demonstrating that no process changes have been made since the test, or that the results of the performance test or compliance assessment reliably demonstrate compliance despite process changes.

(2) *Performance test and flare compliance assessment report submittal and content requirements.* Performance test and flare compliance assessment reports shall be submitted as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) For performance tests or flare compliance assessments, the Notification of Compliance Status or performance test and flare compliance assessment report shall include one complete test report as specified in paragraph (a)(2)(ii) of this section for each test method used for a particular kind of emission point and other applicable information specified in (a)(2)(iii) of this section. For additional tests performed for the same kind of emission point using the same method, the results and any other information required in applicable sections of this subpart shall be submitted, but a complete test report is not required.

(ii) A complete test report shall include a brief process description, sampling site description, description of sampling and analysis procedures and any modifications to standard procedures, quality assurance procedures, record of operating conditions during the test, record of preparation of standards, record of calibrations, raw data sheets for field sampling, raw data sheets for field and laboratory analyses, documentation of calculations, and any other information required by the test method.

(iii) The performance test or flare compliance assessment report shall also include the information specified in (a)(2)(iii)(A) through (C) of this section, as applicable.

(A) For flare compliance assessments, the owner or operator shall submit the records specified in § 63.998(a)(1)(i).

(B) For nonflare control device and halogen reduction device performance tests as required under §§ 63.988(b), 63.990(b), 63.994(b), or 63.995(b), also submit the records specified in § 63.998(a)(2)(ii), as applicable.

(C) For recovery devices also submit the records specified in § 63.998(a)(3), as applicable.

(b) *Notification of Compliance Status.* (1) *Routing storage vessel or transfer rack emissions to a process or fuel gas system.* An owner or operator who elects to comply with § 63.982 by routing emissions from a storage vessel or transfer rack to a process or to a fuel gas system, as specified in § 63.984, shall submit as part of the Notification of Compliance Status the information specified in paragraphs (b)(1)(i) and (ii), or (iii) of this section, as applicable.

(i) If storage vessels emissions are routed to a process, the owner or operator shall submit the information specified in § 63.984(b)(2) and (3).

(ii) As specified in § 63.984(c), if storage vessels emissions are routed to a fuel gas system, the owner or operator shall submit a statement that the emission stream is connected to the fuel gas system and whether the conveyance system is subject to the requirements of § 63.983.

(iii) As specified in § 63.984(c), report that the transfer rack emission stream is being routed to a fuel gas system or process, when complying with a referencing subpart.

(2) *Routing storage vessel or low throughput transfer rack emissions to a nonflare control device.* An owner or

operator who elects to comply with § 63.982 by routing emissions from a storage vessel or low throughput transfer rack to a nonflare control device, as specified in § 63.985, shall submit, with the Notification of Compliance Status required by a referencing subpart, the applicable information specified in paragraphs (b)(2)(i) through (vi) of this section. Owners and operators who elect to comply with § 63.985(b)(1)(i) by submitting a design evaluation shall submit the information specified in paragraphs (b)(2)(i) through (iv) of this section. Owners and operators who elect to comply with § 63.985(b)(1)(ii) by submitting performance test results from a control device for a storage vessel or low throughput transfer rack shall submit the information specified in paragraphs (b)(2)(i), (ii), (iv), and (v) of this section. Owners and operators who elect to comply with § 63.985(b)(1)(ii) by submitting performance test results from a shared control device shall submit the information specified in paragraph (b)(2)(vi) of this section.

(i) A description of the parameter or parameters to be monitored to ensure that the control device is being properly operated and maintained, an explanation of the criteria used for selection of that parameter (or parameters), and the frequency with which monitoring will be performed (e.g., when the liquid level in the storage vessel is being raised). If continuous records are specified, indicate whether the provisions of § 63.999(c)(6) apply.

(ii) The operating range for each monitoring parameter identified in the monitoring plan required by § 63.985(c)(1). The specified operating range shall represent the conditions for which the control device is being properly operated and maintained.

(iii) The documentation specified in § 63.985(b)(1)(i), if the owner or operator elects to prepare a design evaluation.

(iv) The provisions of paragraph (c)(6) of this section do not apply to any low throughput transfer rack for which the owner or operator has elected to comply with § 63.985 or to any storage vessel for which the owner or operator is not required, by the applicable monitoring plan established under § 63.985(c)(1), to keep continuous records. If continuous records are required, the owner or operator shall specify in the monitoring plan whether the provisions of paragraph (c)(6) of this section apply.

(v) A summary of the results of the performance test described in § 63.985(b)(1)(ii). If such a performance test is conducted, submit the results of the performance test, including the information specified in § 63.999(a)(2)(ii) and (iii).

(vi) Identification of the storage vessel or transfer rack and control device for which the performance test will be submitted, and identification of the emission point(s), if any, that share the control device with the storage vessel or transfer rack and for which the performance test will be conducted.

(3) *Operating range for monitored parameters.* The owner or operator shall submit as part of the Notification of Compliance Status, the operating range for each monitoring parameter identified for each control, recovery, or halogen reduction device as determined pursuant to § 63.996(c)(6). The specified operating range shall represent the conditions for which the control, recovery, or halogen reduction device is being properly operated and maintained. This report shall include the information in paragraphs (b)(3)(i) through (iii) of this section, as applicable, unless the range and the operating day have been established in the operating permit.

(i) The specific range of the monitored parameter(s) for each emission point;

(ii) The rationale for the specific range for each parameter for each emission point, including any data and calculations used to develop the range and a description of why the range indicates proper operation of the control, recovery, or halogen reduction device, as specified in paragraphs (b)(3)(ii)(A), (B), or (C) of this section, as applicable.

(A) If a performance test or TRE index value determination is required by a referencing subpart for a control, recovery or halogen reduction device, the range shall be based on the parameter values measured during the TRE index value determination or performance test and may be supplemented by engineering assessments and/or manufacturer's recommendations. TRE index value determinations and performance testing are not required to be conducted over the entire range of permitted parameter values.

(B) If a performance test or TRE index value determination is not required by a referencing subpart for a control, recovery, or halogen reduction device, the range may be based solely on engineering assessments and/or manufacturer's recommendations.

(C) The range may be based on ranges or limits previously established under a referencing subpart.

(iii) A definition of the source's operating day for purposes of determining daily average values of monitored parameters. The definition shall specify the times at which an operating day begins and ends.

(4) *Halogen reduction device.* The owner or operator shall submit as part of the Notification of Compliance Status the information recorded pursuant to § 63.998(a)(4).

(5) *Alternative recordkeeping.* The owner or operator shall notify the Administrator in the Notification of Compliance Status if the alternative recordkeeping requirements of § 63.998(b)(5) are being implemented. If the Notification of Compliance Status has already been submitted, the notification must be in the periodic report submitted immediately preceding implementation of the alternative, as specified in paragraph (c)(6)(iv) of this section.

(c) *Periodic reports.* (1) Periodic reports shall include the reporting period dates, the total source operating time for the reporting period, and, as applicable, all information specified in this section and in the referencing subpart, including reports of periods when monitored parameters are outside their established ranges.

(2) For closed vent systems subject to the requirements of § 63.983, the owner or operator shall submit as part of the periodic report the information specified in paragraphs (c)(2)(i) through (iii) of this section, as applicable.

(i) The information recorded in § 63.998(d)(1)(iii)(B) through (E);

(ii) Reports of the times of all periods recorded under § 63.998(d)(1)(ii)(A) when the vent stream is diverted from the control device through a bypass line; and

(iii) Reports of all times recorded under § 63.998(d)(1)(ii)(B) when maintenance is performed in car-sealed valves, when the seal is broken, when the bypass line valve position is changed, or the key for a lock-and-key type configuration has been checked out.

(3) For flares subject to this subpart, report all periods when all pilot flames were absent or the flare flame was absent as recorded in § 63.998(a)(1)(i)(C).

(4) For storage vessels, the owner or operator shall include in each periodic report required the information specified in paragraphs (c)(4)(i) through (iii) of this section.

(i) For the 6-month period covered by the periodic report, the information recorded in § 63.998(d)(2)(ii)(A) through (C).

(ii) For the time period covered by the periodic report and the previous periodic report, the total number of hours that the control system did not meet the requirements of §§ 63.983(a),

63.985(a), or 63.987(a) due to planned routine maintenance.

(iii) A description of the planned routine maintenance during the next 6-month periodic reporting period that is anticipated to be performed for the control system when it is not expected to meet the required control efficiency. This description shall include the type of maintenance necessary, planned frequency of maintenance, and expected lengths of maintenance periods.

(5) If a control device other than a flare is used to control emissions from storage vessels or low throughput transfer racks, the periodic report shall describe each occurrence when the monitored parameters were outside of the parameter ranges documented in the Notification of Compliance Status in accordance with paragraph (b)(3) of this section. The description shall include the information specified in paragraphs (c)(5)(i) and (ii) of this section.

(i) Identification of the control device for which the measured parameters were outside of the established ranges, and

(ii) The cause for the measured parameters to be outside of the established ranges.

(6) For process vents and transfer racks (except low throughput transfer racks), periodic reports shall include the information specified in paragraphs (c)(6)(i) through (iv) of this section.

(i) Periodic reports shall include the daily average values of monitored parameters, calculated as specified in § 63.998(b)(3)(i) for any days when the daily average value is outside the bounds as defined in § 63.998(c)(2)(iii) or (c)(3)(iii), or the data availability requirements defined in paragraphs (c)(6)(i)(A) through (D) of this section are not met, whether these excursions are excused or unexcused excursions. For excursions caused by lack of monitoring data, the duration of periods when monitoring data were not collected shall be specified. An excursion means any of the cases listed in paragraphs (c)(6)(i)(A) through (C) of this section. If the owner or operator elects not to retain the daily average values pursuant to § 63.998(b)(5)(ii)(A), the owner or operator shall report this in the periodic report.

(A) When the daily average value of one or more monitored parameters is outside the permitted range.

(B) When the period of control or recovery device operation is 4 hours or greater in an operating day and monitoring data are insufficient to constitute a valid hour of data for at least 75 percent of the operating hours.

(C) When the period of control or recovery device operation is less than 4 hours in an operating day and more than one of the hours during the period of operation does not constitute a valid hour of data due to insufficient monitoring data.

(D) Monitoring data are insufficient to constitute a valid hour of data as used in paragraphs (c)(6)(i)(B) and (C) of this section, if measured values are unavailable for any of the 15-minute periods within the hour.

(ii) Report all carbon-bed regeneration cycles during which the parameters recorded under § 63.998(a)(2)(ii)(C) were outside the ranges established in the Notification of Compliance Status or in the operating permit.

(iii) The provisions of paragraph (c)(6)(i) and (ii) of this section do not apply to any low throughput transfer rack for which the owner or operator has elected to comply with § 63.985 or to any storage vessel for which the owner or operator is not required, by the applicable monitoring plan established under § 63.985(c)(1), to keep continuous records. If continuous records are required, the owner or operator shall specify in the monitoring plan whether the provisions of paragraphs (c)(6)(i) and (c)(6)(ii) of this section apply.

(iv) If the owner or operator has chosen to use the alternative recordkeeping requirements of § 63.998(b)(5), and has not notified the Administrator in the Notification of Compliance Status that the alternative recordkeeping provisions are being implemented as specified in paragraph (b)(5) of this section, the owner or operator shall notify the Administrator in the periodic report submitted immediately preceding implementation of the alternative. The notifications specified in § 63.998(b)(5)(ii) shall be included in the next Periodic Report following the identified event.

(7) As specified in § 63.997(c)(3), if an owner or operator at a facility not required to obtain a title V permit elects at a later date to replace an existing control or recovery device with a different control or recovery device, then the Administrator shall be notified by the owner or operator before implementing the change. This notification may be included in the facility's periodic reporting.

(d) *Requests for approval of monitoring alternatives.* (1) *Alternatives to the continuous operating parameter monitoring and recordkeeping provisions.* Requests for approval to use alternatives to continuous operating parameter monitoring and recordkeeping provisions, as provided for in § 63.996(d)(1), shall be submitted as specified in a referencing subpart, and the referencing subpart will govern the review and approval of such requests. The information specified in paragraphs (d)(1)(i) and (ii) of this section shall be included.

(i) A description of the proposed alternative system; and

(ii) Information justifying the owner or operator's request for an alternative method, such as the technical or economic infeasibility, or the impracticality, of the regulated source using the required method.

(2) *Monitoring a different parameter than those listed.* Requests for approval to monitor a different parameter than those established in § 63.996(c)(6) of this section or to set unique monitoring parameters, as provided for in § 63.996(d)(2), shall be submitted as specified as specified in a referencing subpart, and the referencing subpart will govern the review and approval of such requests. The information specified in paragraphs (d)(2)(i) through (iii) of this section shall be included in the request.

(i) A description of the parameter(s) to be monitored to ensure the control technology or pollution prevention measure is operated in conformance with its design and achieves the specified emission limit, percent reduction, or nominal efficiency, and an explanation of the criteria used to select the parameter(s);

(ii) A description of the methods and procedures that will be used to demonstrate that the parameter indicates proper operation of the control device, the schedule for this demonstration, and a statement that the owner or operator will establish a range for the monitored parameter(s) as part of the Notification of Compliance Status if required under a referencing subpart, unless this information has already been submitted; and

(iii) The frequency and content of monitoring, recording, and reporting, if monitoring and recording is not continuous, or if reports of daily average values when the monitored parameter value is outside the established range will not be included in periodic reports under paragraph (c) of this section. The rationale for the proposed monitoring, recording, and reporting system shall be included.

3. Part 63 is amended by adding subpart TT to read as follows:

Subpart TT—National Emission Standards for Equipment Leaks—Control Level 1

Sec.

Subpart TT—National Emission Standards for Equipment Leaks—Control Level 1

§ 63.1000 Applicability.

(a) The provisions of this subpart apply to the control of air emissions from equipment leaks for which another subpart references the use of this subpart for such air emission control. These air emission standards for equipment leaks are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the referencing subpart. The provisions of 40 CFR part 63 subpart A (General Provisions) do not apply to this subpart except as noted in the referencing subpart.

(b) [Reserved]

(c) *Exemptions.* Paragraphs (c)(1) through (c)(3) delineate equipment that is excluded from the requirements of this subpart.

(1) *Equipment in vacuum service.* Equipment that is in vacuum service is excluded from the requirements of this subpart.

(2) *Equipment in service less than 300 hours per calendar year.* Equipment that is in regulated material service less than 300 hours per calendar year is excluded from the requirements of §§ 63.1006 through 63.1015 of this subpart if it is identified as required in paragraph (c)(2)(ii) of this section.

(3) *Lines and equipment not containing process fluids.* Except as provided in a referencing subpart, lines and equipment not containing process fluids are not subject to the provisions of this subpart. Utilities, and other nonprocess lines, such as heating and cooling systems which do not combine their materials with those in the processes they serve, are not considered to be part of a process unit or affected facility.

§ 63.1001 Definitions.

All terms used in this part shall have the meaning given them in the Act and in this section.

Closed-loop system means an enclosed system that returns process fluid to the process and is not vented directly to the atmosphere.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers must be covered or closed when not being filled or emptied.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic emissions.

Connector means flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation. For the purpose of reporting and recordkeeping, connector means joined fittings that are not inaccessible, ceramic, or ceramic-lined (*e.g.*, porcelain, glass, or glass-lined) as described in § 63.1008(d)(2) of this subpart.

Control device means any combustion device, recovery device, recapture device, or any combination of these devices used to comply with this part. Such equipment or devices include, but are not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. Primary condensers on steam strippers or fuel gas systems are not considered control devices.

Distance piece means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

Double block and bleed system means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

Equipment means each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in regulated material service; and any control devices or systems used to comply with this subpart.

First attempt at repair, for the purposes of this subpart, means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere, followed by monitoring as specified in § 63.1004(b) and, as applicable, in § 63.1004(c) of this subpart, as appropriate, to verify whether the leak is repaired, unless the owner or operator determines by other means that the leak is not repaired.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous stream(s) generated by onsite operations, may blend them with other sources of gas, and transports the gaseous stream for use as a fuel gas in combustion equipment, such as furnaces and gas turbines, either singly or in combination.

In gas or vapor service means that a piece of equipment in regulated material service contains a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in regulated material is not in gas or vapor service or in light liquid service.

In light liquid service means that a piece of equipment in regulated-material service contains a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20° C,

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20° C is equal to or greater than 20 percent by weight of the total process stream, and

(3) The fluid is a liquid at operating conditions.

(Note to definition of ''In light liquid service'': Vapor pressures may be determined by standard reference texts or ASTM D–2879.)

In liquid service means that a piece of equipment in regulated material service is not in gas or vapor service.

In organic hazardous air pollutant or in organic HAP service means that a piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP's as determined according to the provisions of § 63.180(d) of subpart H. The provisions of § 63.180(d) of Subpart H also specify how to

determine that a piece of equipment is not in organic HAP service.

In regulated material service means, for the purposes of this subpart, equipment which meets the definition of ''in VOC service'', ''in VHAP service'', ''in organic hazardous air pollutant service,'' or ''in other chemicals or groups of chemicals service'' as defined in the referencing subpart.

In-situ sampling systems means nonextractive samplers or in-line samplers.

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kilopascals below ambient pressure.

Initial startup means for new sources, the first time the source begins production. For additions or changes not defined as a new source by this subpart, initial startup means the first time additional or changed equipment is put into operation. Initial startup does not include operation solely for testing of equipment. Initial startup does not include subsequent startup of process units following malfunction or process unit shutdowns. Except for equipment leaks, initial startup also does not include subsequent startups (of process units following changes in product for flexible operation units or following recharging of equipment in batch unit operations).

Instrumentation system means a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (*e.g.*, composition, pressure, flow, etc.). Valves and connectors are the predominant type of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 1.27 centimeters (0.5 inches) and smaller, and connectors nominally 1.91 centimeters (0.75 inches) and smaller in diameter are considered instrumentation systems for the purposes of this subpart. Valves greater than nominally 1.27 centimeters (0.5 inches) and connectors greater than nominally 1.91 centimeters (0.75 inches) associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

Liquids dripping means any visible leakage from the seal including dripping, spraying, misting, clouding, and ice formation. Indications of liquids dripping include puddling or new stains that are indicative of an existing evaporated drip.

Nonrepairable means that it is technically infeasible to repair a piece of equipment from which a leak has been detected without a process unit or affected facility shutdown.

Open-ended valve or line means any valve, except relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

Organic monitoring device means a unit of equipment used to indicate the concentration level of organic compounds based on a detection principle such as infra-red, photo ionization, or thermal conductivity.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the relief device. This release can be one release or a series of releases over a short time period due to a malfunction in the process.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Process unit means the equipment specified in the definitions of process unit in the applicable referencing subpart. If the referencing subpart does not define process unit, then for the purposes of this part, process unit means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit, or part of a process unit during which it is technically feasible to clear process material from a process unit, or part of a process unit, consistent with safety constraints and during which repairs can be affected. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operations procedure that stops production from a process unit, or part of a process unit, for less than 24 hours.

(2) An unscheduled work practice or operations procedure that would stop production from a process unit, or part of a process unit, for a shorter period of time than would be required to clear the process unit, or part of the process unit, of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

Referencing subpart means the subpart which refers an owner or operator to this subpart.

Regulated material, for purposes of this subpart, refers to gases from volatile organic liquids (VOL), volatile organic compounds (VOC), hazardous air pollutants (HAP), or other chemicals or groups of chemicals that are regulated by the referencing subpart.

Regulated source for the purposes of this subpart, means the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a referencing subpart.

Relief device or valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage.

Repaired, for the purposes of this subpart means the following:

(1) Equipment is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable sections of this subpart, and

(2) Equipment, unless otherwise specified in applicable provisions of this subpart, is monitored as specified in § 63.1004(b) and, as applicable in §§ 63.1004(c) and 63.1015 of this part as appropriate, to verify that emissions from the equipment are below the applicable leak definition.

Routed to a process or route to a process means the emissions are conveyed to any enclosed portion of a process unit where the emissions are predominantly recycled and/or consumed in the same manner as a material that fulfills the same function in the process and/or transformed by chemical reaction into materials that are not regulated materials and/or incorporated into a product; and /or recovered.

Sampling connection system means an assembly of equipment within a process unit or affected facility used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Screwed (threaded) connector means a threaded pipe fitting where the threads are cut on the pipe wall and the

fitting requires only two pieces to make the connection (*i.e.*, the pipe and the fitting).

Sensor means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

Set pressure means the pressure at which a properly operating pressure relief device begins to open to relieve atypical process system operating pressure.

Start-up means the setting into operation of a piece of equipment or a control device that is subject to this subpart.

§ 63.1002 Compliance determination.

(a) *General procedures for compliance determination.* Compliance with this subpart will be determined by review of the records required by § 63.1017 and the reports required by § 63.1018, by review of performance test results, and by inspections.

(b) *Alternative means of emission limitation.* The provisions of paragraph (b) of this section do not apply to the performance standards of § 63.1001(b) for pressure relief devices, § 63.1006(e)(4) for valves designated as having no detectable emissions or § 63.1012(f) for compressors operating under the alternative compressor standard.

(1) An owner or operator may request a determination of alternative means of emission limitation to the requirements of §§ 63.1005 through 63.1015 as provided in paragraphs (b)(2) through (b)(6) of this section. If the Administrator makes a determination that an alternative means of emission limitation is a permissible alternative, the owner or operator shall comply with the alternative.

(2) Permission to use an alternative means of emission limitation shall be governed by the following procedures in paragraphs (b)(3) through (b)(6) of this section.

(3) Where the standard is an equipment, design, or operational requirement the criteria specified in paragraphs (b)(3)(i) and (b)(3)(ii) shall be met.

(i) Each owner or operator applying for permission to use an alternative means of emission limitation shall be responsible for collecting and verifying emission performance test data for an alternative means of emission limitation.

(ii) The Administrator will compare test data for the means of emission limitation to test data for the equipment, design, and operational requirements.

(4) Where the standard is a work practice the criteria specified in paragraphs (b)(4)(i) through (b)(4)(iv) shall be met.

(i) Each owner or operator applying for permission shall be responsible for collecting and verifying test data for an alternative means of emission limitation.

(ii) For each kind of equipment for which permission is requested, the emission reduction achieved by the alternative means of emission limitation shall be demonstrated.

(iii) The Administrator will compare the demonstrated emission reduction for the alternative means of emission limitation to the demonstrated emission reduction for the required work practices.

(iv) The Administrator may condition the permission on requirements that may be necessary to ensure operation and maintenance to achieve the same or greater emission reduction as the required work practices of this subpart.

(5) An owner or operator may offer a unique approach to demonstrate the alternative means of emission limitation.

(6) If, in the judgement of the Administrator, an alternative means of emission limitation will be approved, the Administrator will publish a notice of the determination in the **Federal Register**.

(7)(i) Manufacturers of equipment used to control equipment leaks of a regulated material may apply to the Administrator for permission for an alternative means of emission limitation that achieves a reduction in emissions of the regulated material achieved by the equipment, design, and operational requirements of this subpart.

(ii) The Administrator will grant permission according to the provisions of paragraphs (b)(3), (b)(4), (b)(5) and (b)(6) of this section.

§ 63.1003 Equipment identification.

(a) *General equipment identification.* Equipment subject to this subpart shall be identified. Identification of the equipment does not require physical tagging of the equipment. For example, the equipment may be identified on a plant site plan, in log entries, by designation of process unit or affected facility boundaries by some form of weatherproof identification, or by other appropriate methods.

(b) *Additional equipment identification.* In addition to the general identification required by paragraph (a) of this section, equipment subject to any of the provisions in §§ 63.1006 to 63.1015 shall be specifically identified as required in paragraphs (b)(1) through (b)(5) of this section, as applicable.

(1) *Connectors.* Except for inaccessible, ceramic, or ceramic-lined connectors meeting the provisions of § 63.1008(d)(2) and instrumentation systems identified pursuant to paragraph (b)(4) of this section, identify the connectors subject to the requirements of this subpart. Connectors need not be individually identified if all connectors in a designated area or length of pipe subject to the provisions of this subpart are identified as a group, and the number of connectors subject is indicated.

(2) *Routed to a process or fuel gas system or equipped with a closed vent system and control device.* Identify the equipment that the owner or operator elects to route to a process or fuel gas system or equip with a closed vent system and control device, under the provisions of § 63.1007(e)(3) (pumps in light liquid service), § 63.1009(e)(3) (agitators in gas and vapor service and in light liquid service), § 63.1011(d) (pressure relief devices in gas and vapor service), § 63.1012(e) (compressors), or § 63.1016 (alternative means of emission limitation for enclosed vented process units) of this subpart.

(3) *Pressure relief devices.* Identify the pressure relief devices equipped with rupture disks, under the provisions of § 63.1011(e) of this subpart.

(4) *Instrumentation systems.* Identify instrumentation systems subject to the provisions of § 63.1010 of this subpart. Individual components in an instrumentation system need not be identified.

(5) *Equipment in service less than 300 hours per calendar year.* The identity, either by list, location (area or group), or other method, of equipment in regulated material service less than 300 hours per calendar year within a process unit or affected facilities subject to the provisions of this subpart shall be recorded.

(c) *Special equipment designations: Equipment that is unsafe or difficult-to-monitor.* (1) *Designation and criteria for unsafe-to-monitor.* Valves meeting the provisions of § 63.1006(e)(1), pumps meeting the provisions of § 63.1007(e)(5), connectors meeting the provisions of § 63.1008(d)(1), and agitators meeting the provisions of § 63.1009(e)(7) may be designated unsafe-to-monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements of this subpart. Examples of an unsafe-to-monitor equipment include, but is not limited to, equipment under extreme pressure or heat.

(2) *Designation and criteria for difficult-to-monitor.* Valves meeting the provisions of § 63.1006(e)(2) of this subpart may be designated difficult-to-monitor if the provisions of paragraph (c)(2)(i) of this section apply. Agitators meeting the provisions of § 63.1009(f)(5) may be designated difficult-to-monitor if the provisions of paragraph (c)(2)(ii) apply.

(i) *Valves.* (A) The owner or operator of the valve determines that the equipment cannot be monitored without elevating the monitoring personnel more than 2 meters (7 feet) above a support surface or it is not accessible in a safe manner when it is in regulated material service.

(B) The process unit or affected facility within which the valve is located is an existing source, or the owner or operator designates less than 3 percent of the total number of valves in a new source as difficult-to-monitor.

(ii) *Agitators.* The owner or operator determines that the agitator cannot be monitored without elevating the monitoring personnel more than 2 meters (7 feet) above a support surface or it is not accessible in a safe manner when it is in regulated material service.

(3) [Reserved]

(4) *Identification of unsafe or difficult-to-monitor equipment.* The owner or operator shall record the identity of equipment designated as unsafe-to-monitor according to the provisions of paragraph (c)(1) of this section and the planned schedule for monitoring this equipment. The owner or operator shall record the identity of equipment designated as difficult-to-monitor according to the provisions of paragraph (c)(2) of this section, the planned schedule for monitoring this equipment, and an explanation why the equipment is difficult-to-monitor. This record must be kept at the plant and be available for review by an inspector.

(5) *Written plan requirements.* (i) The owner or operator of equipment designated as unsafe-to-monitor except connectors meeting the provisions of § 63.1008(d)(1) according to the provisions of paragraph (c)(1)(i) of this section shall have a written plan that requires monitoring of the equipment as frequently as practical during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in § 63.1005 if a leak is detected.

(ii) The owner or operator of equipment designated as difficult-to-monitor according to the provisions of paragraph (c)(2) of this section shall have a written plan that requires monitoring of the equipment at least once per calendar year, and repair of the equipment according to the procedures in § 63.1005 if a leak is detected.

(d) *Special equipment designations: Unsafe-to-repair.* (1) *Designation and criteria.* Connectors subject to the provisions of § 63.1005(e) may be considered unsafe-to-repair if the owner or operator determines that repair personnel would be exposed to an immediate danger as a consequence of complying with the repair requirements of this subpart, and if the connector will be repaired before the end of the next process unit or affected facility shutdown as specified in § 63.1005(e) of this subpart.

(2) *Identification of equipment.* The identity of connectors designated as unsafe-to-repair and an explanation why the connector is unsafe-to-repair shall be recorded.

(e) *Special equipment designations: Equipment operating with no detectable emissions.* (1) *Designation and criteria.* Equipment may be designated as having no detectable emissions if it has no external actuating mechanism in contact with the process fluid, and is operated with emissions less than 500 parts per million above background as determined by the method specified in §§ 63.1004(b) and (c).

(2) *Identification of equipment.* The identity of equipment designated as no detectable emissions shall be recorded.

(3) *Identification of compressors operating under no detectable emissions.* Identify the compressors that the owner or operator elects to designate as operating with an instrument reading of less than 500 parts per million above background, under the provisions of § 63.1012(f).

§ 63.1004 Instrument and sensory monitoring for leaks.

(a) *Monitoring for leaks.* The owner or operator of a regulated source subject to this subpart shall monitor all regulated equipment as specified in paragraph (a)(1) of this section for instrument monitoring and paragraph (a)(2) of this section for sensory monitoring.

(1) *Instrument monitoring for leaks.* (i) Valves in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1006(b).

(ii) Pumps in light liquid service shall be monitored pursuant to § 63.1007(b).

(iii) Connectors in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1008(b).

(iv) Agitators in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1009(b).

(v) Pressure relief devices in gas and vapor service shall be monitored pursuant to § 63.1011(c).

(vi) Compressors designated to operate with an instrument reading less than 500 parts per million as described in § 63.1003(e), shall be monitored pursuant to § 63.1012(f).

(2) *Sensory monitoring for leaks.* (i) Pumps in light liquid service shall be observed pursuant to § 63.1007(b)(3) and (e)(1)(v).

(ii) [Reserved]

(iii) Agitators in gas and vapor service and in light liquid service shall be observed pursuant to § 63.1009(b)(3) or (e)(1)(iv).

(iv) [Reserved]

(b) *Instrument monitoring methods.* Instrument monitoring, as required under this subpart, shall comply with the requirements specified in paragraphs (b)(1) through (b)(6) of this section.

(1) *Monitoring method.* Monitoring shall comply with Method 21 of 40 CFR part 60, appendix A.

(2) *Detection instrument performance criteria.* (i) Except as provided for in paragraph (b)(2)(ii) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the representative composition of the process fluid, and not for each individual HAP, VOC or other regulated material individual chemical compound in the stream. For process streams that contain nitrogen, air, water, or other inerts that are not regulated materials, the representative stream response factor shall be calculated on an inert-free basis. The response factor may be determined at any concentration for which monitoring for leaks will be conducted.

(ii) If there is no instrument commercially available that will meet the performance criteria specified in paragraph (b)(2)(i) of this section, the instrument readings may be adjusted by multiplying by the representative response factor of the process fluid, calculated on an inert-free basis as described in paragraph (b)(2)(i) of this section.

(3) *Detection instrument calibration procedure.* The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(4) *Detection instrument calibration gas.* Calibration gases shall be zero air (less than 10 parts per million of hydrocarbon in air); and a mixture of methane in air at a concentration of approximately, but less than, 10,000 parts per million; or a mixture of n-hexane in air at a concentration of

approximately, but less than, 10,000 parts per million. A calibration gas other than methane in air or n-hexane in air may be used if the instrument does not respond to methane or n-hexane or if the instrument does not meet the performance criteria specified in paragraph (b)(2)(i) of this section. In such cases, the calibration gas may be a mixture of one or more compounds to be measured in air.

(5) *Monitoring performance.* Monitoring shall be performed when the equipment is in regulated material service or is in use with any other detectable material.

(6) *Monitoring data.* Monitoring data obtained prior to the regulated source becoming subject to the referencing subpart that do not meet the criteria specified in paragraphs (b)(1) through (b)(5) of this section may still be used to initially qualify for less frequent monitoring under the provisions in § 63.1006(a)(2), (b)(3) or (b)(4) for valves provided the departures from the criteria specified or from the specified monitoring frequency of § 63.1006(b)(3) are minor and do not significantly affect the quality of the data. Examples of minor departures are monitoring at a slightly different frequency (such as every six weeks instead of monthly or quarterly), following the performance criteria of section 3.1.2(a) of Method 21 of Appendix A of 40 CFR part 60 instead of paragraph (b)(2) of this section, or monitoring at a different leak definition if the data would indicate the presence or absence of a leak at the concentration specified in the referencing subpart. Failure to use a calibrated instrument is not considered a minor departure.

(c) *Instrument monitoring using background adjustments.* The owner or operator may elect to adjust or not to adjust the instrument readings for background. If an owner or operator elects not to adjust instrument readings for background, the owner or operator shall monitor the equipment according to the procedures specified in paragraphs (b)(1) through (b)(4) of this section. In such case, all instrument readings shall be compared directly to the applicable leak definition for the monitored equipment to determine whether there is a leak or to determine compliance with § 63.1011(b) (pressure relief devices in gas and vapor service) or § 63.1012(f) (compressors). If an owner or operator elects to adjust instrument readings for background, the owner or operator shall monitor the equipment according to the procedures specified in paragraphs (c)(1) through (c)(4) of this section.

(1) The requirements of paragraphs (b)(1) through (b)(4) of this section shall apply.

(2) The background level shall be determined, using the procedures in Method 21 of 40 CFR part 60, appendix A.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible (as described in Method 21 of 40 CFR part 60, appendix A).

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level shall be compared to the applicable leak definitions for the monitored equipment to determine whether there is a leak or to determine compliance with § 63.1011(b) (pressure relief devices in gas and vapor service) or § 63.1012(f) (compressors).

(d) *Sensory monitoring methods.* Sensory monitoring, as required under this subpart, shall consist of detection of a potential leak to the atmosphere by visual, audible, olfactory, or any other detection method.

(e) *Leaking equipment identification and records.* (1) When each leak is detected pursuant to the monitoring specified in paragraph (a) of this section, a weatherproof and readily visible identification, marked with the equipment identification, shall be attached to the leaking equipment.

(2) When each leak is detected, the information specified in § 63.1005(e) shall be recorded and kept pursuant to the referencing subpart.

§ 63.1005 Leak repair.

(a) *Leak repair schedule.* The owner or operator shall repair each leak detected no later than 15 calendar days after it is detected, except as provided in paragraphs (c) and (d) of this section. A first attempt at repair shall be made no later than 5 calendar days after the leak is detected. First attempt at repair for pumps includes, but is not limited to, tightening the packing gland nuts and/or ensuring that the seal flush is operating at design pressure and temperature. First attempt at repair for valves includes, but is not limited to, tightening the bonnet bolts, and/or replacing the bonnet bolts, and/or tightening the packing gland nuts, and/or injecting lubricant into the lubricated packing.

(b) *Leak identification removal.* (1) *Valves in gas/vapor and light liquid service.* The leak identification on a valve in gas/vapor or light liquid service may be removed after it has been monitored as specified in § 63.1006(b), and no leak has been detected during that monitoring. The leak identification on a connector in gas/vapor or light liquid service may be removed after it has been monitored as specified in § 63.1008(b) and no leak has been detected during that monitoring.

(2) *Other equipment.* The identification that has been placed, pursuant to § 63.1004(e), on equipment determined to have a leak, except for a valve in gas/vapor or light liquid service, may be removed after it is repaired.

(c) *Delay of repair.* Delay of repair can be used as specified in any of paragraphs (c)(1) through (c)(5) of this section. The owner or operator shall maintain a record of the facts that explain any delay of repairs and, where appropriate, why the repair was technically infeasible without a process unit shutdown.

(1) Delay of repair of equipment for which leaks have been detected is allowed if the repair is technically infeasible without a process unit or affected facility shutdown within 15 days after a leak is detected. Repair of this equipment shall occur as soon as practical, but not later than by the end of the next process unit or affected facility shutdown, except as provided in paragraph (c)(5) of this section.

(2) Delay of repair of equipment for which leaks have been detected is allowed for equipment that is isolated from the process and that does not remain in regulated material service.

(3) Delay of repair for valves, connectors, and agitators is also allowed if the criteria specified in paragraphs (c)(3)(i) and (c)(3)(ii) are met.

(i) The owner or operator determines that emissions of purged material resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair, and

(ii) When repair procedures are effected, the purged material is collected and destroyed, or recovered in a control or recovery device, or routed to a fuel gas system or process complying with § 63.1015 or § 63.1002(b) of this part.

(4) Delay of repair for pumps is allowed if the criteria specified in paragraphs (c)(4)(i) and (c)(4)(ii) are met.

(i) Repair requires replacing the existing seal design with a new system that the owner or operator has determined will provide better performance or one of the specifications of paragraphs (c)(4)(i)(A) through (c)(4)(i)(C) of this section are met.

(A) A dual mechanical seal system that meets the requirements of § 63.1007(e)(1) will be installed,

(B) A pump that meets the requirements of § 63.1007(e)(2) will be installed; or

(C) A system that routes emissions to a process or a fuel gas system or a closed vent system and control device that meets the requirements of § 63.1007(e)(3) will be installed.

(ii) Repair is to be completed as soon as practical, but not later than 6 months after the leak was detected.

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

(d) *Unsafe-to-repair-connectors.* Any connector that is designated, as described in § 63.1003(d), as an unsafe-to-repair connector is exempt from the requirements of § 63.1008(b), and paragraph (a) of this section.

(e) *Leak repair records.* For each leak detected, the information specified in paragraphs (e)(1) through (e)(5) of this section shall be recorded and maintained pursuant to the referencing subpart.

(1) The date of first attempt to repair the leak.

(2) The date of successful repair of the leak.

(3) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A at the time the leak is successfully repaired or determined to be nonrepairable.

(4) ''Repair delayed'' and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak as specified in paragraphs (e)(4)(i) and (e)(4)(ii) of this section.

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

(ii) If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on site before depletion and the reason for depletion.

(5) Dates of process unit or affected facility shutdowns that occur while the equipment is unrepaired.

§ 63.1006 Valves in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* (1) The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(2) The use of monitoring data generated before the regulated source became subject to the referencing subpart to initially qualify for less frequent monitoring is governed by the provisions of § 63.1004(b)(6).

(b) *Leak detection.* Unless otherwise specified in § 63.1002(b), or § 63.1016, or in paragraph (e) of this section, or the referencing subpart, the owner or operator shall monitor all valves at the intervals specified in paragraphs (b)(3) through (b)(6) of this section and shall comply with all other provisions of this section.

(1) *Monitoring method.* The valves shall be monitored to detect leaks by the method specified in § 63.1004(b) and (c).

(2) *Instrument reading that defines a leak.* The instrument reading that defines a leak is 10,000 parts per million or greater.

(3) *Monitoring period.* (i) Each valve shall be monitored monthly to detect leaks, except as provided in paragraphs (b)(3)(ii), (e)(1), (e)(2), and (e)(4) of this section. An owner or operator may otherwise elect to comply with one of the alternative standards in paragraphs (b)(5) or (b)(6) of this section as specified in paragraph (b)(4) of this section.

(ii)(A) Any valve for which a leak is not detected for 2 successive months may be monitored the same month (first, second, or third month) of every quarter, beginning with the next quarter, until a leak is detected. The first quarterly monitoring shall occur less than 3 months following the last monthly monitoring.

(B) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

(C) For purposes of paragraph (b) of this section, quarter means a 3-month period with the first quarter concluding on the last day of the last full month during the 180 days following initial startup.

(4) *Allowance of alternative standards.* An owner or operator may elect to comply with one of the alternatives specified in either paragraph (b)(5) or (b)(6) of this section if the percentage of valves leaking is equal to or less than 2.0 percent as determined by the procedure in paragraph (c) of this section. An owner or operator must notify the Administrator before implementing one of the alternatives specified in either paragraph (b)(5) or (b)(6) of this section.

(5) *Allowable percentage alternative.* An owner or operator choosing to comply with the allowable percentage alternative shall have an allowable percentage of leakers no greater than 2.0 percent for each affected facility or process unit and shall comply with paragraphs (b)(5)(i) and (b)(5)(ii) of this section.

(i) A compliance demonstration for each affected facility or process unit or affected facility complying with this alternative shall be conducted initially upon designation, annually, and at other times requested by the Administrator. For each such demonstration, all valves in gas and vapor and light liquid service within the affected facility or process unit shall be monitored within 1 week by the methods specified in § 63.1004(b). If an instrument reading exceeds the equipment leak level specified in the referencing subpart, a leak is detected. The leak percentage shall be calculated as specified in paragraph (c) of this section.

(ii) If an owner or operator decides no longer to comply with this alternative, the owner or operator must notify the Administrator in writing that the work practice standard described in paragraph (b)(3) of this section will be followed.

(6) *Skip period alternatives.* An owner or operator may elect to comply with one of the alternative work practices specified in paragraphs (b)(6)(i) or (b)(6)(ii) of this section. An owner or operator electing to use one of these skip period alternatives shall comply with paragraphs (b)(6)(iii) and (b)(6)(iv) of this section. Before using either skip period alternative, the owner or operator shall initially comply with the requirements of paragraph (b)(3) of this section. Monitoring data generated before the regulated source became subject to the referencing subpart that meets the criteria of either § 63.1004(b)(1) through (b)(5), or § 63.1004(b)(6), may be used to initially qualify for skip period alternatives.

(i) After 2 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0 as determined by the procedure in paragraph (c) of this section, an owner or operator may begin to monitor for leaks once every 6 months.

(ii) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0 as determined by the procedure in

paragraph (c) of this section, an owner or operator may begin to monitor for leaks once every year.

(iii) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with paragraph (b)(3) of this section, but can elect to comply with paragraph (b)(6) of this section if future percent of valves leaking is again equal to or less than 2.0.

(iv) The owner or operator shall keep a record of the monitoring schedule and the percent of valves found leaking during each monitoring period.

(c) *Percent leaking valves calculation—calculation basis and procedures.* (1) The owner or operator shall decide no later than the compliance date of this subpart, or upon revision of an operating permit whether to calculate percent leaking valves on a process unit or group of process units basis. Once the owner or operator has decided, all subsequent percentage calculations shall be made on the same basis and this shall be the basis used for comparison with the subgrouping criteria specified in paragraph (b)(5)(i) of this section.

(2) The percent of valves leaking shall be determined by dividing the sum of valves found leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements of this section.

(d) *Leak repair.* (1) If a leak is determined pursuant to paragraph (b), (e)(1), or (e)(2) of this section, then the leak shall be repaired using the procedures in § 63.1005, as applicable.

(2) After a leak determined pursuant to paragraph (b) or (e)(2) of this section has been repaired, the valve shall be monitored at least once within the first 3 months after its repair. The monitoring required by this paragraph is in addition to the monitoring required to satisfy the definition of repair.

(i) The monitoring shall be conducted as specified in § 63.1004(b) and (c), as appropriate, to determine whether the valve has resumed leaking.

(ii) Periodic monitoring required by paragraph (b) of this section may be used to satisfy the requirements of this paragraph, if the timing of the monitoring period coincides with the time specified in this paragraph. Alternatively, other monitoring may be performed to satisfy the requirements of this paragraph, regardless of whether the timing of the monitoring period for periodic monitoring coincides with the time specified in this paragraph.

(iii) If a leak is detected by monitoring that is conducted pursuant to paragraph (d)(2) of this section, the owner or operator shall follow the provisions of paragraphs (d)(2)(iii)(A) and (d)(2)(iii)(B) of this section, to determine whether that valve must be counted as a leaking valve for purposes of paragraph (c) of this section.

(A) If the owner or operator elected to use periodic monitoring required by paragraph (b) of this section to satisfy the requirements of paragraph (d)(2) of this section, then the valve shall be counted as a leaking valve.

(B) If the owner or operator elected to use other monitoring, prior to the periodic monitoring required by paragraph (b) of this section, to satisfy the requirements of paragraph (d)(2) of this section, then the valve shall be counted as a leaking valve unless it is repaired and shown by periodic monitoring not to be leaking.

(e) *Special provisions for valves.* (1) *Unsafe-to-monitor valves.* Any valve that is designated, as described in § 63.1003(c)(1), as an unsafe-to-monitor valve, is exempt from the monitoring requirements of paragraph (b) of this section, and the owner or operator shall monitor the valve according to the written plan specified in § 63.1003(c)(5).

(2) *Difficult-to-monitor.* Any valve that is designated, as described in § 63.1003(c)(2), as a difficult-to-monitor valve, is exempt from the requirements of paragraph (b) of this section, and the owner or operator shall monitor the valve according to the written plan specified in § 63.1003(c)(5).

