1–27–00 Thursday
Vol. 65 No. 18 Jan. 27, 2000
Pages 4349–4516

Federal Register

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–306–AD; Amendment 39–11524; AD 2000–02–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that currently requires repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. This amendment continues to require repetitive inspections, but also requires replacement of cracked or damaged diaphragm support structures with improved parts, which terminates the requirement for repetitive inspections. This amendment also adds airplanes to the applicability of the AD. This amendment is prompted by the development of improved diaphragms. The actions specified by this AD are intended to prevent failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe.

DATES: Effective March 2, 2000.

The incorporation by reference of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, as listed in the regulations, is approved by the Director of the Federal Register as of March 2, 2000.

The incorporation by reference of Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 23, 1998 (63 FR 63975, November 18, 1998).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–24–01, amendment 39–10888 (63 FR 63975, November 18, 1998), which is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, was published in the **Federal Register** on November 26, 1999 (64 FR 66424). The action proposed to continue to require repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. The action also proposed to require replacement of cracked or damaged diaphragm support structures with improved parts, which would terminate the requirement for repetitive inspections. Additionally, the action also proposed to add airplanes to the applicability of the proposed AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 59 airplanes of U.S. registry that will be affected by this AD.

The inspection that is currently required by AD 98–24–01, and retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection requirement of this AD on U.S. operators is estimated to be $3,540, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10888 (63 FR 63975, November 18, 1998), and by adding a new airworthiness directive (AD), amendment 39–11524, to read as follows:

2000–02–05 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–11524. Docket 99–NM–306–AD. Supersedes AD 98–24–01, Amendment 39–10888.

Applicability: Jetstream Model 4101 airplanes, on which British Aerospace Modification JM41384 has not been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 correct failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe, accomplish the following:

Restatement of Certain Requirements of AD 98–24–01

(a) For airplanes having constructors numbers 41004 through 41098 inclusive: Prior to the accumulation of 4,500 total landings, or within 300 landings after December 23, 1998 (the effective date of AD 98–24–01, amendment 39–10888), whichever occurs later: Perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, or Revision 1, dated July 30, 1999.

Note 2: For the purposes of this AD, a detailed visual 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.''

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, accomplish the actions required by either paragraph (a)(2)(i) or (a)(2)(ii). After the effective date of this AD, only replacement of the diaphragms in accordance with paragraph (a)(2)(ii) of this AD is acceptable for compliance with the repair requirements of this paragraph.

(i) Repair the diaphragm in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection at intervals not to exceed 3,000 landings.

(ii) Replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

New Repetitive Inspections and Corrective Actions Required by This AD

(b) For airplanes other than those listed in paragraph (a) of this AD: Prior to the accumulation of 4,500 total landings, or within 300 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999.

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

(c) Replacement of diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, constitutes terminating action for the requirements 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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.

Incorporation by Reference

(f) Except as provided by paragraph (a)(2)(i) of this AD, the actions shall be done in accordance with Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, or Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999.

(1) The incorporation by reference of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, was approved previously by the Director of the Federal Register as of December 23, 1998 (63 FR 63975, November 18, 1998).

(3) Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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 March 2, 2000.

Issued in Renton, Washington, on January 19, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1713 Filed 1–26–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–125–AD; Amendment 39–11532; AD 2000–02–14]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 182S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 98–13–10, which currently requires repetitively inspecting all engine exhaust muffler end plates (four total) for cracks on all Cessna Aircraft Company (Cessna) Model 182S airplanes, and replacing any muffler where an end plate is found cracked. AD 98–13–10 also requires fabricating and installing a placard that specifies immediate inspection of all engine exhaust muffler end plates any time the engine backfires upon start-up. This AD is the result of Cessna developing an improved design exhaust system for the Model 182S airplanes. This AD retains the actions of AD 98–13–10 on all affected airplanes, and requires replacing the exhaust system with an improved design exhaust system within a certain period of time, as terminating action for those requirements retained from AD 98–13–10. This AD also limits the effectivity to exclude those airplanes manufactured with the improved design exhaust system. The actions specified by this AD are intended to detect and correct damage to the engine exhaust mufflers caused by cracking and the high stresses imposed on the attachment of the exhaust system at the area the firewall, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury.

DATES: Effective March 17, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 17, 2000.

ADDRESSES: Service information that applies to this AD may be obtained from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–125–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4143; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Cessna Model 182S airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 26, 1999 (64 FR 20221). The NPRM proposed to supersede AD 98–13–10, Amendment 39–10598. AD 98–13–10 currently requires repetitively inspecting all engine exhaust muffler end plates (four total) for cracks; replacing any muffler where an end plate is found cracked; and fabricating and installing a placard that specifies an inspection of all engine exhaust muffler end plates any time the engine backfires upon start-up. The NPRM proposed to retain the actions of AD 98–13–10 on all affected airplanes, and would require replacing the exhaust system with an improved design exhaust system within a certain period of time, as terminating action for the actions retained from AD 98–13–10. The NPRM also proposed to limit the effectivity to exclude those airplanes manufactured with the improved design exhaust system. Accomplishment of the proposed replacement as specified in the NPRM would be required in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

The NPRM was the result of Cessna developing an improved design exhaust system for the Model 182S airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 150 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the inspection on U.S. operators is estimated to be $9,000, or $60 per airplane. These figures only take into account the cost of the initial inspection and do not take into account the costs of any repetitive inspections or replacements needed if cracks were found.

The inspection cost of this AD is the same as that presented in AD 98–13–10. Therefore, this AD imposes no inspection cost impact on U.S. operators of the affected airplanes over that already required in AD 98–13–10.

The FAA estimates that it will take approximately 4 workhours per airplane to accomplish the replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $463 per muffler assembly (2 required) per airplane. Based on these figures, the total cost impact of the replacement on U.S. operators is estimated to be $174,900, or $1,166 per airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98–13–10, Amendment 39–10598, and by adding a new AD to read as follows:

2000–02–14 Cessna Aircraft Company: Amendment 39–11532; Docket No. 98–CE–125–AD; Supersedes AD 98–13–10, Amendment 39–10598.

Applicability: Model 182S airplanes, serial numbers 18280001 through 18280286, 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 (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct damage to the engine exhaust mufflers caused by cracking and the high stresses imposed on the attachment of the exhaust system at the area the firewall, which could result in exhaust gases entering the airplane cabin with consequent crew and passenger injury, accomplish the following:

(a) Within 5 days after the effective date of this AD, unless already accomplished (compliance with AD 98–13–10), accomplish the following:

(1) Fabricate a placard that specifies immediately inspecting all engine exhaust muffler end plates when the engine backfires upon start-up, and install this placard on the instrument panel within the pilot's clear view. The placard should utilize letters of at least 0.10-inch in height and contain the following words:

''If the engine backfires upon start-up, prior to further flight, inspect and replace (as necessary) all engine exhaust muffler end plates. ''

(2) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(b) Within 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 98–13–10), and thereafter at intervals not to exceed 25 hours TIS after each inspection (including any inspection accomplished after an engine backfire) until the replacements required by paragraphs (b)(1) and (d) of this AD are accomplished, inspect all engine exhaust muffler end plates (four total) for cracks on the forward (upstream) or aft (downstream) end of each muffler can.

(1) Prior to further flight, replace any engine exhaust muffler where an end plate is found cracked with one of improved design, part number (P/N) 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number). Accomplish these replacements in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

(2) This replacement terminates the repetitive inspection required by this AD for that particular engine exhaust muffler. The repetitive inspections would still be required for any other engine exhaust muffler not replaced with the improved design parts.

(3) The placard requirements of this AD are still required until all engine exhaust system mufflers are replaced with the improved design parts.

Note 2: Cessna Service Bulletin SB98–78–02, Issued: June 6, 1998, depicts the area to be inspected. The actions of this service bulletin are different from those required by this AD. This AD takes precedence over the actions specified in this service bulletin. Accomplishment of Cessna Service Bulletin SB98–78–02, Issued: June 6, 1998, is not considered an alternative method of compliance to the actions of this AD.

(c) Fabricating and installing the placard and inserting this AD into the Limitations Section of the AFM, as required by paragraph (a) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) Within 12 calendar months after the effective date of this AD, replace the engine exhaust mufflers with ones of improved design, part number (P/N) 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number). Accomplish these replacements in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 1998.

(1) These replacements terminate the repetitive inspection and placard requirements of this AD, as specified in paragraphs (a) and (b), including all subparagraphs, of this AD.

(2) The replacements may be accomplished prior to 12 calendar months after the effective date of this AD, as terminating action for the repetitive inspection and placard requirements of this AD.

(e) As of the effective date of this AD, no person may install, on any affected airplane, an engine exhaust muffler that is not of improved design, P/N 1254017–19 or P/N 9954200–9 (or FAA-approved equivalent part number).

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

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 98–13–10 are not considered approved as alternative methods of compliance for this AD.

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

(h) The replacements required by this AD shall be done in accordance with Cessna Service Bulletin SB98–78–03, dated December 14, 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 the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) This amendment supersedes AD 98–13–10, Amendment 39–10598.

(j) This amendment becomes effective on March 17, 2000.

Issued in Kansas City, Missouri, on January 18, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1771 Filed 1–26–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–219–AD; Amendment 39–11527; AD 2000–02–08]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02, that requires removal of the gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed with higher torque. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system.

DATES: Effective March 2, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Dornier Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02, was published in the **Federal Register** on November 26, 1999 (64 FR 66422). That action proposed to require removal of the gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed with higher torque.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,440, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–02–08 DORNIER LUFTFAHRT GMBH: Amendment 39–11527. Docket 99–NM–219–AD.

Applicability: Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02, 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system, accomplish the following:

Replacement

(a) Prior to the accumulation of 3,300 total flight hours, or within 330 flight hours after the effective date of this AD, whichever occurs later, remove the four gland attachment bolts of the ground spoiler actuator and replace with new bolts installed at a higher torque, in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Note 2: Dornier Service Bulletin SB–328–27–289, dated March 3, 1999, refers to Liebherr Service Bulletin 1059A–27–01, dated March 5, 1999, as an additional source of service information for accomplishment of the replacement.

Spares

(b) As of the effective date of this AD, no person shall install, on any airplane, a ground spoiler actuator having part number 1059A0000–02, unless it has been modified in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999. 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. 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.

Note 4: The subject of this AD is addressed in German airworthiness directive 1999–175, dated June 3, 1999.

(f) This amendment becomes effective on March 2, 2000.

Issued in Renton, Washington, on January 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1768 Filed 1–26–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–107–AD; Amendment 39–11526; AD 2000–02–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Bombardier Model DHC–7–100 series airplanes, that requires repetitive high frequency eddy current inspections to detect cracks on the locking pin fittings of the baggage door and locking pin housings of the fuselage; repetitive detailed visual inspections to detect cracks of the inner door structure on all four door locking attachment fittings; and corrective actions, if necessary. In lieu of accomplishing the corrective actions, this amendment also provides a temporary option, for certain cases, for revising the Airplane Flight Manual (AFM), and installing a placard. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct fatigue cracking of the baggage door fittings and the support structure, which could result in structural failure, and consequent rapid decompression of the airplane during flight.

DATES: Effective March 2, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Bombardier Model DHC–7–100 series airplanes was published in the **Federal Register** on November 22, 1999 (64 FR 63760). That action proposed to require repetitive high frequency eddy current inspections to detect cracks on the locking pin fittings of the baggage door and locking pin housings of the fuselage; repetitive detailed visual inspections to detect cracks of the inner door structure on all four door locking attachment fittings; and corrective actions, if necessary. In lieu of accomplishing the corrective actions, that action also proposed to provide a temporary option, for certain cases, for revising the Airplane Flight Manual (AFM), and installing a placard.

Comments

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

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 32 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $5,760, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and

that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–02–07 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–11526. Docket 99–NM–107–AD.

Applicability: All Model DHC–7–100 series airplanes, 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 correct fatigue cracking in the baggage door fittings and the support structure, which could result in structural failure, and consequent rapid decompression of the airplane during flight, accomplish the following:

Repetitive Inspections

(a) At the latest of the times specified in paragraphs (a)(1) and (a)(2) of this AD, perform a high frequency eddy current inspection to detect fatigue cracks of the locking pin fittings of the baggage door and locking pin housings of the fuselage; and a detailed visual inspection to detect fatigue cracks of the inner door structure on all four locking attachment fittings of the baggage door; in accordance with de Havilland Temporary Revision (TR) 5–100, dated December 23, 1998, for Supplementary Inspection Task 52–1 to the de Havilland Dash 7 Maintenance Manual PSM 1–7–2. Thereafter, repeat the inspections at intervals not to exceed 1,000 flight cycles.

(1) Inspect prior to the accumulation of 12,000 total flight cycles.

(2) Inspect within 600 flight cycles or 3 months after the effective date of this AD, whichever occurs later.

Note 2: For the purposes of this AD, a detailed visual 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 crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD, as applicable, except as provided in paragraph (c) of this AD. For operators that elect to accomplish the actions specified in paragraph (c) of this AD: After accomplishment of the replacement required by paragraph (b)(1) or (b)(2) of this AD, the AFM revision and placard required by paragraph (c) of this AD may be removed.

(1) If a crack is detected in a baggage door locking pin fitting or fuselage locking pin housing: Replace the fitting or housing with a new fitting or housing, as applicable, in accordance with de Havilland Dash 7 Maintenance Manual PSM 1–7–2.

(2) If a crack is detected in the inner baggage door structure at the locking attachment fittings: Replace the structure with a new support structure in accordance with de Havilland Dash 7 Maintenance Manual PSM 1–7–2, or repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate, or the Transport Canada Civil Aviation (or its delegated agent). For a repair method to be approved by the Manager, New York ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(c) For airplanes on which only one baggage door stop fitting or its support structure is found cracked at one location, and on which the pressurization system ''Dump'' function is operational: Prior to further flight, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD. Within 1,000 flight cycles after accomplishment of the requirements of paragraphs (c)(1) and (c)(2) of this AD, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) Revise the Limitations Section of the FAA-approved DHC–7 Airplane Flight Manual (AFM), PSM 1–71A–1A, to include the following statement. This AFM revision may be accomplished by inserting a copy of this AD into the AFM.

''Flight is restricted to unpressurized flight below 10,000 feet mean sea level (MSL). The airplane must be operated in accordance with DHC–7 AFM, PSM 1–71A–1A, Supplement 20.''

(2) Install a placard on the cabin pressure control panel or in a prominent location that states the following:

''DO NOT PRESSURIZE THE AIRCRAFT UNPRESSURIZED FLIGHT PERMITTED ONLY IN ACCORDANCE WITH DHC–7 AFM PSM 1–71A–1A, SUPPLEMENT 20 FLIGHT ALTITUDE LIMITED TO 10,000 FEET MSL OR LESS.''

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, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

Incorporation by Reference

(f) The inspections shall be done in accordance with de Havilland Temporary Revision 5–100, dated December 23, 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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–99–03, dated February 22, 1999.

(g) This amendment becomes effective on March 2, 2000.

Issued in Renton, Washington, on January 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1767 Filed 1–26–00; 8:45 am]

BILLING CODE 4910 –13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–374–AD; Amendment 39–11530; AD 2000–02–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 series airplanes, that requires the application of sealant to the upper surface on the wing center section to ensure the integrity of the secondary fuel barrier. This amendment is prompted by reports from the airplane manufacturer that the sealant was inadvertently not applied to portions of the wing center section on certain Boeing Model 777–200 series airplanes. The actions specified by this AD are intended to prevent fuel or fuel vapors from entering the cargo and passenger compartments in the event of a failure of the primary seal or development of a crack in the wing center section structure. Leakage of fuel or fuel vapors into the cargo and passenger compartments could be hazardous to personnel, and could cause a fire in those compartments.

DATES: Effective March 2, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 2000.

ADDRESSES: 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Larry Reising, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2683; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 777–200 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38382). That action proposed to require the application of sealant to the front spar and upper surface of the wing center section to ensure the integrity of the secondary fuel barrier.

Comments

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

One commenter states that it is not affected by the proposed rule.

Request to Revise Applicability

One commenter, the manufacturer, requests that the applicability of the proposed AD be limited to Boeing Model 777–200IGW aircraft as listed in the effectivity section of Boeing Service Bulletin 777–57–0033. (The applicability of the proposed rule reads in part, ''* * * Model 777–200 series airplanes, line numbers 41 through 91 inclusive * * *.'' As written, the proposed rule does not specifically reference Boeing Model 777–200IGW aircraft.) In support of its request, the commenter states that only the Boeing Model 777–200IGW aircraft has a fuel tank in the wing center section, and that the basic Boeing Model 777–200 aircraft, by design, has a dry wing center section.

The FAA concurs with the commenter's request to revise the applicability of the proposed AD since the effectivity of the referenced service bulletin only specifies Model 777–200 airplanes with a fuel tank in the wing center section. Therefore, the FAA has revised the applicability of the final rule to specify that it applies to Boeing Model 777–200 series airplanes, as listed in the service bulletin.

Request to Clarify Requirements

One commenter, the airplane manufacturer, indicates that only the upper surface on the wing center section under the overwing stub beam on the left and right sides is affected by this proposed AD; the forward spar does not require any rework.

The FAA infers the commenter requests that the FAA clarify the location of the rework. The FAA finds that the commenter's description of the affected area is accurate, and the final rule has been revised accordingly.

Explanation of Additional Service Information

In the proposed AD, the FAA inadvertently omitted referencing Appendix A, dated March 26, 1998, of the Boeing Service Bulletin 777–57–0033. Therefore, the FAA has revised the final rule throughout to reference Appendix A.

Conclusion

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

Cost Impact

There are approximately 37 airplanes of the affected design in the worldwide fleet. The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $100 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $1,760, or $220 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–02–11 Boeing: Amendment 39–11530. Docket 98–NM–374–AD.

Applicability: Model 777–200 series airplanes, as listed in Boeing Service Bulletin 777–57–0033, including Appendix A, both dated March 26, 1998, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) 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 fuel or fuel vapors from entering the passenger and cargo compartments of the airplane in the event of a failure of the primary seal or development of a crack in the wing center section structure, accomplish the following:

Corrective Actions

(a) Within 24 months after the effective date of this AD, apply sealant to the upper surface on the wing center section under the overwing stub beams on the left and right sides of the airplane, in accordance with Boeing Service Bulletin 777–57–0033, dated March 26, 1998.

Alternative Methods of Compliance

(b) 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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: 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

(c) 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.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 777–57–0033, dated March 26, 1998, including Appendix A, dated March 26, 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.

(e) This amendment becomes effective on March 2, 2000.

Issued in Renton, Washington, on January 20, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1766 Filed 1–26–00; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 022–0215; FRL–6529–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing disapproval of revisions to the California State Implementation Plan (SIP). EPA proposed disapproval of these revisions in the **Federal Register** on November 24, 1999 and December 10, 1999. The revisions pertain to startup and shutdown exemption provisions and to visible emission limits in the South Coast Air Quality Management District (SCAQMD). EPA is finalizing disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions are not consistent with applicable CAA requirements.

EFFECTIVE DATE: This action is effective on February 28, 2000.

ADDRESSES: Copies of the submitted rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW, Washington, DC 20460

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

EPA is disapproving SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, as adopted on December 21, 1990 and SCAQMD Rule 401, Visible Emissions, as adopted on September 11, 1998. These rules were submitted by the California Air Resources Board to EPA on January 28, 1992 and January 12, 1999, respectively.

II. Background

On November 24, 1999 in 64 FR 66143, EPA proposed disapproval of SCAQMD Rule 429. On December 10, 1999 in 64 FR 69211, EPA proposed disapproval of SCAQMD Rule 401. These rules were submitted as revisions to the California SIP. A detailed discussion of the background for each rule is provided in the proposed rules (PRs) cited above.

EPA has evaluated the submitted rules for consistency with the requirements of the CAA and EPA regulations and with EPA's interpretation of these requirements as expressed in the EPA policy and guidance. EPA is finalizing the disapproval of SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, as submitted on January 28, 1992 because the rule is inconsistent with the requirements of CAA sections 110(l), 172(c)(1), and 110(a)(2)(A). EPA is finalizing the disapproval of SCAQMD Rule 401, Visible Emissions, as submitted on January 12, 1999 because the rule is inconsistent with the requirements of CAA sections 193, 110(l), and 189. Detailed discussion of each submitted rule and EPA's evaluation of each rule has been provided in the PRs and in technical support documents (TSDs) available at EPA's Region IX office.

III. Response to Public Comments

A 15-day public comment period on EPA's proposed disapproval of SCAQMD Rule 429 was provided in 64 FR 66143. EPA did not receive comments on the PR.

A 15-day public comment period on EPA's proposed disapproval of SCAQMD Rule 401 was provided in 64 FR 69211. EPA did not receive comments on the PR.

IV. EPA Action

EPA is finalizing disapproval of the above-referenced rules because they do not meet applicable CAA requirements. The effect of this action is that the federal enforceable California SIP remains unchanged.[1] Because this action maintains the stringency of the current SIP, EPA's disapproval of the submitted rules does not trigger sanctions or FIP clocks under section 179 of the CAA.

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

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces E.O. 12612, Federalism, and E.O. 12875, Enhancing the Intergovernmental Partnership. E.O. 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in E.O. 13132 to include regulations that 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.'' Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. Thus, the requirements of section 6 of E.O. 13132 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 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 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, 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

[1] The current SIP does not contain any version of SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, but does contain an earlier version of SCAQMD Rule 401, Visible Emissions. On January 29, 1985, EPA approved into the federally enforceable SIP the version of SCAQMD Rule 401 adopted on March 2, 1984. This version of Rule 401 remains in the SIP.

communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because disapprovals of SIP revisions under section 110 and subchapter I, part D of the Clean Air Act do not affect any existing requirements applicable to small entities. Any existing Federal requirements will remain in place. Federal disapproval of the State SIP submittal will not affect State-enforceability. Moreover, EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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 disapproval action 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. The disapproval will not change existing 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. 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**. 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).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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 March 27, 2000. 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, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

Dated: January 18, 2000.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.271 is amended by revising the section title and by adding paragraph (c) to read as follows:

§ 52.271 Malfunction, startup, and shutdown regulations.

* * * * *

(c) The following regulations are disapproved because they exempt sources from applicable emissions limitations during malfunctions and/or fail to sufficiently limit startup and shutdown exemptions to those periods where it is technically infeasible to meet emissions limitations.

(1) South Coast Air Quality Management District.

(i) Rule 429, submitted on January 28, 1992.

3. Section 52.275 is amended by adding paragraph (c) to read as follows:

§ 52.275 Particulate matter control.

* * * * *

(c) The following regulations are disapproved because they relax the control on visible emissions without any accompanying analyses demonstrating that these relaxations will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards or any other applicable requirement of the Clean Air Act.

(1) South Coast Air Quality Management District.

(i) Rule 401, submitted on January 12, 1999.

[FR Doc. 00–1840 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 444

[FRL–6503–6]

RIN 2040–AC23

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Commercial Hazardous Waste Combustor Subcategory of the Waste Combustors Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule represents the Agency's first effort to develop Clean Water Act (CWA) effluent limitations guidelines and standards for wastewater discharges from the commercial hazardous waste combustor (CHWC) segment of the waste combustion industry. This rule generally applies to hazardous waste combustion facilities, except cement kilns, regulated as ''incinerators'' or ''boilers and industrial furnaces'' under the Resource Conservation and Recovery Act (RCRA) under certain conditions.

This regulation limits the discharge of pollutants into navigable waters of the United States and the introduction of pollutants into publicly-owned treatment works (POTWs) by existing and new stand-alone CHWCs that incinerate waste received from offsite.

EPA estimates that compliance with this final regulation will reduce the discharge of pollutants by at least 170,000 pounds per year at an estimated annualized cost of $2 million. EPA predicts that the rule will improve water quality for both aquatic life and human health in five streams. EPA also projects that today's rule will reduce sewage sludge contamination associated with discharges from CHWC facilities at POTWs.

DATES: This regulation shall become effective February 28, 2000. The incorporation by reference of test methods listed in § 444.12 is approved by the Director of the Federal Register as of February 28, 2000. In accordance with 40 CFR 23.2, for purposes of judicial review, this rule will be considered promulgated at 1:00 p.m. Eastern time on February 10, 2000.

ADDRESSES: For additional technical information write to: Ms. Samantha Lewis, US EPA, (4303), 401 M Street SW, Washington, DC 20460 or send E-mail to: Lewis.Samantha@epa.gov or call at (202) 260–7149. For additional economic information contact Mr. William Anderson at the address above or send E-mail to: Anderson.William@epa.gov or call at (202) 260–5131.

The complete public record is available for review in the EPA Water Docket, 401 M Street SW, Washington, DC 20460. EPA has assigned the record for this rulemaking docket number W–97–08. The record includes supporting documentation, but does not include any information claimed as Confidential Business Information (CBI). The record is available for inspection from 9 am to 4 pm, Monday through Friday, excluding legal holidays. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: For additional technical information contact Ms. Samantha Lewis at (202) 260–7149. For additional economic information contact Mr. William Anderson at (202) 260–5131.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Incinerators that discharge directly to or indirectly through publicly owned treatment works to waters of the U.S. and that burn RCRA hazardous wastes received from off-site for a fee or other remuneration (regulated under RCRA, 40 CFR part 264, subpart O or part 265, subpart O (i.e. rotary kiln incinerators, liquid injection incinerators)). Boilers and industrial furnaces (BIFs) that discharge directly to or indirectly through publicly owned treatment works to waters of the U.S. and that burn RCRA hazardous wastes received from off-site for a fee or other remuneration (regulated under RCRA, 40 CFR part 266, subpart H (i.e. boilers, industrial furnaces)).
Federal Govt.	Incinerators that discharge directly to or indirectly through publicly owned treatment works to waters of the U.S. and that burn RCRA hazardous wastes received from off-site for a fee or other remuneration (regulated under RCRA, 40 CFR part 264, subpart O or part 265, subpart O (i.e. rotary kiln incinerators, liquid injection incinerators)). Boilers and industrial furnaces (BIFs) that discharge directly to or indirectly through publicly owned treatment works to waters of the U.S. and that burn RCRA hazardous wastes received from off-site for a fee or other remuneration (regulated under RCRA, 40 CFR part 266, Subpart H (i.e. boilers, industrial furnaces)).[1]

[1] EPA identified no Federal agencies that operate commercial hazardous combustion facilities subject to this regulation. However, Federal agencies that burn RCRA hazardous wastes received from off-site for a fee or other remuneration would be covered by the final regulation.

The preceding table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 444.10 of the final rule and the definitions in § 444.11 of the final rule. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Compliance Dates

Existing direct dischargers must comply with limitations based on the best practicable technology currently available, the best conventional pollutant control technology, and the best available technology economically achievable as soon as their National Pollutant Discharge Elimination System (NDPES) permit includes such limitations. Existing indirect dischargers subject to today's regulations must comply with the pretreatment standards for existing sources no later than January 27, 2003. New direct and indirect discharging sources must comply with applicable limitations and standards on the date the new sources begin operations.

Supporting Documentation

The final regulations are supported by several major documents:

1. ''Development Document for Final Effluent Limitations Guidelines and Standards for Commercial Hazardous Waste Combustors'' (EPA 821–R–99–020). This Technical Development Document (TDD) presents the technical information that formed the basis for EPA's decisions concerning the final

rule. In it, EPA describes, among other things, the data collection activities following the proposal, the wastewater treatment technology options considered, what pollutants are found in CHWC wastewater and the estimation of costs to the industry to comply with final limitations and standards.

2. ''Economic Analysis of Final Effluent Limitations Guidelines and Standards for Commercial Hazardous Waste Combustors'' (EPA 821–B–99–008).

3. ''Statistical Support Document for Final Effluent Limitations Guidelines and Standards for Commercial Hazardous Waste Combustors'' (EPA 821–B–99–010).

4. ''Environmental Assessment of Final Effluent Limitations Guidelines and Standards for Commercial Hazardous Waste Combustors'' (EPA 821–B–99–009).

How to Obtain Supporting Documents

The Technical Development Document and Economic Analysis will be posted on the Internet, at www.EPA.gov/OST/guide. The documents are also available from the Office of Water Resource Center, MC–4100, U.S. EPA, 401 M Street SW, Washington, DC 20460; telephone (202) 260–7786 for the voice mail publication request.

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Legal Authority

EPA is promulgating these regulations under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, and 1361.

I. Statutory Background for Effluent Regulations

A. Overview of the Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act attacks the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Direct dischargers must comply with effluent limitations and new source performance standards. These limitations and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology. Permits authorizing discharges issued under the National Pollutant Discharge Elimination System must require compliance with these limitations and standards (CWA sections 301(b), 304(b), 306, 307(b)–(d), 33 U.S.C. 1311(b), 1314(b), 1316, and 1317(b)–(d)). In the absence of national effluent limitations and new source performance standards, EPA must establish ''best professional judgement'' limitations and standards on a case-by-case basis before it may issue an NPDES discharge permit.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards (for new and existing sources) which restrict pollutant discharges for those who

discharge wastewater indirectly though sewers flowing to publicly-owned treatment works (POTWs) (section 307(b) and (c), 33 U.S.C. 1317(b) and (c)). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers which may pass through or interfere with POTW operations. Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (40 CFR 403.5).

B. Statutory Requirements of Regulation

The CWA requires EPA to establish effluent limitations guidelines, pretreatment standards for new and existing sources, and new source performance standards.

1. Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA

In the guidelines for an industry category, EPA defines the BPT effluent limitations for conventional, priority, and non-conventional pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reductions obtained. The Agency also considers the age of the equipment and facilities, the processes employed and any required process changes, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Agency deems appropriate (CWA 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, however, EPA may require higher levels of control than currently in place in an industrial category if the Agency determines that the technology can be practicably applied.

2. Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA

The 1977 amendments to the CWA require EPA to identify effluent reduction levels for conventional pollutants associated with BCT technology for discharges from existing industrial point sources beyond the effluent reductions achieved under BPT. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

3. Best Available Technology Economically Achievable (BAT)—Section 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best economically achievable performance of plants in the industrial subcategory or category. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

4. New Source Performance Standards (NSPS)—Section 306 of the CWA

NSPS reflect effluent reductions that are achievable based on the best available demonstrated treatment technology. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available control technology for all pollutants (*i.e.,* conventional, nonconventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA

The CWA requires EPA to establish pretreatment standards to prevent pollutants passing through POTWs or interfering with POTW operations. EPA determines whether a pollutant passes through a POTW by comparing BAT removals of the pollutants at direct discharging facilities. The preamble to the proposal explains this. See 63 FR at 6405–06. As explained above, EPA develops BAT limitations by considering a number of factors, including the availability and feasibility of use of the treatment technology, pollutant removals, and its cost to dischargers. Section 304(b)(2) of the CWA. EPA evaluates the same factors in establishing pretreatment standards as it considers when it develops BAT limitations (A Legislative History of the Clean Water Act Amendments of 1977, H.R. Rep. No. 830, 95th Cong. 1st Sess., 271 (1978)). Pretreatment standards are technology-based and analogous to BAT effluent limitations. Pretreatment standards also must be economically achievable on a national basis to the industry category.

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs, including interfering with sludge disposal methods.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. Those regulations require POTWs to establish pretreatment standards to address local passthrough and establish pretreatment standards that apply to all non-domestic dischargers. See 52 FR 1586, January 14, 1987.

6. Pretreatment Standards for New Sources (PSNS)—Section 307(b) of the CWA

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass-through, interfere-with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

C. CWA Section 304(m) Requirements

Section 304(m) of the Act (33 U.S.C. 1314(m)), added by the Water Quality Act of 1987, requires EPA to establish schedules for (1) reviewing and revising existing effluent limitation guidelines and standards (''effluent guidelines''), and (2) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (55 FR 80), that included schedules for developing new and revised effluent guidelines for several industry categories. One of the industries for

which the Agency established a schedule was the ''Hazardous Waste Treatment, Phase II'' Category. EPA subsequently changed the category name ''Hazardous Waste Treatment, Phase II'' to ''Landfills and Incinerators.''

The Natural Resources Defense Council, Inc. (NRDC) and Public Citizen, Inc. challenged the Effluent Guidelines Plan in a suit filed in U.S. District Court for the District of Columbia (*NRDC et al* v. *Reilly,* Civ. No. 89–2980). Under the terms of the consent decree, EPA agreed, among other things, to propose effluent guidelines for the ''Landfills and Incinerators'' category by November 1997 and to take final action by November 1999. Although ''Landfills and Incinerators'' is listed as a single entry in the Consent Decree schedule, EPA proposed two separate rulemaking actions in the **Federal Register**, both on February 6, 1998. In order to reflect the fact that the effluent limitations guidelines and standards to be proposed would apply only to a segment of the waste combustion industry, EPA changed the name of the proposed regulation from ''Incinerators'' to ''Industrial Waste Combustor'' regulations prior to the proposal. In order to reflect accurately the segment of the combustion industry being regulated today, EPA has now changed the name for this final regulation to ''Commercial Hazardous Waste Combustor'' regulations.

II. Background on the Industry and Prior Regulations

A. Updated Profile of the Industry

The universe of incineration facilities currently in operation in the United States is broad. These include municipal waste combustors that burn household and other municipal trash and incinerators that burn hazardous wastes. Among other types of incinerators burning waste material are those that burn medical wastes exclusively and sewage sludge incinerators that burn residual solids from wastewater treatment at POTWs. In addition, some boilers and industrial furnaces may also burn waste materials for fuel.

While many industries began incinerating some of their wastes as early as the late 1950's, the current market for waste combustion (particularly combustion of hazardous wastes) is essentially a creature of the Resource Conservation and Recovery Act (RCRA) and EPA's resulting regulation of hazardous waste disposal. For more information on the development of the industry, see the preamble to the proposed guideline at 63 FR 6392, 6395 (February 6, 1998).

Today's rule establishes national effluent limitations and pretreatment standards for a segment of the waste combustion industry—''commercial hazardous waste combustors.'' The segment of the universe of incineration units for which EPA has adopted regulations includes units which operate commercially and which use controlled flame combustion in the treatment or recovery of energy values from hazardous industrial waste. For example, industrial boilers, industrial furnaces, rotary kiln incinerators and liquid-injection incinerators are all types of units included in the Commercial Hazardous Waste Combustors Subcategory.