(3) *Less than 250 valves.* Any equipment located at a plant site with fewer than 250 valves in regulated material service is exempt from the monthly monitoring specified in paragraph (b)(3)(i) of this section. Instead, the owner or operator shall monitor each valve in regulated material service for leaks once each quarter, or comply with paragraphs (b)(3)(ii)(A), (b)(3)(ii)(B), or (b)(3)(ii)(C) of this section except as provided in paragraphs (e)(1) and (e)(2) of this section.

(4) *No detectable emissions.* (i) Any valve that is designated, as described in § 63.1003(e), as having no detectable emissions is exempt from the requirements of paragraphs (b) through (c) of this section if the owner or operator meets the criteria specified in paragraphs (e)(4)(i)(A) and (e)(4)(i)(B) of this section.

(A) Tests the valve for operation with emissions less than 500 parts per million above background as determined by the method specified in § 63.1004(c) initially upon designation, annually, and at other times requested by the Administrator, and

(B) Records the dates of each compliance demonstration, the background level measured during each compliance test, and the maximum instrument reading measured at the equipment during each compliance test.

(ii) A valve may not be designated or operated for no detectable emissions, as described in § 63.1003(e), if the valve has an instrument reading greater than 500 parts per million above background.

§ 63.1007 Pumps in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance date specified in the referencing subpart.

(b) *Leak detection.* Unless otherwise specified in § 63.1002(b), or § 63.1016 of this subpart or paragraph (e) of this section, the owner or operator shall monitor each pump monthly to detect leaks and shall comply with all other provisions of this section.

(1) *Monitoring method.* The pumps shall be monitored to detect leaks by the method specified in § 63.1004(b) of this subpart.

(2) *Instrument reading that defines a leak.* The instrument reading that defines a leak is 10,000 parts per million.

(3) *Visual inspection.* Each pump shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. The owner or operator shall document that the inspection was conducted and the date of the inspection. If there are indications of liquids dripping from the pump seal, a leak is detected. Unless the owner or operator demonstrates (e.g., through instrument monitoring) that the indications of liquids dripping are due to a condition other than process fluid drips, the leak shall be repaired according to the procedures of paragraph (b)(4) of this section.

(4) *Visual inspection: Leak repair.* Where a leak is identified by visual indications of liquids dripping, repair shall mean that the visual indications of liquids dripping have been eliminated.

(c) *Percent leaking pumps calculation.* (1) The owner or operator shall decide no later than the compliance date of this part or upon revision of an operating permit whether to calculate percent leaking pumps on a process unit basis or group of process units basis. Once the owner or operator has decided, all subsequent percentage calculations shall be made on the same basis.

(2) The number of pumps at a process unit shall be the sum of all the pumps in regulated material service, except that pumps found leaking in a continuous process unit or within 1 month after startup of the pump shall not count in

the percent leaking pumps calculation for that one monitoring period only.

(3) Percent leaking pumps shall be determined by the following equation:

$$\%P_L = \left(\left(P_L - P_S\right)/\left(P_T - P_S\right)\right) \times 100 \qquad \text{[Eq. 1]}$$

Where:

$\%P_L$ = Percent leaking pumps

P_L = Number of pumps found leaking as determined through monthly monitoring as required in paragraph (b) of this section. Do not include results from inspection of unsafe-to-monitor pumps pursuant to paragraph (e)(6) of this section.

P_T = Total pumps in regulated material service, including those meeting the criteria in paragraphs (e)(1), (e)(2), (e)(3), and (e)(6) of this section.

P_S = Number of pumps leaking within 1 month of start-up during the current monitoring period.

(d) *Leak repair.* If a leak is detected pursuant to paragraph (b) of this section, then the leak shall be repaired using the procedures in § 63.1005, as applicable, unless otherwise specified in paragraph (b)(4) of this section for leaks identified by visual indications of liquids dripping.

(e) *Special provisions for pumps.* (1) *Dual mechanical seal pumps.* Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (b) of this section, provided the requirements specified in paragraphs (e)(1)(i) through (e)(1)(viii) of this section are met.

(i) The owner or operator determines, based on design considerations and operating experience, criteria applicable to the presence and frequency of drips and to the sensor that indicates failure of the seal system, the barrier fluid system, or both. The owner or operator shall keep records at the plant of the design criteria and an explanation of the design criteria, and any changes to these criteria and the reasons for the changes. This record must be available for review by an inspector.

(ii) Each dual mechanical seal system shall meet the requirements specified in paragraphs (e)(1)(ii)(A) through (e)(1)(ii)(C) of this section.

(A) Each dual mechanical seal system is operated with the barrier fluid at a pressure that is at all times (except periods of startup, shutdown, or malfunction) greater than the pump stuffing box pressure; or

(B) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of subpart SS of this part; or

(C) Equipped with a closed-loop system that purges the barrier fluid into a process stream.

(iii) The barrier fluid is not in light liquid service.

(iv) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(v) Each pump is checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. The owner or operator shall document that the inspection was conducted and the date of the inspection. If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (e)(1)(v)(A) or (e)(1)(v)(B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the pump as specified in § 63.1004(b) to determine if there is a leak of regulated material in the barrier fluid; if an instrument reading of 10,000 parts per million or greater is measured, a leak is detected and shall be repaired using the procedures in § 63.1005; or

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(vi) If indications of liquids dripping from the pump seal exceed the criteria established in paragraph (e)(1)(i) of this section, or if based on the criteria established in paragraph (e)(1)(i) of this section the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(vii) Each sensor as described in paragraph (e)(1)(iv) of this section is observed daily or is equipped with an alarm unless the pump is located within the boundary of an unmanned plant site.

(viii) When a leak is detected pursuant to paragraph (e)(1)(vi) of this section, it shall be repaired as specified in § 63.1005.

(2) *No external shaft.* Any pump that is designed with no externally actuated shaft penetrating the pump housing is exempt from the requirements of paragraph (b) of this section.

(3) *Routed to a process or fuel gas system or equipped with a closed vent system.* Any pump that is routed to a process or a fuel gas system or equipped with a closed vent system that captures and transports leakage from the pump to a control device meeting the requirements of § 63.1015 is exempt from requirements of paragraph (b) of this section.

(4) *Unmanned plant site.* Any pump that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (b)(3), and (e)(1)(v) of this section, and the daily requirements of paragraph (e)(1)(vii) of this section, provided that each pump is visually inspected as often as practical and at least monthly.

(5) *Unsafe-to-monitor pumps.* Any pump that is designated, as described in § 63.1003(c)(1), as an unsafe-to-monitor pump is exempt from the requirements of paragraph (b) of this section and the requirements of § 63.1005 and the owner or operator shall monitor the pump according to the written plan specified in § 63.1003(c)(5).

§ 63.1008 Connectors in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Leak detection.* Unless otherwise specified in § 63.1002(b), or § 63.1016 of this subpart, or the referencing subpart, the owner or operator shall monitor all connectors within 5 days by the method specified in § 63.1004(b) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method. No monitoring is required if the evidence of a potential leak is eliminated within 5 days. If an instrument reading of 10,000 parts per million or greater is measured, a leak is detected.

(c) *Leak repair.* If a leak is detected pursuant to paragraph (b) of this section, then the leak shall be repaired using the procedures in § 63.1005, as applicable.

(d) *Special provisions for connectors.* (1) *Unsafe-to-monitor connectors.* Any connector that is designated, as described in § 63.1003(c)(1), as an unsafe-to-monitor connector is exempt from the requirements of paragraph (b) of this section and the owner or operator shall monitor according to the written plan specified in § 63.1003(c)(5).

(2) *Inaccessible, ceramic, or ceramic-lined connectors.* (i) Any connector that is inaccessible or that is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined), is exempt from the monitoring requirements of paragraph (b) of this section, the leak repair requirements of paragraph (c) of this section, and the recordkeeping and reporting requirements of § 63.1017 and § 63.1018. An inaccessible connector is a connector that meets any of the provisions specified in paragraphs (d)(2)(i)(A) through (d)(2)(i)(F) of this section, as applicable.

(A) Buried;

(B) Insulated in a manner that prevents access to the connector by a monitor probe;

(C) Obstructed by equipment or piping that prevents access to the connector by a monitor probe; or

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold that would allow access to connectors up to 7.6 meters (25 feet) above the ground.

(E) Inaccessible because it would require elevating the monitoring personnel more than 2 meters (7 feet) above a permanent support surface or would require the erection of scaffold;

(F) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(ii) If any inaccessible ceramic or ceramic-lined connector is noted to have a leak by visual, audible, olfactory, or other means, the leak to the atmosphere shall be eliminated as soon as practical.

§ 63.1009 Agitators in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Leak detection.* (1) *Monitoring method.* Each agitator seal shall be monitored monthly to detect leaks by the methods specified in § 63.1004(b), or § 63.1016, except as provided in § 63.1002(b) or in paragraph (e) of this section.

(2) *Instrument reading that defines a leak.* If an instrument reading equivalent of 10,000 parts per million or greater is measured, a leak is detected.

(3) *Visual inspection.* Each agitator seal shall be checked by visual inspection each calendar week for indications of liquids dripping from the agitator seal. The owner or operator shall document that the inspection was conducted and the date of the inspection. If there are indications of liquids dripping from the agitator seal, the owner or operator shall follow the procedures specified in paragraphs (b)(3)(i) and (b)(3)(ii) of this section prior to the next required inspection.

(i) The owner or operator shall monitor the agitator seal as specified in § 63.1004(b) to determine if there is a leak of regulated material. If an instrument reading of 10,000 parts per million or greater is measured, a leak is detected, and it shall be repaired using the procedures in paragraph (d) of this section;

(ii) The owner or operator shall eliminate the indications of liquids dripping from the agitator seal.

(c) [Reserved]

(d) *Leak repair.* If a leak is detected, then the leak shall be repaired using the procedures in § 63.1005, as applicable.

(e) *Special provisions for agitators.* (1) *Dual mechanical seal.* Each agitator equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (b) of this section, provided the requirements specified in paragraphs (e)(1)(i) through (e)(1)(vi) of this section are met.

(i) Each dual mechanical seal system shall meet the applicable requirement specified in paragraphs (e)(1)(i)(A), (e)(1)(i)(B), or (e)(1)(i)(C) of this section.

(A) Operated with the barrier fluid at a pressure that is at all times (except during periods of startup, shutdown, or malfunction) greater than the agitator stuffing box pressure; or

(B) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that meets the requirements of § 63.1015; or

(C) Equipped with a closed-loop system that purges the barrier fluid into a process stream.

(ii) The barrier fluid is not in light liquid service.

(iii) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(iv) Each agitator seal is checked by visual inspection each calendar week for indications of liquids dripping from the agitator seal. If there are indications of liquids dripping from the agitator seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (e)(1)(iv)(A) or (e)(1)(iv)(B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the agitator seal shall as specified in § 63.1004(b) to determine the presence of regulated material in the barrier fluid. If an instrument reading of 10,000 parts per million or greater is measured, a leak is detected and it shall be repaired using the procedures in § 63.1005; or

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(v) Each sensor as described in paragraph (e)(1)(iii) of this section is observed daily or is equipped with an alarm unless the agitator seal is located within the boundary of an unmanned plant site.

(vi) The owner or operator of each dual mechanical seal system shall meet the requirements specified in paragraphs (e)(1)(vi)(A) through (e)(1)(vi)(D).

(A) The owner or operator shall determine, based on design considerations and operating experience, criteria applicable to the presence and frequency of drips and to the sensor that indicates failure of the seal system, the barrier fluid system, or both.

(B) The owner or operator shall keep records of the design criteria and an explanation of the design criteria; and any changes to these criteria and the reasons for the changes.

(C) If indications of liquids dripping from the agitator seal exceed the criteria established in paragraphs (e)(1)(vi)(A) and (e)(1)(vi)(B) of this section, or if, based on the criteria established in paragraphs (e)(1)(vi)(A) and (e)(1)(vi)(B) of this section, the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(D) When a leak is detected, it shall be repaired using the procedures in § 63.1005.

(2) *No external shaft.* Any agitator that is designed with no externally actuated shaft penetrating the agitator housing is exempt from the requirements of paragraph (b) of this section.

(3) *Routed to a process or fuel gas system or equipped with a closed vent system.* Any agitator that is routed to a process or fuel gas system or equipped with a closed vent system that captures and transports leakage from the agitator to a control device meeting the requirements of § 63.1015 is exempt from the monitoring requirements of paragraph (b) of this section.

(4) *Unmanned plant site.* Any agitator that is located within the boundary of an unmanned plant site is exempt from

the weekly visual inspection requirement of paragraphs (b)(3) and (e)(1)(iv) of this section, and the daily requirements of paragraph (e)(1)(v) of this section, provided that each agitator is visually inspected as often as practical and at least monthly.

(5) *Difficult-to-monitor agitator seals.* Any agitator seal that is designated, as described in § 63.1003(c)(2), as a difficult-to-monitor agitator seal is exempt from the requirements of paragraph (b) of this section and the owner or operator shall monitor the agitator seal according to the written plan specified in § 63.1003(c)(5).

(6) *Equipment obstructions.* Any agitator seal that is obstructed by equipment or piping that prevents access to the agitator by a monitor probe is exempt from the monitoring requirements of paragraph (b) of this section.

(7) *Unsafe-to-monitor agitator seals.* Any agitator seal that is designated, as described in § 63.1003(c)(1), as an unsafe-to-monitor agitator seal is exempt from the requirements of paragraph (b) of this section and the owner or operator of the agitator seal monitors the agitator seal according to the written plan specified in § 63.1003(c)(5).

§ 63.1010 Pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in liquid service; and instrumentation systems standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Leak detection.* (1) *Monitoring method.* Unless otherwise specified in § 63.1002(b), or § 63.1016, the owner or operator shall comply with paragraphs (b)(1) and (b)(2) of this section. Pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in light liquid or heavy liquid service; and instrumentation systems shall be monitored within 5 calendar days by the method specified in § 63.1004(b) if evidence of a potential leak to the atmosphere is found by visual, audible, olfactory, or any other detection method. If such a potential leak is repaired as required in paragraph (c) of this section, it is not necessary to monitor the system for leaks by the method specified in § 63.1004(b).

(2) *Instrument reading that defines a leak.* For systems monitored by the method specified in § 63.1004(b), if an instrument reading of 10,000 parts per million or greater is measured, a leak is detected. If a leak is detected, it shall be identified pursuant to § 63.1004(e) and repaired pursuant to § 63.1005.

(c) *Leak repair.* If a leak is determined pursuant to this section, then the leak shall be repaired using the procedures in § 63.1005, as applicable. For equipment identified in paragraph (b) of this section that is not monitored by the method specified in § 63.1004(b), repaired shall mean that the visual, audible, olfactory, or other indications of a leak to the atmosphere have been eliminated; that no bubbles are observed at potential leak sites during a leak check using soap solution; or that the system will hold a test pressure.

§ 63.1011 Pressure relief devices in gas and vapor service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Compliance standard.* Except during pressure releases as provided for in paragraph (c) of this section, each pressure relief device in gas or vapor service shall be operated with an instrument reading of less than 500 parts per million as measured by the method specified in § 63.1004(c).

(c) *Pressure relief requirements.* (1) After each pressure release, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 parts per million, as soon as practical, but no later than 5 calendar days after each pressure release, except as provided in paragraph (d) of this section.

(2) The pressure relief device shall be monitored no later than five calendar days after the pressure release and being returned to regulated material service to confirm the condition indicated by an instrument reading of less than 500 parts per million, as measured by the method specified in § 63.1004(c).

(3) The owner or operator shall record the dates and results of the monitoring required by paragraph (c)(2) of this section following a pressure release including maximum instrument reading measured during the monitoring and the background level measured if the instrument reading is adjusted for background.

(d) *Pressure relief devices routed to a process or fuel gas system or equipped with a closed vent system and control device.* Any pressure relief device that is routed to a process or fuel gas system or equipped with a closed vent system that captures and transports leakage from the pressure relief device to a control device meeting the requirements of § 63.1015 is exempt from the requirements of paragraphs (b) and (c) of this section.

(e) *Rupture disk exemption.* Any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of paragraphs (b) and (c) of this section provided the owner or operator installs a replacement rupture disk upstream of the pressure relief device as soon as practical after each pressure release, but no later than 5 calendar days after each pressure release, except as provided in § 63.1005(d).

§ 63.1012 Compressor standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Seal system standard.* Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of process fluid to the atmosphere, except as provided in § 63.1002(b) and paragraphs (e) and (f) of this section. Each compressor seal system shall meet the requirements specified in paragraphs (b)(1), (b)(2), or (b)(3) of this section.

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure at all times (except during periods of startup, shutdown, or malfunction); or

(2) Equipped with a barrier fluid system degassing reservoir that is routed to a process or fuel gas system or connected by a closed-vent system to a control device that meets the requirements of § 63.1015; or

(3) Equipped with a closed-loop system that purges the barrier fluid directly into a process stream.

(c) *Barrier fluid system.* The barrier fluid shall not be in light liquid service. Each barrier fluid system shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both. Each sensor shall be observed daily or shall be equipped with an alarm unless the compressor is located within the boundary of an unmanned plant site.

(d) *Failure criterion and leak detection.* (1) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both. If the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion, a leak is detected and shall be repaired pursuant to § 63.1005, as applicable.

(2) The owner or operator shall keep records of the design criteria and an explanation of the design criteria; and any changes to these criteria and the reasons for the changes.

(e) *Routed to a process or fuel gas system or equipped with a closed vent system and control device.* A compressor is exempt from the requirements of paragraphs (b) through (d) of this section if it is equipped with a system to capture and transport leakage from the compressor drive shaft seal to a process or a fuel gas system or to a closed vent system that captures and transports leakage from the compressor to a control device meeting the requirements of § 63.1015.

(f) *Alternative compressor standard.* (1) Any compressor that is designated as described in § 63.1003(e)(e) as operating with no detectable emissions shall operate at all times with an instrument reading of less than 500 parts per million. A compressor so designated is exempt from the requirements of paragraphs (b) through (d) of this section if the compressor is demonstrated initially upon designation, annually, and at other times requested by the Administrator to be operating with an instrument reading of less than 500 parts per million as measured by the method specified in § 63.1004(c). A compressor may not be designated or operated having an instrument reading of less than 500 parts per million as described in § 63.1003(e) if the compressor has a maximum instrument reading greater than 500 parts per million.

(2) The owner or operator shall record the dates and results of each compliance test including the background level measured and the maximum instrument reading measured during each compliance test.

(g) *Reciprocating compressor exemption.* Any existing reciprocating compressor in a process unit or affected facility that becomes an affected facility under provisions of 40 CFR 60.14 or 60.15 is exempt from paragraphs (b), (c), and (d) of this section provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of the above exempted paragraphs of this section.

§ 63.1013 Sampling connection systems standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Equipment requirement.* Each sampling connection system shall be equipped with a closed purge, closed loop, or closed vent system, except as provided in paragraph (d) of this section. Gases displaced during filling of the sample container are not required to be collected or captured.

(c) *Equipment design and operation.* Each closed-purge, closed-loop, or closed vent system except as provided in paragraph (d) of this section shall meet the applicable requirements specified in paragraphs (c)(1) through (c)(5) of this section.

(1) The system shall return the purged process fluid directly to a process line or fuel gas system meeting the compliance determinations in §§ 63.1015 or 63.1002(b) as appropriate; or

(2) Collect and recycle the purged process fluid to a process; or

(3) Be designed and operated to capture and transport all the purged process fluid to a control device that meets the requirements of § 63.1015; or

(4) Collect, store, and transport the purged process fluid to a system or facility identified in paragraph (c)(4)(i), (c)(4)(ii), or (c)(4)(iii) of this section.

(i) A waste management unit as defined in 40 CFR 63.111 or 40 CFR part 63, subpart G, if the waste management unit is complying with the provisions of 40 CFR part 63, subpart G, applicable to group 1 wastewater streams. If the purged process fluid does not contain any organic HAP listed in table 9 of 40 CFR part 63, subpart G, the waste management unit need not be subject to, and operated in compliance with the requirements of 40 CFR part 63, subpart G, applicable to subject wastewater steams provided the facility has a National Pollution Discharge Elimination System (NPDES) permit or sends the wastewater to an NPDES-permitted facility.

(ii) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266; or

(iii) A facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261.

(5) Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.

(d) *In-situ sampling systems.* In-situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (b) and (c) of this section.

§ 63.1014 Open-ended valves or lines standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Equipment and operational requirements.*

(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 63.1002(b) and paragraphs (c) and (d) of this section. The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance. The operational provisions of paragraphs (b)(2) and (b)(3) of this section also apply.

(2) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(3) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (b)(1) of this section at all other times.

(c) *Emergency shutdown exemption.* Open-ended valves or lines in an emergency shutdown system that are designed to open automatically in the event of a process upset are exempt from the requirements of paragraph (b) of this section.

(d) *Polymerizing materials exemption.* Open-ended valves or lines containing materials that would autocatalytically polymerize or, would present an explosion, serious over pressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraph (b) of this section are exempt from the requirements of paragraph (b) of this section.

§ 63.1015 Closed vent systems and control devices; or emissions routed to a fuel gas system or process.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Compliance standard.* (1) Owners or operators of closed vent systems and nonflare control devices used to comply with provisions of this subpart shall design and operate the closed vent system and nonflare control devices to reduce emissions of regulated material with an efficiency of 95 percent or

greater or to reduce emissions of regulated material to a concentration of 20 parts per million by volume or, for an enclosed combustion device, to provide a minimum of 760° C (1400° F). Owners and operators of closed vent systems and nonflare control devices used to comply with this subpart shall comply with the provisions of subpart SS of this part, except as provided in § 63.1002(b).

(2) Owners or operators of closed vent systems and flares used to comply with the provisions of this subpart shall design and operate the flare as specified in subpart SS of this part, except as provided in § 63.1002(b).

(3) Owners or operators routing emissions from equipment leaks to a fuel gas system or process shall comply with the provisions of subpart SS of this part, except as provided in § 63.1002(b).

§ 63.1016 Alternative means of emission limitation: Enclosed-vented process units.

(a) *Use of closed vent system and control device.* Process units of affected facilities or portions of process units of affected facilities enclosed in such a manner that all emissions from equipment leaks are routed to a process or fuel gas system or collected and vented through a closed vent system to a control device meeting the requirements of either § 63.1015 or § 63.1002(b) are exempt from the requirements of §§ 63.1006 through 63.1014. The enclosure shall be maintained under a negative pressure at all times while the process unit or affected facility is in operation to ensure that all emissions are routed to a control device.

(b) *Recordkeeping.* Owners and operators choosing to comply with the requirements of this section shall maintain the records specified in paragraphs (b)(1) through (b)(3) of this section.

(1) Identification of the process unit(s) or affected facilities and the regulated materials they handle.

(2) A schematic of the process unit or affected facility, enclosure, and closed vent system.

(3) A description of the system used to create a negative pressure in the enclosure to ensure that all emissions are routed to the control device.

§ 63.1017 Recordkeeping requirements.

(a) *Recordkeeping system*. An owner or operator of more than one regulated source subject to the provisions of this subpart may comply with the recordkeeping requirements for these regulated sources in one recordkeeping system. The recordkeeping system shall identify each record by regulated source and the type of program being implemented (e.g., quarterly monitoring) for each type of equipment. The records required by this subpart are summarized in paragraphs (b) and (c) of this section.

(b) *General equipment leak records.* (1) As specified in § 63.1003(a) through (d), the owner or operator shall keep general and specific equipment identification if the equipment is not physically tagged and the owner or operator is electing to identify the equipment subject to this subpart through written documentation such as a log or other designation.

(2) The owner or operator shall keep a written plan as specified in § 63.1003(c)(5) for any equipment that is designated as unsafe or difficult-to-monitor.

(3) The owner or operator shall maintain the identity and an explanation as specified in § 63.1003(d)(1) for any equipment that is designated as unsafe-to-repair.

(4) As specified in § 63.1003(e), the owner or operator shall maintain the identity of compressors operating with an instrument reading of less than 500 parts per million.

(5) The owner or operator shall keep records for leaking equipment as specified in § 63.1004(e).

(6) The owner or operator shall keep records for delay of repair as specified in § 63.1005(c) and records for leak repair as specified in § 63.1005(e).

(c) *Specific equipment leak records.* (1) For valves, the owner or operator shall maintain the monitoring schedule for each process unit as specified in § 63.1006(b), and the records specified in § 63.1006(e)(4)(i)(B).

(2) For pumps, the owner or operator shall maintain the records specified in paragraphs (c)(2)(i) through (c)(2)(iii) of this section.

(i) Documentation of pump visual inspections as specified in § 63.1007(b)(4).

(ii) Documentation of dual mechanical seal pump visual inspections as specified in § 63.1007(e)(1)(v).

(iii) For the criteria as to the presence and frequency of drips for dual mechanical seal pumps, records of the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1007(e)(1)(i).

(3) [Reserved]

(4) For agitators, the owner or operator shall maintain records specified in paragraphs (c)(4)(i) and (c)(4)(ii) of this section.

(i) Documentation of the agitator seal visual inspections as specified in § 63.1009(b)(3).

(ii) Documentation of the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1009(e)(1)(vi)(A).

(5) For pressure relief devices in gas and vapor or light liquid service, the owner or operator shall keep records of the dates and results of monitoring following a pressure release, as specified in § 63.1011(c)(3).

(6) For compressors, the owner or operator shall maintain the records specified in paragraphs (c)(6)(i) and (c)(6)(ii) of this section.

(i) For criteria as to failure of the seal system and/or the barrier fluid system, record the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1012(d)(2).

(ii) For compressors operating under the alternative compressor standard, record the dates and results of each compliance test as specified in § 63.1012(f)(2).

(7) For process units complying with the enclosed-vented process unit alternative, the owner or operator shall maintain the records for enclosed-vented process units as specified in § 63.1016(b).

§ 63.1018 Reporting requirements.

(a) *Periodic Reports*. The owner or operator shall report the information specified in paragraphs (a)(1) through (a)(2) of this section, as applicable, in the periodic report specified in the referencing subpart.

(1) The initial Periodic Report shall include the information specified in paragraphs (a)(1)(i) through (a)(1)(iv) and (a)(2) of this section.

(i) Process unit or affected facility identification.

(ii) Number of valves subject to the requirements of § 63.1006, excluding those valves designated for no detectable emissions under the provisions of § 63.1006(e)(4).

(iii) Number of pumps subject to the requirements of § 63.1007, excluding those pumps designated for no detectable emissions under the provisions of § 63.1007(e)(2) and those pumps complying with the closed vent system provisions of § 63.1007(e)(3).

(iv) Number of compressors subject to the requirements of § 63.1012, excluding those compressors designated for no detectable emissions under the provisions of § 63.1012(f) and those compressors complying with the closed vent system provisions of § 63.1012(e).

(2) Each periodic report shall contain the information listed in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, as applicable.

(i) Process unit identification.

(ii) For each month during the semiannual reporting period,

(A) Number of valves for which leaks were detected as described in § 63.1006(b),

(B) Number of valves for which leaks were not repaired as required in § 63.1006(d),

(C) Number of pumps for which leaks were detected as described in § 63.1007(b) and § 63.1007(e)(1)(vi),

(D) Number of pumps for which leaks were not repaired as required in §§ 63.1007(d) and (e)(5),

(E) Number of compressors for which leaks were detected as described in § 63.1012(d)(1),

(F) Number of compressors for which leaks were not repaired as required in § 63.1012(d)(1), and

(G) The facts that explain each delay of repair and, where appropriate, why the repair was technically infeasible without a process unit or affected facility shutdown.

(iii) Dates of process unit or affected facility shutdowns which occurred within the periodic report reporting period.

(iv) Revisions to items reported according to paragraph (a)(1) of this section if changes have occurred since the initial report or subsequent revisions to the initial report.

(b) *Special notifications.* An owner or operator electing to comply with either of the alternatives in § 63.1006(b)(5) or (6) shall notify the Administrator of the alternative standard selected before implementing either of the provisions.

4. Part 63 is amended by adding subpart UU as follows:

Subpart UU—National Emission Standards for Equipment Leaks—Control Level 2 Standards

Sec.

Subpart UU—National Emission Standards for Equipment Leaks—Control Level 2 Standards

§ 63.1019 Applicability.

(a) The provisions of this subpart apply to the control of air emissions from equipment leaks for which another subpart references the use of this subpart for such air emission control. These air emission standards for equipment leaks are placed here for administrative convenience and only apply to those owners and operators of facilities subject to a referencing subpart. The provisions of 40 CFR part 63, subpart A (General Provisions) do not apply to this subpart except as noted in the referencing subpart.

(b) *Equipment subject to this subpart.* The provisions of this subpart and the referencing subpart apply to equipment that contains or contacts regulated material. This subpart applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and closed vent systems and control devices used to meet the requirements of this subpart.

(c) *Equipment in vacuum service.* Equipment in vacuum service is excluded from the requirements of this subpart.

(d) *Equipment in service less than 300 hours per calendar year.* Equipment intended to be in regulated material service less than 300 hours per calendar year is excluded from the requirements of §§ 63.1025 through 63.1034 and § 63.1036 if it is identified as required in § 63.1022(b)(5).

(e) *Lines and equipment not containing process fluids.* Lines and equipment not containing process fluids are not subject to the provisions of this subpart. Utilities, and other non-process lines, such as heating and cooling systems that do not combine their materials with those in the processes they serve, are not considered to be part of a process unit or affected facility.

§ 63.1020 Definitions.

All terms used in this part shall have the meaning given them in the Act and in this section.

Batch process means a process in which the equipment is fed intermittently or discontinuously. Processing then occurs in this equipment after which the equipment is generally emptied. Examples of industries that use batch processes include pharmaceutical production and pesticide production.

Batch product-process equipment train means the collection of equipment (e.g., connectors, reactors, valves, pumps, etc.) configured to produce a specific product or intermediate by a batch process.

Car-seal means a seal that is placed on a device that is used to change the position of a valve (e.g., from opened to closed) in such a way that the position of the valve cannot be changed without breaking the seal.

Closed-loop system means an enclosed system that returns process fluid to the process and is not vented directly to the atmosphere.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers must be covered or closed when not being filled or emptied.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic emissions.

Connector means flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation. For the purpose of reporting and recordkeeping, connector means joined fittings that are not inaccessible, ceramic, or ceramic-lined (e.g., porcelain, glass, or glass-lined) as described in § 63.1027(e)(2).

Continuous parameter monitoring system (CPMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable),

analyze, and provide a record of process or control system parameters.

Control device means any combustion device, recovery device, recapture device, or any combination of these devices used to comply with this part. Such equipment or devices include, but are not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. Primary condensers on steam strippers or fuel gas systems are not considered control devices.

Distance piece means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

Double block and bleed system means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

Equipment means each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in regulated material service; and any control devices or systems used to comply with this subpart.

First attempt at repair, for the purposes of this subpart, means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere, followed by monitoring as specified in §§ 63.1023(b) and (c) of this subpart in to verify whether the leak is repaired, unless the owner or operator determines by other means that the leak is not repaired.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous stream(s) generated by onsite operations, may blend them with other sources of gas, and transports the gaseous stream for use a fuel gas in combustion equipment, such as furnaces and gas turbines, either singly or in combination.

In food and medical service means that a piece of equipment in regulated material service contacts a process stream used to manufacture a Food and Drug Administration regulated product where leakage of a barrier fluid into the process stream would cause any of the following:

(1) A dilution of product quality so that the product would not meet written specifications,

(2) An exothermic reaction which is a safety hazard,

(3) The intended reaction to be slowed down or stopped, or

(4) An undesired side reaction to occur.

In gas and vapor service means that a piece of equipment in regulated material service contains a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in regulated material service is not in gas and vapor service or in light liquid service.

In light liquid service means that a piece of equipment in regulated material service contains a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20° C,

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20° C is equal to or greater than 20 percent by weight of the total process stream, and

(3) The fluid is a liquid at operating conditions.

(**Note to definition of ''in light liquid service'':** Vapor pressures may be determined by standard reference texts or ASTM D–2879.)

In liquid service means that a piece of equipment in regulated material service is not in gas and vapor service.

In organic hazardous air pollutant or in organic HAP service means that piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP's as determined according to the provisions of § 63.180(d) of subpart H. The provisions of § 63.180(d) of subpart H also specify how to determine that a piece of equipment is not in organic HAP service.

In regulated material service means, for the purposes of this subpart, equipment which meets the definition of ''in VOC service,'' ''in VHAP service,'' ''in organic hazardous air pollutant service,'' or ''in'' other chemicals or groups of chemicals ''service'' as defined in the referencing subpart.

In-situ sampling systems means nonextractive samplers or in-line samplers.

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kilopascals below ambient pressure.

Initial startup means for new sources, the first time the source begins production. For additions or changes not defined as a new source by this subpart, initial startup means the first time additional or changed equipment is put into operation. Initial startup does not include operation solely for testing of equipment. Initial startup does not include subsequent startup of process units following malfunction or process unit shutdowns. Except for equipment leaks, initial startup also does not include subsequent startups (of process units following changes in product for flexible operation units or following recharging of equipment in batch unit operations).

Instrumentation system means a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow, etc.). Valves and connectors are the predominant type of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 1.27 centimeters (0.5 inches) and smaller, and connectors nominally 1.91 centimeters (0.75 inches) and smaller in diameter are considered instrumentation systems for the purposes of this subpart. Valves greater than nominally 1.27 centimeters (0.5 inches) and connectors greater than nominally 1.91 centimeters (0.75 inches) associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

Liquids dripping means any visible leakage from the seal including dripping, spraying, misting, clouding, and ice formation. Indications of liquids dripping include puddling or new stains that are indicative of an existing evaporated drip.

Nonrepairable means that it is technically infeasible to repair a piece of equipment from which a leak has been detected without a process unit or affected facility shutdown.

Open-ended valve or line means any valve, except relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

Organic monitoring device means a unit of equipment used to indicate the concentration level of organic compounds based on a detection principle such as infra-red, photoionization, or thermal conductivity.

Polymerizing monomer means a compound which may form polymer buildup in pump mechanical seals resulting in rapid mechanical seal failure.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the relief device. This release can be one release or a series of releases over a short time period due to a malfunction in the process.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Process unit means the equipment specified in the definitions of process unit in the applicable referencing subpart. If the referencing subpart does not define process unit, then for the purposes of this part, process unit means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit, or part of a process unit during which it is technically feasible to clear process material from a process unit, or part of a process unit, consistent with safety constraints and during which repairs can be affected. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operations procedure that stops production from a process unit, or part of a process unit, for less than 24 hours.

(2) An unscheduled work practice or operations procedure that would stop production from a process unit, or part of a process unit, for a shorter period of time than would be required to clear the process unit, or part of the process unit, of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

Referencing subpart means the subpart that refers an owner or operator to this subpart.

Regulated material, for purposes of this part, refers to gas from volatile organic liquids (VOL), volatile organic compounds (VOC), hazardous air pollutants (HAP), or other chemicals or groups of chemicals that are regulated by the referencing subpart.

Regulated source for the purposes of this part, means the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a referencing subpart.

Relief device or valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage.

Repaired, for the purposes of this subpart, means that equipment is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable sections of this subpart and unless otherwise specified in applicable provisions of this subpart, is monitored as specified in §§ 63.1023(b) and (c) to verify that emissions from the equipment are below the applicable leak definition.

Routed to a process or route to a process means the emissions are conveyed to any enclosed portion of a process unit where the emissions are predominantly recycled and/or consumed in the same manner as a material that fulfills the same function in the process and/or transformed by chemical reaction into materials that are not regulated materials and/or incorporated into a product; and/or recovered.

Sampling connection system means an assembly of equipment within a process unit or affected facility used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Screwed (threaded) connector means a threaded pipe fitting where the threads are cut on the pipe wall and the fitting requires only two pieces to make the connection (i.e., the pipe and the fitting).

Sensor means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

Set pressure means for the purposes of this subpart, the pressure at which a properly operating pressure relief device begins to open to relieve atypical process system operating pressure.

Start-up means the setting into operation of a piece of equipment or a control device that is subject to this subpart.

§ 63.1021 Alternative means of emission limitation.

(a) *Performance standard exemption.* The provisions of paragraph (b) of this section do not apply to the performance standards of § 63.1030(b) for pressure relief devices or § 63.1031(f) for compressors operating under the alternative compressor standard.

(b) *Requests by owners or operators.* An owner or operator may request a determination of alternative means of emission limitation to the requirements of §§ 63.1025 through 63.1034 as provided in paragraph (d) of this section. If the Administrator makes a determination that a means of emission limitation is a permissible alternative, the owner or operator shall either comply with the alternative or comply with the requirements of §§ 63.1025 through 63.1034.

(c) *Requests by manufacturers of equipment.* (1) Manufacturers of equipment used to control equipment leaks of the regulated material may apply to the Administrator for permission for an alternative means of emission limitation that achieves a reduction in emissions of the regulated material achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will grant permission according to the provisions of paragraph (d) of this section.

(d) *Permission to use an alternative means of emission limitation.* Permission to use an alternative means of emission limitation shall be governed by the procedures in paragraphs (d)(1) through (d)(4) of this section.

(1) Where the standard is an equipment, design, or operational requirement, the requirements of paragraphs (d)(1)(i) through (d)(1)(iii) of this section apply.

(i) Each owner or operator applying for permission to use an alternative means of emission limitation shall be responsible for collecting and verifying emission performance test data for an alternative means of emission limitation.

(ii) The Administrator will compare test data for the means of emission limitation to test data for the equipment, design, and operational requirements.

(iii) The Administrator may condition the permission on requirements that may be necessary to ensure operation and maintenance to achieve at least the same emission reduction as the equipment, design, and operational requirements of this subpart.

(2) Where the standard is a work practice, the requirements of paragraphs (d)(2)(i) through (d)(2)(vi) of this section apply.

(i) Each owner or operator applying for permission to use an alternative means of emission limitation shall be responsible for collecting and verifying test data for the alternative.

(ii) For each kind of equipment for which permission is requested, the emission reduction achieved by the required work practices shall be demonstrated for a minimum period of 12 months.

(iii) For each kind of equipment for which permission is requested, the emission reduction achieved by the alternative means of emission limitation shall be demonstrated.

(iv) Each owner or operator applying for such permission shall commit, in writing, for each kind of equipment to work practices that provide for emission reductions equal to or greater than the emission reductions achieved by the required work practices.

(v) The Administrator will compare the demonstrated emission reduction for the alternative means of emission limitation to the demonstrated emission reduction for the required work practices and will consider the commitment in paragraph (d)(2)(iv) of this section.

(vi) The Administrator may condition the permission on requirements that may be necessary to ensure operation and maintenance to achieve the same or greater emission reduction as the required work practices of this subpart.

(3) An owner or operator may offer a unique approach to demonstrate the alternative means of emission limitation.

(4) If, in the judgement of the Administrator, an alternative means of emission limitation will be approved, the Administrator will publish a notice of the determination in the **Federal Register** using the procedures specified in the referencing subpart.

§ 63.1022 Equipment identification.

(a) *General equipment identification.* Equipment subject to this subpart shall be identified. Identification of the equipment does not require physical tagging of the equipment. For example, the equipment may be identified on a plant site plan, in log entries, by designation of process unit or affected facility boundaries by some form of weatherproof identification, or by other appropriate methods.

(b) *Additional equipment identification.* In addition to the general identification required by paragraph (a) of this section, equipment subject to any of the provisions in §§ 63.1023 through 63.1034 shall be specifically identified as required in paragraphs (b)(1) through (b)(5) of this section, as applicable. This paragraph does not apply to an owner or operator of a batch product process who elects to pressure test the batch product process equipment train pursuant to § 63.1036.

(1) *Connectors.* Except for inaccessible, ceramic, or ceramic-lined connectors meeting the provision of § 63.1027(e)(2) and instrumentation systems identified pursuant to paragraph (b)(4) of this section, identify the connectors subject to the requirements of this subpart. Connectors need not be individually identified if all connectors in a designated area or length of pipe subject to the provisions of this subpart are identified as a group, and the number of connectors subject is indicated. With respect to connectors, the identification shall be complete no later than the completion of the initial survey required by paragraph (a) of this section.

(2) *Routed to a process or fuel gas system or equipped with a closed vent system and control device.* Identify the equipment that the owner or operator elects to route to a process or fuel gas system or equip with a closed vent system and control device, under the provisions of § 63.1026(e)(3) (pumps in light liquid service), § 63.1028(e)(3) (agitators), § 63.1030(d) (pressure relief devices in gas and vapor service), § 63.1031(e) (compressors), or § 63.1037(a) (alternative means of emission limitation for enclosed-vented process units).

(3) *Pressure relief devices.* Identify the pressure relief devices equipped with rupture disks, under the provisions of § 63.1030(e).

(4) *Instrumentation systems.* Identify instrumentation systems subject to the provisions of § 63.1029 of this subpart. Individual components in an instrumentation system need not be identified.

(5) *Equipment in service less than 300 hours per calendar year.* The identity, either by list, location (area or group), or other method, of equipment in regulated material service less than 300 hours per calendar year within a process unit or affected facilities subject to the provisions of this subpart shall be recorded.

(c) *Special equipment designations: Equipment that is unsafe or difficult-to-monitor.* (1) *Designation and criteria for unsafe-to-monitor.* Valves meeting the provisions of § 63.1025(e)(1), pumps meeting the provisions of § 63.1026(e)(6), connectors meeting the provisions of § 63.1027(e)(1), and agitators meeting the provisions of § 63.1028(e)(7) may be designated unsafe-to-monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements of this subpart. Examples of unsafe-to-monitor equipment include, but is not limited to, equipment under extreme pressure or heat.

(2) *Designation and criteria for difficult-to-monitor.* Valves meeting the provisions of § 63.1025(e)(2) may be designated difficult-to-monitor if the provisions of paragraph (c)(2)(i) apply. Agitators meeting the provisions of § 63.1028(e)(5) may be designated difficult-to-monitor if the provisions of paragraph (c)(2)(ii) apply.

(i) *Valves.* (A) The owner or operator of the valve determines that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters (7 feet) above a support surface or it is not accessible in a safe manner when it is in regulated material service; and

(B) The process unit or affected facility within which the valve is located is an existing source, or the owner or operator designates less than 3 percent of the total number of valves in a new source as difficult-to-monitor.

(ii) *Agitators.* The owner or operator determines that the agitator cannot be monitored without elevating the monitoring personnel more than 2 meters (7 feet) above a support surface or it is not accessible in a safe manner when it is in regulated material service.

(3) *Identification of unsafe or difficult-to-monitor equipment.* The owner or operator shall record the identity of equipment designated as unsafe-to-monitor according to the provisions of paragraph (c)(1) of this section and the planned schedule for monitoring this equipment. The owner or operator shall record the identity of equipment designated as difficult-to-monitor according to the provisions of paragraph (c)(2) of this section, the planned schedule for monitoring this equipment, and an explanation why the equipment is unsafe or difficult-to-monitor. This record must be kept at the plant and be available for review by an inspector.

(4) *Written plan requirements.* (i) The owner or operator of equipment designated as unsafe-to-monitor according to the provisions of paragraph (c)(1) of this section shall have a written plan that requires monitoring of the equipment as frequently as practical during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in § 63.1024 if a leak is detected.

(ii) The owner or operator of equipment designated as difficult-to-monitor according to the provisions of paragraph (c)(2) of this section shall have a written plan that requires monitoring of the equipment at least once per calendar year and repair of the equipment according to the procedures in § 63.1024 if a leak is detected.

(d) *Special equipment designations: Equipment that is unsafe-to-repair.* (1) *Designation and criteria.* Connectors

subject to the provisions of § 63.1024(e) may be designated unsafe-to-repair if the owner or operator determines that repair personnel would be exposed to an immediate danger as a consequence of complying with the repair requirements of this subpart, and if the connector will be repaired before the end of the next process unit or affected facility shutdown as specified in § 63.1024(e)(2).

(2) *Identification of equipment.* The identity of connectors designated as unsafe-to-repair and an explanation why the connector is unsafe-to-repair shall be recorded.

(e) *Special equipment designations: Compressors operating with an instrument reading of less than 500 parts per million above background.* Identify the compressors that the owner or operator elects to designate as operating with an instrument reading of less than 500 parts per million above background, under the provisions of § 63.1031(f).

(f) *Special equipment designations: Equipment in heavy liquid service.* The owner or operator of equipment in heavy liquid service shall comply with the requirements of either paragraph (f)(1) or (f)(2) of this section, as provided in paragraph (f)(3) of this section.

(1) Retain information, data, and analyses used to determine that a piece of equipment is in heavy liquid service.

(2) When requested by the Administrator, demonstrate that the piece of equipment or process is in heavy liquid service.

(3) A determination or demonstration that a piece of equipment or process is in heavy liquid service shall include an analysis or demonstration that the process fluids do not meet the definition of ''in light liquid service.'' Examples of information that could document this include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

§ 63.1023 Instrument and sensory monitoring for leaks.

(a) *Monitoring for leaks.* The owner or operator of a regulated source subject to this subpart shall monitor regulated equipment as specified in paragraph (a)(1) of this section for instrument monitoring and paragraph (a)(2) of this section for sensory monitoring.

(1) *Instrument monitoring for leaks.* (i) Valves in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1025(b).

(ii) Pumps in light liquid service shall be monitored pursuant to § 63.1026(b).

(iii) Connectors in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1027(b).

(iv) Agitators in gas and vapor service and in light liquid service shall be monitored pursuant to § 63.1028(c).

(v) Pressure relief devices in gas and vapor service shall be monitored pursuant to § 63.1030(c).

(vi) Compressors designated to operate with an instrument reading less than 500 parts per million above background, as described in § 63.1022(e), shall be monitored pursuant to § 63.1031(f).

(2) *Sensory monitoring for leaks.* (i) Pumps in light liquid service shall be observed pursuant to §§ 63.1026(b)(4) and (e)(1)(v).

(ii) [Reserved].

(iii) Agitators in gas and vapor service and in light liquid service shall be observed pursuant to § 63.1028(c)(3) or (e)(1)(iv).

(iv) [Reserved].

(b) *Instrument monitoring methods.* Instrument monitoring, as required under this subpart, shall comply with the requirements specified in paragraphs (b)(1) through (b)(6) of this section.

(1) *Monitoring method.* Monitoring shall comply with Method 21 of 40 CFR part 60, appendix A, except as otherwise provided in this section.

(2) *Detection instrument performance criteria.* (i) Except as provided for in paragraph (b)(2)(ii) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2, paragraph (a) of Method 21 shall be for the representative composition of the process fluid not each individual VOC in the stream. For process streams that contain nitrogen, air, water or other inerts that are not HAP or VOC, the representative stream response factor shall be determined on an inert-free basis. The response factor may be determined at any concentration for which monitoring for leaks will be conducted.

(ii) If there is no instrument commercially available that will meet the performance criteria specified in paragraph (b)(2)(i) of this section, the instrument readings may be adjusted by multiplying by the representative response factor of the process fluid, calculated on an inert-free basis as described in paragraph (b)(2)(i) of this section.

(3) *Detection instrument calibration procedure.* The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(4) *Detection instrument calibration gas.* Calibration gases shall be zero air (less than 10 parts per million of hydrocarbon in air); and the gases specified in paragraph (b)(4)(i) of this section except as provided in paragraph (b)(4)(ii) of this section.

(i) Mixtures of methane in air at a concentration no more than 2,000 parts per million greater than the leak definition concentration of the equipment monitored. If the monitoring instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,000 parts per million above the concentration specified as a leak, and the highest scale shall be calibrated with a calibration gas that is approximately equal to 10,000 parts per million. If only one scale on an instrument will be used during monitoring, the owner or operator need not calibrate the scales that will not be used during that day's monitoring.

(ii) A calibration gas other than methane in air may be used if the instrument does not respond to methane or if the instrument does not meet the performance criteria specified in paragraph (b)(2)(i) of this section. In such cases, the calibration gas may be a mixture of one or more of the compounds to be measured in air.

(5) *Monitoring performance.* Monitoring shall be performed when the equipment is in regulated material service or is in use with any other detectable material.

(6) *Monitoring data.* Monitoring data obtained prior to the regulated source becoming subject to the referencing subpart that do not meet the criteria specified in paragraphs (b)(1) through (b)(5) of this section may still be used to qualify initially for less frequent monitoring under the provisions in § 63.1025(a)(2), (b)(3) or (b)(4) for valves or § 63.1027(b)(3) for connectors provided the departures from the criteria or from the specified monitoring frequency of § 63.1025(b)(3) or (b)(4) or § 63.1027(b)(3) are minor and do not significantly affect the quality of the data. Examples of minor departures are monitoring at a slightly different frequency (such as every 6 weeks instead of monthly or quarterly), following the performance criteria of section 3.1.2, paragraph (a) of Method 21 of Appendix A of 40 CFR part 60 instead of paragraph (b)(2) of this section, or monitoring using a different leak definition if the data would indicate the presence or absence of a leak at the concentration specified in this subpart. Failure to use a calibrated

instrument is not considered a minor departure.

(c) *Instrument monitoring using background adjustments.* The owner or operator may elect to adjust or not to adjust the instrument readings for background. If an owner or operator elects not to adjust instrument readings for background, the owner or operator shall monitor the equipment according to the procedures specified in paragraphs (b)(1) through (b)(5) of this section. In such cases, all instrument readings shall be compared directly to the applicable leak definition for the monitored equipment to determine whether there is a leak or to determine compliance with § 63.1030(b) (pressure relief devices) or § 63.1031(f) (alternative compressor standard). If an owner or operator elects to adjust instrument readings for background, the owner or operator shall monitor the equipment according to the procedures specified in paragraphs (c)(1) through (c)(4) of this section.

(1) The requirements of paragraphs (b)(1) through (b)(5) of this section shall apply.

(2) The background level shall be determined, using the procedures in Method 21 of 40 CFR part 60, appendix A.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Method 21 of 40 CFR part 60, appendix A.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level shall be compared to the applicable leak definition for the monitored equipment to determine whether there is a leak or to determine compliance with § 63.1030(b) (pressure relief devices) or § 63.1031(f) (alternative compressor standard).

(d) *Sensory monitoring methods.* Sensory monitoring consists of visual, audible, olfactory, or any other detection method used to determine a potential leak to the atmosphere.

(e) *Leaking equipment identification and records.* (1) When each leak is detected pursuant to the monitoring specified in paragraph (a) of this section, a weatherproof and readily visible identification, shall be attached to the leaking equipment.

(2) When each leak is detected, the information specified in § 63.1024(f) shall be recorded and kept pursuant to the referencing subpart, except for the information for connectors complying with the 8 year monitoring period allowed under § 63.1027(b)(3)(iii) shall be kept 5 years beyond the date of its last use.

§ 63.1024 Leak repair.

(a) *Leak repair schedule.* The owner or operator shall repair each leak detected as soon as practical, but not later than 15 calendar days after it is detected, except as provided in paragraphs (d) and (e) of this section. A first attempt at repair as defined in this subpart shall be made no later than 5 calendar days after the leak is detected. First attempt at repair for pumps includes, but is not limited to, tightening the packing gland nuts and/or ensuring that the seal flush is operating at design pressure and temperature. First attempt at repair for valves includes, but is not limited to, tightening the bonnet bolts, and/or replacing the bonnet bolts, and/or tightening the packing gland nuts, and/or injecting lubricant into the lubricated packing.

(b) [Reserved]

(c) *Leak identification removal.* (1) *Valves and connectors in gas/vapor and light liquid service.* The leak identification on a valve in gas/vapor or light liquid service may be removed after it has been monitored as specified in § 63.1025(d)(2), and no leak has been detected during that monitoring. The leak identification on a connector in gas/vapor or light liquid service may be removed after it has been monitored as specified in § 63.1027(b)(3)(iv) and no leak has been detected during that monitoring.

(2) *Other equipment.* The identification that has been placed, pursuant to § 63.1023(e)(1), on equipment determined to have a leak, except for a valve or for a connector in gas/vapor or light liquid service that is subject to the provisions of § 63.1027(b)(3)(iv), may be removed after it is repaired.

(d) *Delay of repair.* Delay of repair is allowed for any of the conditions specified in paragraphs (d)(1) through (d)(5) of this section. The owner or operator shall maintain a record of the facts that explain any delay of repairs and, where appropriate, why the repair was technically infeasible without a process unit shutdown.

(1) Delay of repair of equipment for which leaks have been detected is allowed if repair within 15 days after a leak is detected is technically infeasible without a process unit or affected facility shutdown. Repair of this equipment shall occur as soon as practical, but no later than the end of the next process unit or affected facility shutdown, except as provided in paragraph (d)(5) of this section.

(2) Delay of repair of equipment for which leaks have been detected is allowed for equipment that is isolated from the process and that does not remain in regulated material service.

(3) Delay of repair for valves, connectors, and agitators is also allowed if the provisions of paragraphs (d)(3)(i) and (d)(3)(ii) of this section are met.

(i) The owner or operator determines that emissions of purged material resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair, and

(ii) When repair procedures are effected, the purged material is collected and destroyed, collected and routed to a fuel gas system or process, or recovered in a control device complying with either § 63.1034 or § 63.1021(b) of this part.

(4) Delay of repair for pumps is also allowed if the provisions of paragraphs (d)(4)(i) and (d)(4)(ii) of this section are met.

(i) Repair requires replacing the existing seal design with a new system that the owner or operator has determined under the provisions of § 63.1035(d) will provide better performance or one of the specifications of paragraphs (d)(4)(i)(A) through (d)(4)(i)(C) of this section are met.

(A) A dual mechanical seal system that meets the requirements of § 63.1026(e)(1) will be installed;

(B) A pump that meets the requirements of § 63.1026(e)(2) will be installed; or

(C) A system that routes emissions to a process or a fuel gas system or a closed vent system and control device that meets the requirements of § 63.1026(e)(3) will be installed; and

(ii) Repair is completed as soon as practical, but not later than 6 months after the leak was detected.

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

(e) *Unsafe-to-repair—connectors.* Any connector that is designated, as described in § 63.1022(d), as an unsafe-to-repair connector is exempt from the requirements of § 63.1027(d), and paragraph (a) of this section.

(f) *Leak repair records.* For each leak detected, the information specified in paragraphs (f)(1) through (f)(5) of this section shall be recorded and

maintained pursuant to the referencing subpart.

(1) The date of first attempt to repair the leak.

(2) The date of successful repair of the leak.

(3) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A at the time the leak is successfully repaired or determined to be nonrepairable.

(4) ''Repair delayed'' and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak as specified in paragraphs (f)(4)(i) and (f)(4)(ii) of this section.

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

(ii) If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.

(5) Dates of process unit or affected facility shutdowns that occur while the equipment is unrepaired.

§ 63.1025 Valves in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* (1) The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(2) The use of monitoring data generated before the regulated source became subject to the referencing subpart to qualify initially for less frequent monitoring is governed by the provisions of § 63.1023(b)(6).

(b) *Leak detection.* Unless otherwise specified in § 63.1021(b) or paragraph (e) of this section, or the referencing subpart, the owner or operator shall monitor all valves at the intervals specified in paragraphs (b)(3) and/or (b)(4) of this section and shall comply with all other provisions of this section.

(1) *Monitoring method.* The valves shall be monitored to detect leaks by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(2) *Instrument reading that defines a leak.* The instrument reading that defines a leak is 500 parts per million or greater.

(3) *Monitoring frequency.* The owner or operator shall monitor valves for leaks at the intervals specified in paragraphs (b)(3)(i) through (b)(3)(v) of this section and shall keep the record specified in paragraph (b)(3)(vi) of this section.

(i) If at least the greater of 2 valves or 2 percent of the valves in a process unit leak, as calculated according to paragraph (c) of this section, the owner or operator shall monitor each valve once per month.

(ii) At process units with less than the greater of 2 leaking valves or 2 percent leaking valves, the owner or operator shall monitor each valve once each quarter, except as provided in paragraphs (b)(3)(iii) through (b)(3)(v) of this section. Monitoring data generated before the regulated source became subject to the referencing subpart and meeting the criteria of either § 63.1023(b)(1) through (b)(5), or § 63.1023(b)(6), may be used to qualify initially for less frequent monitoring under paragraphs (b)(3)(iii) through (b)(3)(v) of this section.

(iii) At process units with less than 1 percent leaking valves, the owner or operator may elect to monitor each valve once every two quarters

(iv) At process units with less than 0.5 percent leaking valves, the owner or operator may elect to monitor each valve once every four quarters.

(v) At process units with less than 0.25 percent leaking valves, the owner or operator may elect to monitor each valve once every 2 years.

(vi) The owner or operator shall keep a record of the monitoring schedule for each process unit.

(4) *Valve subgrouping.* For a process unit or a group of process units to which this subpart applies, an owner or operator may choose to subdivide the valves in the applicable process unit or group of process units and apply the provisions of paragraph (b)(3) of this section to each subgroup. If the owner or operator elects to subdivide the valves in the applicable process unit or group of process units, then the provisions of paragraphs (b)(4)(i) through (b)(4)(viii) of this section apply.

(i) The overall performance of total valves in the applicable process unit or group of process units to be subdivided shall be less than 2 percent leaking valves, as detected according to paragraphs (b)(1) and (b)(2) of this section and as calculated according to paragraphs (c)(1)(ii) and (c)(2) of this section.

(ii) The initial assignment or subsequent reassignment of valves to subgroups shall be governed by the provisions of paragraphs (b)(4)(ii)(A) through (b)(4)(ii)(C) of this section.

(A) The owner or operator shall determine which valves are assigned to each subgroup. Valves with less than one year of monitoring data or valves not monitored within the last twelve months must be placed initially into the most frequently monitored subgroup until at least one year of monitoring data have been obtained.

(B) Any valve or group of valves can be reassigned from a less frequently monitored subgroup to a more frequently monitored subgroup provided that the valves to be reassigned were monitored during the most recent monitoring period for the less frequently monitored subgroup. The monitoring results must be included with that less frequently monitored subgroup's associated percent leaking valves calculation for that monitoring event.

(C) Any valve or group of valves can be reassigned from a more frequently monitored subgroup to a less frequently monitored subgroup provided that the valves to be reassigned have not leaked for the period of the less frequently monitored subgroup (e.g., for the last 12 months, if the valve or group of valves is to be reassigned to a subgroup being monitored annually). Nonrepairable valves may not be reassigned to a less frequently monitored subgroup.

(iii) The owner or operator shall determine every 6 months if the overall performance of total valves in the applicable process unit or group of process units is less than 2 percent leaking valves and so indicate the performance in the next Periodic Report. If the overall performance of total valves in the applicable process unit or group of process units is 2 percent leaking valves or greater, the owner or operator shall no longer subgroup and shall revert to the program required in paragraphs (b)(1) through (b)(3) of this section for that applicable process unit or group of process units. An owner or operator can again elect to comply with the valve subgrouping procedures of paragraph (b)(4) of this section if future overall performance of total valves in the process unit or group of process units is again less than 2 percent. The overall performance of total valves in the applicable process unit or group of process units shall be calculated as a weighted average of the percent leaking valves of each subgroup according to Equation number 1:

$$\%V_{LO} = \frac{\sum_{i=1}^{n}\left(\%V_{Li} \times V_i\right)}{\sum_{i=1}^{n} V_i} \qquad \text{[Eq. 1]}$$

where:

$\%V_{LO}$ = Overall performance of total valves in the applicable process unit or group of process units

$\%V_{Li}$ = Percent leaking valves in subgroup i, most recent value calculated according to the procedures in paragraphs (c)(1)(ii) and (c)(2) of this section.

V_i = Number of valves in subgroup i.

n = Number of subgroups.

(iv) The owner or operator shall maintain records specified in paragraphs (b)(4)(iv)(A) through (b)(4)(iv)(D) of this section.

(A) Which valves are assigned to each subgroup,

(B) Monitoring results and calculations made for each subgroup for each monitoring period,

(C) Which valves are reassigned, the last monitoring result prior to reassignment, and when they were reassigned, and

(D) The results of the semiannual overall performance calculation required in paragraph (b)(4)(iii) of this section.

(v) The owner or operator shall notify the Administrator no later than 30 days prior to the beginning of the next monitoring period of the decision to subgroup valves. The notification shall identify the participating process units and the number of valves assigned to each subgroup, if applicable, and may be included in the next Periodic Report.

(vi) The owner or operator shall submit in the periodic reports the information specified in paragraphs (b)(4)(vi)(A) and (b)(4)(vi)(B).

(A) Total number of valves in each subgroup, and

(B) Results of the semiannual overall performance calculation required by paragraph (b)(4)(iii) of this section.

(vii) To determine the monitoring frequency for each subgroup, the calculation procedures of paragraph (c)(2) of this section shall be used.

(viii) Except for the overall performance calculations required by paragraphs (b)(4)(i) and (iii) of this section, each subgroup shall be treated as if it were a process unit for the purposes of applying the provisions of this section.

(c) *Percent leaking valves calculation.* (1) *Calculation basis and procedures.* (i) The owner or operator shall decide no later than the compliance date of this part or upon revision of an operating permit whether to calculate percent leaking valves on a process unit or group of process units basis. Once the owner or operator has decided, all subsequent percentage calculations shall be made on the same basis and this shall be the basis used for comparison with the subgrouping criteria specified in paragraph (b)(4)(i) of this section.

(ii) The percent leaking valves for each monitoring period for each process unit or valve subgroup, as provided in paragraph (b)(4) of this section, shall be calculated using the following equation:

$$\%V_L = \left(V_L / V_T\right) \times 100 \qquad \text{[Eq. 2]}$$

where:

$\%V_L$ = Percent leaking valves.

V_L = Number of valves found leaking, excluding nonrepairable valves, as provided in paragraph (c)(3) of this section, and including those valves found leaking pursuant to paragraphs (d)(2)(iii)(A) and (d)(2)(iii)(B) of this section.

V_T = The sum of the total number of valves monitored.

(2) *Calculation for monitoring frequency.* When determining monitoring frequency for each process unit or valve subgroup subject to monthly, quarterly, or semiannual monitoring frequencies, the percent leaking valves shall be the arithmetic average of the percent leaking valves from the last two monitoring periods. When determining monitoring frequency for each process unit or valve subgroup subject to annual or biennial (once every 2 years) monitoring frequencies, the percent leaking valves shall be the arithmetic average of the percent leaking valves from the last three monitoring periods.

(3) *Nonrepairable valves.* (i) Nonrepairable valves shall be included in the calculation of percent leaking valves the first time the valve is identified as leaking and nonrepairable and as required to comply with paragraph (c)(3)(ii) of this section. Otherwise, a number of nonrepairable valves (identified and included in the percent leaking valves calculation in a previous period) up to a maximum of 1 percent of the total number of valves in regulated material service at a process unit or affected facility may be excluded from calculation of percent leaking valves for subsequent monitoring periods.

(ii) If the number of nonrepairable valves exceeds 1 percent of the total number of valves in regulated material service at a process unit or affected facility, the number of nonrepairable valves exceeding 1 percent of the total number of valves in regulated material service shall be included in the calculation of percent leaking valves.

(d) *Leak repair.* (1) If a leak is determined pursuant to paragraph (b), (e)(1), or (e)(2) of this section, then the leak shall be repaired using the procedures in § 63.1024, as applicable.

(2) After a leak has been repaired, the valve shall be monitored at least once within the first 3 months after its repair. The monitoring required by this paragraph is in addition to the monitoring required to satisfy the definition of repaired and first attempt at repair.

(i) The monitoring shall be conducted as specified in § 63.1023(b) and (c) of this section, as appropriate, to determine whether the valve has resumed leaking.

(ii) Periodic monitoring required by paragraph (b) of this section may be used to satisfy the requirements of this paragraph, if the timing of the monitoring period coincides with the time specified in this paragraph. Alternatively, other monitoring may be performed to satisfy the requirements of this paragraph, regardless of whether the timing of the monitoring period for periodic monitoring coincides with the time specified in this paragraph.

(iii) If a leak is detected by monitoring that is conducted pursuant to paragraph (d)(2) of this section, the owner or operator shall follow the provisions of paragraphs (d)(2)(iii)(A) and (d)(2)(iii)(B) of this section, to determine whether that valve must be counted as a leaking valve for purposes of paragraph (c)(1)(ii) of this section.

(A) If the owner or operator elected to use periodic monitoring required by paragraph (b) of this section to satisfy the requirements of paragraph (d)(2) of this section, then the valve shall be counted as a leaking valve.

(B) If the owner or operator elected to use other monitoring, prior to the periodic monitoring required by paragraph (b) of this section, to satisfy the requirements of paragraph (d)(2) of this section, then the valve shall be counted as a leaking valve unless it is repaired and shown by periodic monitoring not to be leaking.

(e) *Special provisions for valves.* (1) *Unsafe-to-monitor valves.* Any valve that is designated, as described in § 63.1022(c)(1), as an unsafe-to-monitor valve is exempt from the requirements of paragraphs (b) and (d)(2) of this section and the owner or operator shall monitor the valve according to the written plan specified in § 63.1022(c)(4).

(2) *Difficult-to-monitor valves.* Any valve that is designated, as described in § 63.1022(c)(2), as a difficult-to-monitor valve is exempt from the requirements

of paragraph (b) of this section and the owner or operator shall monitor the valve according to the written plan specified in § 63.1022(c)(4).

(3) *Fewer than 250 valves.* Any equipment located at a plant site with fewer than 250 valves in regulated material service is exempt from the requirements for monthly monitoring specified in paragraph (b)(3)(i) of this section. Instead, the owner or operator shall monitor each valve in regulated material service for leaks once each quarter, as provided in paragraphs (e)(1) and (e)(2) of this section.

§ 63.1026 Pumps in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Leak detection.* Unless otherwise specified in § 63.1021(b), § 63.1036, § 63.1037, or paragraph (e) of this section, the owner or operator shall monitor each pump to detect leaks and shall comply with all other provisions of this section.

(1) *Monitoring method and frequency.* The pumps shall be monitored monthly to detect leaks by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(2) *Instrument reading that defines a leak.* The instrument reading that defines a leak is specified in paragraphs (b)(2)(i) through (b)(2)(iii) of this section.

(i) 5,000 parts per million or greater for pumps handling polymerizing monomers;

(ii) 2,000 parts per million or greater for pumps in food/medical service; and

(iii) 1,000 parts per million or greater for all other pumps.

(3) *Leak repair exception.* For pumps to which a 1,000 parts per million leak definition applies, repair is not required unless an instrument reading of 2,000 parts per million or greater is detected.

(4) *Visual inspection.* Each pump shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. The owner or operator shall document that the inspection was conducted and the date of the inspection. If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (b)(4)(i) or (b)(4)(ii) of this section.

(i) The owner or operator shall monitor the pump as specified in § 63.1023(b) and, as applicable, § 63.1023(c). If the instrument reading indicates a leak as specified in paragraph (b)(2) of this section, a leak is detected and it shall be repaired using the procedures in § 63.1024, except as specified in paragraph (b)(3) of this section; or

(ii) The owner or operator shall eliminate the visual indications of liquids dripping.

(c) *Percent leaking pumps calculation. (1) The owner or operator shall decide no later than the compliance date of this part or upon revision of an operating permit whether to calculate percent leaking pumps on a process unit basis or group of process units basis. Once the owner or operator has decided, all subsequent percentage calculations shall be made on the same basis.*

(2) If, when calculated on a 6-month rolling average, at least the greater of either 10 percent of the pumps in a process unit or three pumps in a process unit leak, the owner or operator shall implement a quality improvement program for pumps that complies with the requirements of § 63.1035.

(3) The number of pumps at a process unit or affected facility shall be the sum of all the pumps in regulated material service, except that pumps found leaking in a continuous process unit or affected facility within 1 month after start-up of the pump shall not count in the percent leaking pumps calculation for that one monitoring period only.

(4) Percent leaking pumps shall be determined by the following equation:

$$\%P_L = \left(\left(P_L - P_S\right)/\left(P_T - P_S\right)\right) \times 100 \qquad \text{[Eq. 3]}$$

Where:

$\%P_L$ = Percent leaking pumps

P_L = Number of pumps found leaking as determined through monthly monitoring as required in paragraph (b)(1) of this section. Do not include results from inspection of unsafe-to-monitor pumps pursuant to paragraph (e)(6) of this section.

P_S = Number of pumps leaking within 1 month of start-up during the current monitoring period.

P_T = Total pumps in regulated material service, including those meeting the criteria in paragraphs (e)(1), (e)(2), (e)(3), and (e)(6) of this section.

(d) *Leak repair.* If a leak is detected pursuant to paragraph (b) of this section, then the leak shall be repaired using the procedures in § 63.1024, as applicable, unless otherwise specified in paragraph (b)(5) of this section for leaks identified by visual indications of liquids dripping.

(e) *Special provisions for pumps. (1) Dual mechanical seal pumps.* Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (b) of this section, provided the requirements specified in paragraphs (e)(1)(i) through (e)(1)(viii) of this section are met.

(i) The owner or operator determines, based on design considerations and operating experience, criteria applicable to the presence and frequency of drips and to the sensor that indicates failure of the seal system, the barrier fluid system, or both. The owner or operator shall keep records at the plant of the design criteria and an explanation of the design criteria; and any changes to these criteria and the reasons for the changes. This record must be available for review by an inspector.

(ii) Each dual mechanical seal system shall meet the requirements specified in paragraph (e)(1)(ii)(A), (e)(1)(ii)(B), or (e)(1)(ii)(C) of this section.

(A) Each dual mechanical seal system is operated with the barrier fluid at a pressure that is at all times (except periods of startup, shutdown, or malfunction) greater than the pump stuffing box pressure; or

(B) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed-vent system to a control device that complies with the requirements of either § 63.1034 or § 63.1021(b) of this part; or

(C) Equipped with a closed-loop system that purges the barrier fluid into a process stream.

(iii) The barrier fluid is not in light liquid service.

(iv) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(v) Each pump is checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. The owner or operator shall document that the inspection was conducted and the date of the inspection. If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the

owner or operator shall follow the procedure specified in paragraphs (e)(1)(v)(A) or (e)(1)(v)(B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the pump as specified in § 63.1023(b) and, as applicable, § 63.1023 (c), to determine if there is a leak of regulated material in the barrier fluid. If an instrument reading of 1,000 parts per million or greater is measured, a leak is detected and it shall be repaired using the procedures in § 63.1024; or

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(vi) If indications of liquids dripping from the pump seal exceed the criteria established in paragraph (e)(1)(i) of this section, or if based on the criteria established in paragraph (e)(1)(i) of this section the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(vii) Each sensor as described in paragraph (e)(1)(iv) of this section is observed daily or is equipped with an alarm unless the pump is located within the boundary of an unmanned plant site.

(viii) When a leak is detected pursuant to paragraph (e)(1)(vi) of this section, it shall be repaired as specified in § 63.1024.

(2) *No external shaft.* Any pump that is designed with no externally actuated shaft penetrating the pump housing is exempt from the requirements of paragraph (b) of this section.

(3) *Routed to a process or fuel gas system or equipped with a closed vent system.* Any pump that is routed to a process or fuel gas system or equipped with a closed vent system capable of capturing and transporting leakage from the pump to a control device meeting the requirements of § 63.1034 of this part or § 63.1021(b) is exempt from the requirements of paragraph (b) of this section.

(4) *Unmanned plant site.* Any pump that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (b)(4) and (e)(1)(v) of this section, and the daily requirements of paragraph (e)(1)(vii) of this section, provided that each pump is visually inspected as often as practical and at least monthly.

(5) *90 percent exemption.* If more than 90 percent of the pumps at a process unit or affected facility meet the criteria in either paragraph (e)(1) or (e)(2) of this section, the process unit or affected facility is exempt from the percent leaking calculation in paragraph (c) of this section.

(6) *Unsafe-to-monitor pumps.* Any pump that is designated, as described in § 63.1022(c)(1)(ii), as an unsafe-to-monitor pump is exempt from the requirements of paragraph (b) of this section and the requirements of § 63.1024 and the owner or operator shall monitor the pump according to the written plan specified in § 63.1022(c)(4)

§ 63.1027 Connectors in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall monitor all connectors in each process unit initially for leaks by the later of either 12 months after the compliance date as specified in a referencing subpart or 12 months after initial startup. If all connectors in each process unit have been monitored for leaks prior to the compliance date specified in the referencing subpart, no initial monitoring is required provided either no process changes have been made since the monitoring or the owner or operator can determine that the results of the monitoring, with or without adjustments, reliably demonstrate compliance despite process changes. If required to monitor because of a process change, the owner or operator is required to monitor only those connectors involved in the process change.

(b) *Leak detection.* Except as allowed in § 63.1021(b), § 63.1036, § 63.1037, or as specified in paragraph (e) of this section, the owner or operator shall monitor all connectors in gas and vapor and light liquid service as specified in paragraphs (a) and (b)(3) of this section.

(1) *Monitoring method.* The connectors shall be monitored to detect leaks by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(2) *Instrument reading that defines a leak.* If an instrument reading greater than or equal to 500 parts per million is measured, a leak is detected.

(3) *Monitoring periods.* The owner or operator shall perform monitoring, subsequent to the initial monitoring required in paragraph (a) of this section, as specified in paragraphs (b)(3)(i) through (b)(3)(iii) of this section, and shall comply with the requirements of paragraphs (b)(3)(iv) and (b)(3)(v) of this section. The required period in which monitoring must be conducted shall be determined from paragraphs (b)(3)(i) through (b)(3)(iii) of this section using the monitoring results from the preceding monitoring period. The percent leaking connectors shall be calculated as specified in paragraph (c) of this section.

(i) If the percent leaking connectors in the process unit was greater than or equal to 0.5 percent, then monitor within 12 months (1 year).

(ii) If the percent leaking connectors in the process unit was greater than or equal to 0.25 percent but less than 0.5 percent, then monitor within 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors within 2 years of the start of the monitoring period, provided all connectors have been monitored by the end of the 4 year monitoring period.

(iii) If the percent leaking connectors in the process unit was less than 0.25 percent, then monitor as provided in paragraph (b)(3)(iii)(A) of this section and either paragraph (b)(3)(iii)(B) or (b)(3)(iii)(C) of this section, as appropriate.

(A) An owner or operator shall monitor at least 50 percent of the connectors within 4 years of the start of the monitoring period.

(B) If the percent leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is greater than or equal to 0.35 percent of the monitored connectors, the owner or operator shall monitor as soon as practical, but within the next 6 months, all connectors that have not yet been monitored during the monitoring period. At the conclusion of monitoring, a new monitoring period shall be started pursuant to paragraph (b)(3) of this section, based on the percent leaking connectors of the total monitored connectors.

(C) If the percent leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is less than 0.35 percent of the monitored connectors, the owner or operator shall monitor all connectors that have not yet been monitored within 8 years of the start of the monitoring period.

(iv) If, during the monitoring conducted pursuant to paragraph (b)(3)(i) through (b)(3)(iii) of this section, a connector is found to be leaking, it shall be re-monitored once within 90 days after repair to confirm that it is not leaking.

(v) The owner or operator shall keep a record of the start date and end date of each monitoring period under this section for each process unit.

(c) *Percent leaking connectors calculation.* For use in determining the monitoring frequency, as specified in paragraphs (a) and (b)(3) of this section, the percent leaking connectors as used in paragraphs (a) and (b)(3) of this section shall be calculated by using equation number 4.

$$\%C_L = C_L / C_t \times 100 \quad \text{[Eq. 4]}$$

Where:

$\%C_L$ = Percent leaking connectors as determined through periodic monitoring required in paragraphs (a) and (b)(3)(i) through (b)(3)(iii) of this section.

C_L = Number of connectors measured at 500 parts per million or greater, by the method specified in § 63.1023(b).

C_t = Total number of monitored connectors in the process unit or affected facility.

(d) *Leak repair.* If a leak is detected pursuant to paragraphs (a) and (b) of this section, then the leak shall be repaired using the procedures in § 63.1024, as applicable.

(e) *Special provisions for connectors.* (1) *Unsafe-to-monitor connectors.* Any connector that is designated, as described in § 63.1022(c)(1), as an unsafe-to-monitor connector is exempt from the requirements of paragraphs (a) and (b) of this section and the owner or operator shall monitor according to the written plan specified in § 63.1022(c)(4).

(2) *Inaccessible, ceramic, or ceramic-lined connectors.* (i) Any connector that is inaccessible or that is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined), is exempt from the monitoring requirements of paragraphs (a) and (b) of this section, from the leak repair requirements of paragraph (d) of this section, and from the recordkeeping and reporting requirements of §§ 63.1038 and 63.1039. An inaccessible connector is one that meets any of the provisions specified in paragraphs (e)(2)(i)(A) through (e)(2)(i)(F) of this section, as applicable.

(A) Buried;

(B) Insulated in a manner that prevents access to the connector by a monitor probe;

(C) Obstructed by equipment or piping that prevents access to the connector by a monitor probe;

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold that would allow access to connectors up to 7.6 meters (25 feet) above the ground.

(E) Inaccessible because it would require elevating the monitoring personnel more than 2 meters (7 feet) above a permanent support surface or would require the erection of scaffold;

(F) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(ii) If any inaccessible, ceramic or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the visual, audible, olfactory, or other indications of a leak to the atmosphere shall be eliminated as soon as practical.

§ 63.1028 Agitators in gas and vapor service and in light liquid service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) [Reserved]

(c) *Leak detection.* (1) *Monitoring method.* Each agitator seal shall be monitored monthly to detect leaks by the methods specified in § 63.1023(b) and, as applicable, § 63.1023(c), except as provided in § 63.1021(b), § 63.1036, § 63.1037, or paragraph (e) of this section.

(2) *Instrument reading that defines a leak.* If an instrument reading equivalent of 10,000 parts per million or greater is measured, a leak is detected.

(3) *Visual inspection.* (i) Each agitator seal shall be checked by visual inspection each calendar week for indications of liquids dripping from the agitator seal. The owner or operator shall document that the inspection was conducted and the date of the inspection.

(ii) If there are indications of liquids dripping from the agitator seal, the owner or operator shall follow the procedures specified in paragraphs (c)(3)(ii)(A) or (c)(3)(ii)(B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the agitator seal as specified in § 63.1023(b) and, as applicable, § 63.1023(c), to determine if there is a leak of regulated material. If an instrument reading of 10,000 parts per million or greater is measured, a leak is detected, and it shall be repaired according to paragraph (d) of this section; or

(B) The owner or operator shall eliminate the indications of liquids dripping from the agitator seal.

(d) *Leak repair.* If a leak is detected, then the leak shall be repaired using the procedures in § 63.1024.

(e) *Special provisions for agitators.* (1) *Dual mechanical seal.* Each agitator equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (c) of this section, provided the requirements specified in paragraphs (e)(1)(i) through (e)(1)(vi) of this section are met.

(i) Each dual mechanical seal system shall meet the applicable requirements specified in paragraphs (e)(1)(i)(A), (e)(1)(i)(B), or (e)(1)(i)(C) of this section.

(A) Operated with the barrier fluid at a pressure that is at all times (except during periods of startup, shutdown, or malfunction) greater than the agitator stuffing box pressure; or

(B) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed-vent system to a control device that meets the requirements of either § 63.1034 or § 63.1021(b); or

(C) Equipped with a closed-loop system that purges the barrier fluid into a process stream.

(ii) The barrier fluid is not in light liquid service.

(iii) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(iv) Each agitator seal is checked by visual inspection each calendar week for indications of liquids dripping from the agitator seal. If there are indications of liquids dripping from the agitator seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in paragraphs (e)(1)(iv)(A) or (e)(1)(iv)(B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the agitator seal as specified in § 63.1023(b) and, as applicable, § 63.1023(c), to determine the presence of regulated material in the barrier fluid. If an instrument reading equivalent to or greater than 10,000 ppm is measured, a leak is detected and it shall be repaired using the procedures in § 63.1024, or

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(v) Each sensor as described in paragraph (e)(1)(iii) of this section is observed daily or is equipped with an alarm unless the agitator seal is located within the boundary of an unmanned plant site.

(vi) The owner or operator of each dual mechanical seal system shall meet the requirements specified in paragraphs (e)(1)(vi)(A) and (e)(1)(vi)(B).

(A) The owner or operator shall determine, based on design considerations and operating experience, criteria that indicates failure of the seal system, the barrier fluid system, or both and applicable to the presence and frequency of drips. If indications of liquids dripping from the agitator seal exceed the criteria, or if, based on the criteria the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is

detected and shall be repaired pursuant to § 63.1024, as applicable.

(B) The owner or operator shall keep records of the design criteria and an explanation of the design criteria; and any changes to these criteria and the reasons for the changes.

(2) *No external shaft.* Any agitator that is designed with no externally actuated shaft penetrating the agitator housing is exempt from paragraph (c) of this section.

(3) *Routed to a process or fuel gas system or equipped with a closed vent system.* Any agitator that is routed to a process or fuel gas system that captures and transports leakage from the agitator to a control device meeting the requirements of either § 63.1034 or § 63.1021(b) is exempt from the requirements of paragraph (c) of this section.

(4) *Unmanned plant site.* Any agitator that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (c)(3) and (e)(1)(iv) of this section, and the daily requirements of paragraph (e)(1)(v) of this section, provided that each agitator is visually inspected as often as practical and at least monthly.

(5) *Difficult-to-monitor agitator seals.* Any agitator seal that is designated, as described in § 63.1022(c)(2), as a difficult-to-monitor agitator seal is exempt from the requirements of paragraph (c) of this section and the owner or operator shall monitor the agitator seal according to the written plan specified in § 63.1022(c)(4).

(6) *Equipment obstructions.* Any agitator seal that is obstructed by equipment or piping that prevents access to the agitator by a monitor probe is exempt from the monitoring requirements of paragraph (c) of this section.

(7) *Unsafe-to-monitor agitator seals.* Any agitator seal that is designated, as described in § 63.1022(c)(1), as an unsafe-to-monitor agitator seal is exempt from the requirements of paragraph (c) of this section and the owner or operator of the agitator seal monitors the agitator seal according to the written plan specified in § 63.1022(c)(4).

§ 63.1029 Pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in liquid service; and instrumentation systems standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Leak detection.* (1) *Monitoring method.* Unless otherwise specified in §§ 63.1021(b), 63.1036, or 63.1037, the owner or operator shall comply with paragraphs (b)(1) and (b)(2) of this section. Pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in light liquid or heavy liquid service; and instrumentation systems shall be monitored within 5 calendar days by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), if evidence of a potential leak to the atmosphere is found by visual, audible, olfactory, or any other detection method, unless the potential leak is repaired as required in paragraph (c) of this section.

(2) *Instrument reading that defines a leak.* If an instrument reading of 10,000 parts per million or greater for agitators, 5,000 parts per million or greater for pumps handling polymerizing monomers, 2,000 parts per million or greater for pumps in food and medical service, or 2,000 parts per million or greater for all other pumps (including pumps in food/medical service), or 500 parts per million or greater for valves, connectors, instrumentation systems, and pressure relief devices is measured pursuant to paragraph (b)(1) of this section, a leak is detected and shall be repaired pursuant to § 63.1024, as applicable.

(c) *Leak repair.* For equipment identified in paragraph (b) of this section that is not monitored by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), repaired shall mean that the visual, audible, olfactory, or other indications of a leak to the atmosphere have been eliminated; that no bubbles are observed at potential leak sites during a leak check using soap solution; or that the system will hold a test pressure.

§ 63.1030 Pressure relief devices in gas and vapor service standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Compliance standard.* Except during pressure releases as provided for in paragraph (c) of this section, or as otherwise specified in §§ 63.1036, 63.1037, or paragraphs (d) and (e) of this section, each pressure relief device in gas and vapor service shall be operated with an instrument reading of less than 500 parts per million as measured by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(c) *Pressure relief requirements.* (1) After each pressure release, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 parts per million, as soon as practical, but no later than 5 calendar days after each pressure release, except as provided in § 63.1024(d).

(2) The pressure relief device shall be monitored no later than five calendar days after the pressure to confirm the condition indicated by an instrument reading of less than 500 parts per million above background, as measured by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(3) The owner or operator shall record the dates and results of the monitoring required by paragraph (c)(2) of this section following a pressure release including the background level measured and the maximum instrument reading measured during the monitoring.

(d) *Pressure relief devices routed to a process or fuel gas system or equipped with a closed vent system and control device.* Any pressure relief device that is routed to a process or fuel gas system or equipped with a closed vent system capable of capturing and transporting leakage from the pressure relief device to a control device meeting the requirements of § 63.1034 is exempt from the requirements of paragraphs (b) and (c) of this section.

(e) *Rupture disk exemption.* Any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of paragraphs (b) and (c) of this section provided the owner or operator installs a replacement rupture disk upstream of the pressure relief device as soon as practical after each pressure release but no later than 5 calendar days after each pressure release, except as provided in § 63.1024(d).

§ 63.1031 Compressors standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Seal system standard.* Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of process fluid to the atmosphere, except as provided in §§ 63.1021(b), 63.1036, 63.1037, and paragraphs (e) and (f) of this section. Each compressor seal system shall meet the applicable requirements specified in paragraph (b)(1), (b)(2), or (b)(3) of this section.

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure at all times (except during periods of startup, shutdown, or malfunction); or

(2) Equipped with a barrier fluid system degassing reservoir that is routed to a process or fuel gas system or connected by a closed-vent system to a control device that meets the requirements of either § 63.1034 or § 63.1021(b); or

(3) Equipped with a closed-loop system that purges the barrier fluid directly into a process stream.

(c) *Barrier fluid system.* The barrier fluid shall not be in light liquid service. Each barrier fluid system shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both. Each sensor shall be observed daily or shall be equipped with an alarm unless the compressor is located within the boundary of an unmanned plant site.

(d) *Failure criterion and leak detection.* (1) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both. If the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion, a leak is detected and shall be repaired pursuant to § 63.1024, as applicable.

(2) The owner or operator shall keep records of the design criteria and an explanation of the design criteria; and any changes to these criteria and the reasons for the changes.

(e) *Routed to a process or fuel gas system or equipped with a closed vent system.* A compressor is exempt from the requirements of paragraphs (b) through (d) of this section if it is equipped with a system to capture and transport leakage from the compressor drive shaft seal to a process or a fuel gas system or to a closed vent system that captures and transports leakage from the compressor to a control device meeting the requirements of either § 63.1034 or § 63.1021(b).

(f) *Alternative compressor standard.* (1) Any compressor that is designated, as described in § 63.1022(e), as operating with an instrument reading of less than 500 parts per million above background shall operate at all times with an instrument reading of less than 500 parts per million. A compressor so designated is exempt from the requirements of paragraphs (b) through (d) of this section if the compressor is demonstrated, initially upon designation, annually, and at other times requested by the Administrator to be operating with an instrument reading of less than 500 parts per million above background, as measured by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c).

(2) The owner or operator shall record the dates and results of each compliance test including the background level measured and the maximum instrument reading measured during each compliance test.

§ 63.1032 Sampling connection systems standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance dates specified in the referencing subpart.

(b) *Equipment requirement.* Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed vent system, except as provided in §§ 63.1021(b), 63.1036, 63.1037, or paragraph (d) of this section. Gases displaced during filling of the sample container are not required to be collected or captured.

(c) *Equipment design and operation.* Each closed-purge, closed-loop, or closed vent system as required in paragraph (b) of this section shall meet the applicable requirements specified in paragraphs (c)(1) through (c)(5) of this section.

(1) The system shall return the purged process fluid directly to a process line or to a fuel gas system that meets the requirements of either § 63.1034 or § 63.1021(b); or

(2) [Reserved]

(3) Be designed and operated to capture and transport all the purged process fluid to a control device that meets the requirements of either § 63.1034 or § 63.1021(b); or

(4) Collect, store, and transport the purged process fluid to a system or facility identified in paragraph (c)(4)(i), (c)(4)(ii), or (c)(4)(iii) of this section.

(i) A waste management unit as defined in 40 CFR 63.111 or subpart G, if the waste management unit is subject to and operating in compliance with the provisions of 40 CFR part 63, subpart G, applicable to group 1 wastewater streams. If the purged process fluid does not contain any regulated material listed in Table 9 of 40 CFR part 63, subpart G, the waste management unit need not be subject to, and operated in compliance with the requirements of 40 CFR part 63, subpart G, applicable to group 1 wastewater steams provided the facility has a National Pollution Discharge Elimination System (NPDES) permit or sends the wastewater to an NPDES-permitted facility.

(ii) A treatment, storage, or disposal facility subject to regulation under 40 CFR parts 262, 264, 265, or 266; or

(iii) A facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261.

(5) Containers that are part of a closed purge system must be covered or closed when not being filled or emptied.

(d) *In-situ sampling systems.* In-situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (b) and (c) of this section.