Thermal treatment or recovery operations at these facilities generate the following types of wastewater: Air pollution control wastewater, flue gas quench wastewater, truck/equipment wash water, container wash waster, laboratory drain wastewater, and floor washings from process areas. Section 4 of the TDD describes these more fully. Typical non-wastewater by-products of thermal treatment or recovery operations may include: Slag or ash developed in the thermal unit itself, and emission particles collected using air pollution control systems. There are many different types of air pollution control systems in use by thermal units. The types employed by thermal units include, but are not limited to, the following: Packed towers (which use a caustic scrubbing solution for the removal of acid gases), baghouses (which remove particles and do not use any water), wet electrostatic precipitators (which remove particles using water but do not generate a wastewater stream), and venturi scrubbers (which remove particles using water and generate a wastewater stream). Thus, the amount of wastewater and types of wastewater generated by a thermal unit are directly dependent upon the types of air pollution control systems employed by the thermal unit.

The Agency estimates that there are approximately 55 Commercial Hazardous Waste Combustor facilities that are potentially subject to the rule. These include rotary kiln incinerators, liquid injection incinerators, fluidized-bed incinerators, multiple-hearth incinerators, fixed-hearth incinerators, industrial boilers, industrial furnaces, and other types of thermal units. These do not include cement kilns, since EPA specifically exempts cement kilns from this final rule. Of these 55 facilities, approximately 33 facilities do not generate any wastewater that EPA is regulating under this final rule. Twelve of these facilities generate CHWC wastewater but do not discharge the wastewater to a receiving stream or POTW. These ''zero or alternative'' dischargers use a variety of methods to dispose of their wastewater. At these facilities, (1) wastewater is sent off-site for treatment or disposal (four facilities); (2) wastewater is burned or evaporated on site (four facilities); (3) wastewater is sent to a surface impoundment on site (three facilities); and (4) wastewater is injected underground on site (one facility).

For the final rule, EPA identified only 10 facilities that were discharging CHWC wastewater to a receiving stream or introducing wastewater to a POTW. Of these 10 facilities, two facilities have, since 1992, either stopped accepting waste from off site for combustion or have closed their combustion operations.

B. Proposed Rule

1. Proposal

On February 6, 1998 (63 FR 6391), EPA proposed limitations and standards for the Commercial Hazardous Waste Combustor Industry. The proposal applied to existing and new stand-alone industrial waste combustors that burned hazardous and non-hazardous wastes received from offsite. The proposed guidelines and standards would not have applied to wastewater discharges from industrial waste combustors that only burned wastes generated on-site at the industrial facility or generated at facilities under common corporate ownership. The principal source of regulated wastewater under the proposal was air pollution control wastewater. The comment period for the proposal closed on May 7, 1998. EPA received comments from 39 interested stakeholders.

2. Notice of Data Availability

On May 17, 1999 (64 FR 26714), EPA published a Notice of Data Availability related to the proposed limitations and standards for the Commercial Hazardous Waste Combustor industry. This notice solicited comments on new wastewater treatment system performance data from three Commercial Hazardous Waste Combustor facilities. EPA received this new performance data in early 1999, subsequent to the close of the comment period for the proposal.

Three CHWCs submitted influent and effluent wastewater treatment system performance data and related information on the operation of their

treatment systems. Each facility submitted daily measurements for chlorides, total dissolved solids, total suspended solids, sulfate, pH, and 15 metals (aluminum, antimony, arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, selenium, silver, tin, titanium and zinc). One facility provided 11 days of sampling data, and the two other facilities provided 30 days of sampling data each. The comment period for the notice closed on June 16, 1999. EPA received comments from 4 interested stakeholders.

C. Related Regulations—Hazardous Waste Combustion Regulation Promulgated September 30, 1999

The preamble to the proposal discusses a number of EPA regulatory efforts affecting the waste combustion industry, including a proposal to establish standards for hazardous waste combustion. 63 FR at 6395–96. Recently, under the joint authority of the Clean Air Act (CAA) and the Resource Conservation Recovery Act (RCRA), EPA promulgated the Hazardous Waste Combustion (HWC) MACT (64 FR 52828, September 30, 1999). These final regulations apply to the following types of combustors:

- RCRA Incinerators (as defined in 40 CFR 260.10).
- RCRA Cement Kilns and RCRA Lightweight Aggregate Kilns (as defined in 40 CFR 260.10 under the Industrial Furnace definition).

These regulations do not apply to:

- RCRA Boilers and Industrial Furnaces (other than Cement Kilns and Lightweight Aggregate Kilns, as defined in 40 CFR 260.10).

The HWC regulations establish stack emission limits for several hazardous air pollutants (HAPs). Under the Clean Air Act, these limits must require the maximum achievable degree of emission reductions of HAPs, taking into account the cost of achieving such reductions and non-air quality health and environmental impacts and energy requirements—so-called Maximum Achievable Control Technologies (MACT) standards. The HWC regulation does not set limits on the water effluents from the air pollution control systems (APCS) (like wet scrubbers, quench systems). As a result of promulgation of these standards, it is likely that some facilities using dry air pollution control, not presently generating wastewater, may switch to using wet APCS.

III. Summary of Significant Changes Since Proposal

This section describes the most significant changes to the rule since proposal. Many of these changes result from EPA consideration of the comments submitted on the proposal. Section X below discusses the most significant of these. EPA's responses to all the comments provides more detailed explanations for changes. The record for the final rule includes these responses.

A. EPA Limited the Scope of the Final Guidelines to Waste Combustors that Burn Hazardous Waste

Today's final rule does not apply to industrial waste combustors that do not burn hazardous waste. EPA had proposed to regulate both hazardous and non-hazardous waste combustors. EPA received comments questioning whether its data collection effort was complete enough to allow EPA to characterize non-hazardous industrial waste combustor facilities and develop limitations and standards for such facilities. Examples of non-hazardous industrial waste burned by waste combustors include: tire-derived fuels, alternative fuels, recycled manufactured products and reclaimed materials.

The data examined by EPA as well as information supplied by commenters supports the conclusion that the pollutant profile of scrubber water for non-hazardous industrial waste combustors burning alternative fuels will exhibit significant variation depending on the type of fuels burned. The variation will range from scrubber water containing few, if any, pollutants of potential concern to facilities whose scrubber water may more closely resemble that of hazardous waste combustion practices. EPA determined that, in order to develop appropriate limitations and standards, EPA would need to consider multiple subcategories, based on the different fuels burned before it could regulate these facilities. This effort would require information that the Agency currently lacks.

At this time, EPA's Office of Air and Radiation is exploring the development of MACT CAA standards for industrial commercial waste incineration. They have identified four potential subcategories for regulation: wood and other biomass waste incinerators, pathological waste incinerators, drum and parts reclaimer incinerators, miscellaneous industrial and commercial waste incinerators. EPA may consider taking a second look at these facilities for wastewater regulation, following development of the MACT standards.

The CHWC regulation focuses on RCRA combustor units and includes units that burn both RCRA and non-RCRA wastes. If a combustor does not burn any RCRA hazardous waste, it is not subject to the rule. The regulation will apply to the CHWC wastewater produced by burning non-hazardous industrial wastes in conjunction with RCRA hazardous waste.

B. The Final Guidelines Do Not Apply to Hazardous Waste Combustors Exempt From RCRA

In today's final rule, EPA is clarifying the proposal regarding incinerators and BIFs regulated under RCRA. EPA proposed to regulate only ''commercially-operating hazardous waste combustor facilities regulated as 'incinerators' or 'boilers and industrial furnaces' under RCRA.'' EPA based its decision to limit the scope of the guidelines, in part, on its determination that wastewater from these exempt facilities would be qualitatively different from the regulated wastewater. However, EPA failed to make it clear that it was not proposing to regulate facilities that are granted exemptions from 40 CFR part 264, subpart O; part 265, subpart O; or part 266, subpart H. The applicability provisions of the final guideline make it clear that the rule does not apply to those exempted facilities. One example of a facility of this type is a facility that is conditionally exempt from regulation as a RCRA BIF under 40 CFR 266.100(c).

C. The Final Guidelines Do Not Apply to the Burning of Waste that Is Received From Off Site for No Fee or Other Remuneration

In today's final rule, EPA is not regulating hazardous waste combustors (HWCs) that only take waste from off-site (from facilities not under the same corporate structure) for no fee or other remuneration. At proposal, EPA had included waste burned from off-site for a fee or other remuneration in the scope of the rule. Examples of ''not-for-fee'' activities include wastes burned as a public service and product stewardship activities.

As explained in greater detail below, EPA decided it would not include captive or intra-company HWCs within this guideline so long as the combustors did not burn off-site wastes generated at a facility not under the same corporate structure or subject to the same ownership. A captive or intra-company HWC would still not be subject to the guideline if it burned off-site waste generated at a facility not under the same ownership so long as the wastes are similar to the wastes being generated on-site. EPA's review of data on captive facilities showed that permit writers regulated captive scrubber water either through specific guideline limitations or by developing BPJ limitations that

generally paralleled the limitations for the associated industrial process wastewater. The apparent reason for this is that if the incinerator is burning on-site industrial waste or similar waste, then the pollutant profile of its scrubber water would include many of the same pollutants seen in wastewater from its industrial operations. Given the small quantity of scrubber water and commingled treatment, applying the same requirements to scrubber water would be appropriate.

EPA concluded that the quantity of wastes burned on a ''not-for-fee'' basis was unlikely to be great for such captive and intra-company facilities. In those circumstances, the burning of such waste was not likely to change the character of the scrubber water for these combustors significantly. In these circumstances, the same reasoning that supported not including these combustors in this guideline would still apply.

D. EPA Has Excluded Cement Kilns From the Scope of the Guidelines

EPA is not including cement kilns within the scope of the CHWC guidelines for several reasons. Although EPA proposed to include cement kilns in the scope of this rule, EPA's survey identified no cement kilns that are currently discharging scrubber water or other wastewater that is potentially subject to the CHWC guidelines. In the absence of detailed information on the wastes burned in these kilns, wastewater characterizations, and treatment effectiveness, EPA is not applying the final limitations and standards to cement kilns.

EPA learned, as part of its analysis for the final rule, that there may be a cement kiln considering the installation of wet scrubbers in order to comply with the Hazardous Waste Combustor MACT. (See discussion on this MACT final rule above at Section II.C.) In the event that a cement kiln burning hazardous waste switched from a dry to wet scrubber, EPA would expect it to produce scrubber water with a pollutant profile very similar to those wastestreams regulated here as CHWC wastewater. In those circumstances, NPDES permit writers should consider whether they will need to establish BPJ limitations or local control authorities may need to establish local limits to control discharges of toxic pollutants in the scrubber water. Permit writers should compare cement kiln scrubber wastewater with the information provided in the TDD concerning the characteristics of CHWC wastewater to determine whether similar discharge limitations should be established.

In EPA's view, thermal operations burning hazardous wastes that use wet emissions control equipment will generally result in wastewater with similar pollutant profiles. This conclusion is supported by the data EPA has collected. Thus, EPA's wastewater data included data from wet emission control equipment at thermal operations burning hazardous waste exclusively as well as operations that burned hazardous waste as a fuel for other industrial operations such as acid regeneration. As EPA expected, the wastewater included extremely low levels of organic pollutants which are largely destroyed in the combustion process. EPA did find present a number of metals at treatable levels. Permit writers and local control authorities should carefully examine cement kiln emission control wastewater to see if it also contains metal pollutants when the permit writer establishes case-by-case limitations under NPDES regulations at 40 CFR 125.(3) or the control authority establishes local limits under the General Pretreatment Regulations at 40 CFR 403.5.

EPA has established limitations and standards for cement manufacturers at 40 CFR part 411. Among these limitations and standards are discharge limits for cement kilns which use water in wet scrubbers to control kiln stack emissions. While the part 411 regulations include BPT/BAT limitations, they only limit conventional pollutants and temperature. There are no pretreatment standards for indirect dischargers and no BAT limitations to control the discharge of toxic pollutants from these facilities. Consequently, the permit writer or local control authority must include technology-based limits for any toxic pollutant which is or may be discharged at a level greater than the level which can be achieved by treatment requirements appropriate to the permittee or which may pass through or interfere with POTW operations (40 CFR 122.44(e), 125.3. *See also* 40 CFR 403.5(c) which requires the establishment of local limits in a POTW pretreatment program for any pollutant which may cause pass through or interference). The presence of metal pollutants in scrubber water would likely trigger these requirements.

E. EPA Used Additional Data To Calculate the Final Limitations and Standards

As described in the Notice of Availability on May 17, 1999 (64 FR 26714), EPA received influent and effluent data from three CHWC facilities following proposal of the regulation. Commenters supported the use of this data in the development of the final CHWC limitations and standards. Following an evaluation of the three facilities, EPA determined that two of the three facilities employed effective treatment. EPA used data from these two facilities as follows. The concentrations of pollutants in the treated effluent from these two additional facilities are higher for some pollutants and lower for others, as compared to the facility used to develop limitations and standards for the proposal. EPA used the new pollutant concentration data for the final rule. EPA did not rely on data from the two additional facilities to calculate variability factors. For both facilities, the average variability of the effluent concentrations was lower than the average variability of the effluent concentrations used to calculate the proposed limitations and standards. EPA used only the variability factors calculated from the facility it used at proposal to calculate the final limitations and standards. The variability factors calculated using the proposal data better reflect the variability seen in waste receipts at CHWCs.

F. Change in Technology Basis of Limitations and Standards Due to Expanded Data Set

Based on the new data received and analyzed by EPA following proposal, EPA has changed the technology basis for PSES and BPT/BAT (noted this way because the BPT and BAT limitations are equivalent). For the final rule, PSES and BPT/BAT are based on chromium reduction (as necessary) followed by two stages of chemical precipitation with (or without) sand filtration. EPA developed the final limitations and standards using sampling data from facilities both with and without a final sand filtration step. The data show that filtration may or may not be necessary to meet the final limitations, depending upon the level of treatment provided in the initial two stages of chemical precipitation. EPA costed the limitations and standards with sand filtration, however, to ensure its economic achievability.

G. Change in Regulation Name

EPA changed the name of this regulation from ''Industrial Waste Combustors'' to ''Commercial Hazardous Waste Combustors.'' This change reflects the changes made in the scope of the project from proposal to promulgation. Specifically, EPA is regulating only hazardous, rather than all industrial, waste combustors for the final regulation (see Section IV.A.

above). Also, EPA is regulating only facilities which receive waste for a fee or other remuneration, rather than all facilities that take waste from off-site from facilities not under their same corporate structure, regardless of whether a fee is charged (see Section IV.C above).

H. RCRA Permit Modification Costs Removed

In the proposed regulation, EPA included RCRA permit modification capital costs as one component of the total proposed capital costs. This was an error. The wastewater treatment unit exemption at 40 CFR 264.1(g)(6) and 40 CFR 265.1(c)(10) and 40 CFR 270.1(c)(2)(v) exempts, from certain RCRA requirements, wastewater treatment units at facilities that are subject to the NPDES or pretreatment requirements under the Clean Water Act. Thus, CHWC facilities would not need to modify their RCRA permits as a result of this rule and would not incur these RCRA permit modification costs. The final rule does not include these RCRA permit modification costs.

IV. The Final Commercial Hazardous Waste Combustor Regulation

This section discusses the scope of the final rule, the treatment options that EPA considered for development of the final limitations and standards and the rationale for the Agency's selected options for BPT, BCT, BAT, PSES, PSNS, and NSPS.

A. Scope of the Final Rule

Today's final effluent limitations guidelines and pretreatment standards cover pollutants only in discharges of specified wastewater from new and existing Commercial Hazardous Waste Combustor facilities. Based on its consideration of comments, EPA has narrowed the scope of the final rule to commercial hazardous waste combustors, rather than industrial waste combustors, as proposed.

As explained in Section III.G, EPA now defines the regulated facilities as Commercial Hazardous Waste Combustors (CHWCs). A CHWC is any thermal unit, except a cement kiln, that is subject to either to 40 CFR part 264, subpart O; part 265, subpart O; or part 266, subpart H if the thermal unit burns RCRA hazardous wastes received from off-site for a fee or other remuneration in the following circumstances. The thermal unit is a commercial hazardous waste combustor if the off-site wastes are generated at a facility not under the same corporate structure or subject to the same ownership as the thermal unit and (1) the thermal unit is burning wastes that are not of a similar nature to wastes being burned from industrial processes on site, or (2) there are no wastes being burned from industrial processes on site. Examples of wastes of a ''similar nature'' may include the following: wastes generated in industrial operations whose wastewaters are subject to the same provisions in 40 CFR Subchapter N (Part 400 to 471) or wastes burned as part of a product stewardship activity.

The term ''commercial hazardous waste combustor'' includes the following facilities: a facility that burns exclusively waste received from off-site; and, a facility that burns both wastes generated on-site and wastes received from off-site. Facilities that may be commercial hazardous waste combustors include hazardous waste incinerators, rotary kiln incinerators, lime kilns, lightweight aggregate kilns, and boilers.

A facility not otherwise a commercial hazardous waste combustor is not a commercial hazardous waste combustor if it burns RCRA hazardous waste for charitable organizations, as a community service or as an accommodation to local, state or government agencies so long as the waste is burned for no fee or other remuneration. Thermal units that only burn non-hazardous industrial waste are no longer in the scope of this guideline, based on EPA's assessment of public comments.

The scope of wastewater regulated for the final rule remains the same as proposed. CHWC wastewater means water used in air pollution control systems or water used to quench flue gas or slag generated as a result of commercial hazardous waste combustion operations. Most of the wastewater generated by Commercial Hazardous Waste Combustor operations result from these three sources.

As proposed, EPA is not including within the scope of the rule those hazardous waste combustors that burn only wastes received from off-site facilities within the same corporate ownership (intracompany wastes) or hazardous waste combustors that only burn wastes generated on-site. Thus, facilities which only burn waste from off-site facilities under the same corporate structure (an intracompany facility) and/or only burn waste generated on-site (captive facility) are not regulated under these guidelines.

EPA received comments that claim that the Agency's proposal not to apply the guidelines to intracompany facilities would mean that as many as several thousand on-site and intracompany facilities would not be subject to the rule, without assurances other comparable categorical standards would apply to the wastewaters discharged by such facilities. EPA also received comments that the universe of commercial waste combustors covered by the rule is narrow considering the magnitude of the total pollutant loadings from the whole IWC industry. The comments state that EPA is ignoring the majority of pollutants discharged from combustion sources by excluding captive and intracompany sources.

EPA has concluded that its decision to limit the scope of this regulation to a narrow universe of combustion operations is well-supported by the record. From the information developed by the Agency for this rulemaking and confirmed by comments on the proposal, EPA has concluded that the combustor wastewater generated by captive and intra-company hazardous waste combustors operated in conjunction with, and receiving the bulk of their waste from, associated industrial or commercial operations are currently subject to effluent guideline limitations for other point source categories either explicitly through the guideline or through permit writer-developed BPJ limitations. In some cases, EPA specifically considered scrubber water as a wastewater source in developing guidelines and thus scrubber water is a specifically regulated stream. In other cases, industrial operations with associated combustors commingle scrubber water with other industrial wastewater for treatment. In these circumstances, permit writers are applying the applicable industrial guideline to the scrubber water through BPJ limitations because of the small volumes of scrubber water and the similarity of the metals profile of the scrubber water to that of other wastewater being treated.

The record shows the great bulk of wastewater discharges from captive and intracompany combustion operations are in fact being regulated under industry-specific guidelines. EPA has based those guidelines on data that are specific to the particular industrial processes being conducted on-site. Those guidelines regulate the appropriate range of pollutants associated with the on-site industrial processes. As a consequence, these pollutants are likely constituents of the waste being burned. In fact, many existing effluent guidelines specify air pollution control wastewaters (APC) as an ''in-scope'' wastewater (e.g., Organic Chemicals, Plastics and Synthetic Fibers category and Pharmaceutical Manufacturing category). The preamble to the proposal provided detailed

information on 156 captive and intracompany facilities receiving EPA's screener survey that are covered by existing categorical standards. (63 FR 6392 at 6415). EPA has updated this information. Rather than 107 facilities as reported at proposal, EPA has now determined that 140 out of the 156 facilities are subject to existing categorical standards. There are 97 facilities subject to the Organic Chemicals, Plastics, and Synthetic fibers category (40 CFR part 414), 17 facilities subject to the Pharmaceutical category (40 CFR part 439), 16 facilities subject to the Steam Electric Power Generating category (40 CFR part 423), 3 facilities subject to the Pesticide Manufacturing category (40 CFR part 455), and 7 subject to other categories. EPA could not identify an effluent guidelines category for 16 of these 156 facilities (five of these are federal facilities). Moreover, in the case of the small number—less than 10 percent—for which EPA could not identify a specific guideline that would apply, the permit writer has ample authority to obtain any necessary data to write facility-specific BPJ limitations or standards.

In addition, EPA looked at the pollutant data for commercial and non-commercial hazardous facilities and concluded that their scrubber water is qualitatively different. EPA evaluated the grab samples of untreated scrubber water it collected from eight non-commercial facilities to determine if there was a difference in wastewater characteristics at non-commercial versus commercial facilities. For each regulated pollutant, the average untreated IWC wastewater concentration is less for the eight non-commercial facilities than for the three commercial facilities used to determine the final limitations. EPA concluded this results from the fact that non-commercial facilities do not take the large variety of different wastes that commercial facilities do. Additionally, two of the nine regulated metal pollutants (mercury and silver) were not at treatable levels for any of the eight non-commercial facilities. Two more of the nine regulated metal pollutants (arsenic and cadmium) were at treatable levels at only one of the eight non-commercial facilities. Further, only one of the nine regulated metal pollutants (zinc) was at treatable levels at more than half of the eight non-commercial facilities. In contrast, seven of the nine regulated metal pollutants (arsenic, cadmium copper, lead, mercury, titanium and zinc) were found at treatable levels at all three of the commercial facilities used to determine the final limitations. Further, the remaining two metal pollutants (chromium and silver) were found at treatable levels at two of these three commercial facilities. These circumstances further support EPA's decision not to subject non-commercial, captive hazardous incinerators to the limitations and standards developed here.

There may be instances when a combustor is operated in conjunction with on-site industrial activities and the combustor wastewater is treated and discharged separately from the treatment of industrial wastewater (or treated separately and mixed before discharge). Permit writers should consider this guideline as one source of information when developing limitations and standards for these situations.

Therefore, EPA determined that it has appropriately balanced coverage of the guidelines without imposing limitations on thermal units already adequately regulated under existing guidelines. Given the circumstances reviewed above, EPA concluded that there is not likely to be any significant regulatory gap in the treatment of combustor wastewater.

B. BPT/BCT/BAT/PSES

a. Summary of Technology Basis

For this final rule, EPA is promulgating BPT, BCT, BAT, and PSES (BPT/BCT/BAT/PSES) limitations and standards based on the same wastewater treatment technology. EPA proposed BPT limitations for nine priority and non-conventional metal pollutants, TSS, and pH when discharged from Commercial Hazardous Waste Combustor facilities. EPA proposed BCT limitations equivalent to BPT because it did not identify any more stringent technology for the control of conventional pollutants. EPA proposed BAT limitations equivalent to BPT because it did not identify any more stringent technology option that it considered would represent BAT levels of control. EPA proposed PSES for nine priority and non-conventional metal pollutants. EPA proposed BPT/BCT/BAT based on two stages of chemical precipitation followed by sand filtration. EPA proposed PSES based on two stages of chemical precipitation, with no sand filtration as the final step.

EPA has based the final BPT/BCT/BAT/PSES limitations and standards on the same treatment technologies it had considered at proposal with one modification. The technology forming the basis of the final limitations and standards is two-stage chemical precipitation with and without sand filtration as a final step. See 63 FR at 6404.

b. Rationale for BPT/BCT/BAT/PSES Limitations and Standards

Based on a thorough analysis of the sampling data and public comments, EPA considered only one option for the final BPT/BCT/BAT/PSES limitations. EPA concluded that a two-stage precipitation process with or without a sand filtration polishing step provided the greatest overall pollutant removals at a cost that is economically achievable at most commercial hazardous waste combustion facilities. Consequently, EPA has based the final limitations on this treatment technology (Option 1), consisting of chromium reduction (as necessary), primary precipitation, solid-liquid separation, secondary precipitation, and solid-liquid separation with (or without) sand filtration.

EPA has based BPT/BCT/BAT/PSES limitations upon two stages of chemical precipitation, each followed by some form of separation and sludge dewatering. The pH levels used for chemical precipitation vary to promote optimal removal of metals because different metals are preferentially removed at different pH levels. In addition, chromium reduction precedes the first stage of chemical precipitation, when necessary. In some cases, BPT/BCT/BAT/PSES limitations would require the current treatment technologies in place to be improved by use of increased quantities of treatment chemicals and additional chemical precipitation/sludge dewatering systems. Sand filtration is employed at the end of the treatment train, if necessary.

In response to the proposal, EPA received comments claiming that carbon and other adsorptive media, including filtration technologies, would be more appropriate than sand filtration for treating waste streams likely to contain mercury. EPA did not include sand filtration system in the model treatment technology specifically to remove mercury, but, rather as a polishing step to help remove TSS and metals associated with fine precipitate particles. In addition, EPA finds that sand filtration is effective in removing mercury. EPA did investigate the use of Lancy filtration and carbon adsorption during the sampling conducted at one facility. EPA found that the removals for mercury at that facility were lower (88.6 percent) than those at the model plant (99.1 percent) whose data formed the basis for the BPT limitations. Although the influent mercury concentration was

an order of magnitude greater at the model facility (21.4 μg/l) compared to the facility using Lancy filtration (3.3 μg/l), the final effluent concentration was lower (non-detect, 0.2 μg/l detection limit) than it was at the second plant (0.4 μg/l). EPA has found that the treatment performance of activated carbon is sometimes unreliable due to the competitive adsorption and desorption of different pollutants that have different affinities for adsorption on activated carbon. Also, pH changes of the wastewater going through the carbon system may cause stable metal complexes to dissolve and thus cause an increase in some metals concentrations through the carbon system. The sampling data for the facility using Lancy filtration shows this. There, the concentration of several metallic pollutants increased across the activated carbon treatment system (see Table 6–4 of the TDD; specifically selenium, antimony, and boron as examples). Thus, the final technology basis includes sand filtration.

The Agency has concluded that this treatment system represented the best practicable technology currently available and should be the basis for the BPT limitations for the following reasons. First, the demonstrated effluent reductions attainable through this control technology represent performance that may be achieved through the application of demonstrated treatment measures currently in operation in this industry. Three facilities containing the identified BPT technology were used in the database to calculate the effluent limitations. This database reflects technology and removals readily applicable to all facilities. Second, the adoption of this level of control would represent a significant reduction in pollutants discharged into the environment (approximately 94,000 pounds of TSS and metals). Third, the Agency assessed the total cost of water pollution controls likely to be incurred, in relation to the effluent reduction benefits and found those costs were reasonable.

Although EPA is not changing the technology basis significantly, EPA is revising all BPT/BCT/BAT/PSES limitations and standards. EPA has based the final BPT/BCT/BAT/PSES effluent limitations and standards on data from the CHWC facility used in the development of the proposed IWC limitations as well as data from two other CHWC facilities that submitted sampling data to EPA (See 64 FR 26714, May 17, 1999) following proposal of the IWC rule. See Section III.E above.

As previously noted, EPA proposed BAT equal to BPT for all non-conventional and priority pollutants for which it had proposed BPT limitations. EPA did consider and reject zero discharge as a possible BAT technology at proposal. EPA concluded that it should not promulgate zero discharge requirements for the following reasons.

EPA determined that combustors have two main options for achieving zero discharge—off-site disposal or on-site incineration. Facilities will likely choose off-site disposal where the cost of on-site incineration is greater than the cost of off-site disposal. But off-site disposal ultimately results in some pollutant discharge to surface waters which will exceed the level achieved by BPT unless the limitations and standards applicable to the off-site treater are equivalent to today's guideline. EPA is concerned that adopting a BAT zero discharge requirement may, in actuality, result in fewer effluent reductions than expected from today's limitations and standards. The second option for zero discharge is on-site. In this case, a facility must either incinerate its scrubber water or replace its wet scrubbing system with a dry scrubber. EPA has determined that on-site incineration would be more expensive than off-site disposal and therefore result in off-site treatment. Similarly, EPA believes, but cannot confirm, that the cost of changing air pollution control systems is probably so high that a combustor would send its scrubber water off-site for treatment. Moreover, even if the cost is not greater, EPA found that replacement of wet scrubbing systems with dry scrubbers may result in an unstable solid (as opposed to the stable solids generated in wastewater treatment systems) that must be disposed of in a landfill, with potentially adverse, non-water quality effects. Consequently, EPA determined that zero discharge is not, in fact, the best available technology. EPA is promulgating BAT limitations equal to the BPT limitations for the non-conventional and priority pollutants covered under BPT.

EPA proposed BCT equal to BPT for all conventional pollutants covered under BPT. The Agency indicated that it had not identified technologies that achieve greater removals of conventional pollutants other that those associated with the proposed BPT limits. EPA has not received any comments concerning its proposed BCT technology basis. Because EPA did not identify any incremental conventional pollutant removal technology options that pass the BCT cost reasonableness test, EPA is promulgating BCT limitations equal to the BPT limitations for conventional pollutants covered under BPT.

As explained above, EPA based the proposed pretreatment standard on two stages of chemical precipitation, with no sand filtration as the final step. EPA received comments that it should include the additional filtration step used in calculating its BPT/BCT/BAT standards for the proposal to calculate PSES standards, and adopt pretreatment standards based on the same level of treatment as its BPT/BAT standards. EPA also received comments that it should promulgate PSES standards as proposed.

Based on new data received and analyzed by EPA following proposal of the IWC rule, EPA has decided to base PSES and BPT/BCT/BAT on the same treatment technology. The standards based on this technology allow a facility to either use or not use sand filtration as the last treatment step, depending on what is necessary to meet the pretreatment standards. EPA costed the PSES technology standards with sand filtration to ensure its economic achievability.

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for pollutants that are not susceptible to treatment by POTWs or which would interfere with the operation of POTWs. EPA looks at a number of factors in deciding whether a pollutant was not susceptible to treatment at a POTW or would interfere with POTW operations—the predicate to establishment of pretreatment standards. First, EPA assesses the pollutant removals achieved at POTWs relative to those achieved by directly discharging systems using BAT treatment. Second, EPA estimates the quantity of pollutants likely to be discharged to receiving waters after POTW removals. Third, EPA studies whether any of the pollutants introduced to POTWs by combustors interfered with or are otherwise incompatible with POTW operations.

EPA is establishing PSES for this industry to prevent pass-through of the same pollutants controlled by BPT/BCT/BAT from POTWs to waters of the U.S. EPA has determined that all of the pollutants that ''passed through'' at proposal would ''pass through'' and has consequently developed pretreatment standards for these pollutants. Today's pretreatment standards represent a national baseline for CHWCs. Local authorities are free to establish stricter limitations (based on site-specific water quality concerns) if they deem it necessary.

For this rule, EPA has looked at the combined economic impacts of the final

regulatory option for both direct and indirect dischargers. EPA has combined these because it concluded, that in the case of CHWCs, there are no economic differences between direct and indirect dischargers that would support separate evaluation of the economic achievability of the selected technology. Both direct and indirect dischargers face the same capital requirement for treatment technology upgrades. Furthermore, the costs of the selected treatment technology are essentially the same for both direct and indirect dischargers because the technology is designed to remove metal pollutants not susceptible to POTW treatment. There are not additional biological controls for direct dischargers because the thermal operations are expected to destroy any organic pollutants in the incinerated wastes so that only traces remain in the scrubber water. In these circumstances, both direct and indirect dischargers also share similar profiles with respect to the characteristics of wastewater generated. In order to determine the cost of compliance with the BPT/BCT/BAT/PSES limitations and standards, EPA included the cost of installation of sand filtration at all CHWC facilities as a conservative approach because, as explained above, not all facilities will require one to meet the limitations and standards. EPA concluded the cost of installation of the selected control technology is economically achievable. See discussion of economic impacts in Section V below.

C. New Source Performance Standards (NSPS)

EPA proposed to establish NSPS equal to BPT/BCT/BAT for all conventional, non-conventional and priority pollutants covered under BPT. EPA has decided that it should not promulgate NSPS based on any more stringent technology. EPA considered basing NSPS on zero discharge but has rejected this technology. As explained above, EPA has concluded that zero discharge may not ultimately result in any reduction in effluent discharges relative to BPT/BCT/BAT levels or it may have unacceptable non-water quality effects.

EPA received a comment stating that EPA's discussion of recycling scrubber water as a potential component of NSPS was insufficient. The commenter explained that it understood why EPA might be hesitant in recommending such a system as a basis for BAT, but argued that incorporating a system to recycle scrubber water would pose a lesser financial burden on new sources. EPA agrees that such a system would pose a lesser financial burden on new sources, but does not agree that it should require all new sources to be zero dischargers as explained previously. EPA bases its decision on the fact that the HWC final MACT rule standards for new incinerators permit use of both wet and dry scrubbing systems. EPA bases the emission standards for dioxins and furans, for example, on an activated carbon injection system used at Waste Treatment Industries (WTI) Incinerator in Liverpool, Ohio. However, EPA bases the emission standards for mercury on wet scrubbing and hazardous waste feedrate control of mercury. EPA concluded that it could not establish that all systems using wet scrubbers, as allowed under the HWC final MACT rule, could recycle all of their scrubber water discharges.

EPA is promulgating NSPS that would control the same conventional, priority, and non-conventional pollutants as the BPT effluent limitations. The technologies used to control pollutants at existing facilities are fully applicable to new facilities. Therefore, EPA is promulgating NSPS limitations that are identical to BPT/BCT/BAT/PSES.

EPA considered the cost of the NSPS technology for new facilities. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating facilities are using these technologies. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected NSPS.

D. Pretreatment Standards for New Sources (PSNS)

EPA proposed PSNS for nine priority and non-conventional metal pollutants. EPA based the proposed standards on two stages of chemical precipitation, with no sand filtration as the final step. The proposed pretreatment standards for new sources were identical to the proposed PSES. EPA received comments that it should adopt PSNS based on two stages of chemical precipitation followed by sand filtration, given the increased removals that would be achieved by the addition of sand filtration. The final PSNS essentially does this. EPA has decided to base PSNS on the same technology as it used for BPT/BCT/BAT/PSES—chromium reduction (as necessary) and two-stage precipitation with or without sand filtration. EPA concluded that sand filtration was not necessary in all cases to achieve BAT metals removals. The data showed that the facilities with and without filtration were achieving high, BAT removals. Filtration may be used as a polishing step depending on the level of treatment provided in the initial two stages of precipitation. The final BAT limitations and PSES were based on data from facilities with and without filtration.

The Agency is establishing PSNS for the same priority and non-conventional pollutants as for PSES.