§ 63.1033 Open-ended valves or lines standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance date specified in the referencing subpart.

(b) *Equipment and operational requirements.* (1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in §§ 63.1021(b), 63.1036, 63.1037, and paragraphs (c) and (d) of this section. The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance. The operational provisions of paragraphs (b)(2) and (b)(3) of this section also apply.

(2) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(3) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (b)(1) of this section at all other times.

(c) *Emergency shutdown exemption.* Open-ended valves or lines in an emergency shutdown system that are designed to open automatically in the event of a process upset are exempt from the requirements of paragraph (b) of this section.

(d) *Polymerizing materials exemption.* Open-ended valves or lines containing materials that would autocatalytically polymerize or, would present an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraph (b) of this section are exempt from the requirements of paragraph (b) of this section.

§ 63.1034 Closed vent systems and control devices; or emissions routed to a fuel gas system or process standards.

(a) *Compliance schedule.* The owner or operator shall comply with this section no later than the compliance

date specified in the referencing subpart.

(b) *Compliance standard.* (1) Owners or operators routing emissions from equipment leaks to a fuel gas system or process shall comply with the provisions of subpart SS of this part, except as provided in § 63.1002(b).

(2) Owners or operators of closed vent systems and control devices used to comply with the provisions of this subpart shall comply with the provisions of subpart SS of this part and (b)(2)(i) through (b)(2)(iii) of this section, except as provided in § 63.1002(b).

(i) Nonflare control devices shall be designed and operated to reduce emissions of regulated material vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million by volume, whichever is less stringent. The 20 parts per million by volume standard is not applicable to the provisions of § 63.1016.

(ii) Enclosed combustion devices shall be designed and operated to reduce emissions of regulated material vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million by volume, on a dry basis, corrected to 3 percent oxygen, whichever is less stringent, or to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760° C (1400° F).

(iii) Flares used to comply with the provisions of this subpart shall comply with the requirements of subpart SS of this part.

§ 63.1035 Quality improvement program for pumps.

(a) *Criteria.* If, on a 6-month rolling average, at least the greater of either 10 percent of the pumps in a process unit or affected facility (or plant site) or three pumps in a process unit or affected facility (or plant site) leak, the owner or operator shall comply with the requirements specified in paragraphs (a)(1) and (a)(2) of this section.

(1) Pumps that are in food and medical service or in polymerizing monomer service shall comply with all requirements except for those specified in paragraph (d)(8) of this section.

(2) Pumps that are not in food and medical or polymerizing monomer service shall comply with all of the requirements of this section.

(b) *Exiting the QIP.* The owner or operator shall comply with the requirements of this section until the number of leaking pumps is less than the greater of either 10 percent of the pumps or three pumps, calculated as a 6-month rolling average, in the process unit or affected facility (or plant site). Once the performance level is achieved, the owner or operator shall comply with the requirements in § 63.1026.

(c) *Resumption of QIP.* If, in a subsequent monitoring period, the process unit or affected facility (or plant site) has greater than either 10 percent of the pumps leaking or three pumps leaking (calculated as a 6-month rolling average), the owner or operator shall resume the quality improvement program starting at performance trials.

(d) *QIP requirements.* The quality improvement program shall meet the requirements specified in paragraphs (d)(1) through (d)(8) of this section.

(1) The owner or operator shall comply with the requirements in § 63.1026.

(2) *Data collection.* The owner or operator shall collect the data specified in paragraphs (d)(2)(i) through (d)(2)(v) of this section and maintain records for each pump in each process unit or affected facility (or plant site) subject to the quality improvement program. The data may be collected and the records may be maintained on a process unit, affected facility, or plant site basis.

(i) Pump type (e.g., piston, horizontal or vertical centrifugal, gear, bellows); pump manufacturer; seal type and manufacturer; pump design (e.g., external shaft, flanged body); materials of construction; if applicable, barrier fluid or packing material; and year installed.

(ii) Service characteristics of the stream such as discharge pressure, temperature, flow rate, corrosivity, and annual operating hours.

(iii) The maximum instrument readings observed in each monitoring observation before repair, response factor for the stream if appropriate, instrument model number, and date of the observation.

(iv) If a leak is detected, the repair methods used and the instrument readings after repair.

(v) If the data will be analyzed as part of a larger analysis program involving data from other plants or other types of process units or affected facilities, a description of any maintenance or quality assurance programs used in the process unit or affected facility that are intended to improve emission performance.

(3) The owner or operator shall continue to collect data on the pumps as long as the process unit or affected facility (or plant site) remains in the quality improvement program.

(4) *Pump or pump seal inspection.* The owner or operator shall inspect all pumps or pump seals that exhibited frequent seal failures and were removed from the process unit or affected facility due to leaks. The inspection shall determine the probable cause of the pump seal failure or of the pump leak and shall include recommendations, as appropriate, for design changes or changes in specifications to reduce leak potential.

(5)(i) *Data analysis.* The owner or operator shall analyze the data collected to comply with the requirements of paragraph (d)(2) of this section to determine the services, operating or maintenance practices, and pump or pump seal designs or technologies that have poorer than average emission performance and those that have better than average emission performance. The analysis shall determine if specific trouble areas can be identified on the basis of service, operating conditions or maintenance practices, equipment design, or other process-specific factors.

(ii) The analysis shall also be used to determine if there are superior performing pump or pump seal technologies that are applicable to the service(s), operating conditions, or pump or pump seal designs associated with poorer than average emission performance. A superior performing pump or pump seal technology is one with a leak frequency of less than 10 percent for specific applications in the process unit, affected facility, or plant site. A candidate superior performing pump or pump seal technology is one demonstrated or reported in the available literature or through a group study as having low emission performance and as being capable of achieving less than 10 percent leaking pumps in the process unit or affected facility (or plant site).

(iii) The analysis shall include consideration of the information specified in paragraphs (d)(5)(iii)(A) through (d)(5)(iii)(C) of this section.

(A) The data obtained from the inspections of pumps and pump seals removed from the process unit or affected facility due to leaks;

(B) Information from the available literature and from the experience of other plant sites that will identify pump designs or technologies and operating conditions associated with low emission performance for specific services; and

(C) Information on limitations on the service conditions for the pump seal technology operating conditions as well as information on maintenance procedures to ensure continued low emission performance.

(iv) The data analysis may be conducted through an inter- or intra-company program (or through some combination of the two approaches) and may be for a single process unit, a plant

site, a company, or a group of process units.

(v) The first analysis of the data shall be completed no later than 18 months after the start of the quality improvement program. The first analysis shall be performed using data collected for a minimum of 6 months. An analysis of the data shall be done each year the process unit or affected facility is in the quality improvement program.

(6) *Trial evaluation program.* A trial evaluation program shall be conducted at each plant site for which the data analysis does not identify use of superior performing pump seal technology or pumps that can be applied to the areas identified as having poorer than average performance, except as provided in paragraph (d)(6)(v) of this section. The trial program shall be used to evaluate the feasibility of using in the process unit or affected facility (or plant site) the pump designs or seal technologies, and operating and maintenance practices that have been identified by others as having low emission performance.

(i) The trial evaluation program shall include on-line trials of pump seal technologies or pump designs and operating and maintenance practices that have been identified in the available literature or in analysis by others as having the ability to perform with leak rates below 10 percent in similar services, as having low probability of failure, or as having no external actuating mechanism in contact with the process fluid. If any of the candidate superior performing pump seal technologies or pumps is not included in the performance trials, the reasons for rejecting specific technologies from consideration shall be documented as required in paragraph (e)(3)(ii) of this section.

(ii) The number of pump seal technologies or pumps in the trial evaluation program shall be the lesser of 1 percent or two pumps for programs involving single process units or affected facilities and the lesser of 1 percent or five pumps for programs involving a plant site or groups of process units or affected facilities. The minimum number of pumps or pump seal technologies in a trial program shall be one.

(iii) The trial evaluation program shall specify and include documentation of the information specified in paragraphs (d)(6)(iii)(A) through (d)(6)(iii)(D) of this section.

(A) The candidate superior performing pump seal designs or technologies to be evaluated, the stages for evaluating the identified candidate pump designs or pump seal technologies, including the time period necessary to test the applicability;

(B) The frequency of monitoring or inspection of the equipment;

(C) The range of operating conditions over which the component will be evaluated; and

(D) Conclusions regarding the emission performance and the appropriate operating conditions and services for the trial pump seal technologies or pumps.

(iv) The performance trials shall initially be conducted, at least, for a 6-month period beginning not later than 18 months after the start of the quality improvement program. No later than 24 months after the start of the quality improvement program, the owner or operator shall have identified pump seal technologies or pump designs that, combined with appropriate process, operating, and maintenance practices, operate with low emission performance for specific applications in the process unit or affected facility. The owner or operator shall continue to conduct performance trials as long as no superior performing design or technology has been identified, except as provided in paragraph (d)(6)(vi) of this section. The initial list of superior emission performance pump designs or pump seal technologies shall be amended in the future, as appropriate, as additional information and experience are obtained.

(v) Any plant site with fewer than 400 valves and owned by a corporation with fewer than 100 employees shall be exempt from trial evaluations of pump seals or pump designs. Plant sites exempt from the trial evaluations of pumps shall begin the pump seal or pump replacement program at the start of the fourth year of the quality improvement program.

(vi) An owner or operator who has conducted performance trials on all alternative superior emission performance technologies suitable for the required applications in the process unit or affected facility may stop conducting performance trials provided that a superior performing design or technology has been demonstrated or there are no technically feasible alternative superior technologies remaining. The owner or operator shall prepare an engineering evaluation documenting the physical, chemical, or engineering basis for the judgment that the superior emission performance technology is technically infeasible or demonstrating that it would not reduce emissions.

(7) *Quality assurance program.* Each owner or operator shall prepare and implement a pump quality assurance program that details purchasing specifications and maintenance procedures for all pumps and pump seals in the process unit or affected facility. The quality assurance program may establish any number of categories, or classes, of pumps as needed to distinguish among operating conditions and services associated with poorer than average emission performance as well as those associated with better than average emission performance. The quality assurance program shall be developed considering the findings of the data analysis required under paragraph (d)(5) of this section; and, if applicable, the findings of the trial evaluation required in paragraph (d)(6) of this section; and the operating conditions in the process unit or affected facility. The quality assurance program shall be updated each year as long as the process unit or affected facility has the greater of either 10 percent or more leaking pumps or has three leaking pumps.

(i) The quality assurance program shall meet the requirements specified in paragraphs (d)(7)(i)(A) through (d)(7)(i)(D) of this section.

(A) Establish minimum design standards for each category of pumps or pump seal technology. The design standards shall specify known critical parameters such as tolerance, manufacturer, materials of construction, previous usage, or other applicable identified critical parameters;

(B) Require that all equipment orders specify the design standard (or minimum tolerances) for the pump or the pump seal;

(C) Provide for an audit procedure for quality control of purchased equipment to ensure conformance with purchase specifications. The audit program may be conducted by the owner or operator of the plant site or process unit or affected facility, or by a designated representative; and

(D) Detail off-line pump maintenance and repair procedures. These procedures shall include provisions to ensure that rebuilt or refurbished pumps and pump seals will meet the design specifications for the pump category and will operate so that emissions are minimized.

(ii) The quality assurance program shall be established no later than the start of the third year of the quality improvement program for plant sites with 400 or more valves or 100 or more employees; and no later than the start of the fourth year of the quality improvement program for plant sites with less than 400 valves and less than 100 employees.

(8) *Pump or pump seal replacement.* Three years after the start of the quality improvement program for plant sites with 400 or more valves or 100 or more employees and at the start of the fourth year of the quality improvement program for plant sites with less than 400 valves and less than 100 employees, the owner or operator shall replace, as described in paragraphs (d)(8)(i) and (d)(8)(ii) of this section, the pumps or pump seals that are not superior emission performance technology with pumps or pump seals that have been identified as superior emission performance technology and that comply with the quality assurance standards for the pump category. Superior emission performance technology is that category or design of pumps or pump seals with emission performance that when combined with appropriate process, operating, and maintenance practices, will result in less than 10 percent leaking pumps for specific applications in the process unit, affected facility, or plant site. Superior emission performance technology includes material or design changes to the existing pump, pump seal, seal support system, installation of multiple mechanical seals or equivalent, or pump replacement.

(i) Pumps or pump seals shall be replaced at the rate of 20 percent per year based on the total number of pumps in light liquid service. The calculated value shall be rounded to the nearest nonzero integer value. The minimum number of pumps or pump seals shall be one. Pump replacement shall continue until all pumps subject to the requirements of § 63.1026 are pumps determined to be superior performance technology.

(ii) The owner or operator may delay replacement of pump seals or pumps with superior technology until the next planned process unit or affected facility shutdown, provided the number of pump seals and pumps replaced is equivalent to the 20 percent or greater annual replacement rate.

(iii) The pumps shall be maintained as specified in the quality assurance program.

(e) *QIP recordkeeping.* In addition to the records required by paragraph (d)(2) of this section, the owner or operator shall maintain records for the period of the quality improvement program for the process unit or affected facility as specified in paragraphs (e)(1) through (e)(6) of this section.

(1) When using a pump quality improvement program as specified in this section, record the information specified in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(i) The rolling average percent leaking pumps.

(ii) Documentation of all inspections conducted under the requirements of paragraph (d)(4) of this section, and any recommendations for design or specification changes to reduce leak frequency.

(iii) The beginning and ending dates while meeting the requirements of paragraph (d) of this section.

(2) If a leak is not repaired within 15 calendar days after discovery of the leak, the reason for the delay and the expected date of successful repair.

(3) Records of all analyses required in paragraph (d) of this section. The records will include the information specified in paragraphs (e)(3)(i) through (e)(3)(iv) of this section.

(i) A list identifying areas associated with poorer than average performance and the associated service characteristics of the stream, the operating conditions and maintenance practices.

(ii) The reasons for rejecting specific candidate superior emission performing pump technology from performance trials.

(iii) The list of candidate superior emission performing valve or pump technologies, and documentation of the performance trial program items required under paragraph (d)(6)(iii) of this section.

(iv) The beginning date and duration of performance trials of each candidate superior emission performing technology.

(4) All records documenting the quality assurance program for pumps as specified in paragraph (d)(7) of this section, including records indicating that all pumps replaced or modified during the period of the quality improvement program are in compliance with the quality assurance.

(5) Records documenting compliance with the 20 percent or greater annual replacement rate for pumps as specified in paragraph (d)(8) of this section.

(6) Information and data to show the corporation has fewer than 100 employees, including employees providing professional and technical contracted services.

§ 63.1036 Alternative means of emission limitation: Batch processes.

(a) *General requirement.* As an alternative to complying with the requirements of §§ 63.1025 through 63.1033 and § 63.1035, an owner or operator of a batch process that operates in regulated material service during the calendar year may comply with one of the standards specified in paragraphs (b) and (c) of this section, or the owner or operator may petition for approval of an alternative standard under the provisions of § 63.1021(b). The alternative standards of this section provide the options of pressure testing or monitoring the equipment for leaks. The owner or operator may switch among the alternatives provided the change is documented as specified in paragraph (b)(7) of this section.

(b) *Pressure testing of the batch equipment.* The following requirements shall be met if an owner or operator elects to use pressure testing of batch product-process equipment to demonstrate compliance with this subpart.

(1) *Reconfiguration.* Each time equipment is reconfigured for production of a different product or intermediate, the batch product-process equipment train shall be pressure-tested for leaks before regulated material is first fed to the equipment and the equipment is placed in regulated material service.

(i) When the batch product-process equipment train is reconfigured to produce a different product, pressure testing is required only for the new or disturbed equipment.

(ii) Each batch product process that operates in regulated material service during a calendar year shall be pressure-tested at least once during that calendar year.

(iii) Pressure testing is not required for routine seal breaks, such as changing hoses or filters, that are not part of the reconfiguration to produce a different product or intermediate.

(2) *Testing procedures.* The batch product process equipment shall be tested either using the procedures specified in paragraph (b)(5) of this section for pressure vacuum loss or with a liquid using the procedures specified in paragraph (b)(6) of this section.

(3) *Leak detection.* (i) For pressure or vacuum tests using a gas, a leak is detected if the rate of change in pressure is greater than 6.9 kilopascals (1 pound per square inch gauge) in 1 hour or if there is visible, audible, or olfactory evidence of fluid loss.

(ii) For pressure tests using a liquid, a leak is detected if there are indications of liquids dripping or if there is other evidence of fluid loss.

(4) *Leak repair.* (i) If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before start-up of the process.

(ii) If a batch product-process fails the retest (the second of two consecutive pressure tests), it shall be repaired as soon as practical, but not later than 30 calendar days after the second pressure

test except as specified in paragraph (e) of this section.

(5) *Gas pressure test procedure for pressure or vacuum loss.* The procedures specified in paragraphs (b)(5)(i) through (b)(5)(v) of this section shall be used to pressure test batch product-process equipment for pressure or vacuum loss to demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section.

(i) The batch product-process equipment train shall be pressurized with a gas to a pressure less than the set pressure of any safety relief devices or valves or to a pressure slightly above the operating pressure of the equipment, or alternatively the equipment shall be placed under a vacuum.

(ii) Once the test pressure is obtained, the gas source or vacuum source shall be shut off.

(iii) The test shall continue for not less than 15 minutes unless it can be determined in a shorter period of time that the allowable rate of pressure drop or of pressure rise was exceeded. The pressure in the batch product-process equipment shall be measured after the gas or vacuum source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\Delta(P/t) = \left(\left|P_f - P_i\right|\right)/\left(t_f - t_i\right) \qquad \text{[Eq. 5]}$$

Where:

Δ (P/t) = Change in pressure, pounds per square inch gauge per hour.

P_f = Final pressure, pounds per square inch gauge.

P_i = Initial pressure, pounds per square inch gauge.

$t_f - t_i$ = Elapsed time, hours.

(iv) The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) that has a precision of ±2.5 millimeter mercury (0.10 inch of mercury) in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device. If such a pressure measurement device is not reasonably available, the owner or operator shall use a pressure measurement device with a precision of at least ± 10 percent of the test pressure of the equipment and shall extend the duration of the test for the time necessary to detect a pressure loss or rise that equals a rate of 1 pound per square inch gauge per hour (7 kilopascals per hour).

(v) An alternative procedure may be used for leak testing the equipment if the owner or operator demonstrates the alternative procedure is capable of detecting a pressure loss or rise.

(6) *Pressure test procedure using test liquid.* The procedures specified in paragraphs (b)(6)(i) through (b)(6)(iv) of this section shall be used to pressure-test batch product-process equipment using a liquid to demonstrate compliance with the requirements of paragraph (b)(3)(ii) of this section.

(i) The batch product-process equipment train, or section of the equipment train, shall be filled with the test liquid (e.g., water, alcohol) until normal operating pressure is obtained. Once the equipment is filled, the liquid source shall be shut off.

(ii) The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

(iii) Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

(iv) An alternative procedure may be used for leak testing the equipment, if the owner or operator demonstrates the alternative procedure is capable of detecting losses of fluid.

(7) *Pressure testing recordkeeping.* The owner or operator of a batch product process who elects to pressure test the batch product process equipment train to demonstrate compliance with this subpart shall maintain records of the information specified in paragraphs (b)(7)(i) through (b)(7)(v) of this section.

(i) The identification of each product, or product code, produced during the calendar year. It is not necessary to identify individual items of equipment in a batch product process equipment train.

(ii) Physical tagging of the equipment to identify that it is in regulated material service and subject to the provisions of this subpart is not required. Equipment in a batch product process subject to the provisions of this subpart may be identified on a plant site plan, in log entries, or by other appropriate methods.

(iii) The dates of each pressure test required in paragraph (b) of this section, the test pressure, and the pressure drop observed during the test.

(iv) Records of any visible, audible, or olfactory evidence of fluid loss.

(v) When a batch product process equipment train does not pass two consecutive pressure tests, the information specified in paragraphs (b)(7)(v)(A) through (b)(7)(v)(E) of this section shall be recorded in a log and kept for 2 years:

(A) The date of each pressure test and the date of each leak repair attempt.

(B) Repair methods applied in each attempt to repair the leak.

(C) The reason for the delay of repair.

(D) The expected date for delivery of the replacement equipment and the actual date of delivery of the replacement equipment; and

(E) The date of successful repair.

(c) *Equipment monitoring.* The following requirements shall be met if an owner or operator elects to monitor the equipment in a batch process to detect leaks by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), to demonstrate compliance with this subpart.

(1) The owner or operator shall comply with the requirements of §§ 63.1025 through 63.1035 as modified by paragraphs (c)(2) through (c)(4) of this section.

(2) The equipment shall be monitored for leaks by the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), when the equipment is in regulated material service or is in use with any other detectable material.

(3) The equipment shall be monitored for leaks as specified in paragraphs (c)(3)(i) through (c)(3)(iv) of this section.

(i) Each time the equipment is reconfigured for the production of a new product, the reconfigured equipment shall be monitored for leaks within 30 days of start-up of the process. This initial monitoring of reconfigured equipment shall not be included in determining percent leaking equipment in the process unit or affected facility.

(ii) Connectors shall be monitored in accordance with the requirements in § 63.1027.

(iii) Equipment other than connectors shall be monitored at the frequencies specified in table 1 to this subpart. The operating time shall be determined as the proportion of the year the batch product-process that is subject to the provisions of this subpart is operating.

(iv) The monitoring frequencies specified in paragraph (c)(3)(iii) of this section are not requirements for monitoring at specific intervals and can be adjusted to accommodate process operations. An owner or operator may monitor anytime during the specified monitoring period (e.g., month, quarter, year), provided the monitoring is conducted at a reasonable interval after completion of the last monitoring campaign. For example, if the equipment is not operating during the scheduled monitoring period, the monitoring can be done during the next period when the process is operating.

(4) If a leak is detected, it shall be repaired as soon as practical but not later than 15 calendar days after it is

detected, except as provided in paragraph (e) of this section.

(d) *Added equipment recordkeeping.* (1) For batch product-process units or affected facilities that the owner or operator elects to monitor as provided under paragraph (c) of this section, the owner or operator shall prepare a list of equipment added to batch product process units or affected facilities since the last monitoring period required in paragraphs (c)(3)(ii) and (c)(3)(iii) of this section.

(2) Maintain records demonstrating the proportion of the time during the calendar year the equipment is in use in a batch process that is subject to the provisions of this subpart. Examples of suitable documentation are records of time in use for individual pieces of equipment or average time in use for the process unit or affected facility. These records are not required if the owner or operator does not adjust monitoring frequency by the time in use, as provided in paragraph (c)(3)(iii) of this section.

(3) Record and keep pursuant to the referencing subpart and this subpart, the date and results of the monitoring required in paragraph (c)(3)(i) of this section for equipment added to a batch product-process unit or affected facility since the last monitoring period required in paragraphs (c)(3)(ii) and (c)(3)(iii) of this section. If no leaking equipment is found during this monitoring, the owner or operator shall record that the inspection was performed. Records of the actual monitoring results are not required.

(e) *Delay of repair.* Delay of repair of equipment for which leaks have been detected is allowed if the replacement equipment is not available providing the conditions specified in paragraphs (e)(1) and (e)(2) of this section are met.

(1) Equipment supplies have been depleted and supplies had been sufficiently stocked before the supplies were depleted.

(2) The repair is made no later than 10 calendar days after delivery of the replacement equipment.

(f) *Periodic report contents.* For owners or operators electing to meet the requirements of paragraph (b) of this section, the Periodic Report to be filed pursuant to § 63.1039(b) shall include the information listed in paragraphs (f)(1) through (f)(4) of this section for each process unit.

(1) Batch product process equipment train identification;

(2) The number of pressure tests conducted;

(3) The number of pressure tests where the equipment train failed the pressure test; and (4) The facts that explain any delay of repairs.

§ 63.1037 Alternative means of emission limitation: Enclosed-vented process units or affected facilities.

(a) *Use of closed vent system and control device.* Process units or affected facilities or portions of process units at affected facilities enclosed in such a manner that all emissions from equipment leaks are vented through a closed vent system to a control device or routed to a fuel gas system or process meeting the requirements of § 63.1034 are exempt from the requirements of §§ 63.1025 through 63.1033 and 63.1035. The enclosure shall be maintained under a negative pressure at all times while the process unit or affected facility is in operation to ensure that all emissions are routed to a control device.

(b) *Recordkeeping.* Owners and operators choosing to comply with the requirements of this section shall maintain the records specified in paragraphs (b)(1) through (b)(3) of this section.

(1) Identification of the process unit(s) or affected facilities and the regulated materials they handle.

(2) A schematic of the process unit or affected facility, enclosure, and closed vent system.

(3) A description of the system used to create a negative pressure in the enclosure to ensure that all emissions are routed to the control device.

§ 63.1038 Recordkeeping requirements.

(a) *Recordkeeping system.* An owner or operator of more than one regulated source subject to the provisions of this subpart may comply with the recordkeeping requirements for these regulated sources in one recordkeeping system. The recordkeeping system shall identify each record by regulated source and the type of program being implemented (e.g., quarterly monitoring, quality improvement) for each type of equipment. The records required by this subpart are summarized in paragraphs (b) and (c) of this section.

(b) *General equipment leak records.* (1) As specified in § 63.1022(a) and (b), the owner or operator shall keep general and specific equipment identification if the equipment is not physically tagged and the owner or operator is electing to identify the equipment subject to this subpart through written documentation such as a log or other designation.

(2) The owner or operator shall keep a written plan as specified in § 63.1022(c)(4) for any equipment that is designated as unsafe- or difficult-to-monitor.

(3) The owner or operator shall maintain a record of the identity and an explanation as specified in § 63.1022(d)(2) for any equipment that is designated as unsafe-to-repair.

(4) As specified in § 63.1022(e), the owner or operator shall maintain the identity of compressors operating with an instrument reading of less than 500 parts per million.

(5) The owner or operator shall keep records associated with the determination that equipment is in heavy liquid service as specified in § 63.1022(f).

(6) The owner or operator shall keep records for leaking equipment as specified in § 63.1023(e)(2).

(7) The owner or operator shall keep records for leak repair as specified in § 63.1024(f) and records for delay of repair as specified in § 63.1024(d).

(c) *Specific equipment leak records.* (1) For valves, the owner or operator shall maintain the records specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(i) The monitoring schedule for each process unit as specified in § 63.1025(b)(3)(vi).

(ii) The valve subgrouping records specified in § 63.1025(b)(4)(iv), if applicable.

(2) For pumps, the owner or operator shall maintain the records specified in paragraphs (c)(2)(i) through (c)(2)(iii) of this section.

(i) Documentation of pump visual inspections as specified in § 63.1026(b)(4).

(ii) Documentation of dual mechanical seal pump visual inspections as specified in § 63.1026(e)(1)(v).

(iii) For the criteria as to the presence and frequency of drips for dual mechanical seal pumps, records of the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1026(e)(1)(i).

(3) For connectors, the owner or operator shall maintain the monitoring schedule for each process unit as specified in § 63.1027(b)(3)(v).

(4) For agitators, the owner or operator shall maintain the following records:

(i) Documentation of agitator seal visual inspections as specified in § 63.1028; and

(ii) For the criteria as to the presence and frequency of drips for agitators, the owner or operator shall keep records of the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1028(e)(1)(vi).

(5) For pressure relief devices in gas and vapor or light liquid service, the

owner or operator shall keep records of the dates and results of monitoring following a pressure release, as specified in § 63.1030(c)(3).

(6) For compressors, the owner or operator shall maintain the records specified in paragraphs (c)(6)(i) and (c)(6)(ii) of this section.

(i) For criteria as to failure of the seal system and/or the barrier fluid system, record the design criteria and explanations and any changes and the reason for the changes, as specified in § 63.1031(d)(2).

(ii) For compressors operating under the alternative compressor standard, record the dates and results of each compliance test as specified in § 63.1031(f)(2).

(7) For a pump QIP program, the owner or operator shall maintain the records specified in paragraphs (c)(7)(i) through (c)(7)(v) of this section.

(i) Individual pump records as specified in § 63.1035(d)(2).

(ii) Trial evaluation program documentation as specified in § 63.1035(d)(6)(iii).

(iii) Engineering evaluation documenting the basis for judgement that superior emission performance technology is not applicable as specified in § 63.1035(d)(6)(vi).

(iv) Quality assurance program documentation as specified in § 63.1035(d)(7).

(v) QIP records as specified in § 63.1035(e).

(8) For process units complying with the batch process unit alternative, the owner or operator shall maintain the records specified in paragraphs (c)(8)(i) and (c)(8)(ii) of this section.

(i) Pressure test records as specified in § 63.1036(b)(7).

(ii) Records for equipment added to the process unit as specified in § 63.1036(d).

(9) For process units complying with the enclosed-vented process unit alternative, the owner or operator shall maintain the records for enclosed-vented process units as specified in § 63.1037(b).

§ 63.1039 Reporting requirements.

(a) *Initial Compliance Status Report.* Each owner or operator shall submit an Initial Compliance Status Report according to the procedures in the referencing subpart. The notification shall include the information listed in paragraphs (a)(1) through (a)(3) of this section, as applicable.

(1) The notification shall provide the information listed in paragraphs (a)(1)(i) through (a)(1)(iv) of this section for each process unit or affected facility subject to the requirements of this subpart.

(i) Process unit or affected facility identification.

(ii) Number of each equipment type (e.g., valves, pumps) excluding equipment in vacuum service.

(iii) Method of compliance with the standard (e.g., ''monthly leak detection and repair'' or ''equipped with dual mechanical seals'').

(iv) Planned schedule for requirements in §§ 63.1025 and 63.1026.

(2) The notification shall provide the information listed in paragraphs (a)(2)(i) and (a)(2)(ii) of this section for each process unit or affected facility subject to the requirements of § 63.1036(b).

(i) Batch products or product codes subject to the provisions of this subpart, and

(ii) Planned schedule for pressure testing when equipment is configured for production of products subject to the provisions of this subpart.

(3) The notification shall provide the information listed in paragraphs (a)(3)(i) and (a)(3)(ii) of this section for each process unit or affected facility subject to the requirements in § 63.1037.

(i) Process unit or affected facility identification.

(ii) A description of the system used to create a negative pressure in the enclosure and the control device used to comply with the requirements of § 63.1034 of this part.

(b) *Periodic Reports.* The owner or operator shall report the information specified in paragraphs (b)(1) through (b)(8) of this section, as applicable, in the Periodic Report specified in the referencing subpart.

(1) For the equipment specified in paragraphs (b)(1)(i) through (b)(1)(v) of this section, report in a summary format by equipment type, the number of components for which leaks were detected and for valves, pumps and connectors show the percent leakers, and the total number of components monitored. Also include the number of leaking components that were not repaired as required by § 63.1024, and for valves and connectors, identify the number of components that are determined by § 63.1025(c)(3) to be nonrepairable.

(i) Valves in gas and vapor service and in light liquid service pursuant to § 63.1025(b) and (c).

(ii) Pumps in light liquid service pursuant to § 63.1026(b) and (c).

(iii) Connectors in gas and vapor service and in light liquid service pursuant to § 63.1027(b) and (c).

(iv) Agitators in gas and vapor service and in light liquid service pursuant to § 63.1028(c).

(v) Compressors pursuant to § 63.1031(d).

(2) Where any delay of repair is utilized pursuant to § 63.1024(d), report that delay of repair has occurred and report the number of instances of delay of repair.

(3) If applicable, report the valve subgrouping information specified in § 63.1025(b)(4)(iv).

(4) For pressure relief devices in gas and vapor service pursuant to § 63.1030(b) and for compressors pursuant to § 63.1031(f) that are to be operated at a leak detection instrument reading of less than 500 parts per million, report the results of all monitoring to show compliance conducted within the semiannual reporting period.

(5) Report, if applicable, the initiation of a monthly monitoring program for valves pursuant to § 63.1025(b)(3)(i).

(6) Report, if applicable, the initiation of a quality improvement program for pumps pursuant to § 63.1035.

(7) Where the alternative means of emissions limitation for batch processes is utilized, report the information listed in § 63.1036(f).

(8) Report the information listed in paragraph (a) of this section for the Initial Compliance Status Report for process units or affected facilities with later compliance dates. Report any revisions to items reported in an earlier Initial Compliance Status Report if the method of compliance has changed since the last report.

TABLE 1 TO SUBPART UU.—BATCH PROCESSES MONITORING FREQUENCY FOR EQUIPMENT OTHER THAN CONNECTORS

Operating time (% of year)	Equivalent continuous process monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
0 to <25%	Quarterly	Annually	Annually.
25 to <50%	Quarterly	Semiannually	Annually.
50 to <75%	Bimonthly	Three times	Semiannually.

TABLE 1 TO SUBPART UU.—BATCH PROCESSES MONITORING FREQUENCY FOR EQUIPMENT OTHER THAN CONNECTORS—Continued

Operating time (% of year)	Equivalent continuous process monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
75 to 100%	Monthly	Quarterly	Semiannually.

5. Part 63 is amended by adding subpart WW, consisting of §§ 63.1060 through 63.1066, to read as follows.

Subpart WW—National Emission Standards for Storage Vessels (Tanks)—Control Level 2

Sec.
63.1060 Applicability.
63.1061 Definitions.
63.1062 Storage vessel control requirements.
63.1063 Floating roof requirements.
63.1064 Alternative means of emission limitation.
63.1065 Recordkeeping requirements.
63.1066 Reporting requirements.

Subpart WW—National Emission Standards for Storage Vessels (Tanks)—Control Level 2

§ 63.1060 Applicability.

The provisions of this subpart apply to the control of air emissions from storage vessels for which another subpart references the use of this subpart for such air emission control. These air emission standards for storage vessels are placed here for administrative convenience and only apply to those owners and operators of facilities subject to a referencing subpart. The provisions of subpart A (General Provisions) of this part do not apply to this subpart except as noted in the referencing subpart.

§ 63.1061 Definitions.

All terms used in this subpart shall have the meaning given them in the Act and in this section.

Capacity means the volume of liquid that is capable of being stored in a vessel, determined by multiplying the vessel's internal cross-sectional area by the internal height of the shell.

Deck cover means a device which covers an opening in a floating roof deck. Some deck covers move horizontally relative to the deck (i.e., a sliding cover).

Empty or *emptying* means the partial or complete removal of stored liquid from a storage vessel. Storage vessels that contain liquid only as wall or bottom clingage, or in pools due to bottom irregularities, are considered completely empty.

External floating roof or *EFR* means a floating roof located in a storage vessel without a fixed roof.

Fill or *filling* means the introduction of liquid into a storage vessel, but not necessarily to capacity.

Fixed roof means a roof that is mounted (i.e., permanently affixed) on a storage vessel and that does not move with fluctuations in stored liquid level.

Flexible fabric sleeve seal means a seal made of an elastomeric fabric (or other material) which covers an opening in a floating roof deck, and which allows the penetration of a fixed roof support column. The seal is attached to the rim of the deck opening and extends to the outer surface of the column. The seal is draped (but does not contact the stored liquid) to allow the horizontal movement of the deck relative to the column.

Floating roof means a roof that floats on the surface of the liquid in a storage vessel. A floating roof substantially covers the stored liquid surface (but is not necessarily in contact with the entire surface), and is comprised of a deck, a rim seal, and miscellaneous deck fittings.

Initial fill or *initial filling means* the first introduction of liquid into a storage vessel that is either newly constructed or has not been in liquid service for a year or longer.

Internal floating roof or *IFR* means a floating roof located in a storage vessel with a fixed roof. For the purposes of this subpart, an external floating roof located in a storage vessel to which a fixed roof has been added is considered to be an internal floating roof.

Liquid-mounted seal means a resilient or liquid-filled rim seal designed to contact the stored liquid.

Mechanical shoe seal or *metallic shoe seal* means a rim seal consisting of a band of metal (or other suitable material) as the sliding contact with the wall of the storage vessel, and a fabric seal to close the annular space between the band and the rim of the floating roof deck. The band is typically formed as a series of sheets (shoes) that are overlapped or joined together to form a ring. The lower end of the band extends into the stored liquid.

Pole float means a float located inside a guidepole that floats on the surface of the stored liquid. The rim of the float has a wiper or seal that extends to the inner surface of the pole.

Pole sleeve means a device which extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening. The sleeve extends into the stored liquid.

Pole wiper means a seal that extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening.

Referencing subpart means the subpart that refers an owner or operator to this subpart.

Rim seal means a device attached to the rim of a floating roof deck that spans the annular space between the deck and the wall of the storage vessel. When a floating roof has only one such device, it is a primary seal; when there are two seals (one mounted above the other), the lower seal is the primary seal and the upper seal is the secondary seal.

Slotted guidepole means a guidepole or gaugepole that has slots or holes through the wall of the pole. The slots or holes allow the stored liquid to flow into the pole at liquid levels above the lowest operating level.

Storage vessel or *Tank* means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support and is designed to hold an accumulation of liquids or other materials.

Vapor-mounted seal means a rim seal designed not to be in contact with the stored liquid. Vapor-mounted seals may include, but are not limited to, resilient seals and flexible wiper seals.

§ 63.1062 Storage vessel control requirements.

(a) For each storage vessel to which this subpart applies, the owner or operator shall comply with one of the requirements listed in paragraphs (a)(1) through (a)(3) of this section.

(1) Operate and maintain an IFR.

(2) Operate and maintain an EFR.

(3) *Equivalent requirements.* Comply with an equivalent to the requirements

in paragraph (a)(1) or (a)(2) of this section, as provided in § 63.1064.

(b) [Reserved]

§ 63.1063 Floating roof requirements.

The owner or operator who elects to use a floating roof to comply with the requirements of § 63.1062 shall comply with the requirements in paragraphs (a) through (e) of this section.

(a) *Design requirements.* (1) *Rim seals.* (i) *Internal floating roof.* An IFR shall be equipped with one of the seal configurations listed in paragraphs (a)(1)(i)(A) through (a)(1)(i)(C) of this section.

(A) A liquid-mounted seal.

(B) A mechanical shoe seal.

(C) Two seals mounted one above the other. The lower seal may be vapor-mounted.

(D) If the IFR is equipped with a vapor-mounted seal as of the proposal date for a referencing subpart, paragraphs (a)(1)(i)(A) through (a)(1)(i)(C) of this section do not apply until the next time the storage vessel is completely emptied and degassed, or 10 years after promulgation of the referencing subpart, whichever occurs first.

(ii) *External floating roof.* An EFR shall be equipped with one of the seal configurations listed in paragraphs (a)(1)(ii)(A) and (a)(1)(ii)(B) of this section.

(A) A liquid-mounted seal and a secondary seal.

(B) A mechanical shoe seal and a secondary seal. The upper end of the shoe(s) shall extend a minimum of 61 centimeters (24 inches) above the stored liquid surface.

(C) If the EFR is equipped with a liquid-mounted seal or mechanical shoe seal, or a vapor-mounted seal and secondary seal, as of the proposal date for a referencing subpart, the seal options specified in paragraphs (a)(1)(ii)(A) and (a)(1)(ii)(B) of this section do not apply until the next time the storage vessel is completely emptied and degassed, or 10 years after the promulgation date of the referencing subpart, whichever occurs first.

(2) *Deck fittings.* Openings through the deck of the floating roof shall be equipped as described in paragraphs (a)(2)(i) through (a)(2)(viii) of this section.

(i) Each opening except those for automatic bleeder vents (vacuum breaker vents) and rim space vents shall have its lower edge below the surface of the stored liquid.

(ii) Each opening except those for automatic bleeder vents (vacuum breaker vents), rim space vents, leg sleeves, and deck drains shall be equipped with a deck cover. The deck cover shall be equipped with a gasket between the cover and the deck.

(iii) Each automatic bleeder vent (vacuum breaker vent) and rim space vent shall be equipped with a gasketed lid, pallet, flapper, or other closure device.

(iv) Each opening for a fixed roof support column may be equipped with a flexible fabric sleeve seal instead of a deck cover.

(v) Each opening for a sample well or deck drain (that empties into the stored liquid) may be equipped with a slit fabric seal or similar device that covers at least 90 percent of the opening, instead of a deck cover.

(vi) Each cover on access hatches and gauge float wells shall be designed to be bolted or fastened when closed.

(vii) Each opening for an unslotted guidepole shall be equipped with a pole wiper, and each unslotted guidepole shall be equipped with a gasketed cap on the top of the guidepole.

(viii) Each opening for a slotted guidepole shall be equipped with one of the control device configurations specified in paragraphs (a)(2)(viii)(A) and (a)(2)(viii)(B) of this section.

(A) A pole wiper and a pole float. The wiper or seal of the pole float shall be at or above the height of the pole wiper.

(B) A pole wiper and a pole sleeve.

(ix) If the floating roof does not meet the requirements listed in paragraphs (a)(2)(i) through (a)(2)(viii) of this section as of the proposal date of the referencing subpart, these requirements do not apply until the next time the vessel is completely emptied and degassed, or 10 years after the promulgation date of the referencing subpart, whichever occurs first.

(b) *Operational requirements.* (1) The floating roof shall float on the stored liquid surface at all times, except when the floating roof is supported by its leg supports or other support devices (e.g., hangers from the fixed roof).

(2) When the storage vessel is storing liquid, but the liquid depth is insufficient to float the floating roof, the process of filling to the point of refloating the floating roof shall be continuous and shall be performed as soon as practical.

(3) Each cover over an opening in the floating roof, except for automatic bleeder vents (vacuum breaker vents) and rim space vents, shall be closed at all times, except when the cover must be open for access.

(4) Each automatic bleeder vent (vacuum breaker vent) and rim space vent shall be closed at all times, except when required to be open to relieve excess pressure or vacuum, in accordance with the manufacturer's design.

(5) Each unslotted guidepole cap shall be closed at all times except when gauging the liquid level or taking liquid samples.

(c) *Inspection frequency requirements.* (1) *Internal floating roofs.* Internal floating roofs shall be inspected as specified in paragraph (d)(1) of this section before the initial filling of the storage vessel. Subsequent inspections shall be performed as specified in paragraph (c)(1)(i) or (c)(1)(ii) of this section.

(i) Internal floating roofs shall be inspected as specified in paragraphs (c)(1)(i)(A) and (c)(1)(i)(B) of this section.

(A) At least once per year the IFR shall be inspected as specified in paragraph (d)(2) of this section.

(B) Each time the storage vessel is completely emptied and degassed, or every 10 years, whichever occurs first, the IFR shall be inspected as specified in paragraph (d)(1) of this section.

(ii) Instead of the inspection frequency specified in paragraph (c)(1)(i) of this section, internal floating roofs with two rim seals may be inspected as specified in paragraph (d)(1) of this section each time the storage vessel is completely emptied and degassed, or every 5 years, whichever occurs first.

(2) *External floating roofs.* External floating roofs shall be inspected as specified in paragraphs (c)(2)(i) through (c)(2)(iv) of this section.

(i) Within 90 days after the initial filling of the storage vessel, the primary and secondary rim seals shall be inspected as specified in paragraph (d)(3) of this section.

(ii) The secondary seal shall be inspected at least once every year, and the primary seal shall be inspected at least every 5 years, as specified in paragraph (d)(3) of this section.

(iii) Each time the storage vessel is completely emptied and degassed, or every 10 years, whichever occurs first, the EFR shall be inspected as specified in paragraph (d)(1) of this section.

(iv) If the owner or operator determines that it is unsafe to perform the floating roof inspections specified in paragraphs (c)(2)(i) and (c)(2)(ii) of this section, the owner or operator shall comply with the requirements of paragraph (c)(2)(iv)(A) or (c)(2)(iv)(B) of this section.

(A) The inspections shall be performed no later than 30 days after the determination that the floating roof is unsafe.

(B) The storage vessel shall be removed from liquid service no later

than 45 days after determining the floating roof is unsafe. If the vessel cannot be emptied within 45 days, the owner or operator may utilize up to two extensions of up to 30 additional days each. If the vessel cannot be emptied within 45 days, the owner or operator may utilize up to two extensions of up to 30 additional days each. Documentation of a decision to use an extension shall include an explanation of why it was unsafe to perform the inspection, documentation that alternative storage capacity is unavailable, and a schedule of actions that will ensure that the vessel will be emptied as soon as practical.

(d) *Inspection procedure requirements.* Floating roof inspections shall be conducted as specified in paragraphs (d)(1) through (d)(3) of this section, as applicable. If a floating roof fails an inspection, the owner or operator shall comply with the repair requirements of paragraph (e) of this section.

(1) Floating roof (IFR and EFR) inspections shall be conducted by visually inspecting the floating roof deck, deck fittings, and rim seals from within the storage vessel. The inspection may be performed entirely from the top side of the floating roof, as long as there is visual access to all deck components specified in paragraph (a) of this section. Any of the conditions described in paragraphs (d)(1)(i) through (d)(1)(v) of this section constitutes inspection failure.

(i) Stored liquid on the floating roof.

(ii) Holes or tears in the primary or secondary seal (if one is present).

(iii) Floating roof deck, deck fittings, or rim seals that are not functioning as designed (as specified in paragraph (a) of this section).

(iv) Failure to comply with the operational requirements of paragraph (b) of this section.

(v) Gaps of more than 0.32 centimeters (⅛ inch) between any deck fitting gasket, seal, or wiper (required by paragraph (a) of this section) and any surface that it is intended to seal.

(2) Tank-top inspections of IFR's shall be conducted by visually inspecting the floating roof deck, deck fittings, and rim seal through openings in the fixed roof. Any of the conditions described in paragraphs (d)(1)(i) through (d)(1)(iv) of this section constitutes inspection failure. Identification of holes or tears in the rim seal is required only for the seal that is visible from the top of the storage vessel.

(3) Seal gap inspections for EFR's shall determine the presence and size of gaps between the rim seals and the wall of the storage vessel by the procedures specified in paragraph (d)(3)(i) of this section. Any exceedance of the gap requirements specified in paragraphs (d)(3)(ii) and (d)(3)(iii) of this section constitutes inspection failure.

(i) Rim seals shall be measured for gaps at one or more levels while the EFR is floating, as specified in paragraphs (d)(3)(i)(A) through (d)(3)(i)(F) of this section.

(A) The inspector shall hold a 0.32 centimeter (⅛ inch) diameter probe vertically against the inside of the storage vessel wall, just above the rim seal, and attempt to slide the probe down between the seal and the vessel wall. Each location where the probe passes freely (without forcing or binding against the seal) between the seal and the vessel wall constitutes a gap.

(B) The length of each gap shall be determined by inserting the probe into the gap (vertically) and sliding the probe along the vessel wall in each direction as far as it will travel freely without binding between the seal and the vessel wall. The circumferential length along which the probe can move freely is the gap length.

(C) The maximum width of each gap shall be determined by inserting probes of various diameters between the seal and the vessel wall. The smallest probe diameter should be 0.32 centimeter, and larger probes should have diameters in increments of 0.32 centimeter. The diameter of the largest probe that can be inserted freely anywhere along the length of the gap is the maximum gap width.

(D) The average width of each gap shall be determined by averaging the minimum gap width (0.32 centimeter) and the maximum gap width.

(E) The area of a gap is the product of the gap length and average gap width.

(F) The ratio of accumulated area of rim seal gaps to storage vessel diameter shall be determined by adding the area of each gap, and dividing the sum by the nominal diameter of the storage vessel. This ratio shall be determined separately for primary and secondary rim seals.

(ii) The ratio of seal gap area to vessel diameter for the primary seal shall not exceed 212 square centimeters per meter of vessel diameter (10 square inches per foot of vessel diameter), and the maximum gap width shall not exceed 3.81 centimeters (1.5 inches).

(iii) The ratio of seal gap area to vessel diameter for the secondary seal shall not exceed 21.2 square centimeters per meter (1 square inch per foot), and the maximum gap width shall not exceed 1.27 centimeters (0.5 inches), except when the secondary seal must be pulled back or removed to inspect the primary seal.

(e) *Repair requirements.* Conditions causing inspection failures under paragraph (d) of this section shall be repaired as specified in paragraph (e)(1) or (e)(2) of this section.

(1) If the inspection is performed while the storage vessel is not storing liquid, repairs shall be completed before the refilling of the storage vessel with liquid.

(2) If the inspection is performed while the storage vessel is storing liquid, repairs shall be completed or the vessel removed from service within 45 days. If a repair cannot be completed and the vessel cannot be emptied within 45 days, the owner or operator may use up to 2 extensions of up to 30 additional days each. Documentation of a decision to use an extension shall include a description of the failure, shall document that alternate storage capacity is unavailable, and shall specify a schedule of actions that will ensure that the control equipment will be repaired or the vessel will be completely emptied as soon as practical.

§ 63.1064 Alternative means of emission limitation.

(a) An alternate control device may be substituted for a control device specified in § 63.1063 if the alternate device has an emission factor less than or equal to the emission factor for the device specified in § 63.1063. Requests for the use of alternate devices shall be made as specified in § 63.1066(b)(3). Emission factors for the devices specified in § 63.1063 are published in EPA Report No. AP–42, Compilation of Air Pollutant Emission Factors.

(b) Tests to determine emission factors for an alternate device shall accurately simulate conditions under which the device will operate, such as wind, temperature, and barometric pressure. Test methods that can be used to perform the testing required in this paragraph include, but are not limited to, the methods listed in paragraphs (b)(1) through (b)(3) of this section.

(1) American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 19, Section 3, Part A, Wind Tunnel Test Method for the Measurement of Deck-Fitting Loss Factors for External Floating-Roof Tanks.

(2) API Manual of Petroleum Measurement Standards, Chapter 19, Section 3, Part B, Air Concentration Test Method for the Measurement of Rim Seal Loss Factors for Floating-Roof Tanks.

(3) API Manual of Petroleum Measurement Standards, Chapter 19,

Section 3, Part E, Weight Loss Test Method for the Measurement of Deck-Fitting Loss Factors for Internal Floating-Roof Tanks.

(c) An alternate combination of control devices may be substituted for any combination of rim seal and deck fitting control devices specified in § 63.1063 if the alternate combination emits no more than the combination specified in § 63.1063. The emissions from an alternate combination of control devices shall be determined using AP–42 or as specified in paragraph (b) of this section. The emissions from a combination of control devices specified in § 63.1063 shall be determined using AP–42. Requests for the use of alternate devices shall be made as specified in § 63.1066(b)(3).

§ 63.1065 Recordkeeping requirements.

The owner or operator shall keep the records required in paragraph (a) of this section for as long as liquid is stored. Records required in paragraphs (b), (c) and (d) of this section shall be kept for at least 5 years. Records shall be kept in such a manner that they can be readily accessed within 24 hours. Records may be kept in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, floppy disk, magnetic tape, or microfiche.

(a) *Vessel dimensions and capacity.* A record shall be kept of the dimensions of the storage vessel, an analysis of the capacity of the storage vessel, and an identification of the liquid stored.

(b) *Inspection results.* Records of floating roof inspection results shall be kept as specified in paragraphs (b)(1) and (b)(2) of this section.

(1) If the floating roof passes inspection, a record shall be kept that includes the information specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this section. If the floating roof fails inspection, a record shall be kept that includes the information specified in paragraphs (b)(1)(i) through (b)(1)(v) of this section.

(i) Identification of the storage vessel that was inspected.

(ii) The date of the inspection.

(iii) A description of all inspection failures.

(iv) A description of all repairs and the dates they were made.

(v) The date the storage vessel was removed from service, if applicable.

(2) A record shall be kept of EFR seal gap measurements, including the raw data obtained and any calculations performed.

(c) *Floating roof landings.* The owner or operator shall keep a record of the date when a floating roof is set on its legs or other support devices. The owner or operator shall also keep a record of the date when the roof was refloated, and the record shall indicate whether the process of refloating was continuous.

(d) An owner or operator who elects to use an extension in accordance with § 63.1063(e)(2) or § 63.1063(c)(2)(iv)(B) shall keep the documentation required by those paragraphs.

§ 63.1066 Reporting requirements.

(a) *Notification of initial startup.* If the referencing subpart requires that a notification of initial startup be filed, then the content of the notification of initial startup shall include (at a minimum) the information specified in the referencing subpart and the information specified in paragraphs (a)(1) and (a)(2) of this section.

(1) The identification of each storage vessel, its capacity and the liquid stored in the storage vessel.

(2) A statement of whether the owner or operator of the source can achieve compliance by the compliance date specified in referencing subpart.

(b) *Periodic reports.* Report the information specified in paragraphs (b)(1) through (b)(4) of this section, as applicable, in the periodic report specified in the referencing subpart.

(1) *Notification of inspection.* To provide the Administrator the opportunity to have an observer present, the owner or operator shall notify the Administrator at least 30 days before an inspection required by §§ 63.1063(d)(1) or (d)(3). If an inspection is unplanned and the owner or operator could not have known about the inspection 30 days in advance, then the owner or operator shall notify the Administrator at least 7 days before the inspection. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, the notification including the written documentation may be made in writing and sent so that it is received by the Administrator at least 7 days before the inspection. If a delegated State or local agency is notified, the owner or operator is not required to notify the Administrator. A delegated State or local agency may waive the requirement for notification of inspections.

(2) *Inspection results.* The owner or operator shall submit a copy of the inspection record (required in § 63.1065) when inspection failures occur.

(3) *Requests for alternate devices.* The owner or operator requesting the use of an alternate control device shall submit a written application including emissions test results and an analysis demonstrating that the alternate device has an emission factor that is less than or equal to the device specified in § 63.1063.

(4) Requests for extensions. An owner or operator who elects to use an extension in accordance with § 63.1063(e)(2) or § 63.1063(c)(2)(iv)(B) shall submit the documentation required by those paragraphs.

6. Part 63 is amended by adding subpart YY, consisting of §§ 63.1100 through 63.1113, to read as follows.

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

Sec.

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

§ 63.1100 Applicability.

(a) *General.* This subpart applies to source categories and affected sources specified in § 63.1103(a) through (d) of this subpart. The affected emission points, by source category, are summarized in table 1 of this section. This table also delineates the section and paragraph of the rule that directs an owner or operator of an affected source to source category-specific control, monitoring, recordkeeping, and reporting requirements.

TABLE 1 TO § 63.1100(a).—SOURCE CATEGORY MACT [a] APPLICABILITY

Source category	Storage vessels	Process vents	Transfer racks	Equipment leaks	Waste-water streams	Other	Source category MACT requirements
Acetal Resins Production	Yes	Yes	No	Yes	Yes	No	§ 63.1103(a)
Acrylic and Modacrylic Fibers Production	Yes	Yes	No	Yes	Yes	Yes [b]	§ 63.1103(b)
Hydrogen Fluoride Production	Yes	Yes	Yes	Yes	No	No	§ 63.1103(c)
Polycarbonate Production	Yes	Yes	No	Yes	Yes	No	§ 63.1103(d)

[a] Maximum achievable control technology.
[b] Fiber spinning lines using spinning solution or suspension containing acrylonitrile.

(b) *Subpart A requirements.* The following provisions of subpart A of this part (General Provisions), §§ 63.1 through 63.5, and §§ 63.12 through 63.15, apply to owners or operators of affected sources subject to this subpart.

(c) *Research and development facilities.* The provisions of this subpart do not apply to research and development facilities, consistent with section 112(b)(7) of the Act.

(d) *Primary product determination and applicability.* The primary product of a process unit shall be determined according to the procedures specified in paragraphs (d)(1) and (2) of this section. Paragraphs (d(3), (4), and (5) of this section discuss compliance for those process units operated as flexible operation units.

(1) If a process unit only manufactures one product, then that product shall represent the primary product of the process unit.

(2) If a process unit is designed and operated as a flexible operation unit, the primary product shall be determined as specified in paragraphs (d)(2)(i) or (ii) of this section based on the anticipated operations for the 5 years following the promulgation date for existing affected sources and for the first 5 years after initial startup for new affected sources.

(i) If the flexible operation unit will manufacture one product for the greatest percentage of operating time over the five-year period, then that product shall represent the primary product of the flexible operation unit.

(ii) If the flexible operation unit will manufacture multiple products equally based on operating time, then the product with the greatest production on a mass basis over the five-year period shall represent the primary product of the flexible operation unit.

(3) Once the primary product of a process unit has been determined to be a product produced by a source category subject to this subpart, the owner or operator of the affected source shall comply with the standards for the primary product production process unit.

(4) The determination of the primary product for a process unit, including the assessment of applicability of this subpart to process units that are designed and operated as flexible operation units, shall be reported in the Notification of Compliance Status Report required by § 63.1110(a)(4) when the primary product is determined to be a product produced by a source category subject to requirements under this subpart. The Notification of Compliance Status shall include the information specified in either paragraph (d)(4)(i) or (ii) of this section. If the primary product is determined to be something other than a product produced by a source category subject to requirements under this subpart, the owner or operator shall retain information, data, and analyses used to document the basis for the determination that the primary product is not produced by a source category subject to requirements under this subpart.

(i) If the process unit manufactures only one product subject to requirements under this subpart, the identity of that product.

(ii) If the process unit is designed and operated as a flexible operation unit, the information specified in paragraphs (d)(4)(ii)(A) through (C) of this section, as appropriate.

(A) The identity of the primary product.

(B) Information concerning operating time and/or production mass for each product that was used to make the determination of the primary product under paragraph (d)(2)(i) or (ii) of this section.

(5) When a flexible operation unit that is subject to this subpart is producing a product other than a product subject to this subpart, or is producing a product subject to this subpart that is not the primary product, the owner or operator shall comply with either paragraph (d)(5) (i) or (ii) of this section for each emission point.

(i) The owner or operator shall control emissions during the production of all products in accordance with the requirements for the production of the primary product. As appropriate, the owner or operator shall demonstrate that the parameter monitoring level established for the primary product is also appropriate for those periods when products other than the primary product are being produced. Documentation of this demonstration shall be submitted in the Notification of Compliance Status report required by § 63.1110(a)(4).

(ii) The owner or operator shall determine, for the production of each product, whether control is required in accordance with the applicable criteria for the primary product in § 63.1103. If control is required, the owner or operator shall establish separate parameter monitoring levels, as appropriate, for the production of each product. The parameter monitoring levels developed shall be submitted in the Notification of Compliance Status report required by § 63.1110(a)(4).

(e) *Storage vessel ownership determination.* To determine the process unit to which a storage vessel shall belong, the owner or operator shall sequentially follow the procedures specified in paragraphs (e)(1) through (8) of this section, stopping as soon as the determination is made.

(1) If a storage vessel is already subject to another subpart of this part on the date of promulgation for an affected source under the generic MACT, that storage vessel shall belong to the process unit subject to the other subpart.

(2) If a storage vessel is dedicated to a single process unit, the storage vessel shall belong to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall belong to that process unit located on the same plant site as the storage vessel that has the greatest input into or output from the storage vessel (i.e., the process unit has the predominant use of the storage vessel.)

(4) If predominant use cannot be determined for a storage vessel that is shared among process units and if only one of those process units is subject to this subpart, the storage vessel shall belong to that process unit.

(5) If predominant use cannot be determined for a storage vessel that is shared among process units and if more than one of the process units are subject to standards under this subpart that

have different primary products, then the owner or operator shall assign the storage vessel to any one of the process units sharing the storage vessel.

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the utilization that occurred during the year preceding the date of promulgation of standards for an affected source under this subpart or based on the expected utilization for the 5 years following the promulgation date of standards for an affected source under this subpart for existing affected sources, whichever is more representative of the expected operations for that storage vessel, and based on the expected utilization for the 5 years after initial startup for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status Report required by § 63.1110(a)(4). If the predominant use changes, the redetermination of predominant use shall be reported in the next Periodic Report.

(7) If the storage vessel begins receiving material from (or sending material to) another process unit; ceases to receive material from (or send material to) a process unit; or if the applicability of this subpart to a storage vessel has been determined according to the provisions of paragraphs (e)(1) through (6) of this section and there is a significant change in the use of the storage vessel that could reasonably change the predominant use, the owner or operator shall reevaluate the applicability of this subpart to the storage vessel.

(8) Where a storage vessel is located at a major source that includes one or more process units that place material into, or receive materials from, the storage vessel, but the storage vessel is located in a tank farm, the applicability of this subpart shall be determined according to the provisions in paragraphs (e)(8)(i) through (iii) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw material, as appropriate). With respect to any process unit, an intervening storage vessel means a storage vessel connected by hard-piping to the process unit and to the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If there is only one process unit at a major source that meets the criteria of paragraph (e)(8)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that process unit.

(iii) If there are two or more process units at the major source that meet the criteria of paragraph (e)(8)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraph (e)(6) of this section. The predominant use shall be determined among only those process units that meet the criteria of paragraph (e)(8)(i) of this section.

(f) *Recovery operation equipment ownership determination.* To determine the process unit to which recovery equipment shall belong, the owner or operator shall sequentially follow the procedures specified in paragraphs (f)(1) through (7) of this section, stopping as soon as the determination is made.

(1) If recovery operation equipment is already subject to another subpart of this part on the date standards are promulgated for an affected source, that recovery operation equipment shall belong to the process unit subject to the other subpart.

(2) If recovery operation equipment is used exclusively by a single process unit, the recovery operation shall belong to that process unit.

(3) If recovery operation equipment is shared among process units, then the recovery operation equipment shall belong to that process unit that has the greatest input into or output from the recovery operation equipment (i.e., that process unit has the predominant use of the recovery operation equipment).

(4) If predominant use cannot be determined for recovery operation equipment that is shared among process units and if one of those process units is a process unit subject to this subpart, the recovery operation equipment shall belong to the process unit subject to this subpart.

(5) If predominant use cannot be determined for recovery operation equipment that is shared among process units and if more than one of the process units are process units that have different primary products and that are subject to this subpart, then the owner or operator shall assign the recovery operation equipment to any one of those process units.

(6) If the predominant use of recovery operation equipment varies from year to year, then the predominant use shall be determined based on the utilization that occurred during the year preceding the promulgation date of standards for an affected source under this subpart or based on the expected utilization for the 5 years following the promulgation date for standards for an affected source under this subpart for existing affected sources, whichever is the more representative of the expected operations for the recovery operations equipment, and based on the expected utilization for the first 5 years after initial startup for new affected sources. This determination shall be reported in the Notification of Compliance Status Report required by § 63.1110(a)(4). If the predominant use changes, the redetermination of predominant use shall be reported in the next Periodic Report.

(7) If there is an unexpected change in the utilization of recovery operation equipment that could reasonably change the predominant use, the owner or operator shall redetermine to which process unit the recovery operation belongs by reperforming the procedures specified in paragraphs (f)(2) through (6) of this section.

(g) *Overlap with other regulations.* Paragraphs (g)(1) through (4) of this section specify the applicability of subpart YY emission point requirements when other rules may apply. Where subpart YY of this part allows an owner or operator an option to comply with one or another regulation to comply with subpart YY of this part, an owner or operator must report which regulation they choose to comply with in the Notification of Compliance Status report required by § 63.1110(a)(4).

(1) *Overlap of subpart YY with other regulations for storage vessels.* (i) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a storage vessel that is part of an existing source that is subject to the storage vessel requirements of this subpart and the storage vessel requirements of subpart G (the hazardous organic national emission standards for hazardous air pollutants (the HON)) of this part is in compliance with the requirements of this subpart if it complies with either such requirement and has notified the Administrator in the Notification of Compliance Status report required by § 63.1110(a)(4).

(ii) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a storage vessel that is part of an existing source that is subject to the storage vessel requirements of this subpart and to the storage vessel requirements of subpart Ka or Kb of part 60 is required only to comply with the storage vessel requirements of this subpart.

(2) *Overlap of subpart YY with other regulations for process vents.* After the

compliance dates specified in § 63.1102 for an affected source subject to this subpart, a process vent that is part of an existing source that is subject to the process vent requirements of this subpart and to the process vent requirements of subpart G (the HON) of this part is in compliance with this subpart if it complies with either such requirement and has notified the Administrator in the Notification of Compliance Status report required by § 63.1110(a)(4).

(3) *Overlap of subpart YY with other regulations for transfer racks.* After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a transfer rack that is part of an existing source that is subject to the transfer rack requirements of this subpart and to the transfer rack requirements of subpart G (the HON) of this part is in compliance with this subpart if it complies with either such requirement and has notified the Administrator in the Notification of Compliance Status report required by § 63.1110(a)(4).

(4) *Overlap of subpart YY with other regulations for equipment leaks.* (i) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, equipment that is part of an existing source that is subject to the equipment leak control requirements of subpart TT (National Emission Standards for Equipment Leaks—Control Level 1) pursuant to this subpart and to the equipment leak control requirements of subpart VV of part 60 or subpart V of part 61 is required only to comply with the equipment leak requirements of this subpart.

(ii) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, equipment that is part of an existing source that is subject to the equipment leak control requirements of subpart UU (National Emission Standards for Equipment Leaks—Control Level 2) of this part pursuant to this subpart and to the equipment leak control requirements of subpart H (the HON) or subpart I of this part is in compliance with the equipment leak control requirements of this subpart if it complies with either such requirement and has notified the Administrator in the Notification of Compliance Status report required by § 63.1110(a)(4).

§ 63.1101 Definitions.

All terms used in this subpart shall have the meaning given them in the Act, in 40 CFR 63.2 (General Provisions), and in this section.

Batch cycle refers to manufacturing a product from start to finish in a batch unit operation.

Batch emission episode means a discrete venting episode that may be associated with a single unit operation. A unit operation may have more than one batch emission episode per batch cycle. For example, a displacement of vapor resulting from the charging of a vessel with organic HAP will result in a discrete emission episode. If the vessel is then heated, there may also be another discrete emission episode resulting from the expulsion of expanded vapor. Both emission episodes may occur during the same batch cycle in the same vessel or unit operation. There are possibly other emission episodes that may occur from the vessel or other process equipment, depending on process operations.

Batch unit operation means a unit operation involving intermittent or discontinuous feed into equipment and, in general, involves the emptying of equipment after the batch cycle ceases and prior to beginning a new batch cycle. Mass, temperature, concentration and other properties of the process may vary with time. Addition of raw material and withdrawal of product do not simultaneously occur in a batch unit operation.

Bottoms receiver means a tank that collects distillation bottoms before the stream is sent for storage or for further downstream processing.

By compound means by individual stream components, not carbon equivalents.

Capacity means the volume of liquid that is capable of being stored in a storage vessel, determined by multiplying the vessel's internal cross-sectional area by the internal height of the shell.

Closed vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device. A closed vent system does not include the vapor collection system that is part of any tank truck or railcar or the loading arm or hose that is used for vapor return. For transfer racks, the closed vent system begins at, and includes, the first block valve on the downstream side of the loading arm or hose used to convey displaced vapors.

Combined vent stream means a combination of emission streams from continuous and/or batch unit operations.

Compliance equipment means monitoring equipment used by an owner or operator of an affected source under this subpart to demonstrate compliance with an operation or emission limit standard.

Continuous parameter monitoring system or *CPMS* means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, and that is used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters.

Continuous unit operation means a unit operation where the inputs and outputs flow continuously. Continuous unit operations typically approach steady-state conditions. Continuous unit operations typically involve the simultaneous addition of raw material and withdrawal of the product.

Control device means, with the exceptions noted below, a combustion device, recovery device, recapture device, or any combination of these devices used to comply with this subpart or a referencing subpart. For process vents from continuous unit operations at affected sources in source categories where the applicability criteria includes a TRE index value, recovery devices are not considered to be control devices. Primary condensers on steam strippers or fuel gas systems are not considered to be control devices.

Day means a calendar day.

Distillate receiver means overhead receivers, overhead accumulators, reflux drums, and condenser(s) including ejector condenser(s) associated with a distillation unit.

Distillation unit means a device or vessel in which one or more feed streams are separated into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and the vapor phases by vaporization and condensation as they approach equilibrium within the distillation unit. Distillation unit includes the distillate receiver, reboiler, and any associated vacuum pump or steam jet.

Emission point means an individual process vent, storage vessel, transfer rack, wastewater stream, kiln, fiber spinning line, equipment leak, or other point where a gaseous stream is released.

Equipment means each of the following that is subject to control under this subpart: pump, compressor, agitator, pressure relief device, sampling collection system, open-ended valve or line, valve, connector, instrumentation system, and surge control vessel and

bottoms in organic hazardous air pollutant service as defined in § 63.1103 for the applicable chemical manufacturing production unit; and any control device or system used to comply with this subpart.

Equivalent method means any method of sampling and analysis for an air pollutant that has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

Excess emissions means emissions in excess of those that would have occurred if there were no start-up, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this subpart.

Final recovery device means the last recovery device on a process vent stream from a continuous unit operation at an affected source in a source category where the applicability criteria includes a TRE index value. The final recovery device usually discharges to a combustion device, recapture device, or directly to the atmosphere.

Flexible operation unit means a process unit that manufactures different chemical products periodically by alternating raw materials or operating conditions.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous stream(s) generated by onsite operations, may blend them with other sources of gas, and transports the gaseous stream for use as a fuel gas in combustion devices or in-process combustion equipment, such as furnaces and gas turbines, either singly or in combination.

Halogens and hydrogen halides means hydrogen chloride (HCl), chlorine (Cl2), hydrogen bromide (HBr), bromine (Br2), and hydrogen fluoride (HF).

Impurity means a substance that is produced coincidentally with the primary product, or is present in a raw material. An impurity does not serve a useful purpose in the production or use of the primary product and is not isolated.

Initial startup means, for new sources, the first time the source begins production. For additions or changes not defined as a new source by this subpart, initial startup means the first time additional or changed equipment is put into operation. Initial startup does not include operation solely for testing equipment. Initial startup does not include subsequent startup (as defined in this section) of process units following malfunctions or process unit shutdowns. Except for equipment leaks, initial startup also does not include subsequent startups (as defined in this section) of process units following changes in product for flexible operation units or following recharging of equipment in batch unit operations.

Low throughput transfer rack means a transfer rack that transfers less than a total of 11.8 million liters per year of liquid containing regulated HAP.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the total organic HAP in the stored or transferred liquid at the temperature equal to the highest calendar-month average of the liquid storage or transfer temperature for liquids stored or transferred above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for liquids stored or transferred at the ambient temperature, as determined:

(1) In accordance with methods described in American Petroleum Institute Publication 2517, Evaporation Loss From External Floating-Roof Tanks (incorporated by reference as specified in § 63.14 of subpart A of this part); or

(2) As obtained from standard reference texts; or

(3) As determined by the American Society for Testing and Materials Method D2879–83 (incorporated by reference as specified in § 63.14 of subpart A of this part); or

(4) Any other method approved by the Administrator.

On-site means, with respect to records required to be maintained by this subpart, a location within a plant site that encompasses the affected source. On-site includes, but is not limited to, the affected source to which the records pertain, or central files elsewhere at the plant site.

Organic hazardous air pollutant or *organic HAP* means any organic chemicals that are also HAP.

Permitting authority means one of the following:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661) and part 71 of this chapter.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Process condenser means a condenser whose primary purpose is to recover material as an integral part of a process. The condenser must support a vapor-to-liquid phase change for periods of source equipment operation that are above the boiling or bubble point of substance(s). Examples of process condensers include distillation condensers, reflux condensers, process condensers in line prior to the vacuum source, and process condensers used in stripping or flashing operations.

Process unit means the equipment assembled and connected by pipes or ducts to process raw and/or intermediate materials and to manufacture an intended product. A process unit includes more than one unit operation. A process unit includes, but is not limited to, process vents, storage vessels, and equipment.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit, or part of a process unit during which practice or procedure it is technically feasible to clear process material from the process unit, or part of the process unit, consistent with safety constraints and during which repairs can be effected. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operational procedure that stops production from a process unit, or part of a process unit, for less than 24 hours.

(2) An unscheduled work practice or operational procedure that would stop production from a process unit, or part of a process unit, for a shorter period of time than would be required to clear the process unit, or part of the process unit, of materials and start up the unit and result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

Process vent means a piece of equipment that processes a gas stream (both batch and continuous streams) during operation of the unit within a manufacturing process unit that meets

the applicability criteria of this subpart. Process vents process gas streams that are either discharged directly to the atmosphere or are discharged to the atmosphere after diversion through a product recovery device. Process vents include vents from distillate receivers, product separators, and ejector-condensers. Process vents exclude relief valve discharges and leaks from equipment regulated under this subpart. Process vents that process gas streams containing less than or equal to 0.005 weight-percent organic HAP are not subject to the process vent requirements of this subpart.

Product means a compound or chemical which is manufactured as the intended product of the applicable production process unit as defined in § 63.1103. By-products, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.

Recapture device means an individual unit of equipment capable of and used for the purpose of recovering chemicals, but not normally for use, reuse, or sale. For example, a recapture device may recover chemicals primarily for disposal. Recapture devices include, but are not limited to, absorbers, carbon adsorbers, and condensers. For purposes of the monitoring, recordkeeping, and reporting requirements of this subpart, recapture devices are considered recovery devices.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. For purposes of the monitoring, recordkeeping, and reporting requirements of this subpart, recapture devices are considered recovery devices.

Research and development facility means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Shutdown means the cessation of operation of a regulated source and equipment required or used to comply with this subpart, or the emptying and degassing of a storage vessel. Shutdown is defined here for purposes of including, but not limited to, periodic maintenance, replacement of equipment, or repair. Shutdown does not include the routine rinsing or washing of equipment in batch operation between batches.

Startup means the setting into operation of a regulated source and/or equipment required or used to comply with this subpart. Startup includes initial startup, operation solely for testing equipment, the recharging of equipment in batch operation, and transitional conditions due to changes in product for flexible operation units.

Storage vessel or *Tank*, for the purposes of this subpart, means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) that provide structural support and is designed to hold an accumulation of liquids or other materials. Storage vessel does not include:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Bottoms receiver tanks;

(3) Surge control vessels; or

(4) Vessels storing wastewater.

Subsequent startup means any setting into operation of a regulated source and/or equipment required or used to comply with this subpart following the initial startup.

Surge control vessel means a feed drum, recycle drum, or intermediate vessel. Surge control vessels are used within a process unit (as defined in this subpart) when in-process storage, mixing, or management of flow rates or volumes is needed to assist in production of a product.

Total organic compounds or *TOC* means those compounds, excluding methane and ethane, measured according to the procedures of Method 18 or Method 25A of appendix A of part 60.

Total resource effectiveness index value or *TRE index value* means a measure of the supplemental total resource requirement per unit reduction of organic HAP associated with a process vent stream, based on vent stream flow rate, emission rate of organic HAP, net heating value, and corrosion properties (whether or not the vent stream contains halogenated compounds), as quantified by the equations given under § 63.1104(e).

Transfer rack means a single system used to fill bulk cargo tanks mounted on or in a truck or railcar. A transfer rack includes all loading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment necessary for the transfer operation. Transfer equipment and operations that are physically separate (i.e., do not share common piping, valves, and other equipment) are considered to be separate transfer racks.

Unit operation means distinct equipment used in processing, among other things, to prepare reactants, facilitate reactions, separate and purify products, and recycle materials. Equipment used for these purposes includes, but is not limited to, reactors, distillation columns, extraction columns, absorbers, decanters, dryers, condensers, and filtration equipment.

Vapor balancing system means a piping system that is designed to collect organic HAP vapors displaced from tank trucks or railcars during loading; and to route the collected organic HAP vapors to the storage vessel from which the liquid being loaded originated, or to compress collected organic HAP vapors and commingle with the raw feed of a production process unit.

§ 63.1102 Compliance schedule.

(a) *General requirements.* Affected sources, as defined in § 63.1103(a)(1)(i) for acetyl resins production; § 63.1103(b)(1)(i) for acrylic and modacrylic fiber production; § 63.1103(c)(1)(i) for hydrogen fluoride production; or § 63.1103(d)(1)(i) for polycarbonate production, shall comply with the appropriate provisions of this subpart and the subparts referenced by this subpart according to the schedule described in paragraph (a)(1) or (2) of this section, as appropriate.

(1) *Compliance dates for new and reconstructed sources.* (i) The owner or operator of a new or reconstructed affected source for which construction or reconstruction commences after October 14, 1998 that has an initial startup before the effective date of standards for an acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production affected source under this subpart shall comply with this subpart no later than the effective date of standards for the affected source.

(ii) The owner or operator of a new or reconstructed acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production affected source that has an initial startup after the effective date of standards for the affected source shall comply with this subpart upon startup of the source.

(iii) The owner or operator of an acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production affected source for which construction or reconstruction is commenced after October 14, 1998 but before the effective date of standards for the affected source

under this subpart shall comply with this subpart no later than July 1, 2002 if:

(A) The promulgated standard is more stringent than the proposed standard; and

(B) The owner or operator complies with this subpart as proposed during the 3-year period immediately after the effective date of standards for an acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production affected source.

(2) *Compliance dates for existing sources.* (i) The owner or operator of an existing acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production affected source shall comply with the requirements of this subpart within 3 years after the effective date of standards for the affected source.

(ii) The owner or operator of an acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, or polycarbonate production nonmajor source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source shall be subject to the relevant standards for existing sources under this subpart. Such sources shall comply with the relevant standard within 3 years of becoming a major source.

§ 63.1103 Source category-specific applicability, definitions, and requirements.

(a) *Acetal resins production applicability, definitions, and requirements.* (1) *Applicability.* (i) *Affected source.* For the acetal resins production source category (as defined in paragraph (a)(2) of this section), the affected source shall comprise all emission points, in combination, listed in paragraphs (a)(1)(i)(A) through (D) of this section, that are associated with an acetal resins production process unit located at a major source, as defined in section 112(a) of the Clean Air Act (Act).

(A) All storage vessels that store liquids containing organic HAP.

(B) All process vents from continuous unit operations (front end process vents and back end process vents).

(C) All wastewater streams associated with the acetal resins production process unit as defined in (a)(2) of this section.

(D) Equipment (as defined in § 63.1101 of this subpart) that contains or contacts organic HAP.

(ii) *Compliance schedule.* The compliance schedule for affected sources as defined in paragraph (a)(1)(i) of this section is specified in § 63.1102(a).

(2) *Definitions.*

Acetal resins production means the production of homopolymers and/or copolymers of alternating oxymethylene units. Acetal resins are also known as polyoxymethylenes, polyacetals, and aldehyde resins. Acetal resins are generally produced by polymerizing formaldehyde (HCHO) with the methylene functional group (CH_2) and are characterized by repeating oxymethylene units (CH_2O) in the polymer backbone.

Back end process vent means any process vent from a continuous unit operation that is not a front end process vent up to the final separation of raw materials and by-products from the stabilized polymer.

Front end process vent means any process vent from a continuous unit operation involved in the purification of formaldehyde feedstock for use in the acetal homopolymer process. All front end process vents are restricted to those vents that occur prior to the polymer reactor.

(3) *Requirements.* Table 1 of this section specifies the acetal resins production standards applicability for existing and new sources. Applicability assessment procedures and methods are specified in §§ 63.1104 through 63.1107. An owner or operator of an affected source is not required to perform tests, TRE calculations or other applicability assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113. The owner or operator must control organic HAP emissions from each affected source emission point by meeting the applicable requirements specified in table 1 of this section.

TABLE 1. TO § 63.1103(a)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACETAL RESINS PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate. . .	And if. . .	Then you must. . .
1. A storage vessel with: 34 cubic meters < capacity.	The maximum true vapor pressure of organic HAP > 17.1 kilopascals (for existing sources) or > 11.7 kilopascals (for new sources).	a. Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(1) (storage vessel requirements) of this part; or b. Comply with the requirements of subpart WW (national emission standards for storage vessels (control level 2)) of this part.
2. A front end process vent from continuous unit operations.	.....	a. Reduce emissions of total organic HAP by using a flare meeting the requirements of subpart SS of this part; or b. Reduce emissions of total organic HAP by 60 weight-percent, or reduce TOC to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part.

TABLE 1. TO § 63.1103(a)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACETAL RESINS PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate. . .	And if. . .	Then you must. . .
3. A back end process vent from continuous unit operations.	The vent stream has a a TRE[a] < 1.0	a. Reduce emissions of total organic HAP by using a flare meeting the requirements of subpart SS of this part; or b. Reduce emissions of total organic HAP by 98 weight-percent, or reduce TOC to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; or c. Achieve and maintain a TRE index value greater than 1.0.
4. A back end process vent from continuous unit operations.	1.0 ≤ TRE[a] ≤ 4.0	Monitor and keep records of equipment operating parameters specified to be monitored under subpart SS, §§ 63.990(c)(absorber, condenser, and carbon adsorber monitoring) or 63.995(c) (other noncombustion systems used as a control device monitoring) of this part.
5. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 10 weight-percent organic HAP[b], and operates ≤ 300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

a The TRE is determined according to the procedures specified in § 63.1104(j).
b The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

(b) *Acrylic and modacrylic fiber production applicability, definitions, and requirements.* (1) *Applicability.* (i) *Affected source.* For the acrylic fibers and modacrylic fibers production (as defined in paragraph (b)(2) of this section) source category, the affected source shall comprise all emission points, in combination, listed in paragraphs (b)(1)(i)(A) through (E) of this section, that are associated with a suspension or solution polymerization process unit that produces acrylic and modacrylic fiber located at a major source as defined in section 112(a) of the Act.

(A) All storage vessels that store liquid containing acrylonitrile or organic HAP.

(B) All process vents from continuous unit operations.

(C) All wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in (b)(2) of this section.

(D) Equipment (as defined in § 63.1101 of this subpart) that contains or contacts acrylonitrile or organic HAP.

(E) All acrylic and modacrylic fiber spinning lines using a spinning solution or suspension having organic acrylonitrile or organic HAP. For the purposes of implementing this paragraph, a spinning line includes the spinning solution filters, spin bath, and the equipment used downstream of the spin bath to wash, dry, or draw the spun fiber.

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (b)(1)(i) of this section, is specified in § 63.1102(a).

(2) *Definitions.*

Acrylic fiber means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 85 percent by weight of acrylonitrile units.

Acrylic and modacrylic fibers production means the production of either of the following synthetic fibers composed of acrylonitrile units:

(i) Acrylic fiber.

(ii) Modacrylic fiber.

Acrylonitrile solution polymerization means a process where acrylonitrile and comonomers are dissolved in a solvent to form a polymer solution (typically polyacrylonitrile). The polyacrylonitrile is soluble in the solvent. In contrast to suspension polymerization, the resulting reactor polymer solution (spin dope) is filtered and pumped directly to the fiber spinning process.

Acrylonitrile suspension polymerization means a polymerization process where small drops of acrylonitrile and comonomers are suspended in water in the presence of a catalyst where they polymerize under agitation. Solid beads of polymer are formed in this suspension reaction which are subsequently filtered, washed, refiltered, and dried. The beads must be subsequently redissolved in a solvent to create a spin dope prior to introduction to the fiber spinning process.

Fiber spinning line means the group of equipment and process vents associated with acrylic or modacrylic fiber spinning operations. The fiber spinning line includes (as applicable to the type of spinning process used) the blending and dissolving tanks, spinning solution filters, wet spinning units, spin bath tanks, and the equipment used downstream of the spin bath to wash, dry, or draw the spun fiber.

Modacrylic fiber means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 35 percent by weight of acrylonitrile units but less than 85 percent by weight of acrylonitrile units.

Spin dope means the liquid mixture of polymer and solvent that is fed to the spinneret to form the acrylic and modacrylic fibers.

(3) *Requirements.* An owner or operator of an affected source must comply with the requirements of paragraph (b)(3)(i) or (ii) of this section.

(i) Table 2 of this section specifies the acrylic and modacrylic fiber production

source category control requirement applicability for both existing and new sources. Applicability assessment procedures and methods are specified in §§ 63.1104 through 63.1107. An owner or operator of an affected source is not required to perform tests, or other applicability assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113. The owner or operator must control organic HAP emissions from each affected source emission point by meeting the applicable requirements specified in table 2 of this section.

TABLE 2.—TO § 63.1103(b)(3)(i)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(i) OF THIS SECTION?

If you own or operate...	And if...	Then you must...
1. A storage vessel	The stored material is acrylonitrile	a. Reduce emissions of acrylonitrile by 98 weight-percent by venting emissions through a closed vent system to any combination of control device meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(1) (storage vessel requirements) of this part, or 95 weight-percent or greater by venting through a closed vent system to a recovery device meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), § 63.993 (recovery device requirements) of this part; or b. Comply with the requirements of subpart WW (national emission standards for storage vessels (control level 2)) of this part.
2. A process vent from continuous unit operations (halogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds ≥0.45 kilograms per hour [a] and an acrylonitrile concentration ≥50 parts per million by volume [b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of acrylonitrile or TOC as specified for nonhalogenated process vents from continuous unit operations (other than by using a flare) by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction devices requirements) of this part that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per year, whichever is less stringent; or b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction devices requirements) of this part and then complying with the requirements specified for process vents from continuous unit operations (nonhalogenated).
3. A process vent from continuous unit operations (nonhalogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds <0.45 kilograms per hour [a], and an acrylonitrile concentration ≥50 parts per million by volume [b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of acrylonitrile by using a flare meeting the requirements of subpart SS, § 63.987 (flare requirements) of this part or b. Reduce emissions of acrylonitrile by 98 weight-percent, or reduce TOC to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(2) (process vent requirements) of this part.

TABLE 2.—TO § 63.1103(b)(3)(i)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(i) OF THIS SECTION?—Continued

If you own or operate...	And if...	Then you must...
4. A fiber spinning line that is a new or modified source.	The lines use a spin dope produced from either a suspension polymerization process or solution polymerization process,.	a. Reduce acrylonitrile emissions by 85 weight-percent or more. (For example, by enclosing the spinning and washing areas of the spinning line (as specified in paragraph (b)(4) of this section) and venting through a closed vent system and using any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a), of this part); or b. Reduce acrylonitrile emissions from the spinning line to less than or equal to 0.25 kilograms of acrylonitrile per megagram (0.5 pounds of acrylonitrile per ton) of acrylic and modacrylic fiber produced; or c. Reduce the AN concentration of the spin dope to less than 100 ppmw.
5. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a solution polymerization process.	Maintain records and report emissions as specified in §§ 63.1109 through 63.1110. Control of spinning line AN emissions is not required
6. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a suspension polymerization process.	a. Reduce the AN concentration of the spin dope to less than 100 ppmw [b], or b. Reduce acrylonitrile emissions from the spinning line to less than or equal to 0.025 kilograms of acrylonitrile per megagram of acrylic and modacrylic fiber produced.
7. Equipment as defined under § 63.1101	It contains or contacts ≥10 weight-percent acrylonitrile [c], and operates ≥300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

[a] The mass emission rate of halogen atoms contained in organic compounds is determined according to the procedures specified in § 63.1104(i).
[b] The percent by weight organic HAP is determined according to the procedures specified in § 63.1107.
[c] The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

(ii) The owner or operator must control organic HAP emissions from the acrylic and modacrylic fibers production facility by meeting the applicable requirements specified in table 3 of this section. The owner or operator must determine the facility acrylonitrile emission rate using the procedures specified in paragraph (b)(5) of this section. Applicability assessment procedures and methods are specified in §§ 63.1104 through 63.1107. An owner or operator of an affected source does not have to perform tests, TRE calculations or other applicability assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113.

TABLE 3. TO § 63.1103(b)(3)(ii).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(ii) OF THIS SECTION?

If you own or operate...	Then you must control total organic HAP emissions from the affected source by...
1. An acrylic and modacrylic fibers production affected source and your facility is an existing source.	Meeting all of following requirements: a. Reduce total acrylonitrile emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 1.0 kilograms (kg) of acrylonitrile per megagram (Mg) of fiber produced. b. Determine the facility acrylonitrile emission rate in accordance with the requirements specified in paragraph(b)(5) of this section.
2. An acrylic and modacrylic fibers production affected source and your facility is a new source.	Meeting all of following requirements: a. Reduce total acrylonitrile emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragaph (b)(2) of this section, and fiber spinning lines operated in the acrylic and modacrylic fibers production facility to less than or equal to 0.5 kilograms (kg) of acrylonitrile per megagram (Mg) of fiber produced.

TABLE 3. TO § 63.1103(b)(3)(ii).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(ii) OF THIS SECTION?—Continued

If you own or operate...	Then you must control total organic HAP emissions from the affected source by...
3. Equipment as defined under § 63.1101 and it contains or contacts ≥ 10 weight-percent acrylonitrile,[a] and operates ≥ 300 hours per year.	b. Determine the facility acrylonitrile emission rate in accordance with the requirements specified in paragraph (b)(5) of this section. Meeting either of the following standards for equipment leaks: a. Comply with subpart TT of this part; or b. Comply with subpart UU of this part.

[a] The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

(4) *Fiber spinning line enclosure requirements.* For an owner or operator of a new or modified source electing to comply with paragraph (b)(3)(i) of this section, the fiber spinning line enclosure must be designed and operated to meet the requirements specified in paragraphs (b)(4)(i) through (iv) of this section.