EPA considered the cost of the PSNS technology for new facilities. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating facilities are using these technologies. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the selected PSNS.

V. Costs and Impacts for the Final Commercial Hazardous Waste Combustor Regulations

A. Contents of Economic Analysis

The economic analysis for the final Commercial Hazardous Waste Combustor effluent limitations guidelines and pretreatment standards assesses the costs and impacts of these guidelines. The record for the final rule contains results of this analysis. The ''Economic Analysis of Final Effluent Limitations Guidelines and Standards for Commercial Hazardous Waste Combustors'' (EPA 821–B–99–008) (hereafter ''EA'') summarizes these results. This document looks at (1) the annualized cost of the rule (2) the impacts of the rule on Commercial Hazardous Waste Combustor facilities and firms (3) the impacts of the rule on employment and communities; and, (4) other secondary impacts on trade, inflation, POTWs, environmental justice, and distributional equity. The preamble to the proposal also discusses EPA's approach to costing this rule (63 FR 6407). EPA has used the same methodology for estimating the cost of compliance with the final rule as it used for the proposal except for the RCRA permit costing issue discussed under Section III.H above.

B. Summary of Results

1. Overview of Methodology

The EA evaluates the economic effect on the industry of compliance with the regulation by two measures of impact: facility closures (severe impacts) and adverse financial effects short of closure (moderate impacts). For this rule, EPA has looked at the combined economic impacts of the final regulatory option for both direct and indirect dischargers. EPA has combined these because there are no differences between direct and

indirect discharges with respect to the characteristics of wastewater generated or the model process technologies considered to develop the final limitations and standards, as well as to prevent the disclosure of confidential business information. The report also includes an analysis of the effects of the regulation on new Commercial Hazardous Waste Combustor facilities and impacts on small businesses and other small entities. EPA made no substantive changes to the economic impact methodology since proposal. The preamble to the proposed rule summarizes the methodology (63 FR at 6409). Chapter 4 of the EA contains a complete description of the methodology.

2. Summary of Costs

Table V.C–1 shows the total costs for the final limitations and standards. EPA estimates the final rule will have a total post-tax annualized cost of $2.01 million.

TABLE V.C–1 TOTAL COSTS OF FINAL LIMITATIONS AND STANDARDS

Final limitations and standards	Total capital costs (million 1998$)	Total O&M costs (million 1998$)	Total post-tax annualized costs (million 1998$)
BPT/BAT/PSES	8.19	1.97	2.01

3. Summary of Economic Impacts for Existing Dischargers

EPA evaluates the impacts associated with compliance costs for all the facilities affected by the regulation. EPA projects one facility will discontinue its waste burning operations. The facility as a whole, however, will continue to operate. The waste burning operations at this facility represent significantly less than 10 percent of total facility revenue. EPA estimates that the cessation of waste burning operations will cause 27 job losses on a full-time equivalent basis (FTE). EPA estimates that no other facilities will experience either severe or moderate impacts.

4. Cost Reasonableness of Final BPT Option

EPA evaluated the cost of the BPT option in relation to effluent reduction benefits by first calculating pre-tax total annualized costs and total pollutant removals in pounds. EPA then compared the ratio of costs to removals for the option to the range of ratios in previous regulations to gauge its impact. EPA calculates that BPT costs $27 per pound of TSS and metal pollutants removed. EPA found this cost to reduction comparison to be reasonable.

5. Economic Impacts of New Sources

EPA is establishing NSPS and PSNS equivalent to the limitations that are established for BPT/BCT/BAT and PSES. In general, EPA concluded that new sources will be able to comply at costs that are similar to or less than the costs for existing sources, because new sources can apply control technologies more efficiently than sources that need to retrofit for those technologies. As a result, given EPA's finding of economic achievability for BPT/BCT/BAT and PSES , EPA also finds that the NSPS and PSNS will be economically achievable and will not constitute a barrier to entry for new sources.

6. Firm-Level Impacts

A firm is a business entity or company and may be composed of a number of facilities. The firm level analysis evaluates the effects of regulatory compliance on firms owning one or more affected CHWC facilities. It also serves to identify impacts not captured in the facility level analysis. For example, some companies might be too weak financially to undertake the investment in the required effluent treatment, even though the investment might seem financially feasible at the facility level. Companies owning more than one facility subject to regulation may experience this effect.

The firm-level analysis assesses the impacts of compliance costs at all facilities owned by the firm. EPA uses ratio analysis for this assessment. This analysis employs two indicators of financial viability: the rate of return on assets (ROA) and the interest coverage ratio (ICR). ROA is a measure of the profitability of a company's capital assets. It is computed as the earnings before interest and taxes minus taxes divided by total assets. ICR is a measure of the financial leverage of a company. It is computed as the earnings before interest and taxes divided by interest expense.

Two firms each own three CHWC facilities that would be subject to the guidelines. EPA evaluated the effect on the firms as described above. First, EPA calculated the baseline ROA and ICR for each company absent the final regulation. Then EPA calculated the ratios after the projected investment in wastewater treatment equipment and the associated compliance costs. One firm experiences no measurable effect as the result of compliance with the final regulation. In its case, neither the ROA nor the ICR changes between the baseline and postcompliance analysis. The second firm experiences an insignificant decline in ROA and a minor decline in ICR. The decline in ICR, while significant in percentage terms, is an artifact of the firm's extremely low level of debt. As a result, EPA concluded that the guidelines will not significantly affect the two firms.

7. Community Impacts

EPA assesses community impacts by estimating the expected change in employment in communities with CHWCs subject to the guidelines. Possible community employment effects include the employment losses in the facilities that are expected to close because of the regulation and the related employment losses in other businesses in the affected community. In addition to these estimated employment losses, employment may increase as a result of facilities' operation of treatment systems for regulatory compliance. It should be noted that job gains will mitigate community employment losses only if they occur in the same communities in which facility closures occur.

EPA estimates the final regulation will result in the postcompliance closure of the waste burning operations of one facility. The postcompliance closure results in the direct loss of 27 Full-Time Equivalent (FTE) positions. EPA estimates secondary employment effects based on multipliers that relate the change in employment in a directly affected industry to aggregate employment effects in linked industries and consumer businesses whose employment is affected by changes in the earnings and expenditures of the employees in the directly and indirectly affected industries. The application of the national average multiplier of 4.049 to the 27 direct FTE losses leads to an estimated community impact of 110

total FTE losses as the result of the final rule. The county in which EPA projects one closure has a current employment of approximately 170,000 FTEs dispersed among 9,900 establishments. The direct and secondary job losses represent 0.06 percent of current employment in the affected county.

Job gains associated with the operation of control equipment mitigate the FTE losses. EPA estimates the gains at 10 FTEs nationally. EPA estimates the secondary and indirect effects at the national level by using the average multiplier of 4.049. This results in an estimate of 40 total FTE gains associated with the pollution control equipment. EPA concludes the projected impacts are small and do not change EPA's finding of economic achievability.

8. Foreign Trade Impacts

The EA does not project any foreign trade impacts as a result of the effluent limitations guidelines and standards. Because most of the affected CHWC facilities treat waste that is considered hazardous under RCRA, international trade in CHWC services for treatment of hazardous wastes is virtually nonexistent.

VI. Water Quality Analysis and Other Environmental Benefits

A. Characterization of Pollutants

EPA evaluated the environmental benefits of controlling the discharges to surface waters and POTWs from CHWCs of the 9 priority and nonconventional pollutants regulated by today's rule as well as the incidental removals of 6 other priority and nonconventional pollutants (aluminum, antimony, iron, molybdenum, selenium and tin). Discharges of these pollutants into freshwater and estuarine ecosystems may alter aquatic habitats, adversely affect aquatic biota, and adversely impact human health through the consumption of contaminated fish and drinking water. Furthermore, these pollutants may also interfere with POTW operations by inhibiting activated sludge or biological treatment or by contaminating sewage sludges, thereby limiting how it may be disposed and thereby raising its costs.

All of these pollutants have at least one identified toxic effect (human health carcinogen and/or systemic toxicant or aquatic toxicant). EPA reviewed additional information on toxicity since the proposal, and updated the toxicity values for nine of the 15 pollutants modeled in the water quality analysis. Toxicity values for three pollutants increased, while toxicity values for six pollutants decreased. In addition, many of these pollutants bioaccumulate in aquatic organisms and persist in the environment.

The Agency did not evaluate the effects of the discharges of any conventional pollutant because its analysis focused on priority and nonconventional pollutants. However, the discharge of a conventional pollutant such as total suspended solids (TSS) can have adverse effects on human health and the environment. For example, habitat degradation can result from increased suspended particulate matter that reduces light penetration, and thus primary productivity, or from accumulation of sludge particles that alter benthic spawning grounds and feeding habitats.

B. Facilities Modeled

EPA evaluated the potential effect on aquatic life and human health of wastewater discharges to receiving waters at current levels of treatment and at levels achieved by BPT/BAT/PSES treatment for direct and indirect discharges. EPA predicted steady-state instream pollutant concentrations assuming immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria guidance or to documented toxic effect levels (i.e., lowest reported or estimated toxic concentration) for those chemicals for which EPA has not published water quality criteria. (In performing this analysis, EPA used its published guidance documents that recommend numeric human health and aquatic life water quality criteria for numerous pollutants. States often consult these guidance documents when adopting water quality criteria as part of their water quality standards. However, because those State-adopted criteria may vary, EPA used the nationwide criteria guidance as the most representative value.)

In addition, EPA assessed the potential benefits to human health by estimating the risks (carcinogenic and systemic effects) associated with reducing pollutant levels in fish tissue and drinking water from current to BPT/BAT treatment levels for direct dischargers, and from current to pretreatment levels for indirect dischargers. EPA estimated risks for recreational and subsistence anglers and their families, as well as the general population.

EPA performed these analyses for the eight CHWC facilities currently in operation. Achievement of BPT/BAT and pretreatment standards will reduce current pollutant loadings (in pounds) of the 15 priority and nonconventional pollutants modeled by 88 percent.

EPA projected instream concentrations for five pollutants will exceed acute or chronic aquatic life criteria or toxic effect levels in three of the eight receiving streams. Compliance with the guidelines will eliminate excursions of the acute criteria by two pollutants and the excursions of chronic criteria by one pollutant.

Current instream concentrations exceed human health criteria or toxic effect levels in five of the receiving streams. Compliance with the guidelines eliminates excursions in one stream completely and reduces the remaining excursions to a limited extent by eliminating the excursions of one pollutant. Estimates of the increase in value of recreational fishing to anglers as a result of this improvement range from $93,300 to $334,000 annually (1998 dollars). In addition, the estimate of the nonuse (intrinsic) benefits to the general public, as a result of the same improvements in water quality, ranges from $46,700 to $167,000 (1998 dollars).

Compliance with the guidelines will reduce total excess annual cancer cases by an estimated 6.6E–3 excess cases. The monetary value of benefits to society from these avoided cancer cases is $17,700 to $92,700 (1998 dollars). (EPA did not assign a monetary value to this benefit at proposal.) EPA does not project systemic toxicant effects (non-carcinogenic adverse human health effects including reproductive toxicity) for any of the receiving streams at current discharge levels.

C. POTWs

EPA also evaluated the potential adverse impacts from CHWC discharges on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the POTW. The Agency estimates inhibition by comparing predicted POTW influent concentrations to available inhibition levels. For this evaluation, EPA used the inhibition values in an EPA document, *Guidance Manual for Preventing Interference at POTWs* (U.S. EPA, 1987) and *CERCLA Site Discharges to POTWs: Guidance Manual* (U.S. EPA, 1990). EPA estimated potential contamination of sewage sludge by comparing projected pollutant concentrations in POTW sewage sludge to available EPA criteria. EPA has established CWA standards for sewage sludge use and disposal at 40 CFR part 503. These regulations limit the concentrations of pollutants in sewage sludge that is used or disposed. For the purpose of this analysis, EPA considered the sewage

sludge contaminated if the concentration of a pollutant in sewage sludge exceeds the limits presented in 40 CFR part 503 for land application of the sludge or surface disposal.

EPA evaluated 10 pollutants for potential POTW operation inhibition and seven pollutants for potential sewage sludge contamination. At current discharge levels, EPA projects no inhibition problems at POTWs receiving wastewater but does project sewage sludge contamination. EPA projects that compliance with the pretreatment standards will eliminate contamination problems. EPA estimates that POTWs will accrue a modest benefit through reduced recordkeeping requirements and exemption from certain sewage sludge management practices. EPA did not assign a monetary value to this improvement in sewage sludge quality.

The POTW inhibition values used in this analysis are not, in general, regulatory values. EPA based these values upon engineering and health estimates contained in guidance or guidelines published by EPA and other sources. Therefore, EPA has not based these pretreatment standards on the fact that some pollutants may impair POTW treatment effectiveness. Of course, as explained above, EPA did find that certain pollutants would pass through as a basis for establishing pretreatment standards. Still, the values used in this analysis help indicate the potential benefits for POTW operations that may result from the compliance with pretreatment discharge levels.

VII. Non-Water Quality Environmental Impacts

The elimination or reduction of one form of pollution may create or aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act call for EPA to consider non-water quality environmental impacts of effluent limitations guidelines and standards. Accordingly, EPA has considered the effect of these regulations on air pollution, waste treatment residual generation, and energy consumption.

A. Air Pollution

Commercial Hazardous Waste Combustor facilities treat wastewater streams which contain very low concentrations of volatile organic compounds (VOCs). Typically, concentrations of VOCs are below treatable levels in CHWC wastewater streams.

Because there are only low concentrations of VOCs in CHWC wastewater, EPA estimates that there will be no significant air emissions associated with treatment systems installed to comply with the guidelines. Thus, EPA does not expect adverse air quality impacts due to the final regulations.

B. Waste Treatment Residuals

Use of metals precipitation and sand filtration to comply with the guidelines will generate waste treatment residuals. EPA assessed the cost of off-site disposal in subtitles C and D landfills for these residuals. These costs were included in the economic evaluation of the technologies.

EPA estimates that the 8 facilities will generate an additional 1 million pounds of sludge per year from metals precipitation and sand filtration operations. The disposal of this filter cake will not have an adverse effect on the environment or result in the release of pollutants in the filter cake to other media. The reason EPA has concluded this will be true is that the disposal of these wastes into controlled subtitles C or D landfills are strictly regulated by the RCRA program.

C. Energy Requirements

EPA estimates that the attainment of BPT, BCT, BAT, NSPS, PSES, and PSNS will increase energy consumption by a small increment over present industry use. Overall, compliance with the guidelines will result in an increase of 1,672 thousand kilowatt hours per year, which equates to 937 barrels of oil per year. The United States consumed 19 million barrels of oil per day in 1994.

VIII. Regulatory Implementation

The purpose of this section is to provide assistance and direction to permit writers and control authorities to aid in their implementation of this regulation. This section also discusses the relationship of upset and bypass provisions, variances and modifications, and analytical methods to the final limitations and standards.

A. Implementation of the Limitations and Standards

As previously explained, new and reissued Federal and State NPDES permits to direct dischargers must include the effluent limitations promulgated today. Existing indirect dischargers must comply with today's pretreatment standards no later than January 27, 2003. New direct and indirect discharging sources must comply with applicable limitations and standards on the date the new sources begin operations.

Permit writers and pretreatment authorities should also closely explore special circumstances which might merit BPJ limitations similar to the limitations promulgated here. If an intracompany incinerator burns waste from off site from a facility under the same corporate structure and operations generating the off-site waste is neither subject to the same provisions in 40 CFR subchapter N nor is the waste of a similar nature to the wastes being burned from industrial processes on site, it would not be a CHWC. However, permit writers and pretreatment authorities should consider whether limitations similar to the guidelines should apply to this intracompany facility. Also, if a facility burns dissimilar wastes for no fee or other remuneration, it would not be a CHWC. In this case, permit writers and pretreatment authorities should also consider whether limitations similar to the guidelines should apply to this facility.

As explained above, EPA has decided that these guidelines do not apply to cement kilns for the reasons discussed above at section III.D. However, there may be circumstances where permit writers should consider whether they will need to establish BPJ limitations or local control authorities may need to establish local limits to control discharges of toxic pollutants in the scrubber water. Permit writers should compare cement kiln scrubber wastewater with the information provided in the TDD concerning the characteristics of CHWC wastewater to determine whether similar discharge limitations should be established.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of waste streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR 122.41(m) and (n) and 40 CFR 403.16 and 403.17.

C. Variances and Modifications

Upon the promulgation of these regulations, all new and reissued Federal and State NPDES permits issued to direct dischargers in the CHWC Industry must include the effluent limitations. In addition, the indirect dischargers must comply with the pretreatment standards within 3 years of issuance.

1. Fundamentally Different Factors Variances

The CWA requires application of the effluent limitations established pursuant to section 301 or the pretreatment standards of section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of national effluent limitations guidelines and pretreatment standards for categories of existing sources for priority, conventional and non-conventional pollutants.

EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual existing discharging facility is fundamentally different with respect to factors considered in establishing the limitations or standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation, provided for FDF modifications from BPT effluent limitations, BAT limitations for priority and non-conventional pollutants and BCT limitation for conventional pollutants for direct dischargers. For indirect dischargers, EPA provided for FDF modifications from pretreatment standards for existing facilities. FDF variances for priority pollutants were challenged judicially and ultimately sustained by the Supreme Court (*Chemical Manufacturers Ass'n* v. *NRDC,* 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added new section 301(n) of the Act explicitly to authorize modification of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under section 301(n), an application for approval of FDF variance must be based solely on (1) information submitted during the rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125, subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for existing direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (e.g., volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by the EPA in developing the nationally applicable effluent guidelines. The regulation also lists four factors (e.g., infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for existing indirect discharger at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by the EPA in establishing the applicable guidelines. The pretreatment regulation incorporate a similar requirement at 40 CFR 403.13(h)(9).

An FDF variance is not available to a new source subject to NSPS or PSNS.

2. Water Quality Variances

Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants due to localized environmental factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

3. Permit Modifications

Even after EPA (or an authorized State) has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered in several circumstances. These could include a regulatory inspection or information submitted by the permittee that reveals the need for modification. Any interested person may request that a permit modification be made. There are two classifications of modifications: major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually any modifications that results in less stringent conditions is treated as a major modification, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described in 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described in 40 CFR 122.63.

4. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements

Effluent limitations act as a primary mechanism to control the discharges of pollutants to waters of the United States. These limitations are applied to individual facilities through NPDES permits issued by the EPA or authorized States under section 402 of the Act.

The Agency has developed the limitations and standards for today's rule to cover the discharge of pollutants for this industrial subcategory. In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this regulation. In addition, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations.

For determination of effluent limits where there are multiple categories and subcategories, the effluent guidelines are applied using a flow-weighted combination of the appropriate guideline for each category or

subcategory. Where a facility treats an Commercial Hazardous Waste Combustor waste stream and process wastewater from other industrial operations, the effluent guidelines would be applied by using a flow-weighted combination of the BPT/BAT limitations for the Commercial Hazardous Waste Combustor and the other industrial operations to derive the appropriate limitations. However, as stated above, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations regardless of the limitations derived using the flow-weighted combinations.

Working in conjunction with the effluent limitations are the monitoring conditions set out in a NPDES permit. An integral part of the monitoring conditions is the point at which a facility must monitor to demonstrate compliance. The point at which a sample is collected can have a dramatic effect on the monitoring results for that facility. Therefore, it may be necessary to require internal monitoring points in order to assure compliance. Authority to address internal waste streams is provided in 40 CFR 122.44(i)(1)(iii) and 122.45(h). Permit writers may establish additional internal monitoring points to the extent consistent with EPA's regulations.

D. Analytical Methods

Section 304(h) of the Act directs EPA to promulgate guidelines establishing test methods for the analysis of pollutants. EPA uses these methods to determine the presence and concentration of pollutants in wastewater. NPDES permitting authorities use these methods for compliance monitoring and for filing applications for the NPDES program under 40 CFR 122.21, 122.41, 122.44 and 123.25. Pretreatment control authorities also use these for the implementation of the pretreatment standards under 40 CFR 403.10 and 403.12. To date, EPA has promulgated methods for conventional pollutants, toxic pollutants, and for some nonconventional pollutants. EPA's CWA regulations list five conventional pollutants at 40 CFR 401.16. Table I–B at 40 CFR Part 136 lists the analytical methods approved for the conventional pollutants. EPA's CWA regulations list 65 toxic metals and organic pollutants and classes of pollutants at 40 CFR 401.15. From the list of 65 classes of toxic pollutants EPA identified a list of 126 ''Priority Pollutants,'' shown, for example, at 40 CFR part 423, appendix A. The list includes non-pesticide organic pollutants, metal pollutants, cyanide, asbestos, and pesticide pollutants. The table of approved inorganic test procedures at 40 CFR 136.3, Table I–B includes the currently approved methods for metals. Discharger permits must include the test methods promulgated at 40 CFR 136.3 or incorporated by reference in the tables, when available, to monitor pollutant discharges from commercial hazardous waste combustors for the pollutants specified in today's effluent limitations guidelines.

As a part of today's final rule, EPA is promulgating an additional test method for some of the metal pollutants to be regulated under part 444. This test method is EPA Method 200.8, ''Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry.'' EPA first proposed this analytical method with others in 1995 (60 FR 53988, October 18, 1995). EPA plans to promulgate the other proposed methods in the near future. In the meantime, EPA has decided to promulgate EPA Method 200.8 in today's rulemaking because EPA used this test method to analyze samples during development of this rule. EPA included testing results using this method in the administrative record at the time of proposal. EPA also has incorporated this method into the approved methods for its Safe Drinking Water Act national primary drinking water regulations at 40 CFR 141.23.

In addition, EPA is allowing use of an applicable Inductively Coupled Plasma-Mass Spectrometry method from the Annual Book of ASTM Standards, ASTM D 5673–96, for monitoring of the regulated pollutants. The final rule allows for use of these two additional test methods for several reasons: First, it allows greater flexibility in monitoring; Second, it conforms use of methods in EPA's drinking water and wastewater programs; Third, it moves toward a performance-based measurement system; Finally, it allows use of technical standards as contemplated by the National Technology Transfer and Advancement Act of 1995 (NTTAA; see Section IX). EPA is promulgating these methods today using direct final rulemaking.

With the allowed use of the test methods included above, in addition to those already approved in Table IIB at 40 CFR 136.3 and incorporated by reference into this regulation, EPA will provide dischargers with greater flexibility in selection of a method for monitoring the pollutants being regulated in today's final rule.

IX. Regulatory Requirements

A. Executive Order 12866

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

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

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

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

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

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

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business that has annual revenues less than $6 million (i.e., the definition for SIC 4953, Refuse Systems); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. Today's final rule establishes requirements applicable only to Commercial Hazardous Waste Combustors. The facilities subject to this rule are all owned by large entities with firm revenues in excess of $230 million each per year. Consequently, there are no small businesses affected by the rule.

C. Submission to Congress and the General Accounting Office

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective February 28, 2000.

D. Paperwork Reduction Act

This rule contains no information collection requirements. Therefore, it is not subject to the Paperwork Reduction Act of 1995.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA has estimated total annualized costs of the final rule as $2.01 million (1998$, post-tax). Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA projected no incremental requirements for small governments. Thus, today's rule is not subject to the requirements of section 203 of the UMRA.

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It 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, as specified in Executive Order 13132. The rule will not impose substantial costs on States and localities. The rule establishes effluent limitations and pretreatment standards imposing requirements that apply to CHWCs when they discharge wastewater or introduce wastewater to a POTW. The rule does not apply directly to States and localities and will only affect State and local governments when they are administering CWA permitting programs. The final rule, at most, imposes minimal administrative costs on States and local governments if the States have an authorized NPDES programs and local governments administering approved pretreatment programs. (These States and localities must incorporate the new limitations and standards in new and reissued NPDES permits or local pretreatment orders or permits). Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, 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. EPA has not identified any facilities covered by today's rule that are owned and operated by Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 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, business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable test methods from voluntary consensus standard bodies. EPA's search revealed that there is one new consensus standard for some metals included in today's rule. Even prior to enactment of the NTTAA, EPA has traditionally included any applicable test methods in its regulations. EPA promulgates this voluntary consensus standard (ASTM Method D 5673–96) as part of this rulemaking. Today's rule also promulgates a number of voluntary consensus standards for the regulated pollutants. These standards were previously promulgated at 40 CFR part 136.

I. Executive Order 13045 and Protecting Children's Health

The Executive Order ''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 E.O. 13045 because it is not ''economically significant'' as defined under Executive Order 12866.

X. Summary of Public Participation

The following sections describe the major comments on the proposed rule and the NOA, and EPA's responses. The public record contains the full comment summary and response document for this rulemaking.

A. Summary of Proposal Comments and Responses

Thirty-nine commenters provided detailed comments on the February 6, 1998 proposal. In all, the comments dealt with 51 separate aspects of the proposal. This summary addresses only the major comments.

Comment: Several commenters asked EPA to redefine ''IWC facility'' so that a waste combustor burning off-site wastes without charge would not automatically fall within the scope of the rule. The commenters suggested adopting the definition of intracompany waste combustors found in the 1992 survey of the IWC industry.

Response: EPA has decided to limit the applicability of the guidelines to certain commercial hazardous waste combustors. The revised scope of the rule for CHWCs (formerly IWCs) will alleviate the concerns expressed and will allow a facility to burn wastes if received for no fee or other remuneration without subjecting the associated wastewaters to the CHWC guidelines.

Comment: The commenter supports the inclusion of a de minimis exclusion for wastes associated with product stewardship, public service, and sub-contractor activities off-site.

Response: Under the revised definition, a facility would not be a CHWC merely because it accepted product stewardship wastes if these wastes are either of a similar nature or are subject to the same provisions in 40 CFR Subchapter N as the operations generating the wastes being burned from industrial processes on-site. Further, for example, a facility would not be a CHWC if it burns household hazardous wastes for the community. Household hazardous wastes are exempt from RCRA hazardous waste regulations. CHWC facilities, however, that burn dissimilar RCRA hazardous wastes will be covered by the final CHWC rule.

EPA has no information on which to establish a de minimis level for dissimilar wastes burned from off-site for a fee or other remuneration. EPA believes that the majority of waste burned as product stewardship activity and waste received from subcontractor activities from off-site will be exempt from the CHWC rule due to its similar nature. EPA also believes that public service activities will generally be exempt because the waste received is either not hazardous under RCRA or exempt from RCRA hazardous waste regulations (e.g., exempt household hazardous waste, non-hazardous waste from public agencies, and wastes from small quantity generators).

Comment: One commenter suggests that the HWC maximum achievable control technology (MACT) rule will cause higher loadings in the scrubber water than there currently are.

Response: EPA promulgated the MACT rule for hazardous waste combustors (HWC) this summer at (64 FR 52828, July 30, 1999).

Using detailed emissions data collected under the HWC MACT rule, EPA estimates that, overall, there is a possibility of a 100 percent increase in particulate matter loadings at a CHWC facility. EPA used this estimate to determine the potential effect the MACT standards would have on CHWC facilities. (The commenter submitted no data that would allow EPA to determine how much its own loadings will change.) Specifically, EPA has performed an economic sensitivity analysis to estimate the effects on costs of a 100 percent increase in loadings in the scrubber water for CHWC facilities. EPA compared BPT/BAT baseline costs to costs for an increase of 100 percent in concentration for metals and total suspended solids. For direct discharge facilities, the total annualized compliance costs ($1992) would increase 3 percent and for indirect discharge facilities, the total annualized compliance costs would increase 13 percent. However, no facilities would experience severe impacts (closure) or moderate impacts (compliance costs greater than 5 percent of revenue) as a result of the increased compliance costs. Thus, the sensitivity analysis indicates that a potential increase in loadings of 100 percent would not affect the

economic achievability determination for the selected technology option.

Comment: EPA should not regulate high temperature metals recovery facilities under the IWC guideline if they are exempt from regulation under 40 CFR 266.100(c) as a RCRA BIF.

Response: The guidelines do not apply to facilities (like high temperature metals recovery facilities) that are not subject either to 40 CFR part 264, subpart O; part 265, subpart O; or part 266, subpart H. EPA based its decision to limit the scope of the guidelines, in part, on its determination that wastewater from these exempt facilities would be qualitatively different from the regulated wastewater. The data from a high temperature metals recovery facility confirms this. These data show that wastewater from a high temperature metals recovery facility has higher metals concentrations than typically observed for the regulated facilities.

Comment: Commenter is unsure of the types of IWC wastewater subject to the proposed regulation and thinks it is important to make precisely clear exactly how the regulation of ''other'' IWC wastestreams should be addressed by a permit writer.

Response: Sections 444.1 and 444.2 of the final regulation clearly state the types of wastewater a CHWC (formerly IWC) may generate that are subject to the final regulation. In addition, this preamble to the final rule further explains the regulated wastewaters.

EPA does not agree with this commenter that it is important to make clear exactly how the regulation of ''other'' waste streams should be addressed by a permit writer. EPA did not collect data on these streams. The permitting authority will use BPJ authority to develop limitations that reflect the characteristics of the particular waste streams. However, EPA does agree with the commenter that the ''other'' waste streams should not be subject to CHWC guidelines unless the characteristics of the waste streams are similar to the CHWC streams (e.g. a waste stream that comes into contact with the waste after it is burned would have characteristics similar to regulated CHWC streams.)

Comment: None of the facilities sampled by EPA employed state-of-the-art dioxin air emission controls that will be required for at least some of the facilties covered by the proposed rule. None of the commercial facilities from which EPA obtained its wastewater data employed activated carbon injection (ACI), recently proposed beyond-the-floor MACT by EPA.

Response: EPA did not base the promulgated MACT dioxin emission standards on activated carbon injection (ACI) for approximately 85 percent of the hazardous waste incinerators identified by the HWC final rule. The standards are instead based on rapid quench of the flue gas prior to the particulate matter control device. Although EPA did not sample ACI, as the commenter mentioned, it did sample CHWC facilities with rapid flue gas quench prior to the particulate matter control device. For the 15 percent of hazardous waste incinerators identified by the HWC final rule that have waste heat boilers, EPA promulgated the emission standard based on activated carbon injection.

The commenter is concerned that the low dioxin concentrations found by EPA in the CHWC wastewater sampling program are a result of weak dioxin emission controls. As stated above, EPA sampled facilities with the promulgated HWC control for 85% of hazardous waste incinerators. For the 15% of hazardous waste incinerators that have waste heat boilers, EPA does not anticipate that the addition of ACI will increase the dioxin concentrations found in the wastewater because the ACI control devices specified in the final HWC rule are all ''dry'' carbon systems—either a carbon bed or a fabric filter with dry carbon injection. That is, the dioxin that is removed via the carbon injection will not be added to the wastewater—it will stay with the carbon.

Based on the data available and its resulting decision not to establish limitations and standards for dioxins, EPA cannot justify the imposition of a monitoring program for dioxins. While EPA recognizes that the promulgation of the MACT dioxin emission standards may result in some changes in the volume and character of air pollution control wastewater generated, EPA does not believe that the changes will result in a media transfer for dioxins that would change its decision that it should not establish dioxin limitations and standards. The promulgated MACT standards for 85% of the hazardous waste incinerators in the final HWC rule are based on changes in air pollution control device process conditions to minimize generation of dioxins and furans. Various studies have shown that a significant source of dioxin in waste incinerators is the formation of dioxin in the flue gas as it is cooled to around 400 degrees C. The longer the flue gas is held at this temperature the greater the formation of dioxin. One useful control measure is the rapid cooling of flue gas to levels below this temperature range to minimize this dioxin production window. EPA has concluded that the largest portion of the reduction in dioxin emissions will be through reductions in the amount generated rather than a media transfer.

Comment: Commenter questioned whether EPA conducted the type of data collection analysis necessary to characterize adequately the non-hazardous industry sector that falls within the scope of the proposal.

Response: At the onset of this project, EPA decided to limit the scope of its examination of the combustion industry. Thus EPA's initial planning did not include consideration of limitations and standards for medical waste incinerator or sewage sludge incinerators. Neither did the Agency undertake to revisit some of its existing guidelines for industrial categories which included allowances for wastewater discharges associated with air pollution control equipment for on-site incinerators. As a result of these decisions, EPA tailored its initial data collection to address its perceived needs for this guideline. As a result, EPA agrees that there may be gaps in the data which limit the Agency's ability to adequately characterize wastewater from certain combustion units at such facilities. This is particularly true with respect to non-hazardous combustion operations. As a result, EPA decided that the CHWC guideline would not extend to these facilities as explained earlier. EPA's 1992 data collection efforts for the CHWC Industry identified only one facility generating CHWC wastewater that burned only non-hazardous industrial waste and operated commercially, and this facility regenerated activated carbon.

The CHWC regulation focuses on RCRA combustor units, and includes units that burn both RCRA and non-RCRA wastes. The above definition makes it clear that if a combustor does not burn any RCRA hazardous waste, it is not subject to the rule. The regulation, however, will apply to the CHWC wastewater produced by burning non-hazardous industrial wastes in conjunction with RCRA hazardous waste.

Comment: It is difficult to understand how the Agency could assume that treatment performance data from a single facility could be representative of BPT/BAT performance for this point source category.

Response: Subsequent to the close of the comment period, EPA received wastewater treatment data from three additional CHWC facilities. Each of the three CHWCs submitted influent and effluent wastewater treatment system performance data and related information on the operation of the

treatment systems (referred to as Episodes 6181, 6182, and 6183). Each facility submitted daily measurements for chlorides, total dissolved solids, total suspended solids, sulfate, pH, and 15 metals (aluminum, antimony, arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, selenium, silver, tin, titanium, and zinc).

EPA has reviewed this data and incorporated it into the data base for determining the CHWC limitations. Inclusion of the submitted data followed a careful check to ensure its accuracy, quality, and that it was collected using procedures consistent with EPA sampling and collection standards. EPA has used this information in the calculation of BPT/BAT effluent limitations for the final rule. EPA concluded that two of the three new facilities represented the ''average of the best'' technology for the industry. The remaining facility (Episode 6182) provided insufficient treatment for the profile of metals detected in its wastewaters. Incorporation of the post-proposal data into EPA's database had the effect of increasing the effluent long-term averages for some of the regulated pollutants and decreasing others.

Comment: EPA's proposed MACT standards for Hazardous Waste Combustors overlooked a preferred component of establishing emissions control—reductions in metal feed rates to combustors (pollution prevention)—because combustion of metals is not an appropriate form of treatment for these pollutants.