(i) The enclosure must cover the spinning and washing areas of the spinning line.

(ii) The enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure as specified in ''Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure'' in 40 CFR 52.741, Appendix B.

(iii) The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or to direct airflow into the enclosure.

(iv) The owner or operator must perform the verification procedure for the enclosure as specified in section 5.0 to ''Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure'' initially when the enclosure is first installed and, thereafter, annually.

(5) *Facility acrylonitrile emission rate determination.* For an owner or operator electing to comply with paragraph (b)(3)(ii) of this section, the facility acrylonitrile emission rate must be determined using the requirements specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) The owner or operator must prepare an initial determination of the facility acrylonitrile emission rate.

(ii) Whenever changes to the acrylic or modacrylic fiber production operations at the facility could potentially cause the facility acrylonitrile emission rate to exceed the applicable limit of kilogram of acrylonitrile per Megagram of fiber produced, the owner or operator must prepare a new determination of the facility acrylonitrile emission rate.

(iii) For each determination, the owner or operator must prepare and maintain at the facility site sufficient process data, emissions data, and any other documentation necessary to support the facility acrylonitrile emission rate calculation.

(c) *Hydrogen fluoride production applicability, definitions, and requirements.* (1) *Applicability.* (i) *Affected source.* For the hydrogen fluoride production (as defined in paragraph (c)(2) of this section) source category, the affected source shall comprise all emission points, in combination, listed in paragraphs (c)(1)(i)(A) through (D) of this section, that are associated with a hydrogen fluoride production process unit located at a major source as defined in section 112(a) of the Act.

(A) All storage vessels used to accumulate or store hydrogen fluoride.

(B) All process vents from continuous unit operations associated with hydrogen fluoride recovery and refining operations. These process vents include vents on condensers, distillation units, and water scrubbers.

(C) All transfer racks used to load hydrogen fluoride into tank trucks or railcars.

(D) Equipment in hydrogen fluoride service (as defined in paragraph (c)(2) of this section).

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (c)(1)(i) of this section, is specified in § 63.1102(a).

(2) *Definitions.*

Connector means flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purposes of this subpart.

Equipment means each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in hydrogen fluoride service; and any control devices or closed-vent systems used to comply with this subpart.

Hydrogen fluoride production means a process engaged in the production and recovery of hydrogen fluoride by reacting calcium fluoride with sulfuric acid. For the purpose of implementing this subpart, hydrogen fluoride production is not a process that produces gaseous hydrogen fluoride for direct reaction with hydrated aluminum to form aluminum fluoride (i.e., the hydrogen fluoride is not recovered as an intermediate or final product prior to reacting with the hydrated aluminum).

In hydrogen fluoride service means that a piece of equipment either contains or contacts a hydrogen fluoride process fluid (liquid or gas).

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kilopascals below ambient pressure.

Instrumentation system means a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow, etc.). Valves and connectors are the predominant type of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems.

Kiln seal means the mechanical or hydraulic seals at both ends of the kiln, designed to prevent the infiltration of moisture and air through the interface of the rotating kiln and stationary pipes and equipment attached to the kiln during normal vacuum operation of the kiln (operation at an internal pressure of at least 0.25 kilopascal [one inch of water] below ambient pressure).

Leakless pump means a pump whose seals are submerged in liquid, a magnetically-driven pump, a pump equipped with a dual mechanical seal system that includes a barrier fluid system, a canned pump, or other pump that is designed with no externally

actuated shaft penetrating the pump housing.

Open-ended valve or line means any valve, except relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the relief device. This release can be one release or a series of releases over a short time period due to a malfunction in the process.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Relief device or valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage.

Repaired for the purpose of this regulation means equipment is adjusted, or otherwise altered, to eliminate a leak identified by sensory monitoring.

Sampling connection system means an assembly of equipment within a process unit or affected facility used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Sensory monitoring means the detection of a potential leak to the atmosphere by walk-through visual, audible, or olfactory monitoring. Comprehensive component-by-component inspection is not required.

Shift means the time a shift operator normally works, typically 8 or 12 hours.

(3) *Requirements.* Table 4 of this section specifies the hydrogen fluoride production source category applicability and control requirements for both existing and new sources. The owner or operator must control hydrogen fluoride emissions from each affected source emission point as specified in table 4. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Specific monitoring, recordkeeping, and reporting requirements are specified in table 4. Minimization of emissions from startups, shutdowns, and malfunctions, including those resulting from kiln seals must be addressed in the startup, shutdown, and malfunction plan required by § 63.1111; the plan must also establish reporting and recordkeeping of such events. Procedures for approval of alternative means of emission limitations are specified in § 63.1113.

TABLE 4. TO § 63.1103(C)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A HYDROGEN FLUORIDE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage vessel	The stored material is hydrogen fluoride	Reduce emissions of hydrogen fluoride by venting displacement emissions created by normal filling or emptying activities through a closed-vent system to a recovery system or wet scrubber that is designed and operated to achieve a 99 weight-percent removal efficiency. The minimum liquid flow rate to the scrubber that achieves a 99 weight-percent removal efficiency shall be established, and may be done so by design analysis. The liquid flow rate to the scrubber shall be continuously monitored and records maintained according to § 63.996 and § 63.998(b), (c), and (d)(3) of 40 CFR subpart SS of this part. The Periodic Report specified in § 63.1110(a)(5) of this subpart shall include the information specified in § 63.999(c) of 40 CFR subpart SS of this part, as applicable.
2. A process vent from continuous unit operations.	The vent stream is from hydrogen fluoride recovery and refining vessels.	Reduce emissions of hydrogen fluoride from the process vent by venting emissions through a closed-vent system to a wet scrubber that is designed and operated to achieve a 99 weight-percent removal efficiency. Monitoring, recordkeeping, and reporting of wet scrubber operation shall be in accordance with the requirements stated above for a wet scrubber controlling hydrogen fluoride emissions from a storage vessel.

TABLE 4. TO § 63.1103(C)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A HYDROGEN FLUORIDE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
3. A transfer rack	The transfer rack is associated with bulk hydrogen fluoride liquid loading into tank trucks and rail cars.	Reduce emissions of hydrogen fluoride by venting emissions through a closed-vent system to a recovery system or wet scrubber that is designed and operated to achieve a 99 weight-percent removal efficiency. Monitoring, recordkeeping, and reporting of wet scrubber operation shall be in accordance with the requirements stated above for a wet scrubber controlling HF emissions from a storage vessel. You also must load hydrogen fluoride into only tank trucks and railcars that have a current certification in accordance with the U.S. DOT pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars; or have been demonstrated to be vapor-tight (i.e. will sustain a pressure change of not more than 750 Pascals within 5 minutes after it is pressurized to a minimum or 4,500 Pascals) within the preceding 12 months.
4. Equipment	It is in hydrogen fluoride service and operates ≥ 300 hours per year and is not in vacuum service.	Control hydrogen fluoride emissions by using leakless pumps and by implementing a sensory monitoring leak detection program. Equipment that is excluded from sensory monitoring because it operates less than 300 hours per year or is in vacuum service shall be identified by list, location, or other method and the identity shall be recorded. An owner or operator is required to perform sensory monitoring at least once every shift, but no later than within 15 days. When a leak is detected, repair must begin within one hour and be completed as soon as practical. A record shall be kept of each leak detected and repaired including: equipment identification number, date and time the leak was detected and that repair was initiated, and the date of successful repair.

(d) *Polycarbonate production applicability, definitions, and requirements.*

(1) *Applicability.*

(i) *Affected source.* For the polycarbonate production (as defined in paragraph (d)(2) of this section) source category, the affected source shall comprise all emission points, in combination, listed in paragraphs (d)(1)(i)(A) through (D) of this section, that are part of a polycarbonate production process unit located at a major source as defined in section 112(a) of the Act. For the purposes of this rule, a polycarbonate production process unit is a unit that produces polycarbonate by interfacial polymerization from bisphenols and phosgene. Phosgene production units that are associated with polycarbonate production process units are considered to be part of the polycarbonate production process. A phosgene production unit consists of the reactor in which phosgene is formed and all equipment (listed in paragraphs (d)(1)(i)(A) through (D) of this section) downstream of the reactor that provides phosgene for the production of polycarbonate. Therefore, for the purposes of this rule, such a phosgene production unit is considered to be a polycarbonate production process unit.

(A) All storage vessels that store liquids containing organic HAP.

(B) All process vents from continuous and batch unit operations.

(C) All wastewater streams.

(D) Equipment (as defined in § 63.1101 of this subpart) that contains or contacts organic HAP.

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (d)(1)(i) of this section, is specified in § 63.1102(a).

(2) *Definitions.*

Polycarbonate production means a process engaged in the production of a special class of polyester formed from any dihydroxy compound and any carbonate diester or by ester exchange. Polycarbonate may be produced by solution or emulsion polymerization, although other methods may be used. A typical method for the manufacture of polycarbonate includes the reaction of bisphenol-A with phosgene in the presence of pyridine or other catalyst to form polycarbonate. Methylene chloride or other solvents are used in this polymerization reaction.

(3) *Requirements.* Tables 5 and 6 of this section specify the applicability criteria and standards for existing and new sources within the polycarbonate production source category. The owner or operator must control organic HAP emissions from each affected source emission point by meeting the applicable requirements specified in tables 5 and 6. Applicability assessment procedures and methods are specified in §§ 63.1104 through 63.1107. An owner or operator of an affected source is not required to perform tests, TRE calculations or other applicability

assessment procedures if they opt to comply with the most stringent requirements for an applicable emission point pursuant to this subpart. General compliance, recordkeeping, and reporting requirements are specified in §§ 63.1108 through 63.1112. Procedures for approval of alternative means of emission limitations are specified in § 63.1113.

TABLE 5 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage vessel with: 75 cubic meters ≤ capacity < 151 cubic meters.	27.6 kilopascals ≤ maximum true vapor pressure of total organic HAP < 76.6 kilopascals.	Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(1) (storage vessel requirements) of this part; or comply with the requirements of subpart WW (national emission standards for storage vessels (control level 2)) of this part.
2. A storage vessel with: 151 cubic meters ≤ capacity.	The maximum true vapor pressure of total organic HAP ≥ 5.2 kilopascals.	Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part
3. A storage vessel with: 75 cubic meters ≤ capacity < 151 cubic meters.	The maximum true vapor pressure of total organic HAP ≥ 76.6 kilopascals.	Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part.
4. A process vent from continuous unit operations or a combined vent stream [a].	The vent stream has a TRE [b,c] ≤ 2.7	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part and vent emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, of this part, that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hour [d], whichever is less stringent; or
.....		b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction device requirements) of this part and reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; or
		c. Achieve and maintain a TRE index value greater than 2.7.

TABLE 5 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
5. A process vent from continuous unit operations or a combined vent stream [a].	2.7 < TRE [b,c] ≤ 4.0	Monitor and keep records of equipment operating parameters specified to be monitored under subpart SS, §§ 63.990(c) (absorber, condenser, and carbon adsorber monitoring) or 63.995(c) (other noncombustion systems used as a control device monitoring) of this part.
6. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 5 weight-percent total organic HAP [d], and operates ≥ 300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

[a] Combined vent streams shall use the applicability determination procedures and methods for process vents from continuous unit operations (§ 63.1104).

[b] The TRE equation coefficients for halogenated streams (table 1 of § 63.1104(j)(1)) shall be used to calculate the TRE index value.

[c] The TRE is determined according to the procedures specified in § 63.1104(j). If a dryer is manifolded with such vents, and the vent is routed to a recovery, recapture, or combustion device, then the TRE index value for the vent must be calculated based on the properties of the vent stream (including the contributions of the dryer). If a dryer is manifolded with other vents and not routed to a recovery, recapture, or combustion device, then the TRE index value must be calculated excluding the contributions of the dryer. The TRE index value for the dryer must be calculated separately in this case.

[d] The mass emission rate of halogen atoms contained in organic compounds is determined according to the procedures specified in § 63.1104(i).

[e] The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

TABLE 6. TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage vessel with: 38 cubic meters ≤ capacity < 151 cubic meters.	13.1 kilopascals ≤ maximum true vapor pressure of total organic HAP < 76.6 kilopascalsa.	a. Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(1) (storage vessel requirements) of this part; or b. Comply with the requirements of subpart WW (national emission standards for storage vessels (control level 2)) of this part.
2. A storage vessel with: 151 cubic meters ≥capacity.	The vapor pressure of total organic HAP is ≥ 5.2 kilopascals.	Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part.
3. A storage vessel with: 38 cubic meters ≤ capacity < 151 cubic meters.	The vapor pressure of total organic HAP is ≥ 76.6 kilopascals.	Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part.

TABLE 6. TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
4. A process vent from continuous unit operations or a combined vent stream [a].	The vent stream has a a TRE[b],c ≤ 9.6	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part and vent emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, of this part that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hourd, whichever is less stringent; or b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction device requirements) of this part and reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; or c. Achieve and maintain a TRE index value greater than 9.6
5. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 5 weight-percent HAPe, and operates ≥ 300 hours per year.	Comply with the requirements of 40 CFR subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

[a] Combined vent streams shall use the applicability determination procedures and methods for process vents from continuous unit operations (§ 63.1104).

[b] The TRE equation coefficients for halogenated streams (table 1 of § 63.1104(j)(1)) shall be used to calculate the TRE index value.

[c] The TRE is determined according to the procedures specified in § 63.1104(j). If a dryer is manifolded with such vents, and the vent is routed to a recovery, recapture, or combustion device, then the TRE index value for the vent must be calculated based on the properties of the vent stream (including the contributions of the dryer). If a dryer is manifolded with other vents and not routed to a recovery, recapture, or combustion device, then the TRE index value must be calculated excluding the contributions of the dryer. The TRE index value for the dryer must be calculated separately in this case.

[d] The mass emission rate of halogen atoms contained in organic compounds is determined according to the procedures specified in § 63.1104(i).

[e] The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

(a) *General.* The provisions of this section provide calculation and measurement methods for criteria that are required by § 63.1103 to be used to determine applicability of the control requirements for process vents from continuous unit operations. The owner or operator of a process vent is not required to determine the criteria specified for a process vent that is being controlled in accordance with the applicable weight-percent or TOC concentration requirement in § 63.1103.

(b) *Sampling sites.* For purposes of determining process vent applicability criteria, the sampling site shall be located as specified in (b)(1) through (4) of this section, as applicable.

(1) *Sampling site location if TRE determination is required.* If the applicability criteria specified in the applicable table of § 63.1103 includes a TRE index value, the sampling site for determining volumetric flow rate, regulated organic HAP concentration, total organic HAP or TOC concentration, heating value, and TRE index value, shall be after the final recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present, and prior to release to the atmosphere.

(2) *Sampling site location if TRE determination is not required.* If the applicability criteria specified in the applicable table of § 63.1103 does not include a TRE index value, the sampling site for determining volumetric flow rate, regulated organic HAP concentration, total organic HAP or TOC concentration, and any other specified parameter shall be at the exit from the unit operation before any control device.

(3) *Sampling site selection method.* Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling site. No traverse site selection method is needed for process vents smaller than 0.10 meter (0.33 foot) in nominal inside diameter.

(4) *Sampling site when a halogen reduction device is used prior to a combustion device.* An owner or operator using a scrubber to reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour (0.99 pound per hour) prior to a combustion control device in compliance with § 63.1103 (as appropriate) shall determine the halogen atom mass emission rate prior to the combustion device according to the procedures in paragraph (i) of this section.

(c) *Applicability assessment requirement.* The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessment process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

(d) *Exceptions.* For a process vent stream that consists of at least one process vent from a batch unit operation manifolded with at least one process vent from a continuous unit operation, the TRE shall be calculated during periods when one or more batch emission episodes are occurring that result in the highest organic HAP emission rate (in the combined vent stream that is being routed to the recovery device) that is achievable during the 6-month period that begins 3 months before and ends 3 months after the TRE calculation, without causing any of the situations described in paragraphs (d)(1) through (3) to occur.

(1) Causing damage to equipment;

(2) Necessitating that the owner or operator make product that does not meet an existing specification for sale to a customer; or

(3) Necessitating that the owner or operator make produce in excess of demand.

(e) *TOC or Organic HAP concentration.* The TOC or organic HAP concentrations, used for TRE index value calculations in paragraph (j) of this section, shall be determined based on paragraph (e)(1), (e)(2) or (k) of this section, or any other method or data that have been validated according to the protocol in method 301 of appendix A of this part. For concentrations needed for comparison with the appropriate control applicability concentrations specified in § 63.1103, TOC or organic HAP concentration shall be determined based on paragraph (e)(1), (e)(2), or (k) of this section or any other method or data that has been validated according to the protocol in method 301 of appendix A of this part. The owner or operator shall record the TOC or organic HAP concentration as specified in paragraph (l)(3) of this section.

(1) *Method 18.* The procedures specified in paragraph (e)(1)(i) and (ii) of this section shall be used to calculate parts per million by volume concentration using method 18 of 40 CFR part 60, appendix A:

(i) The minimum sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15-minute intervals during the run.

(ii) The concentration of either TOC (minus methane and ethane) or regulated organic HAP emissions shall be calculated according to paragraph (e)(1)(ii)(A) or (B) of this section, as applicable.

(A) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be computed for each run using Equation 1:

$$C_{TOC} = \frac{\sum_{i=1}^{x}\left(\sum_{j=1}^{n} C_{ji}\right)}{x} \qquad \text{[Eq. 1]}$$

Where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, parts per million by volume.

C_{ji} = Concentration of sample component j of the sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(B) The regulated organic HAP or total organic HAP concentration (C_{HAP}) shall be computed according to Equation 1 in paragraph (e)(1)(ii)(A) of this section except that only the regulated or total organic HAP species shall be summed, as appropriate.

(2) *Method 25A.* The procedures specified in paragraphs (e)(2)(i) through (vi) of this section shall be used to calculate parts per million by volume concentration using Method 25A of 40 CFR part 60, appendix A.

(i) Method 25A of 40 CFR part 60, appendix A shall be used only if a single organic HAP compound comprises greater than 50 percent of total organic HAP or TOC, by volume, in the process vent.

(ii) The process vent composition may be determined by either process knowledge, test data collected using an appropriate Environmental Protection Agency method or a method or data validated according to the protocol in Method 301 of appendix A of part 63. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current process vent conditions.

(iii) The organic compound used as the calibration gas for Method 25A of 40 CFR part 60, appendix A shall be the single organic HAP compound present at greater than 50 percent of the total organic HAP or TOC by volume.

(iv) The span value for Method 25A of 40 CFR part 60, appendix A shall be equal to the appropriate control applicability concentration value specified in the applicable table(s) presented in § 63.1103 of this subpart.

(v) Use of Method 25A of 40 CFR part 60, appendix A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(vi) The owner or operator shall demonstrate that the concentration of TOC including methane and ethane measured by Method 25A of 40 CFR part 60, appendix A is below one-half the appropriate control applicability concentration specified in the applicable table for a subject source category in § 63.1103 in order to qualify for a low organic HAP concentration exclusion.

(f) *Volumetric flow rate.* The process vent volumetric flow rate (Q_S), in standard cubic meters per minute at 20 °C, shall be determined as specified in paragraphs (f)(1) or (2) of this section and shall be recorded as specified in § 63.1109.

(1) Use Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate. If the process vent tested passes through a final steam jet ejector and is not condensed, the stream

volumetric flow shall be corrected to 2.3 percent moisture; or

(2) The engineering assessment procedures in paragraph (k) of this section can be used for determining volumetric flow rates.

(g) *Heating value.* The net heating value shall be determined as specified in paragraphs (g)(1) and (2) of this section, or by using the engineering assessment procedures in paragraph (k) of this section.

(1) The net heating value of the process vent shall be calculated using Equation 2:

$$H_T = K_1\left(\sum_{j=1}^{n} D_j H_j\right) \qquad \text{[Eq. 2]}$$

Where:

H_T = Net heating value of the sample, megaJoule per standard cubic meter, where the net enthalpy per mole of process vent is based on combustion at 25° C and 760 millimeters of mercury, but the standard temperature for determining the volume corresponding to 1 mole is 20° C, as in the definition of Q_s (process vent volumetric flow rate).

K_1 = Constant, 1.740×10^{-7} (parts per million)$^{-1}$(gram-mole per standard cubic meter) (megaJoule per kilocalorie), where standard temperature for (gram-mole per standard cubic meter) is 20° C.

Dj = Concentration on a wet basis of compound j in parts per million, as measured by procedures indicated in paragraph (e)(2) of this section. For process vents that pass through a final stream jet and are not condensed, the moisture is assumed to be 2.3 percent by volume.

H_j = Net heat of combustion of compound j, kilocalorie per gram-mole, based on combustion at 25° C and 760 millimeters mercury.

(2) The molar composition of the process vent (D_j) shall be determined using the methods specified in paragraphs (g)(2)(i) through (iii) of this section:

(i) Method 18 of 40 CFR part 60, appendix A to measure the concentration of each organic compound.

(ii) American Society for Testing and Materials D1946–90 to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 of 40 CFR part 60, appendix A to measure the moisture content of the stack gas.

(h) *TOC or Organic HAP emission rate.* The emission rate of TOC (minus methane and ethane) (E_{TOC}) and the emission rate of the regulated organic HAP or total organic HAP (E_{HAP}) in the process vent, as required by the TRE index value equation specified in paragraph (j) of this section, shall be calculated using Equation 3:

$$E = K_2\left(\sum_{j=1}^{n} C_j M_j\right) Q_s \qquad \text{[Eq. 3]}$$

Where:

E = Emission rate of TOC (minus methane and ethane) (E_{TOC}) or emission rate of the regulated organic HAP or total organic HAP (E_{HAP}) in the sample, kilograms per hour.

K_2 = Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minutes/hour), where standard temperature for (gram-mole per standard cubic meter) is 20° C.

n = Number of components in the sample.

C_j = Concentration on a dry basis of organic compound j in parts per million as measured by method 18 of 40 CFR part 60, appendix A as indicated in paragraph (e) of this section. If the TOC emission rate is being calculated, C_j includes all organic compounds measured minus methane and ethane; if the total organic HAP emission rate is being calculated, only organic HAP compounds are included; if the regulated organic HAP emission rate is being calculated, only regulated organic HAP compounds are included.

M_j = Molecular weight of organic compound j, gram/gram-mole.

Q_s = Process vent flow rate, dry standard cubic meter per minute, at a temperature of 20° C.

(i) *Halogenated process vent determination.* In order to determine whether a process vent is halogenated, the mass emission rate of halogen atoms contained in organic compounds shall be calculated according to the procedures specified in paragraphs (i)(1) and (2) of this section. A process vent is considered halogenated if the mass emission rate of halogen atoms contained in the organic compounds is equal to or greater than 0.45 kilograms per hour.

(1) The process vent concentration of each organic compound containing halogen atoms (parts per million by volume, by compound) shall be determined based on one of the procedures specified in paragraphs (i)(1)(i) through (iv) of this section:

(i) Process knowledge that no halogen or hydrogen halides are present in the process vent, or

(ii) Applicable engineering assessment as discussed in paragraph (k) of this section, or

(iii) Concentration of organic compounds containing halogens or hydrogen halides as measured by Method 26 or 26A of 40 CFR part 60, appendix A, or

(iv) Any other method or data that have been validated according to the applicable procedures in method 301 of appendix A of this part.

(2) Equation 4 shall be used to calculate the mass emission rate of halogen atoms:

$$E = K_2 Q\left(\sum_{j=1}^{n}\sum_{i=1}^{m} C_j * L_{j,i} * M_{j,i}\right) \qquad \text{[Eq. 4]}$$

Where:

E = Mass of halogen atoms, dry basis, kilogram per hour,

K_2 = Constant, 2.494×10^{-6} (parts per million)$^{-1}$ (kilogram-mole per standard cubic meter) (minute per hour), where standard temperature is 20° C.

Q = Flow rate of gas stream, dry standard cubic meters per minute, determined according to paragraph (f)(1) or (f)(2) of this section.

n = Number of halogenated compounds j in the gas stream.

j = Halogenated compound j in the gas stream.

m = Number of different halogens i in each compound j of the gas stream.

i = Halogen atom i in compound j of the gas stream.

C_j = Concentration of halogenated compound j in the gas stream, dry basis, parts per million by volume.

L_{ji} = Number of atoms of halogen i in compound j of the gas stream.

M_{ji} = Molecular weight of halogen atom i in compound j of the gas stream, kilogram per kilogram-mole.

(j) *TRE index value.* The owner or operator shall calculate the TRE index value of the process vent using the equations and procedures in this paragraph, as applicable, and shall maintain records specified in paragraph (l)(1) or (m)(2) of this section, as applicable.

(1) *TRE index value equation.* The equation for calculating the TRE index value is Equation 5:

$$TRE = 1/E_{HAP} * [A + B(Q_s) + C(H_T) + D(E_{TOC})] \quad [Eq. 5]$$

Where:

TRE = TRE index value.

A, B, C, D = Coefficients presented in table 8 of this subpart.

E_{HAP} = Emission rate of total organic HAP, kilograms per hour, as calculated according to paragraph (h) or (k) of this section.

Q_s = process vent flow rate, standard cubic meters per minute, at a standard temperature of 20° C, as calculated according to paragraph (f) or (k) of this section.

H_T = process vent net heating value, megaJoules per standard cubic meter, as calculated according to paragraph (g) or (k) of this section.

E_{TOC} = Emission rate of TOC (minus methane and ethane), kilograms per hour, as calculated according to paragraph (h) or (k) of this section.

TABLE 1 OF § 63.1104(j)(1).—COEFFICIENTS FOR TOTAL RESOURCE EFFECTIVENESS [a]

Existing or new?	Halogenated vent stream?	Control device basis	Values of coefficients			
			A	B	C	D
Existing	Yes	Thermal Incinerator and Scrubber.	3.995	5.200×10^{-2}	-1.769×10^{-3}	9.700×10^{-4}
	No	Flare	1.935	3.660×10^{-1}	-7.687×10^{-3}	-7.33×10^{-4}
		Thermal Incinerator 0 Percent Recovery	1.492	6.267×10^{-2}	3.177×10^{-2}	-1.159×10^{-3}
		Thermal Incinerator 70 Percent Recovery	2.519	1.183×10^{-2}	1.300×10^{-2}	4.790×10^{-2}
New	Yes	Thermal Incinerator and Scrubber.	1.0895	1.417×10^{-2}	-4.82×10^{-3}	2.645×10^{-3}
	No	Flare	5.276×10^{-1}	9.98×10–2 $^{-2}$	-2.096×10^{-3}	-2.000×10^{-4}
		Thermal Incinerator 0 Percent Recovery	4.068×10^{-1}	1.71×10^{-2}	8.664×10^{-3}	-3.16×10^{-4}
		Thermal Incinerator 70 Percent Recovery	6.868×10^{-1}	3.21×10^{-3}	3.546×10^{-3}	1.306×10^{-2}

[a] Use according to procedures outlined in this section.
MJ/scm = Mega Joules per standard cubic meter
scm/min = Standard cubic meters per minute

(2) *Nonhalogenated process vents.* The owner or operator of a nonhalogenated process vent shall calculate the TRE index value by using the equation and appropriate nonhalogenated process vent parameters in table 1 of this section for process vents at existing and new sources. The lowest TRE index value is to be selected.

(3) *Halogenated process vents.* The owner or operator of a halogenated process vent stream, as determined according to procedures specified in paragraph (i) or (k) of this section, shall calculate the TRE index value using the appropriate halogenated process vent parameters in table 1 of this section for existing and new sources.

(k) *Engineering assessment.* For purposes of TRE index value determinations, engineering assessments may be used to determine process vent flow rate, net heating value, TOC emission rate, and total organic HAP emission rate for the representative operating condition expected to yield the lowest TRE index value. Engineering assessments shall meet the requirements of paragraphs (k)(1) through (4) of this section. If process vent flow rate or process vent organic HAP or TOC concentration is being determined for comparison with the 0.011 standard cubic meters per minute (scmm) flow rate or the applicable concentration value presented in the tables in § 63.1103, engineering assessment may be used to determine the flow rate or concentration for the representative operating condition expected to yield the highest flow rate or concentration.

(1) If the TRE index value calculated using such engineering assessment and the TRE index value equation in paragraph (j) of this section is greater than 4.0, then the owner or operator is not required to perform the measurements specified in paragraphs (e) through (i) of this section.

(2) If the TRE index value calculated using such engineering assessment and the TRE index value equation in paragraph (j) of this section is less than or equal to 4.0, then the owner or operator is required either to perform the measurements specified in paragraphs (e) through (i) of this section for control applicability assessment or comply with the requirements (or standards) specified in the tables presented in § 63.1103 (as applicable).

(3) Engineering assessment includes, but is not limited to, the examples specified in paragraphs (k)(3)(i) through (iv) of this section:

(i) Previous test results, provided the tests are representative of current operating practices at the process unit.

(ii) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(iii) Maximum flow rate, TOC emission rate, organic HAP emission rate, organic HAP or TOC concentration, or net heating value limit specified or implied within a permit limit applicable to the process vent.

(iv) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to those specified in paragraphs (k)(3)(iv)(A) through (k)(3)(iv)(D) of this section:

(A) Use of material balances based on process stoichiometry to estimate maximum TOC or organic HAP concentrations,

(B) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities,

(C) Estimation of TOC or organic HAP concentrations based on saturation conditions, and

(D) Estimation of maximum expected net heating value based on the stream concentration of each organic compound or, alternatively, as if all TOC in the stream were the compound with the highest heating value.

(4) All data, assumptions, and procedures used in the engineering assessment shall be documented. The owner or operator shall maintain the records specified in paragraphs (l)(1) through (4) of this section, as applicable.

(l) *Applicability assessment recordkeeping requirements.* (1) *TRE index value records.* The owner or operator shall maintain records of measurements, engineering assessments, and calculations performed to determine the TRE index value of the process vent according to the procedures of paragraph (j) of this section, including those records associated with halogen vent stream determination. Documentation of engineering assessments shall include all data, assumptions, and procedures used for the engineering assessments, as specified in paragraph (k) of this section. As specified in paragraph (m) of this section, the owner or operator shall include this information in the Notification of Compliance Status report required by § 63.1110(a)(4) .

(2) *Flow rate records.* The owner or operator shall record the flow rate as measured using the sampling site and flow rate determination procedures (if applicable) specified in paragraphs (b) and (f) of this section or determined through engineering assessment as specified in paragraph (k) of this section. As specified in paragraph (m) of this section, the owner or operator shall include this information in the Notification of Compliance Status report required by § 63.1110(a)(4).

(3) *Concentration records.* The owner or operator shall record the regulated organic HAP or TOC concentration (if applicable) as measured using the sampling site and regulated organic HAP or TOC concentration determination procedures specified in paragraphs (e)(1) and (2) of this section, or determined through engineering assessment as specified in paragraph (k) of this section. As specified in paragraph (m) of this section, the owner or operator shall include this information in the Notification of Compliance Status report required by § 63.1110(a)(4).

(4) *Process change records.* The owner or operator shall keep up-to-date, readily accessible records of any process changes that change the control applicability for a process vent. Records are to include any recalculation or measurement of the flow rate, regulated organic HAP or TOC concentration, and TRE index value.

(m) *Applicability assessment reporting requirements.* (1) *Notification of Compliance Status.* The owner or operator shall submit, as part of the Notification of Compliance Status report required by § 63.1110(a)(4), the information recorded in paragraph (l)(1) through (3) of this section.

(2) *Process change.* (i) Whenever a process vent becomes subject to control requirements under subpart SS of this part as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability assessment, whichever is sooner. The report may be submitted as part of the next Periodic Report required by § 63.1110(a)(5). The report shall include the information specified in paragraphs (m)(2)(i)(A) through (C) of this section.

(A) A description of the process change;

(B) The results of the recalculation of the TOC or organic HAP concentration, flow rate, and/or TRE index value required under paragraphs (e), (f), and (j), and recorded under paragraph (l); and

(C) A statement that the owner or operator will comply with the requirements specified in § 63.1103 by the schedules specified in that section for the affected source.

(ii) If a performance test is required as a result of a process change, the owner or operator shall specify that the performance test has become necessary due to a process change. This specification shall be made in the performance test notification to the Administrator, as specified in § 63.999(a)(1).

(iii) If a process change does not result in additional applicable requirements, then the owner or operator shall include a statement documenting this in the next Periodic Report required by § 63.1110(a)(5) after the process change was made.

(n) *Parameter monitoring of certain process vents.* An owner or operator who maintains a TRE index value (if applicable) in the applicable TRE index value monitoring range as specified in an applicable table presented in § 63.1103 of this subpart without using a recovery device shall report a description of the parameter(s) to be monitored to ensure the process vent is operated in conformance with its design or process and achieves and maintains the TRE index value above the specified level, and an explanation of the criteria used to select parameter(s). An owner or operator who maintains a TRE index value (if applicable) in the applicable TRE index monitoring range as specified in an applicable table presented in § 63.1103 of this subpart by using a recovery device shall comply with the requirements of § 63.993(c).

§ 63.1105 [Reserved]

§ 63.1106 [Reserved]

§ 63.1107 Equipment leaks: applicability assessment procedures and methods.

(a) Each piece of equipment within a process unit that can reasonably be expected to contain equipment in organic HAP service is presumed to be in organic HAP service unless an owner or operator demonstrates that the piece of equipment is not in organic HAP service. For a piece of equipment to be considered not in organic HAP service, it must be determined that the percent organic HAP content can be reasonably expected not to exceed the percent by weight control applicability criteria specified in § 63.1103 for an affected source on an annual average basis. For purposes of determining the percent organic HAP content of the process fluid that is contained in or contacts equipment, Method 18 of 40 CFR part 60, appendix A shall be used.

(b) An owner or operator may use good engineering judgment rather than the procedures in paragraph (a) of this section to determine that the percent organic HAP content does not exceed the percent by weight control applicability criteria specified in § 63.1103 for an affected source. When

an owner or operator and the Administrator do not agree on whether a piece of equipment is not in organic HAP service, however, the procedures in paragraph (a) of this section shall be used to resolve the disagreement.

(c) If an owner or operator determines that a piece of equipment is in organic HAP service, the determination can be revised after following the procedures in paragraph (a) of this section, or by documenting that a change in the process or raw materials no longer causes the equipment to be in organic HAP service.

(d) Samples used in determining the percent organic HAP content shall be representative of the process fluid that is contained in or contacts the equipment.

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* (1) Except as provided in paragraph (a)(2) of this section, the emission limitations and established parameter ranges of this part shall apply at all times except during periods of startup, shutdown, malfunction, or non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. During periods of startup, shutdown, or malfunction, the owner or operator shall follow the applicable provisions of the startup, shutdown, malfunction plan required by § 63.1111. However, if a startup, shutdown, malfunction or period of non-operation of one portion of an affected source does not affect the ability of a particular emission point to comply with the specific provisions to which it is subject, then that emission point shall still be required to comply with the applicable provisions of this subpart and any of the subparts that are referenced by this subpart during startup, shutdown, malfunction, or period of non-operation.

(2) If equipment leak requirements are referenced by this subpart for a subject source category, such requirements shall apply at all times except during periods of startup, shutdown, or malfunction, process unit shutdown (as defined in § 63.1101), or non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(3) For batch unit operations, shutdown does not include the normal periods between batch cycles; and startup does not include the recharging of batch unit operations, or the transitional conditions due to changes in product.

(4) [Reserved]

(5) During startups, shutdowns, and malfunctions when the emission standards of this subpart and the subparts referenced by this subpart do not apply pursuant to paragraphs (a)(1) through (4) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions. The measures to be taken shall be identified in the startup, shutdown, and malfunction plan (if applicable), and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the affected source. Back-up control devices are not required, but may be used if available. Compliance with an inadequate startup, shutdown, and malfunction plan developed pursuant to § 63.1111 is not a shield for failing to comply with good operation and maintenance requirements.

(6) Malfunctions shall be corrected as soon as practical after their occurrence and/or in accordance with the source's startup, shutdown, and malfunction plan developed as specified under § 63.1111.

(7) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable, independent of emissions limitations or other requirements in relevant standards.

(b) *Compliance assessment procedures.* (1) *Parameter monitoring: compliance with operating conditions.* Compliance with the required operating conditions for the monitored control devices or recovery devices may be determined by, but is not limited to, the parameter monitoring data for emission points that are required to perform continuous monitoring. For each excursion except for excused excursions (as described in § 63.998(b)(6)), and as provided for in paragraph (b)(2) of this section the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions.

(2) *Parameter monitoring: excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)), if the conditions of paragraphs (b)(2)(i) or (ii) of this section are met. Nothing in this paragraph shall be construed to allow or excuse a monitoring parameter excursion caused by any activity that violates other applicable provisions of this subpart or a subpart referenced by this subpart.

(i) During periods of startup, shutdown, or malfunction (and the source is operated during such periods in accordance with the source's startup, shutdown, and malfunction plan as required by § 63.1111), or

(ii) During periods of non-operation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(3) *Operation and maintenance procedures.* Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator. This information may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan under § 63.1111), review of operation and maintenance records, and inspection of the affected source, and alternatives approved as specified in § 63.1113.

(4) *Applicability and compliance assessment procedures.* Applicability and compliance with standards shall be governed by, in part, but not limited to, the use of data, tests, and requirements according to paragraphs (b)(4)(i) through (iii) of this section. Compliance with design, equipment, work practice, and operating standards, including those for equipment leaks, shall be determined according to paragraph (b)(5) of this section.

(i) *Applicability assessments.* Unless otherwise specified in a relevant test method required to assess control applicability, each test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in this subpart. The arithmetic mean of the results of the three runs shall apply when assessing applicability. Upon receiving approval from the Administrator, results of a test run may be replaced with results of an additional test run if it meets the criteria specified in paragraphs (a)(4)(i)(A) through (D) of this section.

(A) A sample is accidentally lost after the testing team leaves the site; or

(B) Conditions occur in which one of the three runs must be discontinued because of forced shutdown; or

(C) Extreme meteorological conditions occur;

(D) Other circumstances occur that are beyond the owner or operator's control.

(ii) *Performance test.* The Administrator may determine compliance with emission limitations of this subpart based on, but not limited to, the results of performance tests conducted according to the procedures specified in § 63.997 of this part, unless

otherwise specified in this subpart or a subpart referenced by this subpart.

(iii) *Operation and maintenance requirements.* The Administrator may determine compliance with the operation and maintenance standards of this subpart by, but not limited to, evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in this subpart or a subpart referenced by this subpart.

(5) *Design, equipment, work practice, or operational standards.* The Administrator may determine compliance with design, equipment, work practice, or operational requirements by, but is not limited to, review of records, inspection of the affected source, and by evaluation of an owner or operator's conformance with operation and maintenance requirements as specified in this subpart, and in the subparts referenced by this subpart.

(c) *Finding of compliance.* The Administrator may make a finding concerning an affected source's compliance with an emission standard or operating and maintenance requirement as specified in, but not limited to, paragraphs (a) and (b) of this section, upon obtaining all of the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable) and any information available to the Administrator to determine whether proper operation and maintenance practices are being used. Standards in this subpart and methods of determining compliance are in metric units followed by the equivalents in English units. The Administrator will make findings of compliance with the numerical standards of this subpart using metric units.

(d) *Compliance time.* All terms that define a period of time for completion of required tasks (e.g., weekly, monthly, quarterly, annually), unless specified otherwise in the section or subsection that imposes the requirement, refer to the standard calendar periods.

(1) Notwithstanding time periods specified for completion of required tasks, time periods may be changed by mutual agreement between the owner or operator and the Administrator, as specified in § 63.1110(h). For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) When the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in paragraph (d)(2) (i) or (ii) of this section, as appropriate.

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs, if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed each quarter, or at least 3 months for tasks that must be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance deadline occurs.

(3) In all instances where a provision requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period, provided the task is conducted at a reasonable interval after completion of the task during the previous period.

§ 63.1109 Recordkeeping requirements.

(a) *Maintaining notifications, records, and reports.* Except as provided in paragraph (b) of this section, the owner or operator of each affected source subject to this subpart shall keep copies of notifications, reports and records required by this subpart and subparts referenced by this subpart for at least 5 years, unless otherwise specified under this subpart.

(b) *Copies of reports.* If the Administrator has waived the requirement of § 63.1110(g)(1) for submittal of copies of reports, the owner or operator is not required to maintain copies of the waived reports. This paragraph applies only to reports and not the underlying records that must be maintained as specified in this subpart and the subparts referenced by this subpart.

(c) *Availability of records.* All records required to be maintained by this subpart or a subpart referenced by this subpart shall be maintained in such a manner that they can be accessed within 2 hours and are suitable for inspection. The most recent 2 years of records shall be retained onsite or shall be accessible to an inspector while onsite. The records of the remaining 3 years, where required, may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, computer disk, magnetic tape, or microfiche.

(d) *Control applicability records.* Owners or operators shall maintain records containing information developed and used to assess control applicability under § 63.1103 (e.g., combined total annual emissions of regulated organic HAP).

§ 63.1110 Reporting requirements.

(a) *Required reports.* Each owner or operator of an affected source subject to this subpart shall submit the reports listed in paragraphs (a)(1) through (8) of this section, as applicable.

(1) A Notification of Initial Startup described in paragraph (b) of this section, as applicable.

(2) An Initial Notification described in paragraph (c) of this section.

(3) [Reserved]

(4) A Notification of Compliance Status report described in paragraph (d) of this section.

(5) Periodic Reports described in paragraph (e) of this section.

(6) Application for approval of construction or reconstruction described in § 63.5(d) of subpart A of this part.

(7) Startup, Shutdown, and Malfunction Reports described in § 63.1111 of this subpart.

(8) Other reports. Other reports shall be submitted as specified elsewhere in this subpart and subparts referenced by this subpart.

(b) *Notification of initial startup.* (1) *Contents.* An owner or operator of an affected source for which a notice of initial startup has not been submitted under § 63.5, shall send the Administrator written notification of the actual date of initial startup of an affected source. This paragraph does not apply to an affected source in existence on the effective date of this rule.

(2) *Due date.* The notification of the actual date of initial startup shall be postmarked within 15 days after such date.

(c) *Initial Notification.* Owners or operators of affected sources who are subject to this subpart shall notify the Administrator of the applicability of this subpart by submitting an Initial Notification according to the schedule described in paragraph (c)(1) of this section. The notice shall include the information specified in paragraphs (c)(2) through (7) of this section, as applicable. An application for approval of construction or reconstruction required under § 63.5(d) of subpart A of this part may be used to fulfill the initial notification requirements.

(1) The initial notification shall be postmarked within 1 year after the source becomes subject to this subpart.

(2) Identification of the storage vessels subject to this subpart.

(3) Identification of the process vents subject to this subpart.

(4) Identification of the transfer racks subject to this subpart.

(5) For equipment leaks, identification of the process units subject to this subpart.

(6) Identification of other equipment or emission points subject to this subpart.

(7) As an alternative to the requirements specified in paragraphs (c)(1) through (3) and (c)(5) of this section, process units can be identified instead of individual pieces of equipment. For this alternative, the kind of emission point in the process unit that will comply must also be identified.

(d) *Notification of Compliance Status.* (1) *Contents.* The owner or operator shall submit a Notification of Compliance Status for each affected source subject to this subpart containing the information specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this section.

(i) The Notification of Compliance Status shall include the information specified in this subpart and the subparts referenced by this subpart. Alternatively, this information can be submitted as part of a title V permit application or amendment.

(ii) The Notification of Compliance Status shall include a statement from the owner or operator identifying which subpart he or she has elected to comply with, where given a choice, as provided for in § 63.1100(g).

(2) *Due date.* The owner or operator shall submit the Notification of Compliance Status for each affected source 240 days after the compliance date specified for the affected source under this subpart, or 60 days after completion of the initial performance test or initial compliance assessment, whichever is earlier. Notification of Compliance Status reports may be combined for multiple affected sources as long as the due date requirements for all sources covered in the combined report are met.

(e) *Periodic Reports.* The owner or operator of an affected source subject to monitoring requirements of this subpart, or to other requirements of this subpart or subparts referenced by this subpart, where periodic reporting is specified, shall submit a Periodic Report.

(1) *Contents.* Periodic Reports shall include all information specified in this subpart and subparts referenced by this subpart.

(2) *Due date.* The Periodic Report shall be submitted semiannually no later than 60 days after the end of each 6-month period. The first report shall be submitted as specified in paragraph (e)(2)(i) or (ii), as applicable.