Response: Combustion of wastes is an appropriate management, treatment, and recovery practice for a wide variety of wastes, including those with trace quantities of metals. EPA rulemaking efforts under the CWA, CAA, and RCRA usually consider multi-media water, air, and solid waste impacts. EPA expects that well-designed, well-operated combustors will reduce the organic components of feed material to near-elemental compounds (carbon dioxide, water, and inorganic salts). However, since the metal components of the feed material are immutable (neither destroyed nor reduced to other elemental compounds), any effort to control or reduce metal pollutants in one medium must recognize the potential ancillary impact on the volumes and pollutant concentrations of the other media.

Further, the commenter's suggestion that EPA's proposed MACT air emission standards for Hazardous Waste Combustors (HWCs) should have considered reductions in metal feed rates as a control technique to limit emissions of metals is outside the scope of this rulemaking. The Agency received many public comments, including substantial comment on the issue of feedrate control of metals and chlorine in the hazardous waste, in response to the HWC MACT proposal and subsequent notices (61 FR 17358 and 62 FR 24212) . These comments were considered in developing the final air emissions standards for HWCs that were promulgated on September 30, 1999 (64 FR 52828). The Agency's comment response document supporting the final rule responds to all comments regarding feedrate control of metals and chlorine in the hazardous waste as MACT control. See *Final Response to Comments to the Proposed HWC MACT Standards, Volume I: Standards,* July 1999, available in docket F–1999–RC2F–FFFFF.

Comment: Some state regulations are more stringent than EPA's proposed regulations for mercury and cadmium. Systems in use have achieved lower mercury levels than EPA has proposed.

Response: The limitations and standards established by EPA in the CHWC regulation are national minimum technology-based standards based on data from CHWCs. States, of course, under the CWA, remain free to establish more stringent discharge limits. In addition, the permit writer or control authority may establish more stringent permit requirements in order, for example, to comply with water quality standards as necessary.

Based on new data received from CHWC facilities, EPA has decided to promulgate standards for PSES identical to the BAT/BPT standards. This technology basis is two stages of chemical precipitation with or without a final sand filtration step. The promulgated mercury and cadmium limits for direct dischargers and indirect dischargers are lower than the proposed mercury and cadmium limits.

B. Summary of Notice of Availability Comments and Responses

Comment: Two commenters want EPA to use the noticed data to set final limitations and standards for the final IWC rule. One commenter also argues that the data submitted illustrates the variability of influent and effluent concentrations for most metals and TSS *between* IWC facilities.

Response: EPA used the submitted data from the CHWC (formerly IWC) facilities that operate BPT/BAT/PSES treatment in development of the final effluent limitations guidelines and standards. EPA only used additional data from two facilities of the three facilities that submitted data in calculating the final limitations and standards. EPA concluded that only these two facilities were operating BPT/BAT/PSES treatment systems. The third facility was operating only one (rather than two) stages of chemical precipitation at the time of its sampling. Inclusion of these data has lead to higher effluent limits for some pollutants and lower effluent limits for others than at proposal.

Additionally, while the Agency recognizes that different facilities will accept variable ranges of hazardous and solid wastes for incineration, the Agency has concluded that the final limitations and standards do not need to take these differences into account. The statistical methods used by the Agency to calculate final limitations and standards do not result in limits that require a discharger to meet a single long-term average value for a particular pollutant. Instead, EPA has designed the final pollutant limits so that any facility employing good engineering practice and an appropriately designed treatment system will perform at least as well, or better than, the average observed performance and variability of the systems whose data were used to develop the limitations. Rather than allowing for between-facility variation, EPA uses the performance of the mean treatment system as a standard to establish limits that a well-operated system should be capable of achieving. However, this standard is not itself a limit. In developing daily maximum and monthly average limits, EPA provides an allowance for average within-facility variation about the average facility's average effluent concentration. Thus, a treatment system designed and operated to achieve the BPT/BAT model long-term average on a consistent basis should have no problem in complying with the limitations. See the comment response document for details.

Comment: One commenter thinks it is important to simulate the level of metals that could be encountered in the course of taking a broad variety of wastes into an Industrial Waste Combustor.

Response: The Agency has taken feed concentrations of metals into account in establishing effluent limits for CHWCs (formerly IWCs). EPA calculates the regulatory limits based on data from multiple facilities which experienced different feed rates over time. EPA does not accept the commenter's conclusion that the spiking simulation validly describes routine CHWC performance. The commenter introduced the spiked metal solutions to the treatment system downstream of the influent sampling point. Without knowing the resulting metal concentrations and without

knowing whether these concentrations are representative of potential loadings, EPA can not use the spiked data in its calculations for the final limitations and standards.

EPA is aware of the RCRA trial burn procedures and understands the techniques regarding waste ''spiking'' for thermal treatment. However, EPA's Office of Water has never used such techniques in developing its technology-based effluent limitations guidelines and standards and does not believe these techniques are appropriate for wastewater treatment technologies. The variability factors calculated by EPA will accommodate any unusual ''spikes'' in metal concentrations experienced by a CHWC facility.

Appendix 1 to the Preamble—Definitions, Acronyms, and Abbreviations

Administrator—The Administrator of the U.S. Environmental Protection Agency.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable, as described in section 304(b)(2) of the CWA.

BCT—The best conventional pollutant control technology, as described in section 304(b)(4) of the CWA.

Boiler—means an enclosed device using controlled flame combustion and having the following characteristics:

(1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in 40 CFR 260.32.

BPT—The best practicable control technology currently available, as described in section 304(b)(1) of the CWA.

Captive—Used to describe a facility that only accepts waste generated on site and/or by the owner operator at the facility.

Clean Water Act (CWA)—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended, *inter alia,* by the Clean Water Act of 1977 (Pub. L. 95–217) and the Water Quality Act of 1987 (Pub. L. 100–4).

Closed—A facility or portion thereof that is currently not receiving or accepting wastes and has undergone final closure.

Combustion Unit—A device for waste treatment which uses elevated temperatures as the primary means to change the chemical, physical, biological character or composition of the waste. Examples of combustion units are incinerators, boilers, industrial furnaces, and kilns.

Commercial Hazardous Waste Combustor means any thermal unit, except a cement kiln, that is subject to either to 40 CFR part 264, subpart O; part 265, subpart O; or part 266, subpart H if the thermal unit burns RCRA hazardous wastes received from off-site for a fee or other remuneration in the following circumstances. The thermal unit is a commercial hazardous waste combustor.

Commercial hazardous waste combustor means any thermal unit, except a cement kiln, that is subject to either to 40 CFR Part 264, Subpart O; Part 265, Subpart O; or Part 266, Subpart H if the thermal unit burns RCRA hazardous wastes received from off-site for a fee or other remuneration in the following circumstances. The thermal unit is a commercial hazardous waste combustor if the off-site wastes are generated at a facility not under the same corporate structure or subject to the same ownership as the thermal unit and

(1) The thermal unit is burning wastes that are not of a similar nature to wastes being burned from industrial processes on site or

(2) There are no wastes being burned from industrial processes on site.

Examples of wastes of a ''similar nature'' may include the following: wastes generated in industrial operations whose wastewaters are subject to the same provisions in 40 CFR Subchapter N or wasters burned as part of a product stewardship activity.

The term commercial hazardous waste combustor includes the following facilities: a facility that burns exclusively waste received from off-site; and, a facility that burns both wastes generated on-site and wastes received from off-site. Facilities that may be commercial hazardous waste combustors include hazardous waste incinerators, rotary kiln incinerators, lime kilns, lightweight aggregate kilns, and boilers.

A facility not otherwise a commercial hazardous waste combustor is not a commercial hazardous waste combustor if it burns RCRA hazardous waste for charitable organizations, as a community service or as an accommodation to local, state or government agencies so long as the waste is burned for no fee or other remuneration.

Commercial hazardous waste combustor wastewater means wastewater attributable to commercial hazardous waste combustion operations, but includes only wastewater from air pollution control systems and water used to quench flue gas or slag generated as a result of commercial hazardous waste combustor operations.

Conventional pollutants—The pollutants identified in section 304(a)(4) of the CWA and the regulations thereunder (biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, fecal coliform, and pH).

Direct discharger—A facility that discharges or may discharge treated or untreated pollutants into waters of the United States.

Disposal—Intentional placement of waste or waste treatment residual into or on any land where the material will remain after closure. Waste or residual placed into any water is not defined as disposal, but as discharge.

Effluent—Wastewater discharges.

Effluent limitation—Any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into

navigable waters, the waters of the contiguous zone, or the ocean. (CWA sections 301(b) and 304(b).)

EA—Economic Analysis.

EPA—The U.S. Environmental Protection Agency.

Facility—A facility is all contiguous property owned, operated, leased or under the control of the same person. The contiguous property may be divided by public or private right-of-way.

Hazardous Waste—Any waste, including wastewaters defined as hazardous under RCRA or Toxic Substances Control Act (TSCA).

Incinerator—means any enclosed device that:

(1) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(2) Meets the definition of infrared incinerator or plasma arc incinerator.

Indirect discharger—A facility that discharges or may discharge pollutants into a publicly-owned treatment works (POTW).

Industrial Furnace means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

(1) Cement kilns.

(2) Lime kilns.

(3) Aggregate kilns.

(4) Phosphate kilns.

(5) Coke ovens.

(6) Blast furnaces.

(7) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces).

(8) Titanium dioxide chloride process oxidation reactors.

(9) Methane reforming furnaces.

(10) Pulping liquor recovery furnaces.

(11) Combustion devices used in the recovery of sulfur values from spent sulfuric acid.

(12) Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3 percent, the acid product is used in a manufacturing process, and except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent as generated.

(13) Such other devices as the Administrator may, after notice and comment, add to this list on the basis of one or more of the following factors:

(i) The design and use of the device primarily to accomplish recovery of material products;

(ii) The use of the device to burn or reduce raw materials to make a material product;

(iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(v) The use of the device in common industrial practice to produce a material product; and,

(vi) Other factors, as appropriate.

Intracompany—A facility that treats, disposes, or recycles/recovers wastes generated by off-site facilities under the same corporate ownership. The facility may also treat on-site generated wastes. If any waste from other facilities not under the same corporate ownership is accepted for a fee or other remunerations, the facility is considered commercial.

Long-term average (LTA)—For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a facility, subcategory, or technology option. LTAs were used in developing the limitations and standards in today's final regulation.

Minimum level—The level at which an analytical system gives recognizable signals and an acceptable calibration point.

Municipal Facility—A facility which is owned or operated by a municipal, county, or regional government.

New Source—''New source'' is defined at 40 CFR 122.2 and 122.29 for direct discharging facilities and at 40 CFR 403.3 for facilities discharging to a POTW.

Non-commercial facility—A facility that accepts waste from off-site for treatment only from facilities under the same ownership.

Non-conventional pollutants—Pollutants that are neither conventional pollutants listed at 40 CFR 401.16 nor the 126 priority pollutants listed in Appendix A of 40 CFR part 423.

Non-detect value—A concentration-based measurement reported below the sample-specific minimum level that can reliably be measured by the analytical method for the pollutant.

Non-hazardous waste—All waste not defined as hazardous under RCRA regulations.

Non-water quality environmental impact—An environmental impact of a control or treatment technology, other than to surface waters.

NPDES—The National Pollutant Discharge Elimination System authorized under section 402 of the CWA. NPDES requires permits for discharge of pollutants from any point source into waters of the United States.

NSPS—New Source Performance Standards.

OCPSF—Organic Chemicals, Plastics, and Synthetic Fibers industry or Effluent Guideline (40 CFR part 414).

Off-site—''Off-site'' means outside the boundaries of a facility.

On-site—''On-site'' means within the boundaries of a facility.

Outfall—The mouth of conduit drains and other conduits from which a facility effluent discharges into receiving waters or POTWs.

Point source category—A category of sources of water pollutants.

Pollutant (to water)—Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, certain radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

POTW or POTWs—Publicly-owned treatment works, as defined at 40 CFR 403.3(o).

Pretreatment standard—A regulation that establishes industrial wastewater effluent quality required for discharge to a POTW. (CWA section 307(b).)

Priority pollutants—The pollutants designated by EPA as priority in 40 CFR part 423 Appendix A.

Process wastewater—''Process wastewater'' is defined at 40 CFR 122.2.

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the CWA.

PSNS—Pretreatment standards for new sources of indirect discharges, under section 307 (b) and (c) of the CWA.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, as amended.

Residuals—The material remaining after a natural or technological process has taken place, e.g., the sludge remaining after initial wastewater treatment.

Sewage Sludge—Sludge generated by a sewage treatment plant or POTW.

Sludge—The accumulated solids separated from liquids during processing.

Solids—For the purpose of this notice, a waste that has a very low moisture content, is not free-flowing, and does not release free liquids. This definition deals with the physical state of the waste, not the RCRA definition.

SIC—Standard Industrial Classification (SIC). A numerical

categorization system used by the U.S. Department of Commerce to catalogue economic activity. SIC codes refer to the products, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the economic activities in which they are engaged. SIC codes often denote a facility's primary, secondary, tertiary, etc. economic activities.

Small business—Businesses with annual sales revenues less than $6 million. This is the Small Business Administration definition of small business for SIC code 4953, Refuse Systems (13 CFR Ch. I, § 121.601).

Treatment—Any activity designed to change the character or composition of any waste so as to prepare it for transportation, storage, or disposal; render it amenable for recycling or recovery; or reduce it in volume.

TSS—Total Suspended Solids. A measure of the amount of particulate matter that is suspended in a water sample. The measure is obtained by filtering a water sample of known volume. The particulate material retained on the filter is then dried and weighed.

Waste Receipt—Wastes received for treatment or recovery.

Waters of the United States—See 40 CFR 122.2.

Wastewater treatment system—A facility, including contiguous land and structures, used to receive and treat wastewater. The discharge of a pollutant from such a facility is subject to regulation under the Clean Water Act.

Zero discharge—No discharge of pollutants to waters of the United States or to a POTW. Also included in this definition are ''alternative'' discharges of pollutants by way of evaporation, deep-well injection, off-site transfer, and land application.

List of Subjects in 40 CFR Part 444

Environmental protection, Hazardous waste, Incineration, Incorporation by reference, Waste treatment and disposal, Water pollution control.

Dated: November 30, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended by adding part 444 to read as follows:

PART 444—WASTE COMBUSTORS POINT SOURCE CATEGORY

Subpart A—Commercial Hazardous Waste Combustor Subcategory

Sec.

444.10 Applicability.
444.11 Definitions.
444.12 Monitoring requirements.
444.13 Effluent limitations attainable by the application of the best practical control technology currently available (BPT).
444.14 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).
444.15 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
444.16 Pretreatment standards for existing sources (PSES).
444.17 New source performance standards (NSPS).
444.18 Pretreatment standards for new sources (PSNS).

Authority: Secs. 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, as amended; 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

Subpart A—Commercial Hazardous Waste Combustor Subcategory

§ 444.10 Applicability.

(a) The provisions of this part apply only to that portion of wastewater discharges that are associated with Commercial Hazardous Waste Combustor (CHWC) wastewater.

(b) The discharge from a CHWC of wastewater that is not CHWC wastewater, may be subject to other applicable provisions of EPA's CWA effluent guidelines and standards regulations at Subchapter N of Title 40 of the Code of Federal Regulations.

§ 444.11 Definitions.

As used in this part the general definitions and abbreviations in 40 CFR part 401 shall apply.

Commercial hazardous waste combustor means any thermal unit, except a cement kiln, that is subject either to 40 CFR part 264, subpart O; 40 CFR part 265, subpart O; or 40 CFR part 266, subpart H if the thermal unit burns RCRA hazardous wastes received from off-site for a fee or other remuneration in the following circumstances. The thermal unit is a commercial hazardous waste combustor if the off-site wastes are generated at a facility not under the same corporate structure or subject to the same ownership as the thermal unit and

(1) The thermal unit is burning wastes that are not of a similar nature to wastes being burned from industrial processes on site or

(2) There are no wastes being burned from industrial processes on site. Examples of wastes of a ''similar nature'' may include the following: Wastes generated in industrial operations whose wastewaters are subject to the same provisions in 40 CFR Subchapter N or wastes burned as part of a product stewardship activity. The term commercial hazardous waste combustor includes the following facilities: a facility that burns exclusively waste received from off-site; and, a facility that burns both wastes generated on-site and wastes received from off-site. Facilities that may be commercial hazardous waste combustors include hazardous waste incinerators, rotary kiln incinerators, lime kilns, lightweight aggregate kilns, and boilers. A facility not otherwise a commercial hazardous waste combustor is not a commercial hazardous waste combustor if it burns RCRA hazardous waste for charitable organizations, as a community service or as an accommodation to local, state or government agencies so long as the waste is burned for no fee or other remuneration.

Commercial hazardous waste combustor wastewater means wastewater attributable to commercial waste combustion operations, but includes only wastewater from air pollution control systems and water used to quench flue gas or slag generated as a result of commercial hazardous waste combustor operations.

Off-site means outside the boundaries of a facility.

On-site means within the boundaries of a facility.

Parameters are defined as Parameters at 40 CFR 136.2 in Table 1B, which also cites the approved methods of analysis.

(1) *Arsenic* means total arsenic, Parameter 6.

(2) *Cadmium* means total cadmium, Parameter 12.

(3) *Chromium* means total chromium, Parameter 19.

(4) *Copper* means total copper, Parameter 22.

(5) *Lead* means total lead, Parameter 32.

(6) *Mercury* means total mercury, Parameter 35.

(7) *pH* means hydrogen ion, Parameter 28.

(8) *Silver* means total silver, Parameter 62.

(9) *Titanium* means total titanium, Parameter 72.

(10) *TSS* means total suspended solids, Parameter 55.

(11) *Zinc* means total zinc, Parameter 75.

POTW means a publicly owned treatment works.

§ 444.12 Monitoring Requirements

(a) Both direct and indirect discharges must monitor to establish compliance with their limitations and standards. Thus, all the permits of all direct

dischargers must include requirements to monitor, according to EPA-approved test procedures, each pollutant limited in the permit, the volume of effluent discharged from each outfall, and other appropriate measurements subject to notification requirements. See 40 CFR 122.44(i). EPA's pretreatment regulations similarly require indirect dischargers to monitor to demonstrate compliance with pretreatment standards. See 40 CFR 403.12(g).

(b) Incorporation by reference:

(1) Compliance with the monitoring requirements may be accomplished using approved test procedures listed in the table to this paragraph. Most of these test procedures have previously been incorporated by reference at 40 CFR 136.3(a), Table IB. The test procedures for the regulated pollutants (arsenic, cadmium, chromium (total), copper, pH, lead, mercury, TSS, silver, titanium, and zinc) listed in the table to this paragraph are also incorporated by reference into this regulation. The full texts of the test procedures listed in this paragraph are available from the sources indicated in paragraph (b)(2) of this section.

(2) In addition to those test procedures incorporated by reference at 40 CFR 136.3(a), Table IB, you may also use EPA Method 200.8, ''Determination of Trace Elements in Water and Wastes by Inductively Coupled Plasma-Mass Spectrometry,'' from ''Methods for Determination of Metals in Environmental Samples—Supplement I,'' EPA–600/R–94–111, May 1994, and ASTM Method D 5673–96, ''Standard Test Method for Elements in Water by Inductively Coupled Plasma—Mass Spectrometry,'' from 1999 Annual Book of ASTM Standards, for determination of arsenic, cadmium, chromium (total), copper, lead, silver, and zinc. The full texts of these methods are incorporated by reference into this regulation and may be obtained from the sources identified in paragraph (b)(2) of this section.

LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter, units and method	Reference (method number or page)				
	EPA [1 16]	Standard Methods [18th Edition] [6]	ASTM	USGS [2]	Other
1. Arsenic—Total,[4] mg/L:					
Digestion [4] followed by	206.5				
AA gaseous hydride	206.3	3114B 4.d	D2972–93(B)	I–3062–85	
AA furnace	206.2	3113B	D2972–93(C)		
ICP/AES [15]	[5] 200.7	3120 B			
Colorimetric (SDDC), or	206.4	3500–As C	2972–93(A)	I–3060–85	
ICP/MS	[7] 200.8		D5673–96 [17]		
2. Cadmium—Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration [15]	213.1	3111 B or C	D3557–90(A or B)	I–3135–85 or I–3136–85	974.27,[3] p. 37.
AA furnace	213.2	3113 B			
ICP/AES [15]	[5] 200.7	3120 B	D3557–90(D)		
DCP [15]				I–1472–85	([14])
Voltametry [9]			D4190–82(88)		
Colorimetric (Dithizone), or		3500–Cd D	D3557–90(C)		
ICP/MS	[7] 200.8		D5673–96 [17]		
3. Chromium-Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration [15]	218.1	3111 B	D1687–92(B)	I–3236–85	974.27.[3]
AA chelation-extraction	218.3	3111 C			
AA furnace	218.2	3113 B	D1687–92(C)		
ICP/AES [15]	[5] 200.7	3120 B			
DCP [15]			D4190–82(88)		([14])
Colorimetric (Diphenylcarbazide), or.		3500–Cr D			
ICP/MS	[7] 200.8		D5673–96 [17]		
4. Copper—Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration [15]	220.1	3111 B or C	D1688–90(A or B)	I–3270–85 or I–3271–85	974.27 [3] p. 37.[8]
AA furnace	220.2	3113 B	D1688–90(C)		
ICP/AES [15]	[5] 200.7	3120 B			
DCP [15] or			D4190–82(88)		([14])
Colorimetric (Neocuproine) or		3500–Cu D			
(Bicinchoninate), or		or E			([10])
ICP/MS	[7] 200.8		D5673–96 [17]		
5. Hydrogen ion (pH), pH units:					
Electrometric measurement	150.1	4500–H+B	D1293–84 (90)(A or B)	I–1586–85	973.41.
Automated electrode					([11])
6. Lead—Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration [15]	239.1	3111 B or C	D3559–90(A or B)	I–3399–85	974.27.[3]
AA furnace	239.2	3113 B	D3559–90(D)		
ICP/AES [15]	[5] 200.7	3120 B			
DCP [15]			D4190–82(88)		([14])
Voltametry [9]			D3559–90(C)		
Colorimetric (Dithizone), or		3500–Pb D			
ICP/MS	[7] 200.8		D5673–96 [17]		

LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter, units and method	Reference (method number or page)				
	EPA [1 16]	Standard Methods [18th Edition] [6]	ASTM	USGS [2]	Other
7. Mercury—Total,[4] mg/L:					
Cold vapor, manual or	245.1	3112 B	D3223–91	I–3462–85	977.22.[3]
Automated	245.1				
8. Residue—nonfilterable (TSS), mg/L:					
Gravimetric, 103–105– post washing of residue.	160.2	2540 D		I–3765–85	
9. Silver—Total,[4] mg/L: Digestion [4,12] followed by:					
AA direct aspiration	272.1	3111 B or C		I–3720–85	974.27 [3] p. 37. [8]
AA furnace	272.2	3113 B			
ICP/AES	[5] 200.7	3120 B			
DCP, or					(14)
ICP/MS	[7] 200.8		D5673–96 [17]		
10. Titanium—Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration	283.1	3111 D			
AA furnace, or	283.2				
DCP					(14)
11. Zinc—Total,[4] mg/L; Digestion [4] followed by:					
AA direct aspiration [15]	289.1	3111 B or C	D1691–90(A) or B)	I–3900–85	974.27,[3] p. 37.[8]
AA furnace	289.2				
ICP/AES [15]	[5] 200.7	3120 B			
DCP [15]					(14)
Colorimetric (Dithizone) or		3500–Zn E	D4190–82(88)		
(Zincon), or		3500–Zn F			(13)
ICP/MS	[7] 200.8		D5673–96 [17]		

Table Notes:

[1] "Methods for Chemical Analysis of Water and Wastes," Environmental Protection Agency, Environmental Monitoring Systems Laboratory—Cincinnati (EMSL–CI), EPA–600/4–79–020, Revised March 1983 and 1979 where applicable.

[2] Fishman, M.J., et al. "Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments," U.S. Department of the Interior, Techniques of Water—Resource Investigations of the U.S. Geological Survey, Denver, CO, Revised 1989.

[3] "Official Methods of Analysis of the Association of Official Analytical Chemists," methods manual, 15th ed. (1990).

[4] For the determination of total metals the sample is not filtered before processing. A digestion procedure is required to solubilize suspended material and to destroy possible organic-metal complexes. Two digestion procedures are given in "Methods for Chemical Analysis of Water and Wastes, 1979 and 1983". One (Section 4.1.3), is a vigorous digestion using nitric acid. A less vigorous digestion using nitric and hydrochloric acids (Section 4.1.4) is preferred; however, the analyst should be cautioned that this mild digestion may not suffice for all samples types. Particularly, if a colorimetric procedure is to be employed, it is necessary to ensure that all organo-metallic bonds be broken so that the metal is in a reactive state. In those situations, the vigorous digestion is to be preferred making certain that at no time does the sample go to dryness. Samples containing large amounts of organic materials may also benefit by this vigorous digestion, however, vigorous digestion with concentrated nitric acid will convert antimony and tin to insoluble oxides and render them unavailable for analysis. Use of ICP/AES as well as determinations for certain elements such as antimony, arsenic, the noble metals, mercury, selenium, silver, tin, and titanium require a modified sample digestion procedure and in all cases the method write-up should be consulted for specific instructions and/or cautions. NOTE.—If the digestion procedure for direct aspiration AA included in one of the other approved references is different than the above, the EPA procedure must be used.

Dissolved metals are defined as those constituents which will pass through a 0.45 micron membrane filter. Following filtration of the sample, the referenced procedure for total metals must be followed. Sample digestion of the filtrate for dissolved metals (or digestion of the original sample solution for total metals) may be omitted for AA (direct aspiration or graphite furnace) and ICP analyses, provided the sample solution to be analyzed meets the following criteria:

a. Has a low COD (<20)

b. Is visibly transparent with a turbidity measurement of 1 NTU or less

c. Is colorless with no perceptible odor, and

d. Is of one liquid phase and free of particulate or suspended matter following acidification.

[5] EPA Method 200.7, "Inductively Coupled Plasma Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes," from "Methods for Determination of Metals in Environmental Samples—Supplement I," EPA–600/R–94–111, May 1994.

[6] "Standard Methods for the Examination of Water and Wastewater," 18th Edition (1992).

[7] EPA Method 200.8, "Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry," from "Methods for Determination of Metals in Environmental Samples—Supplement I," EPA–600/R–94–111, May 1994.

[8] American National Standard on Photographic Processing Effluents, Apr. 2, 1975. Available from ANSI, 1430 Broadway, New York, NY 10018.

[9] The use of normal and differential pulse voltage ramps to increase sensitivity and resolution is acceptable.

[10] Copper, Biocinchoinate Method, Method 8506, Hach Handbook of Water Analysis, 1979, Hach Chemical Company, PO Box 389, Loveland, CO 80537.

[11] Hydrogen ion (pH) Automated Electrode Method, Industrial Method Number 378—75WA, October 1976, Bran & Luebbe (Technicon) Autoanalyzer II. Bran & Luebbe Analyzing Technologies, Inc., Elmsford, NY 10523.

[12] Approved methods for the analysis of silver in industrial wastewaters at concentrations of 1 mg/L and above are inadequate where silver exists as an inorganic halide. Silver halides such as the bromide and chloride are relatively insoluble in reagents such as nitric acid but are readily soluble in an aqueous buffer of sodium thiosulfate and sodium hydroxide to pH of 12. Therefore, for levels of silver above 1 mg/L, 20 mL of sample should be diluted to 100 mL by adding 40 mL each of 2 M $Na_2S_2O_3$ and NaOH. Standards should be prepared in the same manner. For levels of silver below 1 mg/L the approved method is satisfactory.

[13] Zinc, Zincon Method, Method 8009, Hach Handbook of Water Analysis, 1979, pages 2–231 and 2–333, Hach Chemical Company, Loveland, CO 80537.

[14] "Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes, Method AES0029," 1986—Revised 1991, Thermo Jarrell Ash Corporation, 27 Forge Parkway, Franklin, MA 02038.

[15] ''Closed Vessel Microwave Digestion of Wastewater Samples for Determination of Metals,'' CEM Corporation, PO. Box 200, Matthews, NC 28106–0200, April 16, 1992. Available from the CEM Corporation.

[16] Precision and recovery statements for the atomic absorption direct aspiration and graphite furnace methods, and for the spectrophotometric SDDC method for arsenic are provided in Appendix D of 40 CFR Part 136 and titled, ''Precision and Recovery Statements for Methods for Measuring Metals.''

[17] This method does not include the digestion for solids given in Method 200.8. Not using the solids digestion procedure could affect the determined concentrations. Therefore, this method may not be used for analysis of aqueous samples with suspended solids greater than 1%.

(2) The full texts of the methods from the following references which are cited in the table in paragraph (b)(1) of this section are incorporated by reference into this regulation and may be obtained from the sources identified. All costs cited are subject to change and must be verified from the indicated sources. The full texts of all the test procedures cited are available for inspection at the Analytical Methods Staff, Office of Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or at the Office of the Federal Register, 800 North Capital Street, NW., Suite 700, Washington DC.

Appendix to § 444.12(b)—References, Sources, Costs, and Table Citations:

(1) ''Methods for Chemical Analysis of Water and Wastes,'' U.S. Environmental Protection Agency, EPA–600/4–79–020, Revised March 1983 and 1979 where applicable. Available from: ORD Publications, CERI, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268. [Note 1]

(2) ''Standard Methods for the Examination of Water and Wastewater.'' Joint Editorial Board, American Public Health Association, American Water Works Association, and Water Environment Federation, 18th Edition, 1992. Available from: American Public Health Association, 1015 15th Street NW, Washington, DC 20005. [Note 6]

(3) ''Annual Book of ASTM Standards—Water and Environmental Technology,'' Section 11, Volumes 11.01 (Water I) and 11.02 (Water II), 1994. [1996 for D5673–96; see Note 17]. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(4) ''Methods for the Determination of Metals in Environmental Samples—Supplement I'', National Exposure Risk Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, Cincinnati, OH 45268, EPA 600 R–94/111, May 1994. [Notes 5 and 7]

(5) ''Methods for Determination of Inorganic Substances in Water and Fluvial Sediments,'' by M.J. Fishman and Linda C. Friedman, Techniques of Water Resources Investigations of the U.S. Geological Survey, Book 5 Chapter A1 (1989). Available from: U.S. Geological Survey, Denver Federal Center, Box 25425, Denver, CO 80225. Cost: $108.75 (subject to change). [Note 2]

(6) ''Closed Vessel Microwave Digestion of Wastewater Samples for Determination of Metals,'' CEM Corporation, P.O. Box 200, Matthews, North Carolina 28106–0200, April 16, 1992. Available from the CEM Corporation. [Note 15]

(7) ''Official Methods of Analysis of AOAC—International, 15th Edition,'' 1990. Price: $359.00. Available from: AOAC—International, 1970 Chain Bridge Rd., Dept. 0742, McLean, VA 22109–0742. [Note 3]

(8) ''American National Standard on Photographic Processing Effluents,'' April 2, 1975. Available from: American National Standards Institute, 11 West 42nd Street, New York, New York 10036. [Note 8]

(9) Bicinchoninate Method for Copper. Method 8506, Hach Handbook of Water Analysis, 1979, Method and price available from Hach Chemical Company, P.O. Box 300, Loveland, Colorado 80537. [Note 10]

(10) Hydrogen Ion (pH) Automated Electrode Method, Industrial Method Number 378–75WA. October 1976. Bran & Luebbe (Technicon) Auto Analyzer II. Method and price available from Bran & Luebbe Analyzing Technologies, Inc. Elmsford, N.Y. 10523. [Note 11]

(11) Zincon Method for Zinc, Method 8009. Hach Handbook for Water Analysis, 1979. Method and price available from Hach Chemical Company, P.O. Box 389, Loveland, Colorado 80537. [Note 13]

(12) ''Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes,'' Method AES 0029, 1986 Revised 1991, Thermo Jarrell Ash Corporation (508–520–1880), 27 Forge Parkway, Franklin, MA 02038. [Note 14]

§ 444.13 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS [1]

Regulated parameter	Maximum daily	Maximum monthly avg.
TSS	113,000	34,800
Arsenic	84	72
Cadmium	71	26
Chromium	25	14
Copper	23	14
Lead	57	32
Mercury	2.3	1.3
Silver	13	8
Titanium	60	22
Zinc	82	54
pH	([2])	([2])

[1] Micrograms per liter (ppb)
[2] Within the range 6 to 9.

§ 444.14 Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for TSS and pH are the same as the corresponding limitation specified in § 444.13.

§ 444.15 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: Limitations for arsenic, cadmium, chromium, copper, lead, mercury, silver, titanium and zinc are the same as the corresponding limitation specified in § 444.13.

§ 444.16 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any source that introduces wastewater pollutants into a POTW must comply with part 403 and achieve the following pretreatment standards:

PRETREATMENT STANDARDS [1]

Regulated parameter	Maximum daily	Maximum monthly avg.
Arsenic	84	72
Cadmium	71	26
Chromium	25	14
Copper	23	14
Lead	57	32

PRETREATMENT STANDARDS [1]—Continued

Regulated parameter	Maximum daily	Maximum monthly avg.
Mercury	2.3	1.3
Silver	13	8
Titanium	60	22
Zinc	82	54

[1] Micrograms per liter (ppb)

§ 444.17 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: Standards for TSS, arsenic, cadmium, chromium, copper, lead, mercury, silver, titanium, zinc and pH are the same as the corresponding limitation specified in § 444.13.

§ 444.18 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any source that introduces wastewater pollutants into a POTW must comply with 40 CFR part 403 and achieve the following pretreatment standards: Standards for arsenic, cadmium, chromium, copper, lead, mercury, silver, titanium and zinc are the same as the corresponding limitation specified in § 444.16.

[FR Doc. 00–2019 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 65, No. 18
Thursday, January 27, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–205–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

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 certain Airbus Model A300 series airplanes. This proposal would require modification of wing center box angle fittings at frame 47. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the wing center box angle fittings at frame 47 due to fatigue cracking.

DATES: Comments must be received by February 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–205–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that a high incidence of cracking at the wing center box angle fittings at frame 47 has been reported by A300 operators when conducting the inspections required by the Model A300 Supplementary Structural Inspection Program (SSIP). [This inspection program is currently mandated in 96–13–11, amendment 39–9679 (61 FR 35122, July 5, 1996).] Because of the high incidence of cracking, there is an increased risk, on older airplanes, that not all cracks may be detected by the SSIP. This condition, if not corrected, could result in reduced structural integrity of the wing center box angle fittings at frame 47 due to fatigue cracking.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–53–0298, Revision 03, dated November 26, 1998, which describes procedures for modification of the wing center box angle fittings at frame 47. The modification involves removing certain sealant and fasteners, performing rotating probe inspections to detect cracking, cold working certain fastener holes, and installing new fasteners and sealant. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–076–267(B), dated February 24, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United

States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between Proposed Rule and Foreign Airworthiness Directive

The proposed AD would specify a different grace period from that specified by the parallel French airworthiness directive. The ''instructions'' referred to in the French airworthiness directive constitute a rather complicated method of determining a grace period for airplanes that have exceeded, or are approaching, the applicable mandatory threshold. The FAA has determined that it would be difficult to enforce the DGAC method for determining the grace period. In addition, the FAA has determined that the grace period defined in the service bulletin instructions is excessive in certain cases. Therefore, the FAA has established a single grace period, equal to the shortest grace period allowed by the French AD for all affected airplanes. In developing an appropriate grace period for this AD, the FAA considered not only the DGAC's method for determining the grace period, but the degree of urgency associated with addressing the subject unsafe condition, and the average utilization of the affected fleet. In light of these factors, the FAA finds a 6,500-flight-cycle grace period for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Difference Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for repair instructions for certain damage conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 38 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 430 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $8,840 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,316,320, or $34,640 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 99–NM–205–AD.

Applicability: Model A300 series airplanes, as listed in Airbus Service Bulletin A300–53–0298, Revision 03, dated November 26, 1998; certificated in any category; except those on which Airbus Service Bulletin A300–53–0282 or Airbus Service Bulletin A300–53–0291 has been accomplished.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing center box angle fittings at frame (FR) 47, accomplish the following:

(a) Prior to the accumulation of the applicable threshold specified in the ''MANDATORY TH'' column of the table in paragraph 1.B.(4) of the service bulletin, or within 6,500 flight cycles after the effective date of this AD, whichever occurs later: Except as required by paragraph (b) of this AD, modify the wing center box angle fittings at FR 47 (including removing certain sealant and fasteners, performing rotating probe inspections to detect cracking, cold working certain fastener holes, installing new fasteners and sealant, and repairing damage), in accordance with Airbus Service Bulletin A300–53–0298, Revision 03, dated November 26, 1998.

Note 2: Operators should note that the area required to be modified by paragraph (a) of this AD remains subject to the requirements of AD 96–13–11, amendment 39–9679, after modification.

(b) Where Airbus Service Bulletin A300–53–0298, Revision 03, dated November 26, 1998, specifies that Airbus be contacted for repair instructions for certain damage conditions, this AD requires that such damage conditions be repaired prior to further flight in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (DGAC) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an

appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–076–267, dated February 24, 1999.

Issued in Renton, Washington, on January 21, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1957 Filed 1–26–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113572–99]

RIN 1545–AX33

Qualified Transportation Fringe Benefits

AGENCY: Internal Revenue Service.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to qualified transportation fringe benefits. These proposed regulations reflect changes to the law made by the Energy Policy Act of 1992, the Taxpayer Relief Act of 1997, and the Transportation Equity Act for the 21st Century. These proposed regulations affect employers that offer qualified transportation fringes and employees who receive these benefits. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by April 26, 2000. Outlines of topics to be discussed at the public hearing scheduled for June 1, 2000 at 10 a.m. must be received by May 10, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–113572–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–113572–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax__regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Richards of the Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations), (202) 622–6040; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by March 27, 2000. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in 26 CFR 1.132–9(b). This information is required by the Internal Revenue Service to implement section 132(f). This information will be used to verify compliance with section 132(f). Section 132(f)(3) provides that qualified transportation fringes can include cash reimbursement for qualified transportation fringes. The proposed regulations require that employers keep records of substantiation provided by employees in order to receive cash reimbursement for qualified transportation fringes. Section 132(f)(4) provides that an employee may choose between cash compensation and any qualified transportation fringe. The proposed regulations require that employers keep records, in a verifiable form, such as written or electronic, of employee elections to reduce compensation. The value of qualified transportation fringes provided for a month exceeding the applicable statutory monthly limit must be reported on the employee's Form W–2. The burden for this requirement is reflected in the burden for Form W–2. The likely recordkeepers are employers. The likely respondents are employees.

Estimated total annual recordkeeping burden: 7,020,000 hours.

Estimated average annual recordkeeping burden per recordkeeper: The average annual recordkeeping burden will vary depending on the size of the employer. The estimated average annual recordkeeping burden per recordkeeper is 26.5 hours.

Estimated number of recordkeepers: 265,343.

Estimated total annual reporting burden: 5,948,728 hours.

Estimated average annual reporting burden per respondent: .8 hours.

Estimated number of respondents: 7,264,970.

Estimated annual frequency of responses: Monthly.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR part 1) under section 132(f). Congress amended section 132 as part of the Energy Policy Act of 1992, Public Law No. 102–486, section 1911 (106 Stat. 3012), effective after December 31, 1992. This provision excludes from gross income the value of any qualified transportation fringe provided by an employer to an employee to the extent it does not exceed the applicable statutory monthly limit.

This 1992 amendment to section 132 resulted in three changes to the tax treatment of employer-provided transportation benefits. First, Congress added an exclusion for transportation provided by an employer to an employee in a commuter highway vehicle. Second, mass transit passes provided by an employer to an employee became excludable as a qualified transportation fringe and not as a *de minimis fringe.* The exclusions for transportation provided by an employer to an employee in a commuter highway vehicle and mass transit passes were made subject to an aggregate $60 per month limit (adjusted for cost of living). Third, Congress eliminated the working condition fringe for commuter parking, imposed a $150 per month limit (adjusted for cost of living) for the exclusion for qualified parking, and provided that employer-provided parking is excludable from gross income only as a qualified transportation fringe. The 1992 amendment provided that qualified transportation fringes could not be provided in lieu of salary.

Section 1072 of the Taxpayer Relief Act of 1997 (TRA '97), Pub. L. No. 105–34 (111 Stat. 948), amended section 132(f), effective for tax years beginning after December 31, 1997, to permit qualified parking to be provided to employees in lieu of salary. Section 9010 of the Transportation Equity Act for the 21st Century (TEA 21), Pub. L. No. 105–178 (112 Stat. 507), amended section 132(f) to increase the monthly dollar limits to $65 for transportation in a commuter highway vehicle and mass transit passes [1] and $175 for qualified parking and to provide that, effective after December 31, 1997, any qualified transportation fringe may be provided to employees in lieu of salary.

Explanation of Provisions

This document contains proposed regulations under section 132. The proposed regulations provide guidance, in question and answer form, to employers that provide qualified transportation fringes to employees. Qualified transportation fringes consist of transportation in a commuter highway vehicle, any transit pass, and qualified parking provided by an employer to an employee.

Notice 94–3, 1994–1 C.B. 327, provided guidance on qualified transportation fringes in the form of questions and answers. The proposed regulations reflect statutory changes in section 132(f) since 1994, including the revised monthly dollar limits and the use of bona fide salary reduction arrangements, as permitted under TRA '97 and TEA 21, and generally conform with the guidance in Notice 94–3. In response to public comments, the proposed regulations also provided additional guidance concerning the standards for determining when the section 132(f) exclusion applies to cash reimbursement of transit pass expenses.

Section 132(f) limits the value of qualified transportation fringes that may be excluded from an employee's gross income. The proposed regulations explain that there are two categories of qualified transportation fringes for purposes of determining the amount that is excludable from gross income. The first category is transportation in a commuter highway vehicle and transit passes. The second category is qualified parking. There is a statutory monthly limit on the value of the benefits from each category that is excludable from gross income. For 1999 and 2000, the statutory monthly limit is $65 for transportation in a commuter highway vehicle and mass transit passes and $175 for qualified parking. An employee may receive benefits from each category provided the applicable statutory monthly limit for that category is not exceeded. The amount by which the value of qualified transportation fringes provided by an employer to an employee exceeds the applicable statutory monthly limit is included in the employee's wages for income and employment tax purposes.

The proposed regulations provide that, for purposes of valuing qualified parking, the valuation rules under section 1.61–21(b) generally apply. With respect to employer-provided van pool benefits, the regulations provide that an employer may use the special valuation rules provided under section 1.61–21(c), (d), (e), and (f) in valuing these benefits. An example in the proposed regulations illustrates that in determining the value of a transit pass sold at a discount for purposes of section 132(f), the purchase price rather than the face amount of the transit pass controls.

The proposed regulations reflect that qualified transportation fringes include cash reimbursement by an employer to an employee for expenses incurred by the employee for transportation in a commuter highway vehicle and qualified parking. Section 132(f)(3) provides that qualified transportation fringes include cash reimbursement for a transit pass only if a voucher or similar item that is exchangeable for a transit pass is not readily available for direct distribution by the employer to the employee. In defining ''readily available,'' the regulations reflect the general standards set forth in Notice 94–3, under which an amount is readily available if an employer can obtain it on terms no less favorable than those available to an individual employee and without incurring a significant administrative cost.

In addition, the proposed regulations clarify the meaning of ''significant administrative costs.'' The proposed regulations provide that the determination of whether obtaining a voucher would result in a significant administrative cost is made with respect to each transit system voucher. A transit system voucher is a voucher that is accepted by one or more mass transit operators (*e.g.,* train, subway, and bus) in an area as fare media (or in exchange for fare media). The proposed regulations provide a safe harbor under which administrative costs are treated as significant if the average monthly administrative costs incurred by the employer for a voucher (disregarding delivery charges imposed by the fare media provider to the extent not in excess of $15 per order) are more than 1 percent of the average monthly value of the vouchers for a system. These standards are intended to provide clear guidance so that employers can determine when qualified transportation fringes include cash reimbursement for transit passes.

The proposed regulations provide that reimbursements may be made only pursuant to a bona fide reimbursement arrangement. Thus, an employee must provide substantiation that an expense has been incurred for qualified transportation fringes in order to receive a reimbursement. The regulations recognize that the substantiation requirements vary depending upon the payment method used to purchase transportation in a commuter highway vehicle, mass transit passes, and qualified parking. The regulations provide examples of what constitutes reasonable reimbursement procedures in certain circumstances. For example,

[1] The dollar limit for transportation in a commuter highway vehicle and transit passes was further increased to $100 effective January 1, 2002.

if an employee uses metered parking, the substantiation requirement may be satisfied if the employee certifies that the expense was incurred and the employer has no reason to believe the employee did not actually incur the expense.

The proposed regulations provide that there are no substantiation requirements with respect to mass transit passes provided directly by an employer to its employees. Of course, an employer may impose its own substantiation requirements in addition to those required under the regulations.

The proposed regulations follow the approach taken in Notice 94–3 with respect to taxing the value of employer-provided parking benefits provided to members of car and van pools. The regulations provide that the ''prime member'' bears the tax consequences with respect to the parking space.[2] The prime member is the employee to whom the parking space is assigned.

The proposed regulations reflect that qualified transportation fringes may be provided under a compensation reduction arrangement which permits an employee to make a compensation reduction election. A compensation reduction election is an election in which the employee chooses between a fixed amount of compensation to be received at a specified future date and a fixed amount of qualified transportation fringes to be provided with respect to a specified future period (such as a calendar month). The proposed regulations provide that the compensation reduction election for any month in a year may not exceed the aggregate statutory monthly maximum for that year (*e.g.,* $240 for 1999 and 2000 ($65 plus $175)). The election must be made before the employee is able currently to receive the taxable compensation. Under the proposed regulations, the determination of whether the employee is able currently to receive the taxable compensation does not depend on whether the compensation has been constructively received for purposes of section 451.

The proposed regulations require that an election be irrevocable after the beginning of the period for which the qualified transportation fringes will be provided. However, unused amounts can be carried over to any subsequent months, including months in subsequent years, but cannot be used for any purpose other than qualified transportation fringes under section 132(f).

The proposed regulations provide that the exclusion for qualified transportation fringes applies only to employees. Partners, 2-percent S-corporation shareholders, and independent contractors are not considered to be employees for purposes of qualified transportation fringes. However, amounts may be excludable pursuant to the working condition fringe rules and the *de minimis* fringe rules that apply to partners, 2-percent S-corporation shareholders, and independent contractors under section 132(d) and (e).

The proposed regulations provide that qualified transportation fringes not exceeding the applicable statutory monthly limit are not subject to employment taxes. However, qualified transportation fringes exceeding the applicable statutory monthly limit are includible in the employee's wages for income and employment tax purposes. If the value of noncash qualified transportation fringes provided to an employee exceeds the applicable statutory monthly limit, the employer may follow the reporting and withholding guidelines provided in Announcement 85–113, 1985–31 I.R.B. 31. Announcement 85–113 provides that employers may elect, for purposes of the FICA, the FUTA, and federal income tax withholding, to treat noncash fringe benefits as paid on a pay period, quarterly, semi-annual, annual, or other basis, provided that the benefits are treated as paid no less frequently than annually. Announcement 85–113 also provides a special accounting rule for noncash fringes provided during the last two months of a calendar year.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

An Initial Regulatory Flexibility Analysis has been prepared as required for the collection of information in this notice of proposed rulemaking under 5 U.S.C. § 603. The analysis follows:

Initial Regulatory Flexibility Analysis

This proposed rule may have an impact on small organizations that provide qualified transportation fringes in the form of cash reimbursement or that offer qualified transportation fringes in lieu of salary. Section 132(f)(3) provides that qualified transportation fringes may be provided in the form of cash reimbursement. The legislative history indicates that cash reimbursements must be made pursuant to a *bona fide* reimbursement arrangement. Thus, this proposed rule provides that employers must receive substantiation from employees as a condition to providing cash reimbursement for qualified transportation fringes. Section 132(f)(4) provides that an employee may choose between cash compensation and qualified transportation fringes. This proposed rule provides that employers must keep records with respect to employee compensation reduction elections. Thus, the requirements under this proposed rule create a collection of information requirement for employers.

The objectives of this proposed rule with respect to employee substantiation of qualified transportation fringes is to carry out the legislative intent that cash reimbursement be provided by an employer only under a bona fide reimbursement arrangement. The objective of the recordkeeping requirement with respect to employee compensation reduction elections is to ensure against recharacterization of taxable compensation after it has been paid to an employee. The legal basis for this proposed rule is section 132(f)(3) and (4).

All classes of employers will likely offer qualified transportation fringes and therefore will be affected by this proposed rule. Approximately 265,000 small entities may be affected by this proposed rule. There are no professional skills necessary for the recordkeeping required under this proposed rule.

The IRS is not aware of any other relevant federal rules which may duplicate, overlap, or conflict with this proposed rule.

A less burdensome alternative for small organizations would be to exempt those entities from the recordkeeping requirements under this proposed rule. However, it would be inconsistent with the statutory provisions and the legislative history to exempt those entities from the recordkeeping requirements imposed under this rule. This proposed rule provides several options which avoid more burdensome recordkeeping requirements for small entities. This proposed rule provides that (1) There are no substantiation requirements if the employer distributes transit passes in kind; (2) a compensation reduction election can be made electronically; (3) an election to reduce compensation can be automatically renewed; and (4) an employer can provide for deemed compensation reduction elections under its qualified transportation fringe benefit plan.

[2] Other pool members may choose to reimburse the costs of the prime member, in which event, under Rev. Rul. 55–555, 1955–2 C.B. 20, the reimbursements will not be includible in the prime member's gross income. See also Rev. Rul. 80–99, 1980–1 C.B. 10.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand, and on the administrability of the rules in the proposed regulations. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 1, 2000, beginning at 10 a.m. in room 2615 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601 (a) (3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 10, 2000. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting information: The principal author of these proposed regulations is John Richards, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority section for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.132–0 is amended by adding entries for § 1.132–9 to read as follows:

§ 1.132–0 Outline of regulations under section 132.

* * * * *

§ 1.132–9(a) Table of contents.

§ 1.132–9(b) Questions and answers.

* * * * *

Par. 3 Section 1.132–9 is added to read as follows:

§ 1.132–9 Qualified transportation fringes.

(a) *Table of contents.* This section contains a list of the questions and answers in § 1.132–9.

Q–1. What is a qualified transportation fringe?
Q–2. What is transportation in a commuter highway vehicle?
Q–3. What are transit passes?
Q–4. What is qualified parking?
Q–5. To which workers may qualified transportation fringes be provided?
Q–6. Must a qualified transportation fringe benefit plan be in writing?
Q–7. Is there a limit on the value of qualified transportation fringes that may be excluded from an employee's gross income?
Q–8. What amount is includible in an employee's wages for income and employment tax purposes if the value of the qualified transportation fringe exceeds the applicable statutory monthly limit?
Q–9. Are excludable qualified transportation fringes calculated on a monthly basis?
Q–10. May an employee receive qualified transportation fringes from more than one employer?
Q–11. May qualified transportation fringes be provided to employees pursuant to a compensation reduction agreement?
Q–12. What is a compensation reduction election for purposes of section 132(f)?
Q–13. Is there a limit to the amount of the compensation reduction?
Q–14. When must the employee have made a compensation reduction election and under what circumstances can the amount be paid in cash to the employee?
Q–15. May an employee whose qualified transportation fringe costs are less than the employee's compensation reduction carry over this excess amount to subsequent periods?
Q–16. How does section 132(f) apply to expense reimbursements?
Q–17. May an employer provide nontaxable cash reimbursement under section 132(f) for periods longer than one month?
Q–18. What are the substantiation requirements if an employer distributes transit passes?
Q–19. May an employer choose to impose substantiation requirements in addition to those described in this regulation?
Q–20. How is the value of parking determined?
Q–21. How do the qualified transportation fringe rules apply to van pools?
Q–22. What are the reporting and employment tax requirements for qualified transportation fringes?
Q–23. How does section 132(f) interact with other fringe benefit rules?
Q–24. May qualified transportation fringes be provided to individuals who are partners, 2-percent shareholders of S-corporations, or independent contractors?

(b) *Questions and answers.*

Q–1. What is a qualified transportation fringe?

A–1. (a) The following benefits are ''qualified transportation fringe'' benefits:

(1) Transportation in a commuter highway vehicle.

(2) Transit passes.

(3) Qualified parking.

(b) An employer may simultaneously provide an employee with any one or more of these three benefits.

Q–2. What is transportation in a commuter highway vehicle?

A–2. Transportation in a commuter highway vehicle is transportation provided by an employer to an employee in connection with travel between the employee's residence and place of employment. A ''commuter highway vehicle'' is a highway vehicle with a seating capacity of at least 6 adults (excluding the driver) and with respect to which at least 80 percent of the vehicle's mileage is reasonably expected to be—

(a) For transporting employees in connection with travel between their residences and their place of employment; and

(b) On trips during which the number of employees transported for commuting is at least one-half of the adult seating capacity of the vehicle (excluding the driver).

Q–3. What are transit passes?

A–3. A ''transit pass'' is any pass, token, farecard, voucher, or similar item (including an item exchangeable for fare media) that entitles a person to transportation—

(a) On mass transit facilities (whether or not publicly owned); or

(b) Provided by any person in the business of transporting persons for compensation or hire in a highway vehicle with a seating capacity of at least six adults (excluding the driver).

Q–4. What is qualified parking?

A–4. (a) ''Qualified parking'' is parking provided to an employee by an employer—

(1) On or near the employer's business premises; or

(2) At a location from which the employee commutes to work by carpool, commuter highway vehicle, mass transit facilities, transportation provided by any person in the business of transporting persons for compensation or hire or by any other means.

(b) However, parking on or near property used by the employee for residential purposes is not qualified parking.

(c) Parking is provided by an employer if—

(1) The employer pays for the parking;

(2) The employer reimburses the employee for parking expenses; or

(3) The parking is on property that the employer owns or leases. See Q/A–16 of this section for rules relating to cash reimbursements.

Q–5. To which workers may qualified transportation fringes be provided?

A–5. Qualified transportation fringes may be provided only by employers to employees. The term ''employee'' for purposes of qualified transportation fringes is defined in § 1.132–1(b)(2)(i). This term includes only common law employees and other statutory employees, such as officers of corporations. See Q/A–24 of this section for rules regarding partners, 2-percent shareholders, and independent contractors.

Q–6. Must a qualified transportation fringe benefit plan be in writing?

A–6. No. Section 132(f) does not require that a qualified transportation fringe benefit plan be in writing.

Q–7. Is there a limit on the value of qualified transportation fringes that may be excluded from an employee's gross income?

A–7. (a) *Transportation in a commuter highway vehicle and transit passes.* Before January 1, 2002, up to $65 is excludable from the gross income of an employee for transportation in a commuter highway vehicle and transit passes provided by an employer for a month. On January 1, 2002, this amount is increased to $100 per month.

(b) *Parking.* Up to $175 is excludable from the gross income of an employee for qualified parking in a month.

(c) *Combination.* An employer may provide qualified parking benefits in addition to transportation in a commuter highway vehicle and transit passes.

(d) *Cost-of-living adjustments.* The amounts in paragraphs (a) and (b) of this Q/A 7 are adjusted annually, beginning with 2000, to reflect cost-of-living. The adjusted figures are announced by the Service before the beginning of the year.

Q–8. What amount is includible in an employee's wages for income and employment tax purposes if the value of the qualified transportation fringe exceeds the applicable statutory monthly limit?

A–8. Generally, an employee must include in gross income the amount by which the fair market value of the benefit exceeds the sum of the amount, if any, paid by the employee and any amount excluded from gross income under section 132(a)(5). Thus, assuming no other statutory exclusion applies, if an employer provides an employee with a qualified transportation fringe that exceeds the applicable statutory monthly limit and the employee does not make any payment, the value of the benefits provided in excess of the applicable statutory monthly limit is included in the employee's wages for income and employment tax purposes. See § 1.61–21(b)(1). The following examples illustrate the principles of this Q/A–8:

Example 1. (i) For each month in 2000, Employer M provides a transit pass valued at $75 to Employee D, who does not pay any amount to Employer M for the transit pass.

(ii) In this example, because the value of the monthly transit pass exceeds the statutory monthly limit by $10, $120 ($75—$65, times 12 months) must be included in D's wages for income and employment tax purposes for 2000 with respect to the transit passes.

Example 2. (i) For each month in 2000, Employer M provides qualified parking valued at $195 to Employee E, who does not pay any amount to M for the parking.

(ii) In this example, because the fair market value of the qualified parking exceeds the statutory monthly limit by $20, $240 ($195—$175, times 12 months) must be included in Employee E's wages for income and employment tax purposes for 2000 with respect to the qualified parking.

Example 3. (i) For each month in 2000, Employer P provides qualified parking with a fair market value of $220 per month to its employees, but charges each employee $45 per month.

(ii) In this example, because the sum of the amount paid by an employee ($45) plus the amount excludable for qualified parking ($175) is not less than the fair market value of the monthly benefit, no amount is includible in the employee's wages for income and employment tax purposes with respect to the qualified parking.

Q–9. Are excludable qualified transportation fringes calculated on a monthly basis?

A–9. Yes. The value of transportation in a commuter highway vehicle, transit passes, and qualified parking is calculated on a monthly basis to determine whether the value of the benefit has exceeded the applicable statutory monthly limit on qualified transportation fringes. Except in the case of a transit pass, the applicable statutory monthly limit applies to qualified transportation fringes used by the employee in a month. In the case of a transit pass, the applicable statutory monthly limit applies to the transit passes provided by the employer to the employee in a month for that month or for any previous month in the calendar year. Monthly exclusion amounts are not combined to provide a qualified transportation fringe in any month exceeding the statutory limit. A ''month'' is a calendar month or a substantially equivalent period applied consistently. The following examples illustrate the principles of this Q/A–9:

Example 1. (i) Employee E incurs $150 for qualified parking used during the month of June, 2000, for which E is reimbursed $150 by Employer R. E incurs $180 in expenses for qualified parking used during the month of July, 2000, for which E is reimbursed $180 by R.

(ii) In this example, because monthly exclusion amounts may not be combined to provide a benefit in any month greater than the applicable statutory limit, the amount by which the amount reimbursed for July exceeds the applicable statutory monthly limit ($180 minus $175 equals $5) is includible in E's wages for income and employment tax purposes.

Example 2. (i). Employee F receives transit passes from Employer G with a value of $195 in the month of March (when the applicable statutory monthly limit is $65). F was hired during January and has not received any transit passes from G.

(ii). In this example, the value of the transit passes (three months times $65 equals $195) is excludable from F's wages for income and employment tax purposes. However, if F was not hired until March, only $65 would be excludable from F's wages for income and employment tax purposes.

Example 3. (i). Each month during 2000, Employer R distributes transit passes with a face amount of $70 to each of its employees. Transit passes with a face amount of $70 can be purchased from the transit system by any individual for $65.

(ii). In this example, because the value of the transit passes distributed by R does not exceed the applicable statutory monthly limit ($65), no portion of the transit passes is included as wages for income and employment tax purposes.

Q–10. May an employee receive qualified transportation fringes from more than one employer?

A–10. Yes. The statutory monthly limits described in Q/A–7 of this section apply to benefits provided by an

employer to its employees. For this purpose, all employees treated as employed by a single employer under section 414(b), (c), (m), or (o) are treated as employed by a single employer. See § 1.132–1(c). Thus, qualified transportation fringes paid by entities under common control under section 414(b), (c), (m), or (o) are combined for purposes of applying the applicable statutory limit. In addition, an individual who is treated as an employee of the employer under section 414(n) is treated as an employee of the employer for purposes of section 132. See § 414(t). The following examples illustrate the principles of this Q/A–10:

Example 1. (i) During 2000, Employee E works for Employers M and N, who are unrelated and not treated as a single employer under section 414(b), (c), (m), or (o). Each month, M and N each provide qualified parking benefits to E with a value of $100.

(ii) In this example, because M and N are unrelated employers, and the value of the monthly parking benefit provided by each is not more than the applicable statutory monthly limit, the parking benefits provided by each employer are excludable as qualified transportation fringes assuming that the other requirements of this section are satisfied.

Example 2. (i) Same facts as in Example 1, except that M and N are treated as a single employer under section 414(b).

(ii) In this example, because M and N are treated as a single employer, the value of the monthly parking benefit provided by M and N must be combined for purposes of determining whether the applicable statutory monthly limit has been exceeded. Thus, the amount by which the value of the parking benefit exceeds the monthly limit ($200 minus $175 equals $25) for each month in 2000 is includible in E's wages for income and employment tax purposes.

Q–11. May qualified transportation fringes be provided pursuant to a compensation reduction agreement?

A–11. Yes. An employer may offer employees a choice between cash compensation and any qualified transportation fringe. An employee who is offered this choice and who elects qualified transportation fringes is not required to include the cash compensation in income if—

(a) The election is pursuant to an arrangement described in Q/A–12 of this section;

(b) The amount of the reduction in cash compensation does not exceed the limitation in Q/A–13 of this section;

(c) The arrangement satisfies the timing and reimbursement rules in Q/A–14 and 16 of this section; and

(d) The related fringe benefit arrangement otherwise satisfies the requirements set forth elsewhere in this section.

Q–12. What is a compensation reduction election for purposes of section 132(f)?

A–12. (a) *Election requirements generally.* A compensation reduction arrangement is an arrangement under which the employer provides the employee with the right to elect whether the employee will receive either a fixed amount of cash compensation at a specified future date or a fixed amount of qualified transportation fringes to be provided for a specified future period (such as qualified parking to be used during a future calendar month). The employee's election must be in writing or another form, such as electronic, that includes, in a permanent and verifiable form, the information required to be in the election. The election must contain the date of the election, the amount of the compensation to be reduced, and the period for which the benefit will be provided. The election must relate to a fixed dollar amount or fixed percentage of compensation reduction. An election to reduce compensation for a period by a set amount for such period may be automatically renewed for subsequent periods.

(b) *Negative election permitted.* An employer may provide under its qualified transportation fringe benefit plan that a compensation reduction election will be deemed to have been made if the employee does not elect to receive cash compensation in lieu of the qualified transportation fringe provided that the employee receives adequate notice that a compensation reduction will be made and is given adequate opportunity to choose to receive the cash compensation instead of the qualified transportation fringe.

Q–13. Is there a limit to the amount of the compensation reduction?

A–13. Yes. Each month, the amount of the compensation reduction may not exceed the combined applicable statutory monthly limits for transportation in a commuter highway vehicle, transit passes, and qualified parking. For example, for 2000, an employee could elect to reduce compensation for any month by no more than $240 ($65 for transportation in a commuter highway vehicle and transit passes, plus $175 for qualified parking) with respect to qualified transportation fringes. If an employee were to elect to reduce compensation by $250 for a month, the excess $10 ($250 minus $240) would be includible in the employee's wages for income and employment tax purposes.

Q–14. When must the employee have made a compensation reduction election and under what circumstances can the amount be paid in cash to the employee?

A–14. The compensation reduction election must satisfy the following requirements.

(a) *Timing of election.* The compensation reduction election must be made before the employee is able currently to receive the cash or other taxable amount at the employee's discretion. The determination of whether the employee is able currently to receive the cash does not depend on whether it has been constructively received for purposes of section 451. The election must specify that the period (such as a calendar month) for which the qualified transportation fringe will be provided must not begin before the election is made. For this purpose, the date a qualified transportation fringe is provided is—

(1) The date the employee receives a voucher or similar item; or

(2) In any other case, the date the employee uses the qualified transportation fringe.

(b) Thus, a compensation reduction election must relate to qualified transportation fringes to be provided after the election.

(c) *Revocability of elections.* The employee may not revoke a compensation reduction election after the employee is able currently to receive the cash or other taxable amount at the employee's discretion. In addition, the election may not be revoked after the beginning of the period for which the qualified transportation fringe will be provided.

(d) *Compensation reduction amounts not refundable.* Unless an election is revoked in a manner consistent with paragraph (a)(3) of this Q/A–14, an employee may not subsequently receive the compensation (in cash or any form other than by payment of a qualified transportation fringe under the employer's plan). Thus, an employer's qualified transportation fringe benefit plan may not provide that an employee who ceases to participate in the employer's qualified transportation fringe benefit plan is entitled to receive a refund of the amounts by which the employee's compensation reduction exceeds the actual qualified transportation fringes provided to the employee by the employer.

(e) *Examples.* The following examples illustrate the principles of this Q/A–14:

Example 1. (i) Employer P maintains a qualified transportation fringe benefit arrangement. Employees of P are paid twice per month, with the payroll dates being the first and the fifteenth day of the month. Under P's arrangement, an employee is permitted to elect at any time before the first

day of a month to reduce his or her compensation payable during that month in an amount up to the applicable statutory monthly limit (*i.e.,* for 2000, $65 if the employee elects coverage for transportation in a commuter highway vehicle or a mass transit pass, or $175 if the employee chooses qualified parking) in return for the right to receive qualified transportation fringes up to the amount of the election. If such an election is made, P will provide a mass transit pass for that month with a value not exceeding the compensation reduction amount elected by the employee or will reimburse the cost of other qualified transportation fringes used by the employee on or after the first day of that month up to the compensation reduction amount elected by the employee. Any compensation reduction amount elected by the employee for the month that is not used for qualified transportation fringes is not refunded to the employee at any future date.

(ii) In this example, the arrangement satisfies the requirements of this Q/A–14 because the election is made before the employee is able currently to receive the cash and the election specifies the future period for which the qualified transportation fringes will be provided. The arrangement would also satisfy the requirements of this Q/A–14 and Q/A–13 of this section if employees were allowed to elect to reduce compensation up to $240 (for 2000) per month.

(iii) The arrangement would also satisfy the requirements of this Q/A–14 (and Q/A–13 of this section) if employees were allowed to make an election at any time before the first or the fifteenth day of the month to reduce their compensation payable on that payroll date by an amount not in excess of one-half of the applicable statutory monthly limit (depending on the type of qualified transportation fringe elected by the employee) and P provides a mass transit pass on or after the applicable payroll date for the compensation reduction amount elected by the employee for the payroll date or reimburses the cost of other qualified transportation fringes used by the employee on or after the payroll date up to the compensation reduction amount elected by the employee for that payroll date.

Example 2. (i) Employee Q elects to reduce his compensation payable on March 1 of a year (when the statutory monthly limit for transportation in a commuter highway vehicle and transit passes is $65) by $195 in exchange for a mass transit voucher to be provided in March. The election is made on the preceding February 27. Employee Q was hired in January of the year. On March 10 of the year, the employer of Employee Q delivers to Employee Q a mass transit voucher worth $195.

(ii) In this example, $130 is included in Employee Q's wages for income and employment tax purposes because the compensation reduction election fails to satisfy the requirement in this Q/A–14 and Q/A–12 of this section that the election relate to qualified transportation fringes to be provided for a future period to the extent the election relates to $65 worth of transit passes for each of January and February of the year. No amount would be included in Employee Q's wages as a result of the election if $195 worth of mass transit passes were instead delivered to Employee Q in May of the year (because the compensation reduction would relate solely to fringes to be provided for a future period and the amount provided does not exceed the aggregate limit for the period, *i.e.,* the sum of $65 for each of March, April, and May)

Q–15. May an employee whose qualified transportation fringe costs are less than the employee's compensation reduction carry over this excess amount to subsequent periods?

A–15. Yes. An employee may carry over unused compensation reduction amounts to subsequent periods under the plan of the employee's employer. The following example illustrates the principles of this Q/A–15:

Example. (i) By an election made before November 1, 1999, Employee E elects to reduce compensation in the amount of $65 for the month of November, 1999. E incurs $50 in employee-operated commuter highway vehicle expenses during November for which E is reimbursed $50 by Employer R. By an election made before December 1, 1999, E elects to reduce compensation by $65 for the month of December. E incurs $65 in employee-operated commuter highway vehicle expenses during December for which E is reimbursed $65 by R. Before January 1, 2000, E elects to reduce compensation by $50 for the month of January. E incurs $65 in employee-operated commuter highway vehicle expenses during January for which E is reimbursed $65 by R because R allows E to carry over to January, 2000, the $15 amount by which the compensation reductions for November and December exceeded the employee-operated commuter highway vehicle expenses incurred during those months.

(ii) In this example, because E is reimbursed in an amount not exceeding the applicable statutory monthly limit, and the reimbursement does not exceed the amount of employee-operated commuter highway vehicle expenses incurred during the month of January, the amount reimbursed ($65) is excludable from E's wages for income and employment tax purposes.

Q–16. How does section 132(f) apply to expense reimbursements?

A–16. (a) *In general.* The term ''qualified transportation fringe'' includes cash reimbursement by an employer to an employee for expenses incurred or paid by an employee for transportation in a commuter highway vehicle or qualified parking. The reimbursement must be made under a bona fide reimbursement arrangement which meets the rules of paragraph (d) of this Q/A–16. The term ''cash reimbursement'' does not include cash advances.