(i) The first report shall be submitted no later than the last day of the month that includes the date 8 months (6 months and 60 days) after the date the source became subject to this subpart.

(ii) For affected sources electing to comply with this subpart at initial startup, the first report shall cover the 6 months after the Notification of Compliance Status report is submitted. The first report shall be submitted no later than the last day of the month that includes the date 6 months after the Notification of Compliance Status report is submitted.

(3) *Overlap with title V reports.* Information required by this subpart, which is submitted with a title V periodic report, need not also be included in a subsequent Periodic Report required by this subpart or subpart referenced by this subpart. The title V report shall be referenced in the Periodic Report required by this subpart.

(f) *General report content.* All reports and notifications submitted pursuant to this subpart, including reports that combine information required under this subpart and a subpart referenced by this subpart, shall include the information specified in paragraphs (f)(1) through (4) of this section.

(1) The name, address and telephone number (fax number may also be provided) of the owner or operator.

(2) The name, address and telephone number of the person to whom inquiries should be addressed, if different than the owner or operator.

(3) The address (physical location) of the reporting facility.

(4) Identification of each affected source covered in the submission and identification of the subparts (this subpart and the subparts referenced in this subpart) that are applicable to that affected source. Summaries and groupings of this information are permitted.

(g) *Report and notification submission.* (1) *Submission to the Environmental Protection Agency.* All reports and notifications required under this subpart shall be sent to the appropriate EPA Regional Office and to the delegated State authority, except that request for permission to use an alternative means of emission limitation as provided for in § 63.1113 shall be submitted to the Director of the EPA Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, MD–10, Research Triangle Park, North Carolina, 27711. The EPA Regional Office may waive the requirement to submit a copy of any reports or notifications at its discretion.

(2) *Submission of copies.* If any State requires a notice that contains all the information required in a report or notification listed in this subpart, an owner or operator may send the appropriate EPA Regional Office a copy of the report or notification sent to the State to satisfy the requirements of this subpart for that report or notification.

(3) *Method of submission.* Wherever this subpart specifies ''postmark'' dates, submittals may be sent by methods other than the U.S. Mail (e.g., by fax or courier). Submittals shall be sent on or before the specified date.

(4) *Submission by electronic media.* If acceptable to both the Administrator and the owner or operator of an affected source, reports may be submitted on electronic media.

(h) *Adjustment to timing of submittals and review of required communications.* (1) *Alignment with title V submission.* An owner or operator may submit Periodic Reports required by this subpart on the same schedule as the title V periodic report for the facility. The owner or operator using this option need not obtain prior approval, but must ensure that no reporting gaps occur. The owner or operator shall clearly identify the change in reporting schedule in the first report filed under this paragraph. The requirements of paragraph (f) of this section are not waived when implementing this change.

(2) *Establishment of a common schedule.* An owner or operator may arrange by mutual agreement (which may be a standing agreement) with the Administrator a common schedule on which periodic reports required by this subpart shall be submitted throughout the year as long as the reporting period is not extended. Procedures governing the implementation of this provision are specified in paragraphs (h)(3) through (7) of this section.

(3) *Submission requirements.* Except as allowed by paragraph (h)(1) of this section, until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (h)(5) and (6) of this section, the owner or operator of an affected source remains strictly subject to the required submittal deadlines specified in this subpart and subparts referenced by this subpart.

(4) *Request for adjustment of reporting schedule.* Except as allowed by paragraph (h)(1) of this section, an owner or operator shall request the adjustment provided for in paragraphs (h)(5) and (6) of this section each time he or she wishes to change an applicable time period or postmark

deadline specified in this subpart or subparts referenced by this subpart. A request for a change to the periodic reporting schedule need only be made once for every schedule change and not once for every semiannual report submitted.

(5) *Alteration of time periods or deadlines.* Notwithstanding time periods or postmark deadlines specified in this subpart for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practical before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(6) *Approval of request for adjustment.* If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(7) *Notification of delay.* If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

§ 63.1111 Startup, shutdown, and malfunction.

(a) *Startup, shutdown, and malfunction plan.* (1) *Description and purpose of plan.* The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the affected source during periods of startup, shutdown, and malfunction. This plan shall also include a program of corrective action for malfunctioning process and air pollution control equipment used to comply with relevant standards under this subpart. The plan shall also address routine or otherwise predictable CPMS malfunctions. This plan shall be developed by the owner or operator by the affected source's compliance date under this subpart. The requirement to develop and implement this plan shall be incorporated into the source's title V permit. This requirement is optional for equipment that must comply with subparts TT or UU under this subpart. It is not optional for equipment equipped with a closed vent system and control device subject to this subpart and subpart SS of this part. The purpose of the startup, shutdown, and malfunction plan is described in paragraphs (a)(1)(i) and (ii) of this section.

(i) To ensure that owners or operators are prepared to correct malfunctions as soon as practical after their occurrence, in order to minimize excess emissions of regulated organic HAP; and

(ii) To reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

(2) *Operation of source.* During periods of startup, shutdown, and malfunction, the owner or operator of an affected source subject to this subpart shall operate and maintain such affected source (including associated air pollution control equipment and CPMS) in accordance with the procedures specified in the startup, shutdown, and malfunction plan developed under paragraph (a)(1) of this section.

(3) *Use of additional procedures.* To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator of an affected source may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection when requested by the Administrator.

(4) *Revisions to the plan.* Based on the results of a determination made under § 63.1108(b)(3), the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator may require reasonable revisions to a startup, shutdown, and malfunction plan if the Administrator finds that the plan is inadequate as specified in paragraphs (a)(4)(i) through (iv) of this section:

(i) Does not address a startup, shutdown, and malfunction event of the CPMS, the air pollution control equipment, or the affected source that has occurred; or

(ii) Fails to provide for the operation of the affected source (including associated air pollution control equipment and CPMS) during a startup, shutdown, and malfunction event in a manner consistent with good air pollution control practices for minimizing emissions to the extent practical; or

(iii) Does not provide adequate procedures for correcting malfunctioning process and air pollution control equipment as quickly as practicable; or

(iv) Does not provide adequate measures to prevent or minimize excess emissions to the extent practical as specified in § 63.1108(a)(5).

(5) *Additional malfunction plan requirements.* If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator shall revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the affected source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control equipment or CPMS.

(b) *Startup, shutdown, and malfunction reporting requirements.* (1) *Periodic startup, shutdown, and malfunction reporting requirements.* If actions taken by an owner or operator during a startup, shutdown, and malfunction of an affected source, or of a control device or monitoring system required for compliance (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's plan, then the owner or operator shall state such information in a startup, shutdown, and malfunction report. During the reporting period, reports shall only be required for startups, shutdowns, and malfunctions during which excess emissions, as defined in § 63.1108(a)(5), occur during the reporting period. A startup, shutdown, and malfunction report can be submitted as part of a Periodic Report required under § 63.1110(a)(5), or on a more frequent basis if specified otherwise under this subpart or a subpart referenced by this subpart or as established otherwise by the permitting authority in the affected source's title V permit. The startup, shutdown, and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half (or other

calendar reporting period, as appropriate), unless the information is submitted with the Periodic Report. The report shall include the information specified in paragraphs (b)(1)(i) through (b)(1)(iv) of this section.

(i) The name, title, and signature of the owner or operator or other responsible official certifying its accuracy.

(ii) The number of startup, shutdown, and malfunction events and the total duration of all periods of startup, shutdown, and malfunction for the reporting period if the total duration amounts to either of the durations in paragraphs (b)(1)(ii)(A) or (B) of this section. Records of the number of CPMS startup, shutdown, and malfunction events and the total duration of all periods of startup, shutdown, and malfunction for the reporting period are required under § 63.998(c)(1)(ii)(C) and (D) of this section.

(A) Total duration of periods of malfunctioning of a CPMS equal to or greater than 5 percent of that CPMS operating time for the reporting period; or

(B) Total duration of periods of startup, shutdown, and malfunction for an affected source equal to or greater than 1 percent of that affected source's operating time for the reporting period.

(iii) Records documenting each startup, shutdown and malfunction event as required under § 63.998(c)(1)(ii)(F).

(iv) Records documenting the total duration of operating time as required under § 63.998(c)(1)(ii)(H).

(2) *Immediate startup, shutdown, and malfunction reports.* Notwithstanding the allowance to reduce the frequency of reporting for startup, shutdown, and malfunction reports under paragraph (b)(1) of this section, any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) during which excess emissions occur is not consistent with the procedures specified in the affected source's plan, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan, followed by a letter delivered or postmarked within 7 working days after the end of the event. The immediate report required under this paragraph shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, and whether any excess emissions and/or parameter monitoring exceedances are believed to have occurred. Notwithstanding the requirements of the previous sentence, after the effective date of an approved permit program in the State in which an affected source is located, the owner or operator may make alternative reporting arrangements, in advance, with the permitting authority in that State. Procedures governing the arrangement of alternative reporting requirements under this paragraph are specified in § 63.1110(h).

(3) [Reserved]

§ 63.1112 Extension of compliance, and performance test, monitoring, recordkeeping and reporting waivers and alternatives.

(a) *Extension of compliance.* (1) *Extension of compliance with emission standards.* Until an extension of compliance has been granted by the Administrator under this paragraph, the owner or operator of an affected source subject to the requirements of this subpart shall comply with all applicable requirements of this subpart.

(2) *Extension of compliance for early reductions and other reductions.* (i) *Early reductions.* Pursuant to section 112(i)(5) of the Act, if the owner or operator of an existing source demonstrates that the source has achieved a reduction in emissions of hazardous air pollutants in accordance with the provisions of subpart D of this part, the Administrator will grant the owner or operator an extension of compliance with specific requirements of this part, as specified in subpart D of this part.

(ii) *Other reductions.* Pursuant to section 112(i)(6) of the Act, if the owner or operator of an existing source has installed best available control technology (BACT) (as defined in section 169(3) of the Act) or technology required to meet a lowest achievable emission rate (LAER) (as defined in section 171 of the Act) prior to the promulgation of an emission standard in this part applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to the BACT or LAER installation, the Administrator will grant the owner or operator an extension of compliance with such emission standard that will apply until the date 5 years after the date on which such installation was achieved, as determined by the Administrator.

(3) *Request for extension of compliance.* Paragraphs (a)(4) through (7) of this section concern requests for an extension of compliance with a relevant standard under this part (except requests for an extension of compliance under paragraph (a)(2)(i) of this section will be handled through procedures specified in subpart D of this part).

(4) *Requests for extensions of compliance for section 112 standards.* (i) *Section 112(d) standards.* (A) The owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Act may request that the Administrator grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls. The owner or operator of an affected source who has requested an extension of compliance under this paragraph and who is otherwise required to obtain a title V permit shall apply for such permit or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph will be incorporated into the affected source's title V permit according to the provisions of part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) Any request under this paragraph for an extension of compliance with a relevant standard shall be submitted in writing to the appropriate authority not later than 12 months before the affected source's compliance date (as specified in § 63.1102) for sources that are not including emission points in an emissions average, or not later than 18 months before the affected source's compliance date (as specified in § 63.1102) for sources that are including emission points in an emissions average. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards, e.g., a compliance date specified by the standard is less than 12 (or 18) months after the standard's effective date.

(ii) *Section 112(f) standards.* The owner or operator of an existing source unable to comply with a relevant standard established under this part pursuant to section 112(f) of the Act may request that the Administrator grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The Administrator may grant such an extension if he/she finds that such additional period is necessary for the installation of controls and that steps will be taken during the period of

the extension to assure that the health of persons will be protected from imminent endangerment. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 15 days after the effective date of the relevant standard.

(5) *Requests for extensions of compliance for BACT or LAER.* The owner or operator of an existing source who has installed BACT or technology required to meet LAER (as specified in paragraph (a)(2)(ii) of this section) prior to the promulgation of a relevant emission standard in this part may request that the Administrator grant an extension allowing the source 5 years from the date on which such installation was achieved, as determined by the Administrator, to comply with the standard. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 120 days after the promulgation date of the standard. The Administrator may grant such an extension if he or she finds that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(6) *Contents of request.* (i) The request for a compliance extension under paragraph (a)(4) of this section shall include the following information:

(A) A description of the controls to be installed to comply with the standard;

(B) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(*1*) The date by which contracts for emission control systems or process changes for emission control will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(*2*) The date by which on-site construction, installation of emission control equipment, or a process change is to be initiated;

(*3*) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(*4*) The date by which final compliance is to be achieved.

(C) A description of interim emission control steps, that will be taken during the extension period, including milestones to assure proper operation and maintenance of emission control and process equipment; and

(D) Whether the owner or operator is also requesting an extension of other applicable requirements (e.g., performance testing requirements).

(ii) The request for a compliance extension under paragraph (a)(5) of this section shall include all information needed to demonstrate to the Administrator's satisfaction that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(7) *Additional advice.* Advice on requesting an extension of compliance may be obtained from the Administrator.

(8) *Approval of request for extension of compliance.* Paragraphs (a)(9) through (14) of this section concern approval of an extension of compliance requested under paragraphs (a)(4) through (6) of this section.

(9) *General.* Based on the information provided in any request made under paragraphs (a)(4) through (6) of this section, or other information, the Administrator may grant an extension of compliance with an emission standard, as specified in paragraphs (a)(4) and (5) of this section.

(10) *Contents of extension.* The extension will be in writing and will—

(i) Identify each affected source covered by the extension;

(ii) Specify the termination date of the extension;

(iii) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(iv) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests); and

(v)(A) Under paragraph (a)(4) of this section, specify any additional conditions that the Administrator deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period; or

(B) Under paragraph (a)(5)of this section, specify any additional conditions that the Administrator deems necessary to assure the proper operation and maintenance of the installed controls during the extension period.

(11) *Progress reports.* The owner or operator of an existing source that has been granted an extension of compliance under paragraph (a)(10) of this section may be required to submit to the Administrator progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached. The contents of the progress reports and the dates by which they shall be submitted will be specified in the written extension of compliance granted under paragraph (a)(9) of this section.

(12) *Notifications to owners and operators regarding compliance extensions for section 112(d) standards.* (i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 days after receipt of sufficient information to evaluate a request submitted under paragraph (a)(4)(i) or (a)(5) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 days after receipt of the original application and within 30 days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 days after presentation of additional information or argument (if the application is complete), or within 30 days after the final date specified for the presentation if no presentation is made.

(13) *Notifications to owners and operators regarding compliance extensions for section 112(f) standards.* (i) The Administrator will notify the owner or operator in writing of approval

or intention to deny approval of a request for an extension of compliance within 30 days after receipt of sufficient information to evaluate a request submitted under paragraph (a)(4)(ii) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 15 days after receipt of the original application and within 15 days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 15 days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) A final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 days after presentation of additional information or argument (if the application is complete), or within 30 days after the final date specified for the presentation if no presentation is made.

(14) *Termination of extension.* The Administrator may terminate an extension of compliance at an earlier date than specified if any specification under paragraphs (a)(10)(iii) or (iv) of this section is not met.

(15) [Reserved]

(16) *Administrator's authority.* The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Act.

(b) *Waiver of performance tests.* (1) *Applicability of this section.* Until a waiver of a performance testing requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) *General.* Individual performance tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the relevant standard(s) on a continuous basis, or the source is being operated under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) *Request to waive a performance test.* (i) If a request is made for an extension of compliance under paragraph (a) of this section, the application for a waiver of an initial performance test shall accompany the information required for the request for an extension of compliance. If no extension of compliance is requested or if the owner or operator has requested an extension of compliance and the Administrator is still considering that request, the application for a waiver of an initial performance test shall be submitted at least 60 days before the performance test if a site-specific test plan is not submitted.

(ii) If an application for a waiver of a subsequent performance test is made, the application may accompany any required compliance progress report, compliance status report, or excess emissions and continuous monitoring system performance report, but it shall be submitted at least 60 days before the performance test if a site-specific test plan is not submitted.

(iii) Any application for a waiver of a performance test shall include information justifying the owner or operator's request for a waiver, such as the technical or economic infeasibility, or the impracticality, of the affected source performing the required test.

(4) *Approval of request to waive performance test.* The Administrator will approve or deny a request for a waiver of a performance test made under paragraph (b)(3) of this section when he/she—

(i) Approves or denies an extension of compliance under paragraph (a) of this section; or

(ii) Approves or disapproves a site-specific test plan; or

(iii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iv) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) *Administrator's authority.* Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

(c) *Use of an alternative monitoring method.* (1) *General.* Until permission to use an alternative monitoring method has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) *Alternatives to monitoring methods.* After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring methods or procedures of this part including, but not limited to, the following:

(i) Alternative monitoring requirements when installation of a CMS specified by a relevant standard would not provide accurate measurements due to liquid water or other interferences caused by substances within the effluent gases;

(ii) Alternative monitoring requirements when the affected source is infrequently operated;

(iii) Alternative monitoring requirements to accommodate CEMS that require additional measurements to correct for stack moisture conditions;

(iv) Alternative locations for installing CMS when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(v) Alternate methods for converting pollutant concentration measurements to units of the relevant standard;

(vi) Alternate procedures for performing daily checks of zero (low-level) and high-level drift that do not involve use of high-level gases or test cells;

(vii) Alternatives to the American Society for Testing and Materials (ASTM) test methods or sampling procedures specified by any relevant standard;

(viii) Alternative CMS that do not meet the design or performance requirements in this part, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the

requirements as specified in the relevant standard. The Administrator may require that such demonstration be performed for each affected source; or

(ix) Alternative monitoring requirements when the effluent from a single affected source or the combined effluent from two or more affected sources is released to the atmosphere through more than one point.

(3) *Conflicts between alternative and required methods.* If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, requirement, or procedure, the Administrator may require the use of a method, requirement, or procedure specified in this section or in the relevant standard. If the results of the specified and alternative method, requirement, or procedure do not agree, the results obtained by the specified method, requirement, or procedure shall prevail.

(4)(i) *Request to use alternative monitoring method.* An owner or operator who wishes to use an alternative monitoring method shall submit an application to the Administrator as described in paragraph (c)(4)(ii) of this section. The application may be submitted at any time provided that the monitoring method is not used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring method is to be used to demonstrate compliance with a relevant standard, the application shall be submitted not later than with the site-specific test plan required, or with the site-specific performance evaluation plan (if requested), or at least 60 days before the performance evaluation is scheduled to begin.

(ii) The application shall contain a description of the proposed alternative monitoring system and a performance evaluation test plan, if required. In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring method, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

(iii) The owner or operator may submit the information required in this paragraph well in advance of the submittal dates specified in paragraph (c)(4)(i) of this section to ensure a timely review by the Administrator in order to meet the compliance demonstration date specified in this section or the relevant standard.

(5) *Approval of request to use alternative monitoring method.* (i) The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring method within 30 days after receipt of the original request and within 30 days after receipt of any supplementary information that is submitted. Before disapproving any request to use an alternative monitoring method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with—

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request. At the time the Administrator notifies the applicant of his or her intention to disapprove the request, the Administrator will specify how much time the owner or operator will have after being notified of the intended disapproval to submit the additional information.

(ii) The Administrator may establish general procedures and criteria in a relevant standard to accomplish the requirements of paragraph (c)(5)(i) of this section.

(iii) If the Administrator approves the use of an alternative monitoring method for an affected source under paragraph (c)(5)(i) of this section, the owner or operator of such source shall continue to use the alternative monitoring method until he or she receives approval from the Administrator to use another monitoring method as allowed by this subpart or a subpart referenced by this subpart.

(6) *Alternative to the relative accuracy test.* An alternative to the relative accuracy test for CEMS specified in a relevant standard may be requested as follows:

(i) *Criteria for approval of alternative procedures.* An alternative to the test method for determining relative accuracy is available for affected sources with emission rates demonstrated to be less than 50 percent of the relevant standard. The owner or operator of an affected source may petition the Administrator under paragraph (c)(6)(ii) of this section to substitute the relative accuracy test in section 7 of Performance Specification 2 with the procedures in section 10 if the results of a performance test conducted according to the requirements specified in this subpart or subpart referenced by this subpart demonstrate that the emission rate of the pollutant of interest in the units of the relevant standard is less than 50 percent of the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the owner or operator may petition the Administrator to substitute the relative accuracy test with the procedures in section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the CEMS is used continuously to determine compliance with the relevant standard.

(ii) *Petition to use alternative to relative accuracy test.* The petition to use an alternative to the relative accuracy test shall include a detailed description of the procedures to be applied, the location and the procedure for conducting the alternative, the concentration or response levels of the alternative relative accuracy materials, and the other equipment checks included in the alternative procedure(s). The Administrator will review the petition for completeness and applicability. The Administrator's determination to approve an alternative will depend on the intended use of the CEMS data and may require specifications more stringent than in Performance Specification 2.

(iii) *Rescission of approval to use alternative to relative accuracy test.* The Administrator will review the permission to use an alternative to the CEMS relative accuracy test and may rescind such permission if the CEMS data from a successful completion of the alternative relative accuracy procedure indicate that the affected source's emissions are approaching the level of the relevant standard. The criterion for reviewing the permission is that the collection of CEMS data shows that emissions have exceeded 70 percent of the relevant standard for any averaging period, as specified in the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the criterion for reviewing the permission is that the collection of CEMS data shows that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for any averaging period, as specified in the relevant standard. The owner or operator of the affected source shall maintain records and determine the level of emissions relative to the criterion for permission to use an alternative for relative accuracy testing. If this criterion is exceeded, the owner or operator shall notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of the increased emissions. The Administrator will review the notification and may rescind permission to use an alternative and require the owner or operator to conduct

a relative accuracy test of the CEMS as specified in section 7 of Performance Specification 2.

(d) *Waiver of recordkeeping or reporting requirements.* (1) Until a waiver of a recordkeeping or reporting requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the recordkeeping and reporting requirements of this subpart and any subparts referenced by this subpart.

(2) Recordkeeping or reporting requirements may be waived upon written application to the Administrator if, in the Administrator's judgment, the affected source is achieving the relevant standard(s), or the source is operating under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) If an application for a waiver of recordkeeping or reporting is made, the application shall accompany the request for an extension of compliance under paragraph (a) of this section, any required compliance progress report or compliance status report required under this part or in the source's title V permit, or an excess emissions and continuous monitoring system performance report required under § 63.999(c) or another subpart referenced by this subpart, whichever is applicable. The application shall include whatever information the owner or operator considers useful to convince the Administrator that a waiver of recordkeeping or reporting is warranted.

(4) The Administrator will approve or deny a request for a waiver of recordkeeping or reporting requirements under this paragraph when he/she—

(i) Approves or denies an extension of compliance under paragraph (a) of this section; or

(ii) Makes a determination of compliance following the submission of a required Notification of Compliance Status report or excess emissions and continuous monitoring systems performance report; or

(iii) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) A waiver of any recordkeeping or reporting requirement granted under this paragraph may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Administrator.

(6) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

§ 63.1113 Procedures for approval of alternative means of emission limitation.

(a) *Alternative means of emission limitation.* An owner or operator of an affected source may request a determination of alternative means of emission limitation to the requirements of design, equipment, work practice, or operational standards of this subpart or of a subpart referenced by this subpart. If, in the judgment of the Administrator, an alternative means of emission limitation will achieve a reduction in HAP emissions at least equivalent to the reduction in emissions from that source achieved under any design, equipment, work practice, or operational standards (but not performance standards) in this subpart, the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means for purposes of compliance with that requirement.

(1) The notice may condition the permission on requirements related to the operation and maintenance of the alternative means.

(2) Any such notice shall be published only after public notice and an opportunity for a hearing.

(b) *Content of submittal.* (1) In order to obtain approval, any person seeking permission to use an alternative means of compliance under this section shall collect, verify, and submit to the Administrator information showing that the alternative means achieves equivalent emission reductions. An owner or operator of an affected source seeking permission to use an alternative means of compliance who has not previously performed testing shall also submit a proposed test plan. If the owner or operator seeks permission to use an alternative means of compliance based on previously performed testing, they shall submit the results of testing, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring.

(2) The owner or operator who requests an alternative means of emissions limitation shall submit a description of the proposed testing, monitoring, recordkeeping, and reporting that will be used and the proposed basis for demonstrating compliance.

(3) For storage vessels, the owner or operator shall include the results of actual emissions tests using full-size or scale-model storage vessels that accurately collect and measure all regulated HAP emissions using a given control technique, and that accurately simulate wind and account for other emission variables such as temperature and barometric pressure, or an engineering analysis that the Administrator determines to be an accurate method of determining equivalence.

(4) For proposed alternatives to equipment leak requirements referenced by this subpart, the owner or operator shall also submit the information specified in and meet the requirements for alternate means of emission limitation specified in the referenced subparts.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6347–1]

RIN 2060–A–53

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology; Process Wastewater Provisions

AGENCY: Environmental Protection Agency (EPA).

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

SUMMARY: On October 14, 1998, the EPA proposed a consolidated rulemaking that included several related elements: the establishment of the EPA's ''generic MACT standards'' program for setting national emission standards for hazardous air pollutants (NESHAP) under section 112 of the Clean Air Act (Act) for certain small source categories consisting of five or fewer sources; as part of this program, the establishment of an alternative methodology for making EPA's maximum available control technology (MACT) determination for appropriate small categories by referring to previous MACT standards that have been promulgated for similar sources in other categories; the proposal of MACT standards that were developed within the generic MACT framework for four specific source categories (i.e., acetal resins (AR) production, acrylic and modacrylic fiber (AMF) production, hydrogen fluoride (HF) production, and polycarbonate(s) (PC) production; and the proposal of general control requirements for certain types of emission points for hazardous air pollutants (HAP), which would then be referenced, as appropriate, in the generic MACT requirements for individual source categories.

The initial comment period for the proposed generic MACT standards closed on January 12, 1999. The EPA received several comments requesting clarifying changes to the standards. Changes in response to relevant comments have been made and those standards are being promulgated elsewhere in this separate part of the **Federal Register**. However, comments related to the wastewater provisions were received, which upon consideration by the EPA, indicate a need for significant changes to these provisions. Therefore, in today's promulgated rule for the generic MACT standards, the EPA has deferred taking final action regarding provisions applicable to process wastewater streams for the AR, AMF, and PC production source categories.

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

Public Hearing: A public hearing will be held, if a timely hearing request is received, to provide interested persons an opportunity to present information pertaining to today's supplemental proposal. If any person specifically requests that a public hearing be held by July 6, 1999, a public hearing will be held on July 13, 1999 beginning at 10 a.m. Any request that a hearing be held concerning this supplemental proposal must be submitted orally or in writing no later than July 6, 1999.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), (LE–131), Attention, Docket No. A–97–17, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of comments also be sent to Mr. David W. Markwordt (see **FOR FURTHER INFORMATION CONTACT FOR ADDRESS**).

Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments and data will also be accepted on Microsoft DOS formatted 3.5 inches high-density diskettes containing WordPerfect® 5.1 or 6.1, or ASCII formatted files. All comments and data submitted in electronic form must note the docket number: A–97–17. No confidential business information (CBI) should be submitted by e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Public Hearing: If a timely request for a public hearing is received, the hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending such a hearing should contact Ms. Dorothy Apple at (919) 541–4487, Policy Planning and Standards Group (MD–13) to verify that a hearing will be held. The subject matter of any hearing will be strictly limited to the proposed revisions of the wastewater provisions for the AR, AMF, and PC source categories set forth in today's supplemental proposal.

Docket: A docket, No. A–97–17, containing information considered by the EPA in the development of the proposed and promulgated generic MACT standards, is available for public inspection between 8:30 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays), at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260–7548. The EPA's Air Docket section is located at the above address in Room M–1500, Waterside Mall (ground floor). The proposed and final standards, and supporting information, are available for inspection and copying. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information concerning this document, contact Mr. David W. Markwordt, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone: (919) 541–0837; facsimile: (919) 541–0942; e-mail address: markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Plain Language

In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of ''we'' in this notice refers to the EPA. The use of ''you'' refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

On October 14, 1998 (63 FR 55178), we proposed a consolidated rulemaking that included generic MACT standards under section 112 of the Act for certain small source categories consisting of five or fewer sources. In a separate document published elsewhere in this separate part of the **Federal Register**, we are taking final action on nearly all aspects of that proposal, but we are deferring final action on the provisions applicable to process and maintenance wastewater and certain liquid streams in open systems.

I. Comments Received on the Proposed Wastewater Provisions

Commenters raised several issues related to the wastewater provisions proposed on October 14, 1998. One commenter provided that the proposed provisions did not specify the location for determining HAP concentration. The commenter stated that it seems appropriate to make this determination at the entrance to each wastewater treatment system unit. The commenter

recommended that a definition for ''point of determination'' be made and that references to ''point of generation'' be changed to ''point of determination.'' The commenter also stated that an owner or operator should be allowed to use all of the test methods specified in the hazardous organic NESHAP (HON) when determining HAP concentrations in wastewater.

Another commenter stated that there was no information or requirements for treatment or destruction of wastewater streams leaving the process unit. The commenter noted that the proposal only required control of secondary emissions from equipment handling the wastewater stream.

Based on comments received, and an evaluation of the proposed process wastewater stream provisions, we agree that the proposed process wastewater stream provisions for the AR, AMF, and PC standards did not include adequate applicability procedures and treatment requirements. We also concluded that provisions were needed to address HAP emissions from maintenance wastewater and certain liquid streams in open systems. The final standards for these source categories that appear in today's **Federal Register** do not contain any wastewater provisions. Rather, we are reopening the comment period to specifically request additional comment on appropriate revisions of the wastewater provisions.

II. Summary of Proposed Amendments

The proposed amendments incorporate and cross-reference appropriate wastewater provisions of the HON for the AR, AMF, and PC production source categories. The proposed amendments respond to comments received on the wastewater provisions on October 14, 1998. In addition, these amendments reflect our original intent regarding ''point of determination'' measurements and ''treatment and destruction'' requirements for process wastewater and that requirements for maintenance wastewater and liquid streams in open systems be included.

The proposed amendments for process wastewater, maintenance wastewater, and liquid streams in open systems directly refer to HON wastewater requirements. For process wastewater, you are required to make a group determination for each wastewater stream based on flow rate and organic HAP concentration. If a process wastewater stream is determined to be Group 1, you must comply with specific requirements for waste management units to suppress emissions, and requirements to treat the wastewater streams to reduce the organic HAP concentration. The suppression requirements in the referenced sections of the HON are equivalent in stringency to the wastewater requirements that were proposed on October 14, 1998 for most emissions points associated with wastewater streams.

The maintenance wastewater provisions require, for each maintenance wastewater stream that contains organic HAP, that you develop and follow procedures to manage wastewaters generated during maintenance activities so that emissions are minimized. The proposed provisions for liquid streams in open systems apply to drain or drain hubs, manholes, lift stations, trenches, pipes, oil/water separators, and tanks, and require that you implement specific emission reduction techniques for each type of equipment.

We intend to take final action concerning the revised wastewater provisions for the AR, AMF, and PC source categories proposed today as expeditiously as practicable, but no later than November 15, 1999 (the revised date set forth in a proposed consent decree). For purposes of this rulemaking, we will consider only comments limited to the newly proposed process wastewater stream provisions for the AR, AMF, and PC production source categories (see IV. Solicitation of Comments).

III. Summary of Impacts

We estimate that the impacts for air emissions will be negligible as the AMF, AR, and PC production affected sources that would be subject to these requirements are already well controlled. Similarly, water pollution and solid waste, and increases in energy use resulting from the use of control devices would be negligible. Based on previous impacts analyses associated with the application of the control and recovery devices required under the standards and because each of the three subject source categories have only five or fewer major sources, we believe that there will be minimal, if any, adverse environmental or energy impacts associated with the final standards.

Likewise, based on available information, we estimate that the cost and economic impacts of the proposed amendments to the promulgated standards for the three source categories being regulated will be insignificant or minimal. The economic analyses for each of the three source categories can be obtained from the dockets established for these source categories (see **ADDRESSES**).

IV. Solicitation of Comments

As noted in section I of today's SNPR, commenters provided comment on the limitations of the proposed wastewater provisions. We evaluated their comments and realized that treatment provisions had inadvertently been omitted and that the applicability procedures were not adequate. The three source categories affected by the proposed wastewater provisions amendments (i.e., the AMF, AR, and PC production source categories) handle organic HAP waste streams similar to what is managed by the HON. Therefore, these proposed amendments directly reference HON wastewater provisions. We are soliciting comment on the appropriateness of these HON wastewater provisions for the AR, AMF, and PC production source categories.

V. Administrative Requirements

A. Docket

The docket is an organized and complete file of the administrative record compiled by the EPA in the development of the rule. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (except for interagency review materials) (see 42 U.S.C. 7607(d)(7)(A)).

B. Paperwork Reduction Act

The information collection requirements associated with this supplemental notice of proposed rulemaking do not add to the promulgated rule information collection requirements. The information collection requirements of the promulgated rule for the Generic MACT standards were submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.* Under the promulgated rule, an Information Collection Request (ICR) document was prepared by the EPA (ICR No. 1871.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, S.W., Washington, DC 20460, or by calling (202) 260–2740.

C. Executive Order 12866

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

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

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

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

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

Today's SNPR is a significant action under the terms of Executive Order 12866 because the proposed amendments for AR, AMF, and PC production do constitute a ''significant regulatory action'' as defined under Executive Order 12866.

D. Executive Order 12875

Under Executive Order 12875, the 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 the EPA complies by consulting, Executive Order 12875 requires the 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 proposed amendments implement requirements specifically set forth by the Congress in section 112 of the Act without the exercise of any discretion by the EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

E. 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 the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA 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 EPA.

This proposed amendments are not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. No children's risk analysis was performed for this rulemaking because the agency does not have the data necessary to conduct such analysis, and cannot obtain such data with available resources.

F. Executive Order 13084

Under Executive Order 13084, the 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 cost incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the 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 implements requirements specifically set forth by Congress in section 112 of the Act without the excercise of any discretion by the EPA. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

The RFA of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts.

Today's action is not subject to the requirements of the RFA as modified by SBREFA because it does not impose any regulatory requirements on small entities.

H. Unfunded Mandates Reform Act of 1995

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

Because the promulgated rule and this supplemental notice of proposed rulemaking do not include a Federal mandate and is estimated to result in expenditures less than $100 million in any one year by State, local, and tribal governments, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments would not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply to this action.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be

inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve the proposal of any new technical standards. It does, however, incorporate by reference existing technical standards, including government-unique technical standards. The technical standards proposed with this action are standards that have been proposed and promulgated under other rulemakings for similar source control applicability and compliance determinations. The EPA solicits comment on the identification of potentially-applicable voluntary consensus standards that could be use in lieu of standard proposed under today's action. The EPA request that submitted comments include an explanation why such standards should be used in lieu of those proposed.

As part of a larger effort, the EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist the EPA in identifying potentially-applicable voluntary consensus standards that can then be evaluated for equivalency and applicability in determining compliance with future regulations.

List of Subjects in 40 CFR Part 63

Environmental protection, Acetal resins production, Acrylic and modacrylic fiber production, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Polycarbonates production, Process wastewater streams, Reporting and recordkeeping requirements.

Dated: May 14, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

2. Section 63.1100 is amended by adding paragraph (g)(5) to read as follows:

§ 63.1100 Applicability.

* * * * *

(g) * * *

(5) *Overlap of subpart YY with other regulations for wastewater.* (i) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, wastewater streams that are subject to the wastewater requirements of this subpart and the wastewater requirements of subparts F, G, and H of this part (collectively known as the ''HON'') are in compliance with the requirements of this subpart if it complies with either such requirement.

(ii) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, wastewater streams that are subject to control requirements in the Benzene Waste NESHAP (subpart FF of part 61 of this chapter) and this subpart are required to comply with both subpart FF of part 61 of this chapter and this subpart.

3. Section 63.1101 is amended by adding definitions in alphabetical order to read as follows:

§ 63.1101 Definitions.

* * * * *

Annual average concentration, as used in the wastewater provisions, means the flow-weighted annual average concentration, as determined according to the procedures specified in § 63.144(b).

Annual average flow rate, as used in the wastewater provisions, means the annual average flow rate, as determined according to the procedures specified in § 63.144(c).

* * * * *

Group 1 wastewater stream means a process wastewater stream at an existing or new source that meets the criteria for Group 1 status in § 63.132(c).

Group 2 wastewater stream means a process wastewater stream that does not meet the definition of a Group 1 wastewater stream.

* * * * *

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the chemical manufacturing process unit into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the chemical manufacturing process unit for repair.

* * * * *

Oil-water separator or *organic-water separator* means a waste management unit, generally a tank used to separate oil or organics from water. An oil-water or organic-water separator consists of not only the separation unit but also the forebay and other separator basins, skimmers, weirs, grit chambers, sludge hoppers, and bar screens that are located directly after the individual drain system and prior to additional waste management units such as an air flotation unit, clarifier, or biological treatment unit. Examples of an oil-water or organic-water separator include, but are not limited to, an American Petroleum Institute separator, parallel-plate interceptor, and corrugated-plate interceptor with the associated ancillary equipment.

* * * * *

Point of determination means each point where process wastewater exits the chemical manufacturing process unit.

Note to definition for "Point of determination": This subpart allows determination of the characteristics of a wastewater stream: At the point of determination; or downstream of the point of determination if corrections are made for changes in flow rate and annual average concentration of Table 9 compounds as determined in § 63.144. Such changes include losses by air emissions; reduction of annual average concentration or changes in flow rate by mixing with other water or wastewater streams; and reduction in flow rate or annual average concentration by treating or otherwise handling the wastewater stream to remove or destroy hazardous air pollutants.

* * * * *

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact

with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown, water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; equipment washes between batches in a batch process; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

Process wastewater stream means a stream that contains process wastewater.

* * * * *

Table 9 compounds means compounds listed in Table 9 of subpart G of this part.

* * * * *

Wastewater is either a process wastewater or a maintenance wastewater and means water that:

(1) Contains either:

(i) An annual average concentration of Table 9 compounds of at least 5 parts per million by weight at the point of determination and has an annual average flow rate of 0.02 liter per minute or greater; or

(ii) An annual average concentration of Table 9 compounds of at least 10,000 parts per million by weight at the point of determination at any flow rate; and

(2) Is discarded from a chemical manufacturing process unit.

Wastewater stream means a stream that contains wastewater.

4. Section 63.1103 is amended in table 1 in paragraph (a) by adding in numerical order entries 6, 7, and 8; in table 2 in paragraph (b)(3)(i) by adding in numerical order entries 8, 9, and 10; in table 5 in paragraph (d) by adding in numerical order entries 7, 8, and 9; and in table 6 in paragraph (d) by adding in numerical order entries 6, 7, and 8 to read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

(a) * * *

TABLE 1 TO § 63.1103(A).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACETAL RESINS PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
*	* * *	*
6. An acetal resins production process unit that generates process wastewater.	The process wastewater stream is a Group 1 wastewater stream.	Comply with the requirements of § 63.1106(a).
7. An acetal resins production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
8. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * *

(b) * * *

(3) * * *

(i) * * *

TABLE 2. TO § 63.1103(B)(3)(I).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (B)(3)(I) OF THIS SECTION?

If you own or operate . . .	And if . . .	Then you must . . .
* *	* * *	* *
8. An acrylic and modacrylic fiber production process unit that generates process wastewater.	The process wastewater stream is a Group 1 wastewater stream.	Comply with the requirements of § 63.1106(a).
9. An acrylic and modacrylic fiber production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
10. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * * * *

* * * * * * *

(d) * * *

TABLE 5 TO § 63.1103(D).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
* *	* * *	* *
7. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 wastewater stream.	Comply with the requirements of § 63.1106(a).

TABLE 5 TO § 63.1103(D).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
8. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
9. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * * * *

Table 6 to § 63.1103(d).—What Are My Requirements if I Own or Operate a Polycarbonate Production New Affected Source?

If you own or operate . . .	And if . . .	Then you must . . .
* *	* * *	* *
6. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 wastewater stream.	Comply with the requirements of § 63.1106(a).
7. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
8. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * * * *

5. Section 63.1106 is added to subpart YY to read as follows:

§ 63.1106 Wastewater provisions.

(a) *Process wastewater.* Except as specified in paragraphs (a)(1) through (a)(16) and (d) of this section, the owner or operator of each affected source shall comply with the HON process wastewater requirements in §§ 63.132 through 63.148.

(1) When terms used in §§ 63.132 through 63.148 are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purposes of this subpart. For terms used in §§ 63.132 through 63.148 that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(2) When the term chemical manufacturing production process unit, or CMPU, is used in § 63.132 through 63.148, the phrase ''a process unit whose primary product is a product produced by a source category subject to this subpart'' shall apply, for the purposes of this subpart.

(3) Owners and operators of affected sources are not required to comply with § 63.132(b)(1) and (d) and § 63.138(c). Further, owners and operators are exempt from all requirements in §§ 63.132 through 63.148 that pertain solely and exclusively to organic HAP listed in table 8 of subpart G of this part.

(4) When the determination of equivalence criteria in § 63.102(b) is referred to in §§ 63.132, 63.133, and 63.137, the alternative nonopacity emission standard provisions in § 63.6(g) shall apply, for the purposes of this subpart.

(5) When the HON storage vessel requirements for internal floating roofs contained in §§ 63.119(b) are referred to in § 63.133(a)(2)(ii), the requirements in § 63.1063(a)(1)(i), (2), and (b) shall apply, for the purposes of this subpart.

(6) When the HON storage vessel requirements for external floating roofs in § 63.119(c) and § 63.120(b)(5) and (6) are referred to in § 63.133(a)(2)(iii) and (d), the requirements in § 63.1063(a)(1)(ii), (2), and (b) shall apply, for the purposes of this subpart.

(7) For the purposes of this subpart, § 63.1063(c)(2)(iv) shall apply instead of § 63.133(e).

(8) When § 63.143(c), (d), (e)(3) and § 63.146(a) require the submission of a request for approval to monitor alternative parameters according to the procedures specified in § 63.151(f) or (g), the owner or operator requesting to monitor alternative parameters shall follow the procedures specified in § 63.1108(c) or as specified in a referenced subpart.

(9) When § 63.147(d) requires the owner or operator to keep records of the daily average value of each continuously monitored parameter for each operating day as specified in § 63.152(f), the owner or operator shall keep records of each continuously monitored parameter for each operating day as specified in § 63.998(b).

(10) When § 63.132(a) and (b) refer to the ''applicable dates specified in § 63.100 of subpart F of this part,'' the applicable compliance dates specified in § 63.1102 shall apply, for purposes of this subpart.

(11) Where § 63.152(b) and/or the Notification of Compliance Status is referred to in § 63.132 through § 63.148, the Notification of Compliance Status requirements contained in § 63.1110(a)(3) shall apply, for purposes of this subpart.

(12) Where § 63.152(c) and/or the Periodic Report requirements are referred to § 63.132 through 63.148, the Periodic Report requirements contained in § 63.1110(a)(4) shall apply, for purposes of this subpart.

(13) When Method 18 of appendix A to part 60 of this chapter is specified in § 63.139(e)(1)(ii), § 63.145(d)(4), or § 63.145(i)(2), either Method 18 or Method 25A of appendix A to part 60 of this chapter may be used. The use of Method 25A of appendix A to part 60 of this chapter shall comply with paragraphs (a)(13)(i) and (a)(13)(ii) of this chapter.

(i) The organic HAP used as the calibration gas for Method 25A of appendix A of part 60 of this chapter shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A of appendix A of part 60 of this chapter is acceptable if the response from the high-level calibration gas is at least 20 times

the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(14) When the HON recordkeeping requirements for by-pass lines in § 63.118(a)(3) is referred to in § 63.148(f), the requirements in § 63.998(d)(1)(ii)(A) shall apply, for the purposes of this subpart.

(15) When the Initial Notification requirements in § 63.182(b) are referred to in § 63.148(j), the requirements in § 63.1110(c) shall apply, for the purposes of this subpart.

(16) For the purposes of this subpart, § 63.148(k) shall not apply.

(b) *Maintenance wastewater.* The owner or operator of each affected source shall comply with the HON maintenance wastewater requirements in § 63.105. When terms used in §§ 63.105 are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purpose of this subpart. For terms used in § 63.105 that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(c) *Liquid streams in open systems.* The owner or operator shall comply with the provisions of Table 35 of subpart G of this part for each item of equipment meeting the criteria specified in paragraphs (c)(1) through (3) of this section and either paragraph (c)(4)(i) or (ii) of this section, with the exceptions provided in paragraphs (c)(5) and (6) of this section.