(b) *Special rule for transit passes.* The term ''qualified transportation fringe'' includes cash reimbursement for transit passes made under a bona fide reimbursement arrangement, but, in accordance with section 132(f)(3), only if no voucher or similar item that may be exchanged only for a transit pass is readily available for direct distribution by the employer to employees. For this purpose, a voucher or similar item is ''readily available'' if an employer can obtain it—

(1) On terms no less favorable than those available to an individual employee; and

(2) Without incurring a significant administrative cost.

(c) *Significant administrative cost.* Administrative costs relate only to fees paid to fare media providers. The determination of whether obtaining a voucher would result in a significant administrative cost is made with respect to each transit system voucher. A transit system voucher is a voucher that is accepted by one or more mass transit operators (*e.g.,* train, subway, and bus) in an area as fare media (or in exchange for fare media). Administrative costs are treated as significant if the average monthly administrative costs incurred by the employer for a voucher (disregarding delivery charges imposed by the fare media provider to the extent not in excess of $15 per order) are more than 1 percent of the average monthly value of the vouchers for a system. Thus, whether a voucher is readily available without incurring a significant administrative cost is determined with respect to the transit system in each area for which the voucher may be used. The following example illustrates the principles of this Q/A–16:

Example. (i) Company C in City X sells mass transit vouchers to employers in the metropolitan area of X worth $65 each. Several different bus, rail, van pool, and ferry operators service X, and a number of the operators accept the vouchers either as fare media or in exchange for fare media. Employers can readily obtain vouchers for distribution to their employees. To cover its operating expenses, C imposes on each voucher a 50 cents charge, plus a $15 charge for delivery. Employer M disburses vouchers purchased from C to its employees who use operators that accept the vouchers.

(ii) In this example, because the cost of a voucher disbursed to M's employees is not more than 1 percent of the value of the voucher (50 cents divided by $65 equals 0.77 percent) and the delivery charges are disregarded because they are not more than $15, vouchers for X are readily available. Thus, the vouchers disbursed to M's employees are qualified transportation fringes and any reimbursement of mass transportation costs in X would not be a qualified transportation fringe.

(d) *Substantiation requirements.* Employers that make cash reimbursements must establish a bona

fide reimbursement arrangement to establish that their employees have, in fact, incurred expenses for transportation in a commuter highway vehicle, transit passes, or qualified parking. For purposes of section 132(f), what constitutes a bona fide reimbursement arrangement may vary depending on the facts and circumstances, including the method or methods of payment utilized within the mass transit system. The employer must implement reasonable procedures to ensure that an amount equal to the reimbursement was incurred for transportation in a commuter highway vehicle, transit passes, or qualified parking. The following are examples of reasonable reimbursement procedures for purposes of this Q/A–16:

(1) An employee presents to the employer a parking expense receipt for parking on or near the employer's business premises and certifies that the parking was used by the employee and the employer has no reason to doubt the employee's certification.

(2) An employee submits a used transit pass to the employer at the end of the month and certifies both that he or she purchased it, and that he or she used it during the month, or presents a transit pass to the employer at the beginning of the month and certifies that it will be used it during the month. In both cases, the employer has no reason to doubt the employee's certification.

(3) If a receipt is not provided in the ordinary course of business (e.g., if the employee uses metered parking or if used transit passes cannot be returned to the user), the employee certifies to the employer the type and the amount of expenses incurred and the employer has no reason to doubt the employee's certification.

Q–17. May an employer provide nontaxable cash reimbursement under section 132(f) for periods longer than one month?

A–17. Yes. Qualified transportation fringes include reimbursement to employees for costs incurred for transportation in more than one month, provided the reimbursement for each month is calculated separately and does not exceed the applicable statutory monthly limit for any month. See Q/A–8 and 9 of this section if the limit for a month is exceeded. The following example illustrates the principles of this Q/A–17:

Example. (i) Employee R pays $100 per month for qualified parking used during the period from April 1, 2000 through June 30, 2000. After receiving adequate substantiation from R, R's employer reimburses R $300 in cash on June 30, 2000.

(ii) In this example, because the value of the reimbursed expenses for each month did not exceed the applicable statutory monthly limit, the $300 reimbursement is excludable from R's wages for income and employment tax purposes as a qualified transportation fringe.

Q–18. What are the substantiation requirements if an employer distributes transit passes?

A–18. There are no substantiation requirements if the employer distributes transit passes. Thus, an employer may distribute a transit pass for each month with a value not more than the statutory monthly limit without requiring any certification from the employee regarding the use of the transit pass.

Q–19. May an employer choose to impose substantiation requirements in addition to those described in this regulation?

A—19. Yes.

Q–20. How is the value of parking determined?

A–20. Section 1.61–21(b)(2) applies for purposes of determining the value of parking.

Q–21. How do the qualified transportation fringe rules apply to van pools?

A–21. (a) *Van pools generally.* Employer-and employee-operated van pools, as well as private or public transit-operated van pools, may qualify as qualified transportation fringes. The value of van pool benefits which are qualified transportation fringes may be excluded up to the applicable statutory monthly limit for transportation in a commuter highway vehicle and transit passes, less the value of any transit passes provided by the employer for the month.

(b) *Employer-operated van pools.* The value of van pool transportation provided by or for an employer to its employees is excludable as a qualified transportation fringe, provided the van qualifies as a ''commuter highway vehicle'' as defined in section 132(f)(5)(B) and Q/A 2– of this section. A van pool is operated by or for the employer if the employer purchases or leases vans to enable employees to commute together or the employer contracts with and pays a third party to provide the vans and some or all of the costs of operating the vans, including maintenance, liability insurance and other operating expenses.

(c) *Employee-operated van pools.* Cash reimbursement by an employer to employees for expenses incurred for transportation in a van pool operated by employees independent of their employer are excludable as qualified transportation fringes provided that the van qualifies as a ''commuter highway vehicle'' as defined in section 132(f)(5)(B) and Q/A–2 of this section. See Q/A–16 of this section for the rules governing cash reimbursements.

(d) *Private or public transit-operated van pool transit passes.* The qualified transportation fringe exclusion for transit passes is available for travel in van pools owned and operated either by public transit authorities or by any person in the business of transporting persons for compensation or hire. In accordance with paragraph (b) of Q/A–3 of this section, the van must seat at least six adults (excluding the driver). See Q/A–16(b) and (c) of this section for a special rule for cash reimbursement for transit passes.

(e) *Value of van pool transportation benefits.* Section 1.61–21(b)(2) provides that the fair market value of a fringe benefit is based on all the facts and circumstances. Alternatively, transportation in an employer-provided commuter highway vehicle may be valued under the automobile lease valuation rule in § 1.61–21(d), the vehicle cents-per-mile rule in § 1.61–21(e), or the commuting valuation rule in § 1.61–21(f). If one of these special valuation rules is used, the employer must use the same valuation rule to value the use of the commuter highway vehicle by each employee who share the use. See § 1.61–21(c).

(f) *Qualified parking prime member.* If an employee obtains a qualified parking space as a result of membership in a car or van pool, the applicable statutory monthly limit for qualified parking applies to the individual to whom the parking space is assigned. This individual is the ''prime member.'' In determining the tax consequences to the prime member, the statutory monthly limit amounts of each car pool member may not be combined. If the employer provides access to the space and the space is not assigned to a particular individual, then the employer must designate one of its employees as the prime member who will bear the tax consequences. The employer may not designate more than one prime member for a car or van pool during a month. The employer of the prime member is responsible for including the value of the qualified parking in excess of the statutory monthly limit in the prime member's wages for income and employment tax purposes.

Q–22. What are the reporting and employment tax requirements for qualified transportation fringes?

A–22. (a) *Employment tax treatment generally.* Qualified transportation fringes not exceeding the applicable statutory monthly limit described in Q/A–7 of this section are not wages for

purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and federal income tax withholding. Any amount by which an employee elects to reduce compensation as provided in Q/A–11 of this section is not subject to the FICA, the FUTA, and federal income tax withholding. Qualified transportation fringes exceeding the applicable statutory monthly limit described in Q/A–7 of this section are wages for purposes of the FICA, the FUTA, and federal income tax withholding and are reported on the employee's Form W–2, Wage and Tax Statement.

(b) *Employment tax treatment of cash reimbursement exceeding monthly limits.* Cash reimbursement to employees (for example, cash reimbursement for qualified parking) in excess of the applicable statutory monthly limit under section 132(f) are treated as paid for employment tax purposes when actually or constructively paid. See §§ 31.3121(a)–2(a), 31.3301–4, 31.3402(a)–1(b) of this chapter. Employers must report and deposit the amounts withheld in addition to reporting and depositing other employment taxes. See Q/A–16 of this section for rules governing cash reimbursements.

(c) *Noncash fringe benefits exceeding monthly limits.* If the value of noncash qualified transportation fringes exceeds the applicable statutory monthly limit, the employer may elect, for purposes of the FICA, the FUTA, and federal income tax withholding, to treat the noncash taxable fringe benefits as paid on a pay period, quarterly, semi-annual, annual, or other basis, provided that the benefits are treated as paid no less frequently than annually.

Q–23. How does section 132(f) interact with other fringe benefit rules?

A–23. For purposes of section 132, the terms ''working condition fringe'' and ''de minimis fringe'' do not include any qualified transportation fringe under section 132(f). If, however, an employer provides local transportation other than transit passes, the value of the benefit may be excludable, either totally or partially, under fringe benefit rules other than the qualified transportation fringe rules under section 132(f). See §§ 1.132–6(d)(2)(i) (occasional local transportation fare), 1.132–6(d)(2)(iii) (transportation provided under unusual circumstances), and 1.61–21(k) (valuation of local transportation provided to qualified employees).

Q–24. May qualified transportation fringes be provided to individuals who are partners, 2-percent shareholders of S-corporations, or independent contractors?

A–24. (a) *General rule.* Section 132(f)(5)(E) states that self-employed individuals who are employees within the meaning of section 401(c)(1) are not employees for purposes of section 132(f). Therefore, individuals who are partners, sole proprietors, or other independent contractors are not employees for purposes of section 132(f). In addition, under section 1372(a), 2-percent shareholders of S corporations are treated as partners for fringe benefit purposes. Thus, an individual who is both a 2-percent shareholder of an S corporation and a common law employee of that S corporation is not considered an employee for purposes of section 132(f). However, while section 132(f) does not apply to individuals who are partners, 2-percent shareholders of S corporations, or independent contractors, other exclusions for working condition and de minimis fringes may be available as described in paragraphs (b) and (c) of this Q/A–24. See §§ 1.132–1(b)(2) and 1.132–1(b)(4).

(b) *Transit passes.* The working condition and de minimis fringe exclusions under section 132(a)(3) and (4) are available for transit passes provided to individuals who are partners, 2-percent shareholders, and independent contractors. For example, tokens or farecards provided by a partnership to an individual who is a partner that enable the partner to commute on a public transit system (not including privately-operated van pools) are excludable from the partner's gross income if the value of the tokens and farecards in any month does not exceed the dollar amount specified in § 1.132–6(d)(1). However, if the value of a pass provided in a month exceeds the dollar amount specified in § 1.132–6(d)(1), the full value of the benefit provided (not merely the amount in excess of the dollar amount specified in § 1.132–6(d)(1)) is includible in gross income.

(c) *Parking.* The working condition fringe rules under section 132(d) do not apply to commuter parking. See § 1.132–5(a)(1). However, the de minimis fringe rules under section 132(e) are available for parking provided to individuals who are partners, 2-percent shareholders, or independent contractors that qualifies under the de minimis rules. See § 1.132–6(a) and (b). The following example illustrates the principles of this Q/A–24:

Example. (i) Individual G is a partner in partnership P. Individual G commutes to and from G's office every day and parks free of charge in P's lot.

(ii) In this example, the value of the parking is not excluded under section 132(f), but may be excluded under section 132(e) if the parking is a de minimis fringe under § 1.132–6.

Robert E. Wenzel,

Commissioner of Internal Revenue.

[FR Doc. 00–1859 Filed 1–24–00; 1:36 pm]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[REG–105279–99]

RIN 1545–AX31

Extension of Due Date for Electronically Filed Information Returns; Limitation of Failure To Pay Penalty for Individuals During Period of Installment Agreement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations implementing section 6071(b) relating to the extension of the due date for certain electronically filed information returns. The regulations also provide rules under section 6651(h) relating to a penalty reduction for certain individuals who have agreed with the IRS to make installment payments in satisfaction of their tax liability. The regulations relating to extension of filing dates affect payors required to file information returns after December 31, 1999. The regulations relating to penalty reduction affect individual taxpayers with installment agreements in effect during months beginning after December 31, 1999.

DATES: Written or electronic comments and requests for a public hearing must be received by April 26, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–105279–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–105279–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax__regs/reglist.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations relating to

the extension of due dates, Marilyn E. Brookens, (202) 622–4920; concerning the regulations relating to penalty reductions, Robert B. Taylor, (202) 622–4940; concerning submissions of comments, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations, Employment Tax Regulations, and Procedure and Administration Regulations (26 CFR Parts 1, 31, and 301), and implements sections 6071(b) and 6651(h), which were added to the Internal Revenue Code (Code) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685, 724 (1998 Act)). Section 6071(b) was added to the Code by section 2002 of the 1998 Act and extends the due date for information returns required by chapter 61, subchapter A, part III, subparts B and C (sections 6041 through 6053) that are filed electronically. Under section 6071(b) such information returns are due on or before March 31 of the year following the calendar year to which the returns relate. Section 6071(b) applies to information returns required to be filed with the IRS or the Social Security Administration after December 31, 1999.

Section 6651(h) was added to the Code by section 3303 of the 1998 Act and provides that, for individuals, the failure to pay penalty is reduced from 0.5 percent per month to 0.25 percent per month during the period an installment agreement under section 6159 is in effect with regard to a timely filed return. Section 6651(h) applies to any Federal tax liability of an individual (including a liability under subtitle C) and is effective for determining the addition to tax for months beginning after December 31, 1999.

1. Proposed Regulations Implementing Section 6071(b)

Sections 6041 through 6053 of the Code require the filing of information returns that report income, payments, or gross proceeds resulting from certain transactions. Under current law, these returns are generally due to the IRS or the Social Security Administration by (1) February 28 of the year following the calendar year to which the returns relate or (2) the last day of February following the calendar year to which the returns relate. Certain returns, however, such as those required by section 6050I (relating to cash receipts of more than $10,000) are due on a date other than February 28 or the last day of February. The due date for filing information returns is the same whether the returns are filed on paper, electronically, or by other forms of magnetic media (such as magnetic tape, cartridges, and diskettes).

As an incentive to filers of information returns to use electronic filing, section 6071(b) extends by 1 month the due date for certain information returns required by sections 6041 through 6053 if the return is filed electronically. H.R. Conf. Rep. No. 599, 105th Cong., 2nd Sess. 235. Accordingly, beginning on January 1, 2000, information returns currently required by sections 6041 through 6053 to be filed by February 28, or the last day of February, of the year following the calendar year to which the returns relate may be filed electronically as late as March 31 of the year following the calendar year to which the returns relate. The information returns affected by the proposed regulations include the Form W–2 series, Form W–2G, the Form 1098 series, the Form 1099 series, and Form 8027. Section 6071(b) does not affect information returns required to be filed on or before a date other than February 28 or the last day of February. Section 6071(b) also does not affect information returns filed on paper or by means of magnetic media (such as magnetic tape, cartridges or diskettes) other than electronic filing.

The proposed regulations affect only information returns for which a due date is currently prescribed by regulation. Section 6071(b) also applies to other information returns required under sections 6041 through 6053 and extends the due date for electronic filing of those returns in cases in which a due date of February 28 or the last day of February is prescribed by form or other nonregulatory guidance.

The proposed regulations also remove references to two obsolete forms (Form 1099F and Form 1099L) and make ministerial changes to the phrasing and forms of citation used in various provisions.

2. Proposed Regulations Implementing Section 6651(h)

Section 6651(a)(2) imposes a penalty for failure to pay the amount shown as tax on a return on or before the due date prescribed for payment of such tax (with regard to extensions), unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The amount of the penalty is 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

Section 6651(a)(3) imposes a penalty for failure to pay any amount in respect of any tax required to be shown on a return, which is not so shown, within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The amount of the penalty is 0.5 percent of the amount of tax stated in the notice and demand if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

Section 6651(h), added to the Code by section 3303 of the 1998 Act, provides that for an individual who enters into an installment agreement under section 6159 with regard to a timely filed return, the failure to pay penalties will be reduced from 0.5 percent to 0.25 percent during the period of the installment agreement. This provision was added to the Code because Congress believed that it was ''inappropriate to apply the full penalty for failure to pay taxes to taxpayers who are in fact paying their taxes through an installment agreement.'' H.R. Rep. No. 364, 105th Cong., 1st Sess. 81; S. Rep. No. 174, 105th Cong., 2nd Sess. 63. This provision is effective for purposes of determining additions to tax for months beginning after December 31, 1999.

Accordingly, for an individual who enters into an installment agreement under section 6159 with regard to a timely filed return, the proposed regulations provide that the failure to pay penalties under section 6651(a)(2) and (3) will be reduced from 0.5 percent per month to 0.25 percent per month during the period of the installment agreement.

Proposed Effective Date

The provisions of these regulations under section 6071(b) are proposed to be applicable for returns required to be filed after December 31, 1999. The provisions of these regulations under section 6651(h) are proposed to be applicable for determining the addition to tax for months beginning after December 31, 1999.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It

has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of the regulations relating to the extension of due dates under section 6071(b) is Marilyn E. Brookens, Office of Assistant Chief Counsel (Income Tax & Accounting). The principal author of the regulations relating to the reduction in the penalty under section 6651(h) is Robert B. Taylor, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 301 are proposed to be amended as follows:

PART 1—NCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.6041–2, paragraph (a)(3)(ii) is revised to read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a) * * *

(3) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or 31.6011(a)–5 of this chapter, returns on Forms W–3 and W–2 required under this paragraph for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

Par. 3. In § 1.6041–6, the first sentence is revised to read as follows:

§ 1.6041–6 Returns made on Forms 1096 and 1099 under section 6041; contents and time and place for filing.

Returns made under section 6041 on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

Par. 4. In § 1.6042–2, the first sentence of paragraph (c) is revised to read as follows:

§ 1.6042–2 Returns of information as to dividends paid in calendar years after 1962.

* * * * *

(c) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.* * *

* * * * *

Par. 5. In § 1.6043–2, paragraph (a) is revised to read as follows:

§ 1.6043–2 Return of information respecting distributions in liquidation.

(a) Unless the distribution is one in respect of which information is required to be filed pursuant to § 1.332–6(b), § 1.368–3(a), or 1.1081–11, every corporation making any distribution of $600 or more during a calendar year to any shareholder in liquidation of the whole or any part of its capital stock shall file a return of information on Forms 1096 and 1099, giving all the information required by such form and by the regulations in this part. A separate Form 1099 must be prepared for each shareholder to whom such distribution was made, showing the name and address of such shareholder, the number and class of shares owned by him in liquidation of which such distribution was made, and the total amount distributed to him on each class of stock. If the amount distributed to such shareholder on any class of stock consisted in whole or in part of property other than money, the return on such form shall in addition show the amount of money distributed, if any, and shall list separately each class of property other than money distributed, giving a description of the property in each such class and a statement of its fair market value at the time of the distribution. Such forms, accompanied by transmittal Form 1096 showing the number of Forms 1099 filed therewith, shall be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which such distribution was made with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 6. In § 1.6044–2, the first sentence of paragraph (d) is revised to read as follows:

§ 1.6044–2 Returns of information as to payments of patronage dividends with respect to patronage occurring in taxable years beginning after 1962.

* * * * *

(d) *Time and place for filing.* The return required under this section on Forms 1096 and 1099 for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year, with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

* * * * *

Par. 7. Section § 1.6045–1 is amended by adding paragraph (r) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(r) *Electronic filing.* Notwithstanding the time prescribed for filing in paragraph (j) of this section, Forms 1096 and 1099 required under this section for reporting periods ending during a calendar year shall, if filed electronically, be filed after the last calendar day of the reporting period elected by the broker or barter exchange and on or before March 31 of the following calendar year.

Par. 8. In § 1.6045–2, paragraph (g)(3) is revised to read as follows:

§ 1.6045–2 Furnishing statement required with respect to certain substitute payments.

* * * * *

(g) * * *

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 9. In § 1.6045–4, the first sentence of paragraph (j) is revised to read as follows:

§ 1.6045–4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

* * * * *

(j) *Time and place for filing.* A reporting person shall file the information returns required by this section with respect to a real estate transaction after December 31 of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section) and on or before February 28 (March 31 if filed electronically) of the following calendar year. * * *

* * * * *

Par. 10. In § 1.6047–1, the first sentence of paragraph (a)(6) is revised to read as follows:

§ 1.6047–1 Information to be furnished with regard to employee retirement plan covering an owner-employee.

(a) * * *

(6) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

* * * * *

Par. 11. Section 1.6049–4 is amended by:

1. Revising the first sentence of paragraph (g)(1).

2. Revising the first sentence of paragraph (g)(2).

The revisions read as follows:

§ 1.6049–4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

* * * * *

(g) * * * (1) *Annual return.* Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

(2) *Transactional return.* In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 (March 31 if filed electronically) of the year following the calendar year in which the interest was paid. * * *

* * * * *

Par. 12. In § 1.6049–7, the first sentence of paragraph (b)(2)(iv) is revised to read as follows:

§ 1.6049–7 Returns of information with respect to REMIC regular interests and collateralized debt obligations.

* * * * *

(b) * * *

(2) * * *

(iv) *Time and place for filing a return with respect to amounts includible as interest.* The returns required under paragraph (b)(2) of this section for any calendar year must be filed after September 30 of that year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 13. In § 1.6050A–1, paragraph (b) is revised to read as follows:

§ 1.6050A–1 Reporting requirements of certain fishing boat operators.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section on Form 1099-MISC shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099-MISC, on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the relevant services were performed.

* * * * *

Par. 14. In § 1.6050D–1, paragraph (b) is revised to read as follows:

§ 1.6050D–1 Information returns relating to energy grants and financing.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099-G on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which the return is made.

Par. 15. In § 1.6050E–1, the first sentence of paragraph (h) is revised to read as follows:

§ 1.6050E–1 Reporting of State and local income tax refunds.

* * * * *

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 16. In § 1.6050H–2, the first and second sentences of paragraph (a)(4) are revised to read as follows:

§ 1.6050H–2 Time, form, and manner of reporting interest received on qualified mortgage.

(a) * * *

(4) *Time and place for filing return.* An interest recipient must file a return required by paragraph (a) of this section on or before February 28 (March 31 if filed electronically) of the year following the calendar year for which it receives the mortgage interest. If no interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then a return required by paragraph (a) of this section must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reimbursement was made. * * *

* * * * *

Par. 17. In § 1.6050J–1T, A–33 is revised to read as follows:

§ 1.6050J–1T Questions and answers concerning information returns relating to foreclosures and abandonments of security (temporary).

* * * * *

A–33: The return or returns must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of an interest in the property occurs or in which the lender knows or has reason to know of the abandonment of the property.

* * * * *

Par. 18. In § 1.6050P–1, paragraph (a)(4)(i) is revised to read as follows:

§ 1.6050P–1 Information reporting for discharges of indebtedness by certain financial entities.

(a) * * *

(4) * * * (i) *In general.* Except as provided in paragraph (a)(4)(ii) of this section, returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 1099–C on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the identifiable event occurs.

* * * * *

Par. 19. In § 1.6052–1, paragraph (b)(1)(ii) is revised to read as follows:

§ 1.6052–1 Information returns regarding payment of wages in the form of group-term life insurance.

* * * * *

(b) * * * (1) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter, returns on Forms W–3 and W–2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

PART 31—EMPLOYMENT TAXES

Par. 20. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 21. In § 31.3402(q)–1, the first sentence of paragraph (f)(1) is revised to read as follows:

§ 31.3402(q)–1 Extension of withholding to certain gambling winnings.

* * * * *

(f) * * * (1) *In general.* Every person making payment of winnings for which a statement is required under paragraph (e) of this section shall file a return on Form W–2G with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made. * * *

* * * * *

Par. 22. In § 31.6053–3, the first sentence of paragraph (a)(4) is revised to read as follows:

§ 31.6053–3 Reporting by certain large food or beverage establishments with respect to tips.

(a) * * *

(4) *Time and place for filing.* The information return required by this paragraph shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which the return is made with the Internal Revenue Service Center specified by the Form 8027 or its instructions. * * *

* * * * *

Par. 23. In § 31.6071(a)–1, paragraph (a)(3)(i) is revised to read as follows:

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) * * *

(3) * * * (i) *General rule.* Each information return in respect of wages as defined in the Federal Insurance Contributions Act or of income tax withheld from wages which is required to be made under § 31.6051–2 shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which it is made, except that, if a tax return under § 31.6011(a)–5(a) is filed as a final return for a period ending prior to December 31, the information statement shall be filed on or before the last day of the second calendar month following the period for which the tax return is filed.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 24. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 25. Section 301.6651–1 is amended by:

1. Revising the last sentence in paragraph (a)(2).

2. Revising the second sentence in paragraph (a)(3).

3. Adding paragraph (a)(4).

The revisions and additions read as follows:

§ 301.6651–1 Failure to file tax return or to pay tax.

(a) * * *

(2) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(3) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. * * *

(4) *Reduction of failure to pay penalty during the period an installment agreement is in effect*—(i) *In general.* In the case of a return filed by an individual on or before the due date for the return (including extensions)—

(A) The amount added to tax for a month or fraction thereof is determined by substituting 0.25 percent for 0.5 percent under paragraph (a)(2) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax; and

(B) The amount added to tax for a month or fraction thereof is determined by substituting 0.25 percent for 0.5 percent under paragraph (a)(3) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax.

(ii) *Effective date.* This paragraph (a)(4) applies for purposes of determining additions to tax for months beginning after December 31, 1999.

* * * * *

Robert E. Wenzel,

Deputy Commissioner Internal Revenue.

[FR Doc. 00–1898 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–67, MM Docket No. 00–7, RM–9799]

Radio Broadcasting Services; Alva, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Wing-&-a-Prayer Broadcasting Company seeking the allotment of Channel 296C3 to Alva, OK, as the community's fourth

local FM service. Channel 296C3 can be allotted to Alva in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 36–48–06 North Latitude and 98–40–00 West Longitude.

DATES: Comments must be filed on or before March 6, 2000, and reply comments on or before March 21, 2000.

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: Bryce S. Kennedy, One Grand Center, Mezzanine Suite, Enid, OK 73701 (Counsel to petitioner).

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. 00–7, adopted January 5, 2000, and released January 14, 2000. 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, 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.

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. 00–1929 Filed 1–26–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION.

47 CFR Part 73

[DA 00–68;MM Docket No. 00–8; RM–9788)

Radio Broadcasting Services; Spencer and Webster, MA.

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed on behalf of Montachusett Broadcasting, Inc., licensee of Station WORC-FM, Channel 255A, Spencer, Massachusetts, proposing the reallotment of Channel 255A from Spencer to Webster, Massachusetts, and the modification of the Station WORC-FM license to specify Webster as the community of license. Coordinates for this proposal are 42–02–10 and 71–59-23.

DATES: Comments must be filed on or before March 8, 2000, and reply comments on or before March 23, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC, 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows:

Erwin G. Krasnow, c/o Verner, Liipert, Bernhard, McPherson and Hand 901, 15th Street, NW, Suite 700, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 00–8 , adopted January 5, 2000, and released January 14, 2000. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, D.C. The complete text of this action may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, Washington, D.C. 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. 00–1928 Filed 1–26–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–79, MM Docket No. 00–9, RM–9526]

Radio Broadcasting Services; Beaumont and Dayton, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KXTJ License, Inc. requesting the reallotment of Channel 300C from Beaumont, Texas, to Dayton, Texas, and modification of the license for Station KXTJ(FM) to specify Dayton, Texas, as the community of license. The coordinates for Channel 300C at Dayton are 30–00–56 and 94–31–37. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 300C at Dayton.

DATES: Comments must be filed on or before March 6, 2000, and reply comments on or before March 21, 2000,

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lawrence Roberts, Mary L. Plantamura, Davis Wright Tremaine LLP, 1500 K Street, N.W., Suite 450, Washington, DC. 20005.

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. 00–9, adopted January 12, 2000, and released January 14, 2000. The full text of this Commission decision is available for inspection and copying during

normal business hours in the Commission's Reference Center, 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. 00–1927 Filed 1–26–00; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register

Vol. 65, No. 18

Thursday, January 27, 2000

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

Food and Nutrition Service

Public Notice of Comment Period for Proposed Yields for Revision of the ''Food Buying Guide for Child Nutrition Programs''; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice; correction.

SUMMARY: This document corrects dates in the Notice published in the **Federal Register** January 5, 2000, regarding Comment Period for Proposed Yields for Revision of the ''Food Buying Guide for Child Nutrition Programs''. This correction revises an incorrect comment date.

DATES: Comments must be received on or before April 15, 2000 to be assured of consideration.

ADDRESSES: Address comments on proposed yields or yield research on specific items to Lori French, Chief, Nutrition Promotion and Training Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1004, Alexandria, Virginia 22302

FOR FURTHER INFORMATION CONTACT: Janice Fabina, 703–305–2621.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service published a Notice in the **Federal Register** (65 FR 436) on January 5, 2000. This Notice contains an incorrect date. This correction revises that date.

Correction

In the Notice FR document 00–204, beginning on page 436, in the issue of Wednesday, January 5, 2000, make the following corrections: On page 436 in the first column, under the **DATES** heading the statement is corrected to read ''Comments must be received on or before April 15, 2000 to be assured of consideration.'' On page 437, in the second column, the fourth full sentence is corrected of read ''Written comments should be sent to FNS at the address in the **ADDRESSES** section of this Notice by April 15, 2000.''

Dated: January 14, 2000.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 00–1968 Filed 1–26–00; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on February 3, 2000, at the Shasta-Trinity National Forest Conference Room, 2400 Washington Avenue, Redding, California. The meeting will start at 8:00 A.M. and will adjourn at 5:00 P.M. Agenda items for the meeting include: (1) Provincial Advisory Committee and Provincial Interagency Executive Committee Effectiveness, with discussions on roles/responsibilities, issue development, decisionmaking, and interaction processes; and (2) Public Comment Periods. All Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 11263 N. Hwy 3, Fort Jones, California 96032; telephone 530–468–1281 (voice), TDD 530–468–2783.

Dated: January 21, 2000.

Margaret J. Boland,

Forest Supervisor.

[FR Doc. 00–1921 Filed 1–26–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service,

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on February 18, 2000. The meeting will be held at the Jamestown S'Klallam Tribal Center's conference room, 1033 Oly Blyn Highway, Sequim, Washington. The meeting will begin at 10:00 AM and end at approximately 3:00 PM. Agenda topics are: (1) Road Management Strategy for the Olympic National Forest (a proposed strategy for review and advice); (2) Northwest Forest Plan Implementation Monitoring Report; (3) Open forum; and (4) Public comments. All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd. Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (360) 956–2301.

Dated: January 19, 2000.

Luis Santoyo,

Acting Forest Supervisor, Olympic National Forest.

[FR Doc. 00–1975 Filed 1–26–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Census Bureau

Census 2000 Test Program Supplement

ACTION: Proposed collection; comment request.

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

DATES: Written comments must be submitted on or before March 27, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington,

DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Keith Bennett, Bureau of the Census, Room BH114–2, Washington, DC 20233; (301) 457–4173.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to test several methodologies, techniques, and strategies during Census 2000. It is important to examine innovative ideas in the environment for which they are intended to accurately measure effectiveness and feasibility. The Census Bureau received Office of Management and Budget (OMB) approval to conduct four separate tests which are collectively referred to as The Census 2000 Test Program. They are the Alternative Questionnaire Experiment in 2000 (AQE2000), the Administrative Records Census Experiment in 2000 (AREX2000), the Social Security Number [SSN], Privacy Attitudes, and Notification (SPAN) experiment, and the Response Mode and Incentive Experiment (RMIE). We plan to add supplemental collections to two of these tests.

RMIE Internet Usage Survey

The RMIE will determine what effect the availability of different response modes combined with an incentive have on a sample of Census 2000 short form respondents. Sample households will receive an invitation in their census short-form mail package inviting them to respond by one of three experimental response modes rather than by mail, including a computer assisted telephone interview (CATI) with a live operator, an interactive voice response system where a respondent is prompted through the short form by machine, and the census Internet questionnaire. Of those households that receive an invitation, some will be given a calling card worth 30 minutes of long distance service as incentive.

We plan to conduct phone interviews with a sub sample of the RMIE households invited to respond via the Internet, but who chose to respond by mail. For those who received no incentive, we will ask whether they had access to the Internet. If they did have access, we will ask why they did not use the Internet and ascertain whether an incentive would have elicited a response. If they did not have access to the Internet, we will ask if they would have responded if they had access. For those who received the incentive, we will ask whether they had access to the Internet. If they had no access they too will be asked whether they would have responded if they had access. If they had access, we will ask why they did not use the Internet. In addition, this panel will be asked a subset of questions about the incentive calling card they received. The interview will determine whether the respondents were aware of the incentive. We will ask those who were aware of the incentive why they did not take the offer, whether a larger incentive might have elicited a response, and whether they realized that the incentive was made operative only with the Internet response.

AQE2000 Residence Rules Reinterview

The AQE2000 will test effectiveness of an alternative presentation format of residence rules in the decennial census. An accurate and complete count in Census 2000 requires that all people should be enumerated once and only once and in the correct location. Respondents make the determination of who is counted as residing within their homes and include these people on their census form. The appropriateness of these assignments is associated with the effectiveness and clarity of the census residence instructions that provide the respondent with guidelines about who should be included on the census form and who should be excluded.

We plan to reinterview a sub sample of the AQE2000 sample households that returned the experimental (alternate version of the presentation format) and control (current versions of the presentation format) short-forms and provided telephone contact information. The reinterview will be conducted by telephone with the person in the household who signed the census form. The purpose of this reinterview is to test the effectiveness of the different presentation formats identified in the AQE2000. Topics addressed in the reinterview include listing of all household members (including potentially omitted persons), other locations where household members may reside, and the estimates of time spent in each of these locations. Other issues to be explored include complex living arrangements, respondents' ability to comprehend the residence rules, and possible sources of misconceptions stemming from experimental or control versions of the presentation formats.

II. Method of Collection

For the RMIE Internet Usage Survey, data will be collected by means of a computer assisted telephone interview. For the AQE2000 Residence Rules Reinterview, the reinterview will be conducted by telephone and recorded on paper.

III. Data

OMB Number: 0607–0862.

Form Numbers: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: Internet Usage Survey—2,160; Residence Rules Interview—3,000.

Estimated Time Per Response: Internet Usage Survey—5 minutes; Residence Rules Reinterview—20 min.

Estimated Total Annual Burden Hours: Internet Usage Survey—180 hours; Residence Rules Reinterview—1,000 hours; Total = 1,180 hours.

Estimated Total Annual Cost: None.

Respondent's Obligation: Both are voluntary data collections.

IV. Request for Comments:

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

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

Dated: January 21, 2000,

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–1915 Filed 1–26–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011000E]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

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

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that 1-year letters of authorization to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities were issued on July 2, 1999, to Burlington Resources, and Seneca Resources, both from Houston, TX, and Ocean Energy from Lafayette, Louisiana; on October 4, 1999, to PennzEnergy from Houston, TX; on December 16, 1999, to Forest Oil Corp. from Denver, CO; and on December 23, 1999, to Range Resources Corp. from Houston, TX.

ADDRESSES: The application and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or David Bernhart, Southeast Region (727) 570–5517.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on October 12, 1995 (60 FR 53139), and remain in effect until November 13, 2000.

Issuance of these letters of authorization are based on a finding that the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Dated: January 21, 2000.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–1974 Filed 1–26–00; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

RIN 3038-ZA03

Agency Information Collection Activities: Proposed Collection; Comment Request; Extension of Collection, OMB Control Number 3038-0024, Regulations and Forms Pertaining to the Financial Integrity of the Marketplace

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq., Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to financial and related reporting and recordkeeping requirements.

DATES: Comments must be submitted on or before March 27, 2000.

ADDRESSES: Comments may be mailed to Lawrence B. Patent, Division of Trading and Markets, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, (202) 418-5439; FAX: (202) 418-5536; email: *Ipatent@cftc.gov.*

SUPPLEMENTAL INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on respondents, 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.

Regulations and Forms Pertaining to the Financial Integrity of the Marketplace Extension, OMB Control Number 3038–0024.

Commission Rules 1.10(a) and (b), 1.12, 1.14, 1.15(a)(1) and (2), 1.16(e) and (f), 1.17(h)(3)(vi), 1.18(b), 1.20(a) and (b), 1.23, 1.25, 1.27, 1.43, 1.36(a) and (b), 1.37 and 1.65 relate to the financial reporting and recordkeeping

requirements for futures commission merchants and independent introducing brokers.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR Section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 1.10(a) and (b), 1.12, 1.14, 1.15(a)(1) and (2). 1.16(e) and (f), 1.17(h)(3)(vi), 1.18(b), 1.20(a) and (b),1.23, 1.25, 1.27, 1.43, 1.36(a) and (b), 1.37 and 1.65.	3,028	Monthly, Annually, Quarterly, Semi-Annually, On Occasion.	4,468	5.0	20,859

There are not capital costs or operating and maintenance costs associated with this collection.

Dated: January 21, 2000.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–1986 Filed 1–26–00; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Information Warfare—Defense will meet in closed session on January 18–19, 2000; February 22–23, 2000; March 28–29, 2000; April 19–20, 2000; May 25–26, 2000; and June 13–14, 2000, at Booze-Allen Hamilton McLean Campus, 8282 Greensboro Drive, McLean, VA 22182.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will review the progress made since the 1996 Defense Science Board report on Information Warfare—Defense and determine the adequacy of the Department's process in providing information assurance to carry out Joint Vision 2010 in the face of information warfare attacks.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public. However, due to critical mission requirements, the Task Force is unable to provide timely notice of its first meeting on January 18–19, 2000.

Dated: January 11, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1862 Filed 1–23–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Actions To Sustain Operability of Air Force Space Command PAVE PAWS Radar Sites at Cape Cod Air Station (AS), Massachusetts (MA); Beale Air Force Base (AFB), California (CA); and Clear Air Station (AS), Alaska (AK)

Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321, *et seq.*), The Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and Air Force policy and procedures (32 CFR Part 989), Air Force Space Command (AFSPC) intends to prepare an EIS for the Service Life Extension Program (SLEP) actions to modernize the facilities at the PAVE PAWS (Phased Array Warning System) radar sites located at Cape Cod AS, MA; Beale AFB, CA; and Clear AS, AK.

The current proposal includes replacements of electronic equipment and computer software in the PAVE PAWS Early-Warning Radar facilities. The EIS will assess all impacts as they relate to these replacements, including emission of radio-frequency energy. AFSPC will be the lead agency for the EIS. The Ballistic Missile Defense Organization has been invited to be a cooperating agency. AFSPC is planning to conduct public scoping meetings to determine the issues and concerns that should be addressed in the EIS. Notice of time and location of the scoping meetings will be made to public officials, agencies and announced in the news media in areas where the meetings will be held. For further information concerning the proposed replacements of electronic equipment and computer software in the PAVE PAWS Early-Warning Radar facilities at Cape Cod AS, MA; Beale AFB, CA; and Clear AS, AK, contact Mr. George Gauger, HQ AFCEE/ECA, 3207 North Road, Brooks AFB, TX 78235–5363.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–1976 Filed 1–26–00; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Availability of Federally-Owned Inventions

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Pub. L. 96–517, the Department of the Air Force announces the availability of certain Air Force-owned inventions. The following patent applications Apparatus and Method to Detect Corrosion in Metal Junctions (Patent Application No. 09/450,959) and Apparatus and Method for Detecting Conduit Chafing (Patent Application No. 09/334,122) are available for Nonexclusive or Exclusive Licensing from the Air Force Research Laboratory (AFRL/IF) at Rome, New York. Additional information concerning the inventions is available upon request.

All communications concerning this Notice should be sent to Dr. Harold L. Burstyn, Patent Attorney, 26 Electronic Parkway, Rome, NY 13441–4514, (315) 330–2087, e-mail:

Harold.Burstyn@rl.af.mil, or fax to (315) 330–7583.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–1977 Filed 1–26–00; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On January 21, 2000, a 30-day notice inviting comment from the public was published for the Reference and Reporting Guide for Preparing State and Institutional Report on Teacher Quality and Preparation in the **Federal Register** (Volume 65, Number 14) dated January 21, 2000. The Leader, Information Management Group, Office of the Chief Information Officer, hereby issues a correction notice on the submission for OMB review as required by the Paperwork Reduction Act of 1995. The sentence, ''Annual reports from institutions are due to states, beginning April 7, 2000'' should read, ''Annual reports from institutions are due to states, beginning April 7, 2001''.

DATES: Interested persons are invited to submit comments on or before February 22, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *DWERFEL@OMB.EOP.GOV*.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651 or should be electronically mailed to the internet address OCIO__IMB__Issues@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Joseph Schubart (202) 708–9266.

Dated: January 21, 2000.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

[FR Doc. 00–1916 Filed 1–26–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–166–000 and RP00–74–002]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 21, 2000.

Take notice that on January 14, 2000, CNG Transmission Corporation (CNG), filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of February 1, 2000:

Twenty-Seventh Revised Sheet No. 31
Fourth Revised Sheet No. 190
Fourth Revised Sheet No. 191
Fourth Revised Sheet No. 192
Fourth Revised Sheet No. 193
Fifth Revised Sheet No. 194
Sixth Revised Sheet No. 195
Fourth Revised Sheet No. 196
Fourth Revised Sheet No. 197
Second Revised Sheet No. 467

CNG states that the purpose of this filing is two-fold: (1) to place into effect revised tariff sheets that would allow CNG to charge a new rate for Title Transfer Tracking Service consistent with the Commission's December 16, 1999 Letter Order, and (2) to respond to the concerns of the parties as required by the Letter Order.

CNG states that copies of its filing are being served upon the parties listed on the Official Service List of the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1955 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2612–005]

FPL Energy Maine Hydro; Notice of Telephone Conference

January 21, 2000.

The Commission staff, Maine Department of Environmental Protection, and FPL Energy Maine Hydro (FPL) will conduct a telephone conference at 10:00 a.m. Eastern Standard Time (EST), on February 8, 2000, to update staff on the status of FPL's pending application for Water Quality Certification and how this issue may affect FPL's application for a new license in this proceeding.

Parties in the new license application proceeding wishing to take part in the conference call may do so by calling (800) 545–4387 on February 8, 2000 and informing the operator that they want to be part of the Flagstaff Storage Project conference call and giving the operator the conference call identification number M–12047. The operator will start accepting requests to be a part of the conference call at 9:45 a.m. EST prior to the 10:00 a.m. EST meeting. If you have any questions regarding this notice, please contact Ms. Amy Chang at (202) 208–1199 or send an e-mail to *amy.chang@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 00–1948 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–18–003]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

January 21, 2000.

Take notice that on January 14, 2000, National Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 224J.02, to be effective November 4, 1999.

Natural states that its filed the above tariff sheet in compliance with the Office of Pipeline Regulation letter order issued January 5, 2000 in Docket No. RP00–18–001.

Natural requested any waivers which may be required to permit Second Revised Sheet No. 224J.02 to become effective November 4, 1999, consistent with the Federal Energy Regulatory Commission's ''Order on Complaint'' issued November 4, 1999 in Docket No. RP00–18–000.

Natural states that copies of the filing have been mailed to its customers, interested state regulatory agencies and all parties set out on the official service lists in Docket Nos. RP99–176 and RP00–18.

Any person desiring to protest in this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission''s Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1952 Field 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–164–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 21, 2000.

FOR FURTHER INFORMATION CONTACT:

Take notice that on January 14, 2000, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to become effective on February 14, 2000:

2. Third Revised Sheet No. 146

Northern states that the above-referenced tariff sheet is filed to revise the termination provisions of Northern's Interruptible Deferred Delivery (IDD) service under Rate Schedule IDD.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1953 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–496–000 and RP99–496–001]

Southern Natural Gas Company; Notice of Informal Settlement Conference

January 21, 2000.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 11 a.m. on Thursday, January 27, 2000, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208–0583, Joel M. Cockrell at (202) 208–1184 or Theresa J. Burns at (202) 208–2160.

David P. Boergers,

Secretary.

[FR Doc. 00–1951 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-165-000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

January 21, 2000.

Take notice that on January 18, 2000, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets, to become effective February 1, 2000.

Williston Basin states that the revised tariff sheets are being filed pursuant to Order Nos. 636, *et seq.* and Subsection 39.3.4 of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1, to implement the recovery of $2,996,250 of Gas Supply Realignment Transition costs (GSR Costs).

Williston Basin further states that it is proposing to recover 93.40 percent of the costs through a new reservation charge surcharge of 43.714 cents per equivalent dekatherm of Maximum Daily Delivery Quantity applicable to firm transportation service and 6.60 percent through a new GSR unit rate of 0.441 cents per dekatherm applicable to Rate Schedule IT–1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1954 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–44–000, et al.]

Consolidated Edison Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

January 19, 2000.

Take notice that the following filings have been made with the Commission:

1. Consolidated Edison Energy, Inc. and Consolidated Edison Energy Massachusetts, Inc.

[Docket No. EC00–44–000]

Take notice that on December 23, 1999, Consolidated Edison Energy, Inc. (CEEI) and Consolidated Edison Energy Massachusetts, Inc. (CEEMI) filed an application for an order authorizing the proposed transfer of CEEI's 100% equity interest in CEEMI to Consolidated Edison Development, Inc.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison, Inc., Northeast Utilities

[Docket No. EC00–49–000]

Take notice that on January 14, 2000, Consolidated Edison, Inc. (CEI) and Northeast Utilities (NU), on behalf of their respective wholly-owned jurisdictional utility subsidiaries, tendered for filing an application pursuant to section 203 of the Federal Power Act and part 33 of the Regulations of the Federal Energy Regulatory Commission (Commission) for an order authorizing and approving CEI's acquisition of NU (the Merger).

Pursuant to the terms of the Agreement and Plan of Merger dated as of October 13, 1999, CEI, an exempt public utility holding company, will acquire all of the outstanding common stock of NU. The Merger Agreement provides for the combination to occur through two simultaneous mergers—the merger of CEI into New CEI, and the merger of an indirect wholly-owned subsidiary of CEI with NU. Upon completion, New CEI will own all of the assets of CEI, and NU will be a wholly-owned subsidiary of New CEI.

Comment date: March 14, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. AES Londonderry, LLC

[Docket No. EG00–78–000]

Take notice that on January 13, 2000, AES Londonderry, LLC (AES Londonderry) tendered for filing an initial rate schedule and request for certain waivers and authorizations pursuant to Section 35.12 of the regulations of the Federal Energy Regulatory Commission (the Commission). The initial rate schedule provides for the sale to wholesale purchasers at market-based rates of the output of an electric power generation facility under development by AES Londonderry in Londonderry, Rockingham County, New Hampshire (the Facility).

AES Londonderry requests that the Commission promptly accept the rate schedule for filing, without suspension, investigation or refund liability, and make the rate schedule effective as of the date that service commences at the Facility.

A copy of the filing was served upon the New Hampshire Public Utilities Commission.

Comment date: May 5, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission's will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Southwestern Electric Power Company

[Docket No. ER00–1083–000]

Take notice that on January 13, 2000, Southwestern Electric Power Company (SWEPCO) filed a revised Exhibit E to the Power Supply Agreement (PSA), as amended, between SWEPCO and East Texas Electric Cooperative, Inc. (ETEC). Revised Exhibit E updates various information concerning points of delivery under the PSA.

SWEPCO requests an effective date of January 1, 2000 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on ETEC and the Public Utility Commission of Texas.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company; The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–1093–000]

Take notice that on January 14, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 68 to add British Columbia Power Exchange Corporation to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is January 13, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. The Dayton Power and Light Company

[Docket No. ER00–1094–000]

Take notice that on January 14, 2000, The Dayton Power and Light Company (Dayton) submitted service agreements establishing TXU Energy Trading Company as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon TXU Energy Trading Company and the Public Utilities Commission of Ohio.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. The Dayton Power and Light Company

[Docket No. ER00–1095–000]

Take notice that on January 14, 2000, The Dayton Power and Light Company (Dayton) submitted service agreements establishing with TXU Energy Trading Company as customers under the terms of Dayton's Open Access Transmission Tariff.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER00–1096–000]

Take notice that on January 14, 2000, Virginia Electric and Power Company (Virginia Power) tendered for filing the Service Agreement between Virginia Electric and Power Company and The Legacy Energy Group, LLC. Under the Service Agreement, Virginia Power will provide services to The Legacy Energy Group, LLC under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of January 14, 2000.

Copies of the filing were served upon The Legacy Energy Group, LLC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Tucson Electric Power Company

[Docket No. ER00–1099–000]

Take notice that on January 14, 2000, Tucson Electric Power Company tendered for filing one (1) umbrella service agreement (for short-term firm service) and one (1) service agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. OA96–140–000.

The details of the service agreement are as follows: Umbrella Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Reliant Energy Services, Inc. dated as of January 5, 2000. Service under this agreement has not yet commenced.

Service Agreement for Non-Firm Point-to-Point Transmission Service with Reliant Energy Services, Inc. dated as of January 5, 2000. Service under this agreement has not yet commenced.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Services Company

[Docket No. ER00–1100–000]

Take notice that on January 14, 2000, Ameren Services Company (Ameren) tendered for filing a Service Agreement for Market Based Rate Power Sales between Ameren and NorAm Energy Services, Inc., now Reliant Energy Services, Inc. Ameren asserts that the purpose of the Agreement is to replace the unexecuted Agreement in Docket No. ER98–3886–000 with an executed Agreement.

Ameren requests that the Service Agreement become effective June 23, 1998.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of Oklahoma

[Docket No. ER00–1101–000]

Take notice that on January 14, 2000, Public Service Company of Oklahoma (PSO) filed four service agreements under its Coordination Sales and Reassignment of Transmission Rights Tariff.

PSO seeks waiver of the Commission's notice requirements to permit effective dates of October 9, 1999, for the service agreement with Cargill-Alliant, LLC (Cargill), November 12, 1999 for the service agreement with TXU Energy Trading Company (TXU Trading), December 1, 1999 for the service agreement with Southern Company Energy Marketing (Southern Marketing), and December 3, 1999 for the service agreement with Constellation Power Source (CPS).

PSO has mailed a copy of the filing to Cargill, TXU Trading, Southern Marketing, CPS and the Oklahoma Corporation Commission.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Alliant Energy Corporate Services Inc.

[Docket No. ER00–1103–000]

Take notice that on January 14, 2000, Alliant Energy Corporate Services Inc. (ALTM) tendered for filing a signed Service Agreement under ALTM's Market Based Wholesale Power Sales Tariff (MR–1) between itself and Western Resources Inc. (WR).

ALTM respectfully requests a waiver of the Commission's notice requirements, and an effective date of January 13, 2000.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER00–1104–000]

Take notice that on January 14, 2000, PacifiCorp tendered for filing, in accordance with Part 35 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR Part 35), a Notice of Filing Mutual Netting/Closeout Agreements (Netting Agreements) between PacifiCorp and (1) Colorado Springs Utilities (CSU), (2) Coral Power LLC (Coral), and (3) Northern California Power Agency (NCPA).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER00–1105–000]

Take notice that on January 14, 2000, PacifiCorp tendered for filing, in accordance with Part 35 of the Commission's Rules and Regulations (18 CFR Part 35), a fully executed umbrella service agreement with Citizens Power Sales (Citizens).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. The Montana Power Company

[Docket No. ER00–1106–000]

Take notice that on January 14, 2000, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Part 35 of the Commission's Regulations (18 CFR Part 35), an unexecuted Network Integration Transmission Service Agreement and Network Operating Agreement with Big Horn County Electric Cooperative, Inc., under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Big Horn County Electric Cooperative, Inc.

Montana requests that the Service Agreement become effective December 15, 1999.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER00–1107–000]

Take notice that on January 14, 2000, PECO Energy Company (PECO) filed under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, an Agreement dated January 13, 2000 with Illinois Municipal Electric Agency (IMEA) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of January 13, 2000, for the Agreement.

PECO states that copies of this filing have been supplied to Illinois Municipal Electric Agency and to the

Pennsylvania Public Utility Commission.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. CP Power Sales Four, L.L.C.

[Docket No. ER00–1108–000]

Take notice that on December 20, 1999, CL Power Sales Five, L.L.C., tendered for filing Notice of Succession on behalf of CL Power Sales Four, L.L.C., effective December 1, 1999, CL Power Sales Four, L.L.C., changed its name to CP Power Sales Four, L.L.C.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Dynegy Power Marketing, Inc.

[Docket No. ER00–1109–000]

Take notice that on January 14, 2000, Dynegy Power Marketing, Inc. (Dynegy), tendered for filing pursuant to Rule 205, 18 CFR 385.205, revisions to its rate schedule related to resales of firm transmission rights in compliance with the Commission's order in California Independent System Operator Corp., 89 FERC ¶ 61,153 (1999).

Dynegy requests waiver of the Commission's 60-day prior notice requirement in order to permit their respective revisions to become effective on January 15, 2000.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Consumers Energy Company

[Docket No. ER00–1110–000]

Take notice that on January 14, 2000, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for Firm Point-to-Point Transmission Service with PECO Energy Company. The agreement was pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and Detroit Edison Company (Detroit Edison) and has an effective date of January 1, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and PECO Energy Company.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Illinova Power Marketing, Inc.

[Docket no. ER00–1111–000]

Take notice that on January 14, 2000, Illinova Power Marketing, Inc. (IPMI), tendered for filing Electric Power Transaction Service Agreements under which certain customers will take service pursuant to IPMI's power sales tariff, Rate Schedule FERC No. 1.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Duke Energy Merchants, L.L.C.

[Docket No. ER00–1112–000]

Take notice that on January 14, 2000, Duke Energy Merchants, L.L.C. (DEM), tendered for filing pursuant to Section 205 of the Federal Power Act a revised Rate Schedule FERC No. 1 in compliance with the Commission's November 10, 1999 order, California Indep. System Operator Corp., 89 ¶ 61,153 (1999) and pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, providing for the resale of firm transmission rights issued by the California Independent System Operator Corporation.

DEM is a power marketer authorized by the Commission to sell electric energy and capacity at market-based rates. DEM requests waiver of the prior notice requirement of the Commission's regulations and seeks an effective date of February 1, 2000 for its revised Rate Schedule FERC No. 1.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Energy Trading And Marketing, L.L.C.

[Docket No. ER00–1113–000]

Take notice that on January 14, 2000, Duke Energy Trading and Marketing, L.L.C. (DETM), tendered for filing pursuant to Section 205 of the Federal Power Act a revised Rate Schedule FERC No. 1 in compliance with the Commission's November 10, 1999 order, California Indep. System Operator Corp., 89 FERC ¶ 61,153 (1999) and pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, providing for the resale of firm transmission rights issued by the California Independent System Operator Corporation.

DETM is a power marketer authorized by the Commission to sell electric energy and capacity at market-based rates. DETM requests waiver of the prior notice requirement of the Commission's regulations and seeks an effective date of February 1, 2000 for its revised Rate Schedule FERC No. 1.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. West Texas Utilities Company

[Docket No. ER00–1114–000]

Take notice that on January 14, 2000, West Texas Utilities Company (WTU), tendered for filing ten (10) individual letter agreements, dated March 19, 1998 (Letter Agreements) with the following customers: Coleman County Electric Cooperative, Inc.; Concho Valley Electric Cooperative, Inc.; Golden Spread Electric Cooperative, Inc.; Kimble Electric Cooperative, Inc.; Lighthouse Electric Cooperative, Inc.; Midwest Electric Cooperative, Inc. (Midwest); Rio Grande Electric Cooperative, Inc.; Stamford Electric Cooperative, Inc. (Stamford); Southwest Texas Electric Cooperative, Inc.; and Taylor Electric Cooperative, Inc., (collectively, the Mid-Tex Group). The Letter Agreements are supplements to WTU's Wholesale Power Choice Tariff (WPC Tariff), WTU FERC Tariff No. 9.

WTU seeks an effective date of January 1, 2000 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on all members of the Mid-Tex Group and the Public Utility Commission of Texas.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Calpine Construction Finance Company, L.P.

[Docket No. ER00–1115–000]

Take notice that on January 14, 2000, Calpine Construction Finance Company, L.P. (CCFC), tendered for filing, under Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, a petition for order accepting initial rate schedule for the sale of energy, capacity, replacement reserves at market-based rates, and for the waiver of certain Commission regulations and blanket authorization of others. CCFC also requests authority, and its proposed rate schedule provides for it, to sell certain ancillary services into the California markets administered by the California Independent System Operator, the New York Power Pool markets administered by the New York Independent System Operator, the Pennsylvania-New Jersey-Maryland Interchange Energy Market, and the New England Power Pool markets administered by ISO New England, Inc. CCFC is an indirect wholly owned subsidiary of Calpine Corporation.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings 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. 00–1908 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–50–000, et al.]

EMI Dartmouth, Inc., et al.; Electric Rate and Corporate Regulation Filings

January 21, 2000.

Take notice that the following filings have been made with the Commission:

1. EMI Dartmouth, Inc., El Paso Energy Corporation, El Paso Power Holding Company, Dartmouth Power Holding Company, L.L.C., Dartmouth Power Generation, L.L.C., Mesquite Investors, L.L.C.

[Docket No. EC00–50–000]

Take notice that on January 18, 2000, pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. § 824b (1998) and Part 33 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 33 *et seq.*, EMI Dartmouth, Inc. on behalf of itself and the limited partners of Dartmouth Power Associates Limited Partnership, El Paso Energy Corporation (EP Holding), El Paso Power Holding Company, Dartmouth Power Holding Company, L.L.C. (DPH), Dartmouth Power Generation, L.L.C., (DPG) and Mesquite Investors, L.L.C. (Mesquite) (collectively, Applicants) filed an application requesting that the Commission approve the sale and transfer by EMI of 100% of the ownership interest in Dartmouth Power Associates Limited Partnership (Dartmouth), a Massachusetts limited partnership that owns an electric generating facility and makes sales of capacity and associated electricity from the facility pursuant to two rate schedules on file with the Commission, to DPH and DPG. At present DPH and DPG are wholly-owned subsidiaries of EP Holding. Subsequent to the acquisition of the interests in Dartmouth by DPH and DPG, EP Holding will transfer all of its ownership interest in DPH and DPG to Mesquite and DPH and DPG will become subsidiaries of Mesquite.

Comment date: February 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Columbia Energy Power Marketing Corporation

[Docket No. EC00–51–000]

Take notice that on January 18, 2000, Columbia Energy Power Marketing Corporation filed an application for an order authorizing the proposed transfer of Applicant's wholesale power sales agreements to Enron Power Marketing, Inc.

Comment date: February 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. AmerGen Energy Company, L.L.C.

[Docket No. EG00–27–000]

Take notice that on January 13, 2000, AmerGen Energy Company, L.L.C., submitted a supplement to its application for exempt wholesale generator status.

Comment date: February 11, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

4. Platte-Clay Electric Cooperative, Inc.

[Docket No. EL00–35–000]

Take notice that on January 12, 2000, Platte-Clay Electric Cooperative, Inc. (Platte-Clay) filed a request for waiver of the requirements of Order No. 888 and Order No. 889 pursuant to 18 CFR 35.28(d) of the Federal Energy Regulatory Commission's (Commission) Regulations. Platte-Clay's filing is available for public inspection at its offices in Kearney, Missouri.

Comment date: February 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. AC Power Corporation, Lambda Energy Marketing Company, TransCanada Power Marketing Ltd., Symmetry Devise Research, Inc., Spokane Energy, L.L.C., Southern Energy California, L.L.C.

[Docket No. ER97–2867–010, ER94–1672–020, ER98–564–006, ER96–2524–008, ER98–4336–006, ER99–1841–002]

Take notice that on January 14, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

6. DukeSolutions, Unicom Power Marketing, Inc., Alliance Power Marketing, Inc., First Power, L.L.C., First Power, L.L.C., Illinova Energy Partners, Inc., Koch Energy Trading, Inc., Cargill-Alliant, LLC

[Docket No. ER98–3813–006, ER97–3954–011, ER96–1818–016, ER97–3580–008, ER97–3580–009, ER94–1475–019, ER95–218–020, ER97–4273–010]

Take notice that on January 18, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

7. Alliant Energy Industrial Services, Inc.

[Docket No. ER99–1775–002]

Take notice that on January 12, 2000, Alliant Energy Industrial Services, Inc. filed their quarterly reports for the third and fourth quarters for information only.

8. Foote Creek II, LLC, Foote Creek III, LLC

[Docket No. ER00–1119–000]

Take notice that on January 14, 2000, Foote Creek II, LLC and Foote Creek III, LLC filed their quarterly report for the quarter ending December 31, 2000.

Comment date: February 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Bangor Hydro-Electric Company, Westchester RESCO Company, L.P., Murphy Oil USA, Inc.

[Docket No. ER00–1124–000, ER00–1128–000, ER00–1129–000]

Take notice that on January 18, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: February 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Electric Power Company, Inc.

[Docket No. ES00–14–000]

Take notice that on January 13, 2000, Maine Electric Power Company, Inc. submitted an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue and renew on or before December 31, 2002, bank loans maturing one year or less after the date of issuance in an aggregate face amount not to exceed $9,500,000 at any time.

Comment date: February 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. John C. Barpoulis, David N. Bassett, Mark V. Carney, John R. Cooper, F. Joseph Feyder, George J. Grunbeck, Sanford L. Hartman, J. W. Maitland Horner, P. Chrisman Iribe, Nancy A. Manning, Peter E. Meier, William F. Quinn, Suzanne Rich, M. Richard Smith, Steven A. Wolfgram

Docket Nos. ID–3447–000, ID–3134–004, ID–3429–001, ID–3132–006, ID–3448–000, ID–3235–002, ID–3275–002, ID–3276–001, ID–3131–007, ID–3425–001, ID–3237–003, ID–3449–000, ID–3278–001, ID–3277–003, ID–3238–002]

Take notice that on January 10, 2000, the above named individuals filed with the Federal Energy Regulatory Commission, an application for authority to hold interlocking positions in Athens Generating Company, L.P. and Mantua Generating Company, L.P., both with their principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814.

Comment date: February 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket No. ER00–605–000]

Take notice that on January 14, 2000, Central Maine Power Company (CMP or Central Maine), provided unredacted copies of an Hydro Quebec Entitlement Agreement (Entitlement Agreement) between CMP and Select Energy, Inc. (Select), in compliance with the Commission's January 11, 2000 Order Denying A Request for Confidential Treatment.

CMP reiterates its request for a final non-appealable order on or before February 22, 2000.

CMP states that copies of the filing have been sent to Select and the Maine Department of Public Utilities Commission.

Comment date: February 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power Corporation

[Docket No. ER00–1116–000]

Take notice that on January 18, 2000, Florida Power Corporation (Florida Power), tendered for filing a Short Term Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement pursuant to its open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on January 19, 2000.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–1118–000]

Take notice that on January 18, 2000, Alliant Energy Corporate Services, Inc. (Alliant Energy), tendered for filing executed Service Agreement for short-term firm point-to-point transmission service, establishing Reliant Energy Services, Inc., as a point-to-point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc. transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of December 20, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. MidAmerican Energy Company

[Docket No. ER00–1117–000]

Take notice that on January 18, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with Alliant Energy Corporation (Alliant), dated December 21, 1999, MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of January 1, 2000 for the Agreement and seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Alliant, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Commonwealth Edison Company

[Docket No. ER00–1125–000]

Take notice that on January 17, 2000, Commonwealth Edison Company (ComEd) tendered for filing a Service Agreement for Network Integration Service (Service Agreement) and a Network Operating Agreement (Operating Agreement) between ComEd and Peoples Energy Services Corporation (PESC). These agreements will govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of December 27, 2000, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on PESC.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Southwestern Public Service Company

[Docket No. ER00–1126–000]

Take notice that on January 18, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with El Paso Electric Company (EPE). This umbrella service agreement provides for Southwestern's sale and EPE's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Energy Service Corporation on behalf of West Penn Power Company

[Docket No. ER00–1127–000]

Take notice that on January 18, 2000, Allegheny Energy Service Corporation, on behalf of West Penn Power Company (WP), tendered for filing a Power Service Agreement under which WP will provide full requirements service to the Letterkenny Industrial Development Authority.

The parties request a May 3, 1999 effective date.

Copies of the filing have been provided to the Pennsylvania Public Utility Commission and all parties of record.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Southwestern Public Service Company

[Docket No. ER00–1120–000]

Take notice that on January 18, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with Reliant Energy Services, Inc., (Reliant). This umbrella service agreement provides for Southwestern's sale and Reliant's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Southwestern Public Service Company

[Docket No. ER00–1121–000]

Take notice that on January 18, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with Texas-New Mexico Power Company (TNP). This umbrella service agreement provides for Southwestern's sale and TNP's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Southwestern Public Service Company

[Docket No. ER00–1122–000]

Take notice that on January 18, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with UtiliCorp United, Inc., (UtiliCorp). This umbrella service agreement provides for Southwestern's sale and UilitiCorp's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Electric Power Company

[Docket No. ER00–1123–000]

Take notice that on January 18, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a notification indicating a name change for an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, First Revised Volume No. 2) as requested by the customer.

Wisconsin Electric respectfully requests effective December 31, 1999, service Agreement No. 102 with El Paso Power Services Company, is changed to El Paso Merchant Energy, L.P. (EPME).

Wisconsin Electric requests waiver of any applicable regulation to allow for the effective dates as requested above.

Copies of the filing have been served on EPME, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. New England Power Pool

[Docket No. ER00–934–000]

Take notice that on January 18, 2000, the New England Power Pool Participants Committee tendered for filing a correction to its December 29, 1999, filing in the above-referenced docket. Additionally, NEPOOL has requested a waiver of the Commission's notice requirements to permit the corrected filing to become effective as of March 1, 2000.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Great Bay Power Corporation

[Docket No. ER00–1138–000]

Take notice that on January 18, 2000, Great Bay Power Corporation (Great Bay), tendered for filing service agreements between Consolidated Edison Energy, Inc. and Great Bay and between Consolidated Edison Solutions, Inc., and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on July 24, 1998, in Docket No. ER98–3470–000.

The service agreements are proposed to be effective January 1, 2000.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Consumers Energy Company

[Docket No. ER00–1137–000]

Take notice that on January 18, 2000, Consumers Energy Company (Consumers), tendered for filing Amendment No. 1 to its Service Agreement with Edison Sault Electric Company for Network Integration Transmission Service (designated Service Agreement No. 1 under Consumers Energy Company FERC Electric Tariff No. 6). The Amendment changes Exhibit A to the Service Agreement, which lists network loads and resources.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Consumers Energy Company

[Docket No. ER00–1136–000]

Take notice that on January 18, 2000, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for unbundled wholesale power service with Edison Sault Electric Company pursuant to Consumers' Market Based Power Sales Tariff accepted for filing in Docket No. ER98–4421–000.

Copies of the filing have been served on the Michigan Public Service Commission and the customer under the respective service agreement.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Commonwealth Edison Company

[Docket No. ER00–1134–000]

Take notice that on January 18, 2000, Commonwealth Edison Company (ComEd), tendered for filing a revised executed Service Agreement for Network Integration Transmission Service between ComEd and the Illinois Municipal Electric Agency (IMEA) under the terms of ComEd's Open Access Transmission Tariff. This agreement modifies and supersedes a Network Integration Transmission Service Agreement currently on file between ComEd and IMEA.

Copies of the filing were served on IMEA and the Illinois Commerce Commission.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

28. Southwest Power Pool, Inc.

[Docket No. ER00–1133–000]

Take notice that on January 18, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing four executed service agreements for Loss Compensation Service with ConAgra Energy Services, Inc., Oklahoma Gas & Electric Company, Sempra Energy Trading Corporation, and TransAlta Energy Marketing (U.S.) Inc.

SPP requests an effective date of January 1, 2000, for each of these agreements.

Copies of this filing were served upon all signatories.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. Kansas City Power & Light Company

[Docket No. ER00–1132–000]

Take notice that on January 18, 2000, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated January 12, 2000, between KCPL Transmission Services and KCPL Power Services. This Agreement provides for the rates and charges for Short-term Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. American Electric Power Service Corporation

[Docket No. ER00–1131–000]

Take notice that on January 18, 2000, the American Electric Power Service Corporation (AEPSC), on behalf of Indiana Michigan Power Company (I&M), tendered for filing with the Commission Facilities, Operations and Maintenance Agreement dated December 17, 1999, between I&M and Hoosier Energy Electric Cooperative.