(1) The item of equipment is one of the types of equipment identified in paragraphs (c)(1)(i) through (vii) of this section.

(i) Drain or drain hub.

(ii) Manhole (including sumps and other points of access to a conveyance system).

(iii) Lift station.

(iv) Trench.

(v) Pipe.

(vi) Oil/water separator.

(vii) Tanks with capacities of 38 m^3 or greater.

(2) The item of equipment is part of an affected source that is subject to this subpart.

(3) The item of equipment is controlled less stringently than in Table 35 of subpart G of this part, and the item of equipment is not otherwise exempt from the provisions of this subpart, or a referenced subpart.

(4) The item of equipment:

(i) Is a drain, drain hub, manhole, lift station, trench, pipe, or oil/water separator that conveys water with a total annual average concentration greater than or equal to 10,000 parts per million by weight of Table 9 compounds at any flow rate; or a total annual average concentration greater than or equal to 1,000 parts per million by weight of Table 9 compounds at an annual average flow rate greater than or equal to 10 liters per minute.

(ii) Is a tank that receives one or more streams that contain water with a total annual average concentration greater than or equal to 1,000 parts per million by weight of Table 9 compounds at an annual average flow rate greater than or equal to 10 liters per minute. The owner or operator shall determine the characteristics of the stream as specified in paragraphs (c)(4)(ii)(A) and (B) of this section.

(A) The characteristics of the stream being received shall be determined at the inlet to the tank.

(B) The characteristics shall be determined according to the procedures in § 63.144(b) and (c).

(5) When terms used in Table 35 of subpart G of this part are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purpose of this subpart. For terms used in Table 35 of subpart G of this part that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(6) When Table 35 of subpart G of this part refers to § 63.119(e)(1) or (e)(2) in the requirements for tanks, the requirements in § 63.982(a)(1) shall apply, for purposes of this subpart.

(d) The compliance date for the affected sources subject to the provisions of this section is specified in § 63.1102.

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Part III

Department of Labor

Employment and Training Administration

20 CFR Parts 654 and 655

Labor Certification Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measures To Improve Program Performance; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 654 and 655

Labor Certification Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measures To Improve Program Performance

RIN 1205–AB19

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) is publishing a final rule amending its regulations relating to the temporary employment of nonimmigrant agricultural workers (H–2A workers) in the United States. The final rule makes three substantive changes to the current regulations. One change reduces the time that an application for temporary agricultural labor certification must be filed from 60 days to 45 days before the date the employer needs agricultural workers. Another change provides employers with the option of having the housing inspected as late as 20 days before the date of need. The third substantive change modifies the requirement that employers notify the local State Employment Security Office, in writing, of the exact date on which the H–2A workers depart for the employers place of business.

The proposal to provide a limited exception from the requirement to use certain Farm Labor Contractors as a source of workers has been narrowed so that it can be implemented in a manner that does not require a change to the current regulations. A fifth proposed change to transfer visa petition adjudication authority for workers outside of the United States from the Immigration and Naturalization Service (INS) to DOL remains open as it is the subject of parallel notice-and-comment rulemaking by INS.

DATES: This final rule is effective July 29, 1999. Affected parties do not have to comply with the information collection and recordkeeping requirements in § 655.106(e)(1) until the Department publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 2, 1998, ETA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) which proposed five amendments to ETA's regulations at 20 CFR part 655, subpart B, relating to the temporary employment of nonimmigrant agricultural (H–2A) workers in the United States. 63 FR 53244 (Oct. 2, 1998). The NPRM proposed five regulatory changes pertaining to: (1) The time limits for housing inspections; (2) time limits for filing labor certification applications; (3) a possible exception from using certain Farm Labor Contractors (FLC's); (4) elimination of the requirement that employers notify the local job service office in writing of the date the H–2A workers depart for the employer's place of business; and (5) transfer of the responsibility for approving H–2A visa petitions for workers coming from outside of the United States (U.S.) to DOL from the INS Commissioner. This document adopts final regulations involving the time limits for housing inspection and filing applications, and the requirement that employers notify the local employment service office of the date the H–2A workers depart for the employer's place of business. Another proposed change relating to an exception from using certain FLC's is being adopted, in part, in a manner that can be implemented under current regulations. The Department will take appropriate action to finalize the transfer of petition authority if INS concludes such transfer is appropriate at the completion of its rulemaking.

II. Statutory Standard and Implementing Regulations

The decision whether to grant or deny an employer's petition to import nonimmigrant farm workers to the United States for the purpose of temporary employment is the responsibility of the Attorney General's designee, the INS Commissioner. The Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) provides that the Attorney General may not approve a petition from an employer for employment of nonimmigrant farm workers (H–2A visa holders) for temporary or seasonal services or labor in agriculture unless the petitioner has applied to the Secretary of Labor for a labor certification showing that:

(A) There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and

(B) The employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. [8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.]

The Department of Labor has published regulations at 20 CFR part 655, subpart B, and 29 CFR part 501 to implement its responsibilities under the H–2A program. Regulations affecting employer-provided agricultural worker housing are in 20 CFR part 654, subpart E, and 29 CFR 1910.42.

It was noted in the NPRM that some recent H–2A program changes were made to enhance effectiveness and efficiency while maintaining worker protections by administrative directives in the form of Field Memoranda (FM) issued by the ETA national office to its 10 Regional Administrators (RA's). (The RA's make determinations on H–2A labor certification applications and provide functional guidance to the State Employment Security Agencies (SESA), which administer the H–2A program under 20 CFR part 655, subpart B—Labor Certification Process for Temporary Agricultural Employment in the United States.) These administrative changes are summarized herein for the convenience of interested parties.

Administrative changes made by FM 17–9, issued January 6, 1997, Subject: *Improvements in H–2A processing,* included:

- Clarifying under what conditions U.S. workers are considered to be ''available'' and thus may be counted to fully or partially deny H–2A positions requested on employers' labor certification applications. Only those U.S. workers who are identified by name, address, and social security number can be counted to reduce the number of H–2A workers requested by an employer;
- Emphasizing that regional offices should use discretion in reducing the number of certified positions requested as a result of ''last minute'' replacements of recruited U.S. workers where historical records of similar last minute referrals, or other information,

indicate the likelihood that a proportion of the referred workers would not make themselves available for work;

- Clarifying positive recruitment requirements of U.S. farm workers in areas where there are credible reports of ''a significant number of qualified U.S. workers, who, if recruited, would likely be willing to make themselves available for work at the time and place needed,'' thereby targeting recruitment efforts by employers and SESA's to those areas most likely to produce qualified and available U.S. workers;
- Encouraging routine posting of approved agricultural job orders on America's Job Bank in view of the increased use of this resource on the part of employers and U.S. workers.

FM Number 22–98, issued April 14, 1998, Subject: *Clarification of Transportation Requirements Home,* reaffirmed and clarified the regulatory provisions which allow H–2A workers to move from one certified employer to another and the requirement placed on the final H–2A employer to pay for (or provide) the worker's transportation home.

III. Comments on Proposed Rule and the Department's Response

A. Comments on Proposed Rule

Thirty-six comments were received on the proposed rule. The largest number of comments—15—were received from State agencies. After the State agencies, the largest number of comments were received from worker advocates and employer organizations, which submitted 8 and 5 comments, respectively. The Farmworker Justice Fund (FJF) indicated that its comments were supported by 32 listed organizations. Comments were received from the American Immigration Lawyers Association (AILA) and two private attorneys. Comments were also received from Congressman Howard Berman of California, ETA's Regional Office in Chicago, one monitor advocate, and one member of the general public.

Many commenters, in addition to commenting on the specific regulatory proposals contained in the NPRM, offered a number of additional suggestions for modifying the H–2A program. These suggestions included, but were not limited to:

- Repealing the adverse effect wage rate (AEWR);
- Increasing the AEWR by 20 percent;
- Eliminating the current definition of ''prevailing practice'' which is based on the practices of a majority of employers and employees, and replacing it with one based on either a majority of employers, or a majority of the employees in the local area and occupation;
- Imposing user fees that recover the true cost of the H–2A program;
- Eliminating the 50 percent rule, which requires employers to hire any qualified U.S. worker who applies until 50 percent of the work contract, under which the foreign worker was hired, has elapsed.
- Requiring withholding and placing in escrow sufficient funds from H–2A workers' wages so that they can pay for their return transportation home if they do not fulfill their contracts.

The above suggestions are outside the scope of the proposed rule. Consequently, they are not addressed in this document but may be considered by the Department in a future rulemaking regarding the H–2A nonimmigrant program. Similarly, comments concerning administrative (i.e., non-regulatory) changes in the H–2A program are not addressed in this document, but will be considered by the Department in making administrative changes that can be implemented without amending the H–2A regulations at 20 CFR part 656, subpart B.

The FJF strongly opposed the proposed rule and urged that it be withdrawn. According to the FJF, the proposal is arbitrary and capricious because it allegedly ignores numerous studies concluding that the Department has not adequately implemented worker protections under the H–2A program, and it ignores recommendations that have been made by such studies to improve worker protections. The FJF enumerated a variety of recommendations made and issues identified by the studies cited in its comments. Moreover, addressing the recommendations and issues cited by the FJF, as well as the many other recommendations made by other commenters would require a much more comprehensive assessment of the H–2A program and extensive consultation with all stakeholders, which—while such a process has been taking place in other fora—is outside the scope of this rulemaking.

As indicated in the preamble to the NPRM, the primary purpose of the proposed regulatory amendments was to implement certain changes growing out of a dialogue among the Departments of State (DOS), Justice (INS), Agriculture, and Labor to streamline the H–2A program and address complaints raised by some users of the program without weakening worker protections. Such an effort is particularly important in an environment characterized by program growth and stable or declining resources. The Department believes, as discussed in greater detail below, that the amendments adopted are balanced. The amendments serve to streamline the H–2A program and can help improve operations without weakening worker protections. Further, as stated in the preamble, this rulemaking represents one step towards implementing changes to improve H–2A program operations. The Department will consider the issues raised by various studies of the H–2A program, as well as the recommendations made by the commenters on the NPRM, in a future rulemaking effort to improve the operation of the H–2A program.

B. Comments About the Proposed Regulatory Changes

The comments received on the specific regulatory proposals in the NPRM and the Department's response to the comments are discussed below.

1. Time Limits for Employer Provided Housing To Be Available for Inspection (§ 654.403)

Several comments were received on the proposal to reduce the time by which housing that will be provided to a worker must be available for inspection, from 30 to 15 days prior to occupancy. Inspections are performed by State agencies in most cases. See 20 CFR 653.501(d)(2)(xv) and 20 CFR 654.400 *et seq.*

Congressman Howard Berman and several worker advocates objected to the proposal on several grounds. The major issues raised by those comments include:

- State agencies do not always make timely inspections and shortening the lead time to conduct housing inspections will inevitably lead to some needed repairs not being made.
- The Office of Inspector General's (OIG) report concluded, in relevant part, that DOL has certified employers to receive H–2A workers despite lacking documentary proof that housing inspection had occurred. The OIG finding is consistent with reports that some H–2A housing is not inspected in a timely fashion and that H–2A housing does not comply with basic housing standards.
- The untimely inspection and repair of farmworker housing will worsen as the H–2A program continues to grow, since funding for inspections will not keep pace with the increased need. The H–2A program has been expanding to new States and crop areas during the last three years and is expected to continue its growth.

Employer organizations favored the proposal to reduce the lead time worker

housing must be available for inspection prior to occupancy, and assumed that the proposed shortened deadline for housing inspections would allow certifications to be issued even if housing inspection was still pending. The National Council of Agricultural Employers (NCAE) stated that if certification is delayed while housing inspections are still pending, the proposed amendment would have little ''real impact on H–2A users.'' NCAE recommended that the regulations be amended to clarify that housing inspection is not required prior to certification.

Two large employer organizations—NCAE and the American Farm Bureau Federation (AFBF)—expressed considerable concern about the increasing difficulty employers face in obtaining timely housing inspections. The NCAE indicated that this problem has grown worse in recent years with growth in the H–2A program and its expansion into States where H–2A certification has not been sought in recent years. The NCAE further stated that it appears that many states have an extremely limited number of personnel who are capable of performing housing inspections. Although the NCAE supported reducing the application time, it strongly urged that DOL inventory the housing inspection resources available in the State agencies to assure that there are qualified inspectors available to make inspections in a timely manner.

Both the NCAE and AFBF recommended conforming the H–2A housing inspection requirement to that for all other migrant and seasonal agricultural workers in the regulations implementing the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) at 29 CFR 500.135. They contend such a change would address the problem faced by employers in obtaining timely housing inspections. The MSPA regulations require that housing be approved prior to occupancy. They also provide that if the employer has made a timely request for an inspection, and the inspection has not been made, the employer may house workers without inspection, provided that the housing is in full compliance with applicable regulations.

Nine State agencies objected to the proposal to shorten the lead time for housing inspections. The major points they made include:

- Several States objected to the proposal because it would allow certification to be issued before the employer's housing was inspected and approved.
- Other states objected to the proposal based on resource considerations. With the limited resources available, a shorter time frame would make it more difficult for States to inspect and approve housing prior to occupancy. Two States pointed out that they only had one person available to conduct housing inspections; another indicated that normally only one person is available to conduct 150 housing inspections.
- One State pointed out that inclement weather conditions during the winter months requires rescheduling of housing inspections in remote areas. The proposed 15-day time frame would make it difficult for inspections to be completed in a timely fashion.
- Many employers do not request housing inspections in a timely manner.
- Inspection 15-days before occupancy may not provide adequate time for employers to correct deficiencies in their housing.

Four States were in favor of the proposal to shorten the lead time for conducting housing inspections. One State maintained that the shorter time frame would allow more flexibility for its field staff to work with employers and that the ''relaxing'' of the regulation ''still provides the same level of protection for U.S. workers.''

The ETA Chicago Regional Office expressed great concern about reducing the time limit for inspection prior to occupancy, because there would be no way to guarantee that housing will be in full compliance with requirements before certification is granted.

The Department indicated in the NPRM that one reason for reducing the lead time for conducting housing inspections was the commonly expressed concern among employers in Northern States that a 1-month lead time was unrealistic for employers that need workers in March or April. It was also stated in the NPRM that local employment security agency staff have had difficulty inspecting employer-provided housing in Northern States. 63 FR at 53245. Only two comments directly addressed these issues. Massachusetts indicated that it does not have a problem in inspecting housing in late winter or early spring. The State's records show that employers with employment needs during late winter or early spring normally maintain their housing facilities in conformity with the required standards and have always been inspected in a timely manner. As noted above, another state, pointed out that inclement weather frequently causes housing inspections to be rescheduled and opined that reducing the lead time the employer has to assure that housing will be in full compliance before it is occupied will make it more difficult for State agencies to perform timely housing inspections.

Lastly, one commenter questioned what would happen if—with a shortened lead time—the employer's housing is found deficient after certification, and called upon the Department to spell out what happens in such circumstances. The commenter urged that the employer simply be given an opportunity to correct and cure any deficiency before the date of need.

After carefully reviewing all the comments, the Department continues to be of the view that employers should have the option of having the housing inspected at a date considerably later than under the current regulations. At the same time, however, the Department has given careful consideration to the interrelationship between housing inspection and the certification process, and has concluded that housing must pass inspection before certification can be granted. See 8 U.S.C. 1188(c)(4). Therefore the Department has concluded that the latest date by which employers must assure that the housing will be in full compliance with applicable standards pursuant to § 655.403(a)(3) can be no later than 20 days before the date of need—i.e., the date on which certification must ordinarily be granted. An employer whose housing fails to pass an inspection conducted on or before the 20th day prior to the date of need will have the 5 days provided for in § 655.403 (e) to correct the deficiency and the certification will be delayed for that period, if necessary. If, on the other hand, the state agency did not timely inspect the housing (i.e., by 20 days before the date of need), at no fault of the employer, the Department will delay certification until the housing has been inspected and the employer has had an opportunity to remediate any deficiencies discovered.

The Department notes that the employer must notify the SESA ordering office at least 10 working days before the date of need, pursuant to 20 CFR 653.501(d)(2)(v)(D), if workers are no longer needed or if the date of need has changed or else face liability to U.S. workers for housing and the first week's pay. U.S. workers in turn are required pursuant to 20 CFR 653.510(d)(2)(v)(B) to contact a local job service office 5 to 9 working days before the date of need to determine if the employer's needs have changed. This allows workers to commence travel to the jobsite, or to find alternative employment if the work is no longer available. It therefore is important that the housing be timely

inspected so that the local office is able to advise workers if it becomes necessary to deny the certification because the housing is not in compliance with the applicable standards.

The Department is of the view that rather than allow State agencies less time in which to schedule inspections, this modification actually provides a longer window. The Department anticipates that in areas where housing inspections take longer to schedule, employers will continue to provide early notice to State agencies to ensure that inspections are conducted timely.

Accordingly, the Department has modified § 654.403 to require that employers assure housing will be in full compliance no later than 20 calendar days before the date of need. The Department intends to issue administrative guidance concerning the operation of this modification.

2. Reduction in Lead Time To File Labor Certification Applications (§ 655.101(c))

The proposal in the NPRM to reduce the deadline for filing applications from 60 to 45 days before the date of need was strongly opposed by the FJF, other worker advocates, and Congressman Howard Berman. Their major reasons for objecting to the proposal include:

- There has been no showing that a change in the lead time to file applications is justified. Agricultural growers know well in advance their planting and harvesting schedules. Indeed, for decades, growers throughout the eastern United States were able to estimate these needs a full 80 days in advance.
- The time available for interstate and positive recruitment of U.S. workers would be unreasonably shortened if the proposal is implemented. Interstate recruitment does not begin until the application is accepted for consideration by DOL. It can take 7 days for the DOL's regional office to review the employer's application, and the employer has another 5 days to correct deficiencies. With a shortened lead time, this would place the beginning of the interstate recruitment at the 33rd day prior to the date of need and just 13 days before the date for labor certification. If DOL does not review applications in a timely manner, as is often the case, there could be 10 days or less of interstate recruitment of migrant workers prior to the date of certification.
- Congress insisted that H–2A labor certification be based on proof that there is an actual labor shortage, following a meaningful test of the labor market. Accordingly, it is not sufficient to rebut that the regulations provide that recruitment must continue until the date the foreign (H–2A) workers depart for the employer's place of work.
- Employers do not always hire workers referred to them pursuant to the 50-percent rule.
- The proposal is inconsistent with the recommendations of the General Accounting Office (GAO). Although the GAO report suggested that the Department could reduce from 60 to 45 days the time applications have to be submitted prior to the date of need, it also stated that such a reduction should only be made if the statutory requirement that certifications be issued 20 days before the date of need is reduced to 7 days.
- The proposal is inconsistent with the regulatory requirement at § 655.105 (a)(2), which requires that H–2A employers engage, at a minimum, in the kind and degree of recruitment efforts to secure U.S. workers that they made to obtain H–2A workers.

Employer organizations supported the reduction in the required lead time to file applications. However, they recommended that the lead time to file applications be reduced by more than suggested by DOL.

The NCAE, for example, maintained that it is the experience of H–2A users that most U.S. workers make themselves available shortly before, or after, the certification date. Furthermore, since under current regulations all qualified U.S. workers who apply to the employer must be hired until 50 percent of the anticipated period of work (the contract period) has elapsed, no qualified U.S. worker would be denied a job even if the deadline for applications were reduced to 40 or even 30 days before the date of need. The New England Apple Council (NEAC) maintained that the ''lag time'' between recruitment and start of work produces more ''no shows'' of workers than any other reason.

The Florida Fruit and Vegetable Association (FFVA) stated that for several vegetable crops which are greatly influenced by weather and other production uncertainties, a 45-day lead time may still be too far out to determine a crop's maturity rate.

Comments submitted by State agencies regarding the proposal to shorten the lead time for filing applications were mixed. Four States supported the proposal, indicating that the proposed change would not have an adverse impact on U.S. workers. Two of these States indicated that the deadline for filing applications should be reduced to less than 45 days. The California State agency recommended that the deadline for filing applications be reduced to 30 days prior to the date of need. According to the California State Agency, the shorter lead time would increase the possibility of locating U.S. workers who can commit to the job and it also would be beneficial to employers ''who may not know their exact staffing needs or start date until closer to the time the work needs to be done.'' The Kentucky State agency commented that ''(s)uccessfully recruiting any U.S. workers can be achieved through the Agriculture Recruitment System in 30 days if supply states and demand states coordinate specific efforts towards identified populations.''

Two states were against reducing the lead time for filing and processing applications. The Idaho State agency noted that the full 60 days is needed because applications are not filled out properly when received. The Massachusetts State agency indicated that the shorter time frame will adversely impact on State agencies' ability to conduct effective recruitment, especially in regions where master orders are used.

Two other states also commented. The New Jersey State agency indicated that the reduction in time to process applications should not be a problem if there are adequate staff at DOL to respond to the applications when they are received. The Nevada State agency noted that the proposal provides employers with more flexibility in recruitment of agricultural labor, particularly with regard to crops that are more sensitive to weather conditions. At the same time, the proposal may allow employers to be less organized in the planning and execution of their application. The Nevada State agency concluded by stating that because of the way applications are prioritized and processed in Nevada, processing times would remain relatively constant regardless of filing deadlines.

A monitor advocate who commented opined that the lead time to file and process applications should be expanded. This time should not be less than 60 days to enable employers to access all local resources in attracting and identifying a ''sufficiently large labor force.''

The ETA Chicago Regional Office commented that reducing the time limit to file labor certifications did not leave enough time for the State agencies to recruit adequately in view of all the administrative steps that must be completed before States can conduct recruitment.

Some commenters also indicated that the employers should still be able to file labor certification applications more than 45-days prior to the date of need

for H–2A agricultural workers. One commenter assumed that first-time users of the program would be able to file less than 45-days prior to the date of need if necessary.

With respect to the time limit for filing applications, the Department has decided, after reviewing all of the diverse comments, to implement the proposal to reduce the lead time for filing H–2A labor certification applications from 60 to 45 days before the first date the employer estimates that H–2A workers are needed. The regulation will provide growers with increased ability to more precisely estimate the need for workers. The Department has concluded, for the reasons discussed below, that reducing the lead time for filing H–2A labor certification applications will not have a significant adverse impact on the recruitment of U.S. workers. The final rule, at § 655.101(c)(3), continues to encourage employers to file in advance of the required filing date, and no change is made in the regulation for emergency applications at § 655.101(f)(2), which refers to agricultural employers who have not made use of H–2A agricultural workers for the prior year's agricultural season.

As noted in the preamble to the NPRM, the overwhelming majority of qualified U.S. workers do not apply and make a commitment to temporary agricultural employment earlier than 45 days before their services are required. The Department does not believe that this is generally attributable to the fact, as some commenters indicated, that DOL regional offices may spend 12 days, or more, in processing applications before they are accepted for consideration and placed into interstate clearance. Furthermore, the majority of applications filed on behalf of H–2A agricultural workers are by repeat users of the H–2A program. Most such employers are well versed in program requirements, policies, and procedures; consequently, their applications can be accepted for consideration and placed into the Agricultural Recruitment System with minimal review.

H–2A labor certification applications are filed simultaneously with the local employment service office and the ETA regional office. The local office begins to conduct local recruitment when it receives the application from the employer whether or not it has been accepted for consideration by ETA's regional office. 20 CFR 655.101(c)(2).

As stated above, some commentators noted that it can take longer than the allotted 7 days for regional offices to review H–2A labor certification applications, and that employers may take longer than 5 days to resubmit an amended application in response to any deficiencies found in the application by the regional office, resulting in a reduction in the time allowed for interstate recruitment, since the application has to be certified 20 days before the day the employer first needs agricultural workers. With respect to meeting the 7-day deadline for reviewing applications, ETA intends to increase its monitoring of regional offices to improve its performance in meeting this statutory and regulatory requirement. See 20 CFR 655.101(c)(1); and 8 U.S.C. 1188(c)(2).

With respect to the 5 days allotted for employers to submit amended applications in response to deficiencies noted by the regional office, ETA intends to strictly enforce the regulatory requirement at § 655.101(c)(2). This provides, in relevant part, that when ETA has formally notified an applicant of any deficiencies, any time needed to obtain an application acceptable for consideration after the 5-calendar period allowed for an amended application will postpone the certification decision day-for-day beyond the 20 calendar days before the date of need. This will lessen considerably the possibility that the period of interstate recruitment prior to the date the application is certified will be unduly abbreviated.

Most importantly, notwithstanding comments to the contrary, it is important to recognize that recruitment continues considerably past the date a labor certification application is certified. Positive recruitment conducted by the employer must continue until the time the H–2A workers depart for the employer's place of employment, and recruitment through the interstate clearance system continues until 50 percent of the work contract under which the H–2A workers were hired has elapsed. Under the ''50-percent rule,'' which refers to half the time accounted for by the total period of the contract, the employer must continue to provide employment to any qualified, eligible U.S. worker who may apply. In addition, the employer must offer to provide the U.S. workers with housing and the other benefits, wages, and working conditions provided to H–2A workers. See 8 U.S.C. 1188(b)(4), and 20 CFR 655.102, 655.103(d), 655.105(a), and 655.106(e).

As noted above, some commenters indicated that employers do not always hire U.S. workers referred to them pursuant to the ''50-percent rule.'' See 20 CFR 655.103(e). However, no evidence to support these claims was submitted to the Department. Additionally, the Department is not aware of any evidence suggesting that such occurrences are numerous or widespread. Nevertheless, ETA intends to be vigilant of employers' compliance with the ''50-percent rule'', with violations addressed through the imposition of appropriate sanctions.

3. Exception From Using Farm Labor Contractors (§ 655.103(f))

The majority of comments opposed the proposal to provide a limited exception from the requirement to use farm labor contractors (FLC's) when it is the prevailing practice in an area and occupation for non-H–2A employers to use such contractors as a recruitment source for U.S. workers and to compensate them with an override. This exception would have applied if a particular FLC has a demonstrated history of using undocumented aliens or serious labor standard violations.

Congressman Berman and worker advocacy organizations were strongly opposed to the proposal. They indicated that such an exception would reduce the use of FLC's which are an important recruitment source for U.S. farmworkers. The FJF maintained that recent studies show that an increasing percentage of U.S. farmworkers and most guest workers are hired through labor contractors. Both Congressman Berman and the FJF maintained that in California it is estimated that between one-half and two-thirds of seasonal farmworkers are hired through crewleaders—many of whom also transport, house, pay, and supervise workers in the fields.

Objections to the proposal by worker advocates include:

- The provision that employers need not use an FLC on the Wage and Hour Division's (WHD's) list of contractors whose certificates have been revoked is redundant with current law under MSPA and unnecessary. Employers are prohibited by law from contracting with an FLC whose licenses has been revoked and not reinstated.
- The complaint provision proposed provides no due process rights permitting FLC's to challenge the evidence submitted by State agencies.
- The proposed rule could put some FLC's out of business and deny jobs to U.S. workers who are associated with contractors who have been ''sanctioned'' by the INS for hiring unauthorized immigrants or who have violated labor laws. The Department should not use this rulemaking process to impose additional ''punishment'' on businesses because affected U.S. workers would be unduly harmed.

• The proposal may lead to workers being ''doubly punished'' and discouraged from filing complaints. If a worker complains about abusive practices of an FLC, such as nonpayment of wages, the worker may see wages go unpaid and then lose future work because of the secondary consequences of the complaint.

• An H–2A grower which may have hired unauthorized workers and violated labor laws would still receive Government approval to hire H–2A workers; yet, an FLC could be barred, at the grower's initiation, from supplying lawful U.S. workers to that same U.S. employer.

• The proposal is particularly troubling in that it allows an FLC who is barred as a contractor supplying U.S. workers to apply for H–2A labor certifications.

• The proposal could be subject to manipulation and harmful to workers. An employer could bring a complaint against an FLC who has a large number of available U.S. workers to avoid hiring U.S. workers.

The employer organizations also objected to the proposal to provide an exception from using certain FLC's. The NCAE pointed out, as did the worker advocates, that the provision in the proposal permitting H–2A applicants to refuse to engage FLC's who are on WHD's list of contractors whose certificates have been revoked adds no new protections for H–2A employers. Under the MSPA regulations at 20 CFR 500.71, employers are already prohibited from engaging such contractors.

The NCAE also maintained that the provision that H–2A employers would not be required to employ farm labor contractors on a list of contractors sanctioned by INS is meaningless, because INS does not maintain such a list. NCAE contends that although INS district or regional offices may have such lists, all offices may not have such lists, and to the extent such lists exist, they would include all employers sanctioned by that INS district and would not be limited to FLC's. The lists are not aggregated in one spot and the lists that do exist are not routinely disseminated to the public as is the DOL FLC list. NCAE contended that the only apparent way an employer could avail itself of this regulatory provision is to contact each INS district office and request its list of employers which have been sanctioned for violations of immigration laws and search each list for the names of contractors.

According to the NCAE, the provision in the proposal to permit employers not to use FLC's not on the WHD or INS lists if the employer can document that the FLC ''has a history of employing or providing a substantial number of workers who do not have the authorization to work in the U.S. or a substantial history of labor violations'' is impractical on several grounds. These grounds include:

• It is unlikely that growers would be able to assemble the documentation on the FLC required to support a credible complaint;

• There is no protection for the employer from retaliation by the FLC; DOL would be creating a procedure in which the employer could incur legal liability by making the complaint; and

• The complaint procedure is flawed, convoluted and ignores the reality of the hiring procedure.

The NCAE recommended that, if the Department is truly concerned about helping employers avoid hiring persons not authorized to work in the United States, it should take appropriate measures to assure that the workers the State agencies refer are authorized to work before referring them. It is the experience of users of the H–2A program that a substantial and growing number of the persons referred as ''U.S. workers'' to H–2A applicant employers are, in fact, workers with fraudulent documents or, in some cases, no documents at all.

The comments submitted by State agencies on the proposal to provide an exception to permit employers not to use certain FLC's were mixed. The thrust of the comments submitted by three States appeared to be that the current regulation pertaining to FLC's as a recruitment source should be eliminated. On balance the State agencies of Arizona and Ohio appeared to be against the proposal. The Kentucky state agency stated that the proposal is a common-sense approach to a growing concern on the part of employer's and the State employment security staff and should be implemented.

The one monitor advocate who submitted comments supported the proposed amendment that provided an exception to using certain FLC's as a recruitment source.

After reviewing all the comments received on the proposed amendment to provide an exception to using certain FLC's, the Department has concluded that there are indeed serious due process concerns about potentially stigmatizing FLC's who have not had an opportunity to challenge allegations of wrongdoing in an adjudicatory proceeding. Further, the Department has legal authority to revoke the licence of an FLC who has violated immigrations laws or to refuse to register such an FLC (29 CFR 500.51(g)). The Department intends to obtain from the INS the list of those FLC's who have been found in violation of Section 274A(a) of the INA, either by hiring, recruiting, or referring an alien, knowing the alien was unauthorized to work; or by employing a person without first verifying the person's identity and employment authorization. Therefore, the final rule needs to make no change to the regulation at § 655.103(f). The Department is not implementing its proposal to provide a new means for employers to challenge the requirement to use an FLC the employer believes may have violated immigration or labor laws. Employers must attempt to secure workers through registered FLC's and to compensate them with an override for their services when it is the prevailing practice in the area for non-H–2A agricultural employers to use FLC's. However, no H–2A grower-applicant may or will be required to use any FLC included on WHD's list of contractors whose certificates have been revoked, including those certificates which are revoked because of violations of the immigration laws. The Wage and Hour Division publishes a list of ineligible FLC's, which is also available at its web site at: http://www.dol.gov/dol/esa/public/regs/statutes/whd/mspa__debar0399.html. Thus, the Department's proposal is being narrowed and can be implemented under existing regulatory authority.

4. Elimination of Requirement To Provide Notice of the H–2A Workers' Departure Date (§ 655.106(e)(1))

Diverse comments were received on the proposal to eliminate the requirement that employers notify the local employment service office, in writing, of the exact date the H–2A workers depart for the employer's place of employment, and substitute a provision deeming that the workers departed on the day immediately preceding the date of need. The Department stated in the preamble to the NPRM that program experience indicates that the H–2A workers usually depart for the employer's place of business the day before they are needed.

Worker advocates objected to eliminating the requirement that employers notify the local office of the H–2A workers departure dates because:

• There is no evidence that the current regulation imposes an excessive burden on growers utilizing the H–2A program;

• Such change should not occur until DOL addresses workers' needs; and

• Although the proposed change appears innocuous, it is likely to harm U.S. workers. For example, a nursery that was certified for H–2A workers to begin employment on October 15, 1998, did not start employing its H–2A workers until November 15, a full month later. The required notification enabled the local office to determine the appropriate dates for administering the 50-percent rule and advise job applicants accordingly.

The NCAE supported eliminating notice of the departure date, but disagreed that workers typically depart the day before the employer's date of need. The NCAE maintained that typically for workers to obtain their visas, travel to the employer's place of employment, and be settled and ready for work on the date of need, they must depart at least 3 days before the date of need. NCAE recommended that DOL deem 3 days before the date of need as the departure date. Furthermore, since workers' departure dates may be even earlier, depending on where they are coming from, it recommended that DOL continue to allow employers to notify the Department of the date on which their workers depart if it is more than 3 days before the date of need.

One attorney supported eliminating notice of the departure date because it is extremely burdensome to employers, especially when the employer has many H–2A workers who do not always depart for the employer's place of business at the same time.

Divergent comments were submitted by State agencies on this proposal. Three States commented that the requirement for notification of the departure date should not be eliminated. One of these States maintained that the change will harm U.S. workers, as on numerous occasions H–2A workers have departed up to 15 days after the date of need. Another State also pointed out that the contract period must also be determined for the purpose of determining whether the employer must provide or pay for the worker's transportation and daily subsistence from the place of employment to the place from which the worker came to work for the employer. A third State indicated that notification of the departure date is helpful in scheduling field checks, which is important to ensure that information is collected timely and for each employer, each crop and for each activity of those crops.

Four State agencies supported eliminating the requirement of notification of the H–2A workers' departure date. One State noted that the requirement is currently being ignored. Two States indicated that eliminating notice of the departure date would have no adverse impact on U.S. workers. A fourth State viewed the proposal as positive, since it does not affect the employer's requirement of notifying the order-holding office of changes in the date of need. This State also noted that it has had problems with H–2A employers notifying it of departure dates, but it can still meet with the H–2A workers after the date of need to review the job order and the employment service complaint system.

In light of the above comments regarding departure date notification, ETA has concluded that its original proposal to eliminate the requirement to notify of the departure date at § 655.106(e) should be modified to provide that ETA and the SESA shall deem the date of departure to be the third day before the first date of need. If the workers depart on or before the date of need, no notice to the SESA will be necessary. However, employers will have the option of advising the SESA if workers depart earlier. In all cases, an employer's obligation to positively recruit continues until the actual date of departure.

If the workers do not depart by the date of need, the employer must notify the SESA. Such notice shall be in writing, or orally, confirmed in writing, and must be made as soon as the employer knows that the workers will not depart by the first date of need, but in no event later than the date of need. At the same time the employer shall notify the SESA of the workers' expected departure date, if known. No additional notification will be necessary unless the employer either did not inform the local office of the expected departure date or the workers in fact did not depart by the expected date.

This modification should address the concerns of employers that workers more commonly depart three days before the date of need, while allowing flexibility if they do not depart on exactly that day or if employers wish to advise of an earlier departure date. In addition, this modification should address the concern expressed by worker advocates groups that on occasion workers depart long after the stated date of need, as well as the concern of States regarding their need to know the date of departure.

5. Transfer of Adjudication of Visa Petitions

Worker advocates indicated that there should be no transfer of adjudication of H–2A visa petitions from INS to DOL, absent a comprehensive approach to improving administration of the program.

AILA and two attorneys opposed the proposal to transfer the adjudication of visa petitions to the Department. They cited the lack of DOL's experience in adjudicating visa petitions, that training DOL personnel in visa petitioning issues and procedures would be duplicative of the training INS adjudicators already receive on these issues, that DOL does not have the resources or personnel to adjudicate visa petitions, and that they believe it is doubtful that DOL could be any more efficient than INS in processing H–2A visa petitions—in fact, because of the lack of personnel familiar with the issues, as well as the budgetary problems experienced by ETA in immigration-related processing, they contend it is likely to be worse.

Further, AILA and one attorney pointed out that it is impossible to know how delegation will work without seeing specifics of a rule implementing the proposed delegation. The AILA suggested that, if the proposed transfer of adjudication of visa petitions to DOL goes forward, it should be published in the **Federal Register** for comment.

The NCAE expressed ''grave'' concerns about any interim procedures that might be established to process H–2A visa petitions. It noted the interim procedures were not described in sufficient detail to permit an analysis of whether they, in fact, will be more streamlined and save time, or whether they might have the opposite effect. It also opined that the bottleneck in the current system is not the INS but the DOL. The only way to save time and increase the probability of timely arrival of workers is if the employer is permitted to include a completed visa petition in the same submission as the labor certification application, and if the issuance of the labor certification and approval of the visa petition are done in one action.

The NCAE concluded its comments by stating it strongly supported efforts to streamline the H–2A paperwork process. Combining the temporary labor certification application and visa petition into a single document, which is acted upon at the time of certification and immediately transmitted to the consulate or port of entry, could result in a significant improvement. Before undertaking this change, however, DOL should propose the precise regulations and procedures under which it intends to operate, and, at the same time, the INS should propose its regulations so both proposals can be evaluated together. Until this can be done, NCAE stated that it strongly objects to the proposed change and recommended that

the proposal to transfer adjudication of visa petitions be withdrawn from the rulemaking effort at this time.

The NEAC and the AFBF also expressed concerns similar to the NCAE regarding the transfer of the adjudication of the visa petition function to DOL; only the FFVA approved of this proposal.

Three State agencies supported transferring adjudication of H–2A visa petitions to DOL from the INS as it would result in reducing the time needed for employers to obtain foreign workers. Four States indicated that visa petitioning authority should not be transferred to DOL, unless additional funding is made available to the regional offices to adjudicate the visa petitions. The Ohio State agency ''guardedly'' agreed with the change based on a concern that work may be delegated to the States which are already underfunded to complete existing duties.

The Department believes that transferring the visa adjudication function to the Department would save substantial government resources and would eliminate one administrative step employers would have to complete under the program. Reducing the number of steps and paperwork involved in the process of obtaining H–2A workers—from the filing of an application with the Department of Labor to the issuance of a visa by the Department of State—should reduce both the paperwork burden and the number of instances that foreign workers do not arrive by the first date of the employer's need. The Department anticipates that the streamlined process would involve the development of a single consolidated labor certification application and visa petition form that will eliminate otherwise redundant information and support both labor certification and visa petitioning requirements. This would eliminate the necessity of employers filing visa petitions with INS for H–2A workers who are outside of the United States. The Department is committed to completing the necessary rulemaking and associated procedural changes as soon as possible, if INS delegates to DOL the authority to adjudicate H–2A visa petitions. INS has begun rulemaking to implement the transfer and the comment period on its proposed rule concluded on February 5, 1999.

Executive Order 12866

The Department has treated this rule as a ''significant regulatory action'' within the meaning of Executive Order 12866 because of the great interest in the H–2A program and the legal and policy issues raised by the rulemaking. However, this rule is not an ''economically significant regulatory action'' which requires an economic analysis because it will not have an economic 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.

Regulatory Flexibility Act

When the proposed rule was published, the Department notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule would not have a significant impact on a small number of entities. The Chief Counsel did not submit a comment.

Paperwork Reduction Act

Section 655.106(e)(1), pertaining to departure-date notification, contains information collection recordkeeping requirements. As required by the Paperwork Reduction Act of 1995, the U.S. Department of Labor has submitted a copy of these sections to OMB for its review. (44 U.S.C. 3504(h)).

The public reporting burden for information collection requirements contained in these regulations is estimated to average as follows:

15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments from the public and substantive changes are discussed in the preamble section dealing with this regulatory provision.

As discussed in the preamble, the Department anticipates further rulemaking to transfer the adjudication of H–2A visa petitions from the INS to DOL. Although this requirement would create a new collection of information requirement for DOL, we expect a net reduction in requirements for employers. This rulemaking will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, ''Certification of Foreign Workers for Agricultural and Logging Employment.''

List of Subjects

20 CFR Part 654

Agriculture, Employment, Government procurement, Housing standards, Labor, Migrant labor, Unemployment.

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and record keeping requirements, Specialty occupation, Students, Wages.

Final Rule

Accordingly, parts 654 and 655 of chapter V of title 20, Code of Federal Regulations, are amended as follows:

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart E—Housing for Agricultural Workers

1. The authority citation for part 654, subpart E is revised to read as follows:

Authority: 29 U.S.C. 49k; 8 U.S.C. 1188(c)(4); 41 Op.A.G. 406 (1959).

§ 654.403 [Amended]

2. Section 654.403 is amended as follows:

a. In paragraph (a)(1) the phrase ''30 calendar days'' is removed and the phrase ''20 calendar days'' is added in lieu thereof.

b. In paragraph (a)(3) the phrase ''30 calendar days'' is removed and the phrase ''20 calendar days'' is added in lieu thereof.

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); P.L. 103–206, 107 Stat 2419; and 8 CFR 214.2(h)(4)(i).

Section 665.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15) (H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c) and (d); and 29 U.S.C. 49 *et seq.*; and P.L. 103–206, 107 Stat 2419.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note).

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

§ 655.100 [Amended]

2. In § 655.100, paragraph (a)(1) is amended by removing the phrases ''60 calendar days'' and ''60-calendar-day period'' and adding in lieu thereof the phrases ''45 calendar days'' and ''45-calendar-day period'', respectively.

§ 655.101 [Amended]

3. In § 655.101, paragraph (c) is amended as follows:

a. In the introductory text of paragraph (c), the phrase ''60 calendar days'' is removed and the phrase ''45 calendar days'' is added in lieu thereof.

b. In paragraph (c)(1), the phrase ''60 calendar days'' is removed in the two places it appears and the phrase ''45 calendar days'' is added in each place in lieu thereof.

c. In paragraph (c)(2), the phrase ''60-calendar-day filing requirement'' is removed and the phrase ''45-calendar-day filing requirement'' is added in lieu thereof.

d. In paragraph (c)(3), the term ''60-calendar-day'' is removed in the two places it appears and the term ''45-calendar-day'' is added in each place in lieu thereof.

§ 655.106 [Amended]

4. Section 655.106 is amended by revising paragraph (e) to read as follows:

§ 655.106 Referral of U.S. workers; determinations based on U.S. worker availability and adverse effect; activities after receipt of the temporary alien agricultural labor certification.

* * * * *

(e) *Approvals of applications*—(1) *Continued recruitment of U.S. workers.* After a temporary agricultural labor certification has been granted, the employer shall continue its efforts to recruit U.S. workers until the actual date the H–2A workers depart for the employer's place of employment.

(i) Unless the local employment office is informed in writing of a different date, the local office shall deem the third day immediately preceding the employer's first date of need to be the date the H–2A workers depart for the employer's place of employment. The employer may notify the local office in writing if the workers depart prior to that date.

(ii)(A) If the H–2A workers do not depart for the place of employment on or before the first date of need (or by the stated date of departure, if the local office has been advised of a different date), the employer shall notify the local employment office in writing (or orally, confirmed in writing) as soon as the employer knows that the workers will not depart by the first date of need, and in no event later than such date of need. At the same time, the employer shall notify the local office of the workers' expected departure date, if known. No further notice is necessary if the workers depart by the stated date of departure.

(B) If the employer did not notify the local office of the expected departure date pursuant to paragraph (e)(1)(ii)(A) of this section, or if the H–2A workers do not leave for the place of employment on or before the stated date of departure, the employer shall notify the local employment office in writing (or orally, confirmed in writing) as soon as the employer becomes aware of the expected departure date, or that the workers did not depart by the stated date and the new expected departure date, as appropriate.

(2) *Requirement for Active Job Order.* The employer shall keep an active job order on file until the ''50-percent rule'' assurance at § 655.103(e) of this part is met, except as provided by paragraph (f) of this section.

(3) *Referrals by ES System.* The ES system shall continue to refer to the employer U.S. workers who apply as long as there is an active job order on file.

* * * * *

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

Raymond L. Bramucci,

Assistant Secretary for Employment and Training.

[FR Doc. 99–16444 Filed 6–28–99; 8:45 am]

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H.R. 435/P.L. 106–36
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