AEPSC requests an effective date of January 1, 2000 for the agreement.

A copy of the filing was served upon Hoosier Energy Electric Cooperative and the Indiana Utility Regulatory Commission.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

31. Commonwealth Edison Company

[Docket No. ER00–1130–000]

Take notice that on January 18, 2000, Commonwealth Edison Company (ComEd), tendered for filing an executed service agreement establishing Northern States Power Company (NSP), as a customer under ComEd's FERC Electric Market Based-Rate Schedule for power sales. ComEd requests that the Commission substitute the Service Agreement for the unexecuted agreement with NSP previously filed under the MBR, and requests that the Commission establish the same effective date as was established in the original filing for the unexecuted agreement for which this agreement is being substituted.

Copies of the filing were served on NSP.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

32. Consumers Energy Company

[Docket No. ER00–1135–000]

Take notice that on January 18, 2000, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Firm and Non-Firm Point-to-Point Transmission Service with both DTE Energy Trading, Inc. and Nordic Electric LLC (Customers). All of the agreements were pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The DTE Energy Trading, Inc., Agreements have effective dates of January 1, 2000. The Nordic Electric, LLC Agreements have effective dates of January 7, 2000.

Copies of the filing were served upon the Michigan Public Service Commission, Detroit Edison, and the Customers.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

33. Florida Power Corporation

[Docket No. ER00–1116–000]

Take notice that on January 18, 2000, Florida Power Corporation (Florida Power), tendered for filing a Short Term Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement pursuant to its open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on January 19, 2000.

Comment date: February 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings 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. 00–1942 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–21–00]

Northern Border Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Project 2000

January 21, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Northern Border Pipeline Company (Northern Border) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed project including:

- About 34.4 miles of 30-inch-diameter pipeline from Manhattan, Illinois to North Hayden, Indiana;
- Uprate the existing compressor unit at Compressor Station 14 (Grundy County, Iowa) from 6,500 horsepower (hp) to 13,000 hp;
- Uprate the existing compressor unit at Compressor Station 17 (Scott County, Iowa) from 12,000 hp to 15,000 hp;
- Install a 13,000 hp compressor unit at proposed Compressor Station 18 (Bureau County, Illinois);
- Construct a new meter station in Lake County, Indiana (North Hayden Meter Station);
- Install a regulator at the existing Harper Meter Station in Iowa; and
- Install appurtenant facilities, including six mainline valves, four

remote blow downs, anode bed, tee and side valve.

The purpose of the proposed facilities would be to transport up to 544.0 million cubic feet per day (MMcfd) of gas for Northern Indiana Public Service Company.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 2087–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2

• Reference Docket No. CP99–21–000; and

Mail your comments so that they will be received in Washington, DC on or before February 22, 2000.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CLIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–1943 Filed 1–26–00 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–59–000]

Petal Gas Storage Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Petal Pipeline Project, and Request for Comments on Environmental Issues

January 21, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Petal Pipeline Project, involving the construction and operation of facilities by Petal Gas Storage Company (Petal) in Forest, Jones, Jasper, and Clark Counties, Mississippi.[1] These facilities would consist of about 64.2 miles of pipeline and 35,590 horsepower (hp) of compression. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner on Petal's proposed route and receive this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Petal provided to landowners. This fact sheet addresses a number of typical asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

This Notice of Intent (NOI) is being sent to landowners crossed by Petal's proposed route; Federal, state, and local government agencies; national elected officials; regional environmental and public interest groups; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; local libraries and newspapers; and the Commission's list of parties to the proceeding. Government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern. Additionally, with this NOI we are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated Petal's proposal relative to their agencies' responsibilities. Agencies who would like to request cooperating status should follow the instructions for filing comments described below.

Summary of the Proposed Project

Petal proposes to build new pipeline and compression facilities to transport up to 700 million cubic feet per day of natural gas from its storage field to new interconnections with Transcontinental Gas Pipe Line Company (Transco), Southern Natural Gas Company (Southern), and Destin Pipeline Company (Destin). Petal requests Commission authorization to construct, own, operate, and maintain the following facilities.

• About 55 miles of 36-inch-diameter loop [2] of Petal's existing storage header at its storage field in Forrest County, near Petal, Mississippi;

[1] Petal's application was filed with the Commission on December 28, 1999, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

• About 58.7 miles of 36-inch-diameter pipeline extending from the existing Tennessee Gas Pipeline Company (Tennessee) Meter Station near the town of Petal, Mississippi north through portions of Forrest, Jones, Jasper, and Clarke Counties, to the existing Destin Meter Station near Enterprise, Mississippi. The new pipeline would be built adjacent to existing Tennessee, Southern, and Destin pipelines;

• A new compressor station with four electric-driven units totaling 20,000 hp adjacent to Petal's existing compressor station in Forrest County, Mississippi;

• A new compressor station with four gas-driven units totaling 15,590 hp near Heidelburg, in Jasper County, Mississippi;

• Three new meter stations at interconnections with Transco in Jasper county, Mississippi, and with Southern and Destin in Clarke County, Mississippi; and

• Associated pipeline facilities, including pig traps at the Petal storage field and the new Destin Meter Station, and a total eight new block valves along the loop and main pipeline.

The general location of Petal's proposed facilities is shown on the map attached as appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would affect about 682 acres of land. Following construction, about 251 acres would be retained as permanent right-of-way. The remaining 431 acres of temporary work space would be restored and allowed to revert to its former use.

Petal proposes to use a typical pipeline construction right-of-way width of 75 feet, consisting of 30 feet of permanent right-of-way and 45 feet of temporary extra work space. There also would be about 92 acres used as additional temporary extra work spaces at stream, utility, and road crossings. The new compressor station near Petal, Mississippi would occupy about 4 acres and the new compression station near Heidelburg would use about 10 acres. Construction of the Transco Meter Station would use 2 acres, of which 1 acre would become the permanent site. The new meter stations at the interconnections with Southern and Destin would be built and operated within a single 2 acre parcel.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[4] to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, elected officials, affected landowners, regional public interest groups, Indian tribes, local newspapers and libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of construction and operation of the proposed project. We have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Petal. This preliminary list of issues may be changed based on your comments and our analysis.

• Geology and Soils
—Potential impacts related to crossing karst terrain.
—Impacts on about 21 miles of prime farmland soils.
—Crossing about 16 miles of erosion prone soils.

• Water Resources and Wetlands
—Crossing 10 perennial streams.
—Crossing one stream classified as an impaired waterbody with limited water quality.
—Crossing 104 areas classified as ''waters of the United States,'' the majority of which are wetlands.

• Biological Resources
—Impacts on about 440 acres of forest or woodlands.
—Impacts on a single population of Silky Camellia, a state listed sensitive species.
—Impacts on the Gopher Tortoise, a federally listed threatened species.

• Cultural Resources
—Impacts on prehistoric and historic sites.
—Native American concerns.

• Land Use
—Impacts on crop production.
—Impacts on residential areas.
—Visual effect of the aboveground facilities on surrounding areas.
—Impacts on one rural residence within 50 feet of the proposed pipeline.

• Air and Noise Quality
—Impacts on local air quality and noise environment as a result of the operation of new compressor stations.

• Alternatives
—Evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;

• Reference Docket No. CP00–59–000; and

• Mail your comments so that they will be received in Washington, DC on or before February 28, 2000.

[If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be removed from the environmental mailing list.]

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] ''Us,'' ''we,'' and ''our'' refer to the environment staff of the FERC's Office of Pipeline Regulation.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–1944 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File for New License

January 21, 2000.

a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 1413.

c. *Date Filed:* October 1, 1999.

d. *Applicants:* Fall River Rural Electric Cooperative, Inc.

e. *Name of Project:* Ponds Lodge Hydroelectric Project.

f. *Location:* On the Buffalo River, a tributary to the Henry's Fork of the Snake River, in Fremont County, Idaho.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Contact:* Dee M. Reynolds, General Manager, Fall River Rural Electric Cooperative, Inc., 714 Main Street, P.O. 830, Ashton, Idaho 83420, (208) 652–7431.

i. *Expiration date of original license:* October 31, 2004.

j. *The project consists of:* (1) a 12-foot-high, 142-foot-long rock-fill dam; (2) a short penstock; (3) a powerhouse containing a turbine generator unit with an installed capacity of 250 kilowatts; (4) a short tailrace; (5) a 12.5 kV, 3,500-foot-long underground transmission line; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available contacting John Gourley at Pacific Gas and Electric Company, 245 Market Street, Room 1137, San Francisco, CA 94105, (415) 972–5772.

l. *FERC contact:* Hector M. Perez, (202) 219–2843.

m. *Locations of the filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2002.

David P. Boergers,

Secretary.

[FR Doc. 00–1945 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

January 21, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Subsequent License.

b. *Project No.:* 1981–010.

c. *Date Filed:* February 25, 1998.

d. *Applicant:* Oconto Electric Cooperative.

e. *Name of Project:* Stiles Project.

f. *Location:* On the Oconto River, near the City of Oconto Falls, Oconto County, Wisconsin. The project would not utilize Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Tony Anderson, General Manager, Oconto Electric Cooperative, 7479 REA Road, P.O. Box 168, Oconto Falls, WI 54154–0168, (920) 846–2816.

i. *FERC Contact:* Patti Leppert-Slack, (202) 219–2767, or E-mail at *patricia.lepperslack@ferc.fed.us.*

j. *Deadline for filing comments, recommendations, terms and conditions and prescriptions:* 60 days from the issuance of this notice.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis.

l. *Brief Description of the Project:* The existing project consists of: (1) A 20-foot-high earthen embankment and 463-acre impoundment; (2) a 66-foot-long powerhouse, containing tow generating units with a total capacity of 1,000 kilowatts; (3) a substation; and (4) appurtenant facilities.

m. *Available Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and

reproduction at the address shown in item h.

Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533, issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice. Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) Bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. As additional copy must be sent to Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 00–1946 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License, and Soliciting Comments, Motions To Intervene, and Protests

January 21, 2000.

a. *Application Type:* Application to Amend License for the Yadkin Project.

b. *Project No:* 2197–038.

c. *Date Filed:* December 3, 1999.

d. *Applicant:* Yadkin, Inc.

e. *Name of Project:* Yadkin Project.

f. *Location:* The Project is located on lower Yadkin stretch of the Yadkin-Pee Dee River in Stanly, Montgomery, Davidson, and Rowan Counties, North Carolina. The project does not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* B. Julian Polk, Yadkin, Inc., P.O. Box 576, Highway 740, Building 4, Badin, NC 28009–0576. Tel: (704) 422–5617.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula, Sarma at (202) 219–3273 or by e-mail at vedula.sarma@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* 30 days from the issuance date of this notice.

Please include the project number (2197–038) on any comments or motions filed.

k. *Description of Filing:* Yadkin, Inc. proposes to perform upgrades of the hydroelectric generation units at three of the project developments. The proposed activities consist of replacing the existing turbine runners and rewinding of the generators. The proposed upgrades would increase the net project capacity from 209.52 MW to 216.38 MW, and the net hydraulic capacity of the project would increase from 40,095 cfs to 41,085 cfs.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm [call (202) 208–2222 for assistance]. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–1947 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance Request and Soliciting Comments, Motions to Intervene, and Protests

January 21, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Continued Temporary Variance.

b. *Project No:* 2584–027.

c. *Date field:* January 10, 2000.

d. *Applicant:* Rochester Gas and Electric Corporation.

e. *Name of Project:* Station 26 Project.

f. *Location:* On the Genesee River, in the City of Rochester, Monroe County, New York. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Hugh J. Ives, Rochester Gas and Electric, 89 East Ave., Rochester, NY 14649–0001, (716) 724–8209.

i. *FERC Contact:* Robert Fletcher, robert.fletcher@ferc.fed.us, 202–219–1206.

j. *Deadline for filing comments, motions to intervene and protest:* 20 days from the issuance date of this notice. Please include the project number (2584–027) on any comments or motions filed. All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, 20426.

k. *Description of Application:* The New York State Canal Corporation (NYSCC), which operates the Court Street Dam at the Station 26 Project as well as the canal system of which the dam is an integral part, intends to perform maintenance on the river floodwall approximately one-quarter mile upstream from the dam for a three to four month period. The NYSCC will repair some 1,500 feet of concrete floodwall, recreational enhancements, and public assess improvements. The work is to be completed by April 15, 2000. The NYSCC has determined that the most effective way to repair the floodwall is to maintain the impoundment at 510.6 feet continuously. The NYSCC has requested the licensee hold the reservoir elevation at the 510.6 foot elevation using the project turbine, when possible, in lieu of the Court Street Dam spillgates.

Article 401 of the project license requires the licensee, in part, to maintain the impoundment level during the non-navigation season such that no more than half of each day shall such level be below 511.6 feet and at no time shall it be below 510.6 feet. Accordingly, the licensee requests a variance to article 401 through April 15, 2000, to allow it to expand, from 12 hours per day to 24 hours per day, its ability to hold the impoundment level at 510.6 feet to facilitate the work being done by the NYSCC. The licensee continues to consult with the NYSCC, the New York State Department of Environmental Conservation, and the U.S. Fish and Wildlife Service.

1. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–1949 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence and Complete Project Construction and Soliciting Comments, Motions to Intervene, and Protests

January 21, 2000.

Take notice that the folloiwng application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time to Commence and Complete Project Construction.

b. *Project No.:* 9401–051.

c. *Date Filed:* December 15, 1999.

d. *Applicant:* Mt. Hope Water Power Project, LLP.

e. *Pursuant to:* Public Law 106–121 (1999).

f. *Applicant Contact:* Donald H. Clarke, Counsel for Licensee, Wilkinson Barker Knauer, LLP, 2300 N Street, N.W., Suite 700, Washington, D.C. 20037, (202) 783–4141.

g. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us

h. *Deadline for filing comments and or motions:*

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project numbers (9401–051) on any comments or motions filed.

i. *Description of the Request:* The licensee has requested that the deadline for commencement of construction of the Mt. Hope Pumped Storage Hydroelectric Project be extended for two additional years. The deadline to commence project construction for FERC Project No. 9401 would be extended to August 3, 2003. The deadline for completion of construction

for FERC Project No. 9401 would be extended to August 3, 2009.

j. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http:www.ferc.fed.us/online/rims.htm (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

k. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–1950 Filed 1–26–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6530–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standards of Performance for New Stationary Sources (NSPS) Secondary Lead Smelters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for New Stationary Sources (NSPS) Secondary Lead Smelters, 40 CFR part 60, subpart L; OMB No. 2060–0080; EPA No. 1128.06; expiration date is March 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 28, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1128.06. For technical questions about the ICR, please contact Deborah Thomas at 202–564–5041.

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standards for Secondary Lead Smelters, Part 60, Subpart L; OMB Control No. 2060–0080; EPA ICR No.1128.06, expiration date March 31, 2000. This is a request for extension of a currently approved collection.

Abstract: New Source Performance Standards for Secondary Lead Smelters were developed to ensure that air emissions from these facilities do not cause ambient concentrations of lead and non-lead particulate matter to exceed levels that may reasonably be anticipated to endanger public health and the environment. Owners or operators of secondary lead smelters subject to NSPS must notify EPA of construction, reconstruction, modification, anticipated and actual startup dates, and results of performance tests. These facilities must also maintain records of performance test results, startups, shutdowns, and malfunctions. The control of emissions of particulate matter from secondary lead smelters requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Emissions of lead and non-lead particulate matter from secondary lead smelters are the result of operation of pot furnaces, blast furnaces, and reverberatory furnaces.

These standards rely on the capture and collection of particulate matter by particulate emission control devices such as an electrostatic precipitator or scrubber. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. Reporting and recordkeeping requirements on the part of the respondent are mandatory under section 114 of the Clean Air Act as amended and 40 CFR part 60.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency 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 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter

15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 16,1999 (64 FR 44518); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response. 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.

Respondents/Affected Entities: Owners/operators of Secondary Lead Smelters

Estimated Number of Respondents: 23.

Frequency of Response: 1/yr/respondent.

Estimated Total Annual Hour Burden: 35.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $0.00.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1128.06 and OMB No. 2060–0080 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania, NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–1962 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6530–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants, and NSPS Natural Gas Processing: SO_2 Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS, 40 CFR part 60, subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants, and NSPS, 40 CFR part 60, subpart LLL, Standards of Performance for Natural Gas Processing: SO_2 Emissions. The OMB Control Number is 2060–0120 and expiration date 03/31/00. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 28, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1086.06. For technical questions about the ICR, contact Dan Chadwick at (202) 564–7054.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart KKK Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants, and NSPS Subpart LLL Standards of Performance for Natural Gas Processing: SO_2 Emissions. (OMB Control No. 2060–0120; EPA ICR No. 1086.06) expiring 03/31/00. This is a request for extension of a currently approved collection.

Abstract: Owners/operators of Onshore Natural Gas Processing Plants subject to subparts KKK and LLL must notify EPA of construction, modifications, startups, shutdowns, malfunctions, and initial performance tests dates and results. Owners/operators subject to these standards must make one-time-only reports of notification of the date of construction or reconstruction and notification of the anticipated and actual startup dates. Owner/operators subject to these standards must also report on the notification of any physical or operational change that may cause emission increases and are also required to maintain records of the occurrence and duration of any startup, shutdown or malfunction in the operation of an affected facility, or any period in which the monitoring system is inoperable.

Facilities subject to subpart KKK must provide information on leaks, including the date when the leak was detected, the repair method used and other pertinent details. Facilities subject to subpart LLL must submit information on excess SO_2 emissions. Large facilities subject to subpart LLL must install, calibrate, maintain and operate SO_2 Continuous Emission Monitors. These facilities would also have to submit the results of initial performance tests. Owners/operators of all affected facilities must report semiannually on the operating information contained in the records. This information is collected and used to ensure that the standards for VOC and SO_2 emissions are being met.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 08/16/99 (64 FR 44518) and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 102 hours per response. 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.

Respondents/Affected Entities: Owners/operators of natural gas processing plants (KKK) and Owners/operators for Onshore Natural Gas Processing (LLL).

Estimated Number of Respondents: 558.

Frequency of Response: Semiannually or as needed.

Estimated Total Annual Hour Burden: 114,036 hours.

Estimated Total Annualized Capital, OM Cost Burden: $74,100.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1086.06 and OMB Control No. 2060–0120 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania, NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–1963 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6530–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Volatile Organic Compound Emission Standards for Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: ''Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Consumer Products,'' EPA No. 1764.02, OMB No. 2060–0348, expires March 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 28, 2000.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1764.02. For technical questions about the ICR contact Bruce Moore at 919–541–5460.

SUPPLEMENTARY INFORMATION:

Title: National Volatile Organic Compound Emission Standards for Consumer Products, OMB No. 2060–0348, EPA No. 1764.02, expires March 31, 2000. This is a request for an extension of a currently approved collection.

Abstract: The information collection includes initial reports and periodic recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in consumer products. Respondents are manufacturers, distributors, and importers of consumer products. Responses to the collection are mandatory under 40 CFR part 59, subpart C—National Volatile Organic Compound Emission Standards for Consumer Products. The EPA is required under section 183(e) of the Clean Air Act (Act) to regulate VOC emissions from the use of consumer and commercial products. Pursuant to section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation on March 23, 1995 (60 FR 15264). Consumer products were included in Group I of the list, and standards were promulgated on September 11, 1998.

In the Administrator's judgment, VOC emissions from the use of consumer products contribute to ground-level ozone formation in ozone non-attainment areas.The reports and recordkeeping activities required under the rule enable the EPA to determine whether or not consumer products manufactured or imported for use in the U.S. meet the VOC content limits. Minimal reporting is required. Initial reporting consists of information needed by EPA to (1) identify the universe of manufacturers and importers subject to the rule; (2) determine the date of manufacture of products; (3) ascertain the location of formulation and batch records for purposes of compliance assurance; and (4) have on record a responsible company official as a primary contact. Notification of the use of revised date codes enables EPA to have access to the most current codes. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR, chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 18, 1999 (64 FR 32856); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 79 hours per response. 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.

Respondents/Affected Entities: Manufacturers, distributors, and importers of consumer products.

Estimated Number of Respondents: 375.

Frequency of Response: Initial notification and on occasion.

Estimated Total Annual Hour Burden: 29,695 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any

suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1764.02 and OMB Control No. 2060–0348 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania, NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–1964 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6530–1]

Acid Rain Program; Notice of the Filing of Petitions for Administrative Review and Notice of Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the filing of petitions for administrative review and notice of final action.

SUMMARY: The purpose of this document is to announce the filing, with EPA's Environmental Appeals Board (EAB), of two petitions for review by UtiliCorp United, Inc. (UCU) of two decisions issued by EPA's Office of Air and Radiation, Acid Rain Division, and to announce the final agency action regarding one of these decisions. These decisions and petitions for review concern a request submitted by UCU for approval of a method for apportionment of the nitrogen oxide (NO_X) emissions from a common stack at UCU's Sibley, Missouri facility.

DATES: The EAB issued its Order Consolidating Petitions For Review, Denying Request For Interim Relief, And Denying Review Of Petition No. 99–3 on December 29, 1999.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, Attorney-Advisor, Clean Air Markets Division (formerly called ''Acid Rain Division'') (6204J), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 at (202) 564–9151.

SUPPLEMENTARY INFORMATION: On November 16, 1999, UCU filed, with the EAB, a petition for review (CAA Appeal No. 99–2) of a decision by EPA's Office of Air and Radiation, Acid Rain Division, dated October 15, 1999, disapproving UCU's petition for approval of a method for apportionment of (NO_X emissions from a common stack at UCU's facility located at Sibley, Missouri. The appeal raises issues regarding the requirement of 40 CFR 75.17(a)(2)(iii). On December 17, 1999, UCU filed, with the EAB, another petition for review (CAA Appeal No. 99–3) of a second decision issued by EPA's Office of Air and Radiation, Acid Rain Division, dated November 19, 1999, denying UCU's November 10, 1999 request for a stay of 40 CFR 75.17(a)(3)(iii) with respect to Unit 3 at UCU's Sibley, Missouri, facility. Both of these appeals were filed under 40 CFR part 78 of the Acid Rain regulations, and both petitions for review requested evidentiary hearings. On December 29, 1999, the EAB issued an order consolidating the two petitions for review, denying UCU's request for interim relief in CAA Appeal No. 99–2, and denying review of CAA Appeal No. 99–3. Motions for leave to intervene in the remaining administrative proceeding regarding CAA Appeal No. 99–2 under 40 CFR 78.11 must be filed by February 11, 2000 with the EAB.

Pursuant to 40 CFR 78.1(a)(2), for purposes of judicial review, final agency action occurs when a decision appealable under part 78 is issued and the procedure for appealing the decision are exhausted. This notice, being published today in the **Federal Register**, constitutes notice of the final agency action denying UCU's request for interim relief and review of CAA Appeal No. 93–3. If available, judicial review of this decision under section 307(b)(1) of the Clean Air Act (Act) may be brought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which today's notice is published in the **Federal Register**. Under section 307(b)(2) of the Act, this decision shall not be subject to later judicial review in any civil or criminal proceeding for enforcement.

Dated: January 20, 2000.

Brian J. McLean,

Director, Clean Air Markets Division.

[FR Doc. 00–1961 Filed 1–26–00 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6529–9]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting; change of previously announced meeting times.

SUMMARY: The United States Environmental Protection Agency is announcing a change in the starting and ending times for the 2000 Winter Meeting of the Ozone Transport Commission. This meeting is for the Ozone Transport Commission to deal with appropriate matters within the Ozone Transport Region in the Northeast and Mid-Atlantic States, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on January 27, 2000 from 8:30 a.m. to noon. The times are a revision to those announced previously.

ADDRESSES: The meeting will be held at the Hilton Washington & Towers, 1919 Connecticut Avenue NW, Washington, DC; (202) 483–3000.

FOR FURTHER INFORMATION CONTACT: Judith M. Katz, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; (215) 814–2900.

FOR DOCUMENTS AND PRESS INQUIRIES CONTACT: Bruce S. Carhart, Ozone Transport Commission, 444 North Capitol Street N.W., Suite 638, Washington, DC 20001; (202) 508–3840; e-mail: ozone@sso.org; website: http://www.sso.org/otc.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 provisions for the ''Control of Interstate Ozone Air Pollution.'' Section 184(a) establishes an ''Ozone Transport Region'' (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the commission in New York City on May 7, 1991. The purpose of the Ozone Transport Commission is to deal with ground level ozone formation, transport, and control within the OTR.

The purpose of this notice is to announce again that this Commission will meet on January 27, 2000. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of the Ozone Transport Commission are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda are available from Lisa Sims of the OTC office (202) 508–3840 (by e-mail: ozone@sso.org or via our website at http://www.sso.org/otc). The purpose of this meeting is to review air quality needs within the Northeast and Mid-Atlantic States, including reduction of motor vehicle and stationary source air pollution. The OTC is also expected to address issues related to the transport of ozone into its region, including actions by EPA under sections 110 and 126 of the Clean Air Act, to evaluate the potential for additional emission reductions through new motor vehicle emission standards, and to discuss market-based programs to reduce pollutants that cause ozone.

Dated: January 20, 2000.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 00–1960 Filed 1–26–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNCIATIONS COMMISSION

[CS Docket No. 99–230, FCC 99–418]

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document is in compliance with the Communications Act of 1934, as amended, which requires the Commission to report annually to Congress on the status of competition in markets for the delivery of video programming. On December 30, 1999, the Commission adopted its sixth annual report (''*1999 Report*''). The *1999 Report* contains data and information that summarize the status of competition in markets for the delivery of video programming and updates the Commission's prior reports.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman or Nancy Stevenson, Cable Services Bureau, (202) 418–7200, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *1999 Report* in CS Docket No. 99–230, FCC 99–418, adopted December 30, 1999, and released January 14, 2000. The complete text of the *1999 Report* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C., 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service (''ITS, Inc.''), (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036. In addition, the complete text of the *1999 Report* is available on the Internet at http://www.fcc.gov/csb/csrptpg.html.

Synopsis of the 1999 Report

1. The Commission's *1999 Report* to Congress provides information about the cable television industry and other multichannel video programming distributors (''MVPDs''), including direct broadcast satellite (''DBS'') service, home satellite dishes (''HSDs''), wireless cable systems using frequencies in the multichannel multipoint distribution service (''MMDS'') and instructional television fixed service (''ITFS''), private cable or satellite master antenna television (SMATV'') systems, as well as broadcast television service. The Commission also considers several other existing and potential distributors of and distribution technologies for video programming, including the Internet, home video sales and rentals, local exchange telephone carriers (''LECs''), and electric and gas utilities.

2. The Commission further examines the market structure and issues affecting competition, including horizontal concentration, vertical integration, and technical advances. The *1999 Report* addresses competitors serving multiple dwelling unit buildings (MDUs'') and evidence of competitive responses by industry players that face competition from other MVPDs. The *1999 Report* is based on publicly available data, filings in various Commission rulemaking proceedings, and information submitted by commenters in response to a *Notice of Inquiry* (64 FR 36013) in this docket.

3. In the *1999 Report*, the Commission concludes that competitive alternatives and consumer choices continue to develop. Cable television still is the dominant technology for the delivery of video programming to consumers in the MVPD marketplace, although its share continues to decline. As of June 1999, 82% of all MVPD subscribers received their video programming from a local franchised cable operator, compared to 85% a year earlier. There has been an increase in the total number of subscribers to noncable MVPDs, most of which is attributable to the continued growth of DBS. However, there have been declines in the number of subscribers and market shares of MVPDs using other distribution technologies. Significant competition from local telephone companies has not generally developed even though the Telecommunications Act of 1996 (''1996 Act'') removed some barriers to LEC entry into the video marketplace.

4. *Key Findings*:

• *Industry Growth*: A total of 80.9 million households subscribed to multichannel video programming services as of June 1999, up 5.5% over the 76.6 million households subscribing to MVPDs in June 1998. This subscriber growth accompanied a 3.2 percentage point increase in multichannel video programming distributors' penetration of television households to 81.4% as of June 1999. The number of cable subscribers continued to grow, reaching 66.7 million as of June 1999, up almost 2% over the 65.4 million cable subscribers in June 1998. The total number of noncable MVPD households grew from 11.2 million as of June 1998 to 14.2 million homes as of June 1999, an increase of 26%. Noncable's share of total MVPD subscribers continued to grow, constituting 18% of all multichannel video subscribers as of June 1999, up from the 15% reported last year. The greatest growth of noncable MVPD subscribers was to DBS service. Between June 1998 to June 1999, the number of DBS subscribers grew from 7.2 million households to 10.1 million households. DBS subscribers now represent 12.5% of all MVPD subscribers, up from 9.4% a year earlier.

• *Convergence of Cable and Other Services*: The 1996 Act removed barriers to LEC entry into the video marketplace in order to facilitate competition between incumbent cable operators and telephone companies. It was expected that local exchange telephone carriers would begin to compete in video delivery markets, and cable operators would begin to provide local telephone exchange service. Since the *1998 Report*, there has been an increase in the amount of video programming provided to consumers by telephone companies, although the expected technological convergence that would permit use of telephone facilities for video service has not yet occurred. In addition, only a limited number of cable operators have begun to offer telephone service, and such service uses traditional telephone

switching equipment rather than cable facilities. However, cable operators are beginning to develop and test Internet Protocol (''IP'') telephony. Since the *1998 Report*, the most significant convergence of service offerings has been the pairing of Internet service with other service offerings. There is evidence that a wide variety of companies throughout the communications industries are attempting to become providers of multiple services, including video, voice, and data services. When compared with other communications industry segments that currently provide, or plan to provide, such combinations of services, we find that the cable television industry holds a relatively small market share. For example, in 1998, the total revenue for these segments of the communications industry (i.e., cable television, MMDS, DBS, television broadcasting, long distance telephone, and local telephone) was $334 billion. Of this total, cable operators represented 12.3% of the communications industry's revenues.

• *Promotion of Entry and Competition*: Noncable MVPDs continue to report that regulatory and other barriers to entry limit their ability to compete with incumbent cable operators and to thereby provide consumers with additional choices. Noncable MVPDs continue to experience some difficulties in obtaining programming from both vertically integrated cable programmers and unaffiliated programmers who continue to make exclusive agreements with cable operators. In MDUs, potential entry may be discouraged or limited because an incumbent video programming distributor has a long-term and/or exclusive contract. Other issues also remain with respect to how, and under what circumstances, existing inside wiring in MDUs may be made available to alternative video service providers. In addition, consumers have historically reported that the primary disadvantage of DBS service is its lack of local broadcast signals. On November 29, 1999, a revised Satellite Home Viewer Act (''SHVA'') was signed into law, permitting satellite providers to distribute local broadcast signals within their local television markets. The Commission hopes that the revised SHVA will have a significant and positive effect on MVPD competition, and we plan to aggressively implement the new SHVA in order to facilitate consumer choice in the MVPD marketplace.

• *Horizontal Concentration*: Consolidations within the cable industry continue as cable operators acquire and trade systems. The seven largest operators now serve almost 90% of all U.S. cable subscribers. However, in terms of one traditional economic measure, the Herfindahl-Hirschman Index or HHI, national concentration among the top MVPDs has declined since last year. DBS operators DirecTV and EchoStar rank among the ten largest MVPDs in terms of nationwide subscribership along with eight cable multiple system operators (''MSOs''). As a result of acquisitions and trades, cable MSOs have continued to increase the extent to which their systems form regional clusters. Currently, 40.4 million of the nation's cable subscribers are served by systems that are included in regional clusters. By clustering their systems, cable operators may be able to achieve efficiencies that facilitate the provision of cable and other services, such as telephony.

• *Vertical Integration*: The number of satellite-delivered programming networks has increased from 245 in 1998 to 278 in 1999. Vertical integration of national programming services between cable operators and programmers, measured in terms of the total number of services in operation, declined from last year's total of 39% to 36% this year, continuing a five year trend. However, in 1999, one or more of the top six cable MSOs held an ownership interest in each of 101 vertically integrated national programming services. The *1999 Report* also identifies 75 regional networks, of which 30 are regional or local news networks and 26 are sports channels, many owned at least in part by MSOs

• *Technological Advances*: Technological advances that will permit MVPDs to increase both quantity of service (i.e., an increased number of channels using the same amount of bandwidth or spectrum space) and types of offerings (e.g., interactive services) continue. In particular, cable operators and other MVPDs continue to develop and deploy advanced technologies, especially digital compression, in order to deliver additional video options and other services (e.g., data access, telephony) to their customers. To access these wide ranging services, consumers use ''navigation devices.'' The cable industry reports that it is making steady progress towards the development of specifications to separate out security and non-security functions for the interoperability of digital set-top boxes by July 1, 2000, as required by the Commission's rules. Interface requirements and a certification process for the high-speed cable modems needed to access data services have also been developed. When these processes are complete, additional competition in the market for equipment used by subscribers should be possible.

Ordering Clauses

5. This *1999 Report* is issued pursuant to authority contained in Sections 4(i), 4(j), 403, and 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 403, and 548(g).

6. The Office of Legislative and Intergovernmental Affairs shall send copies of the *1999 Report* to the appropriate committees and subcommittees of the United States House of Representatives and United States Senate.

7. The proceeding in CS Docket No. 99–230 is terminated.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1861 Filed 1–26–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 10, 2000.

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

1. David William Flemming, Litchfield, Illinois; to retain voting shares of LBT Bancshares, Inc., Litchfield, Illinois, and thereby indirectly retain voting shares of The First National Bank of Mount Auburn, Mount Auburn, Illinois, and Bank and Trust Company, Litchfield, Illinois.

Board of Governors of the Federal Reserve System, January 21, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1917 Filed 1–26–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 22, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Ohio Legacy Corp., Wooster, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Ohio Legacy Bank, National Association, Wooster, Ohio.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1413:

1. The Leaders Group, Inc., Oak Brook, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Leaders Bank (in organization), Oak Brook, Illinois.

2. Woodland Financial Group L.L.C., Oak Brook, Illinois; to become a bank holding company by acquiring 40 percent of the voting shares of The Leaders Group, Inc., Oak Brook, Illinois, and thereby indirectly acquire The Leaders Bank (in organization), Oak Brook, Illinois.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Scottsdale Bancorp, Woodbury, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Scottsdale Community Bank (in organization), Scottsdale, Arizona.

Board of Governors of the Federal Reserve System, January 21, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1918 Filed 1–26–00; 8:45 am]

BILLING CODE 6210–01–P

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of Meeting on February 10–11, 2000.

Board Meeting Summary: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a meeting on Thursday, February 10, and Friday, February 11, from 9:00 to 4:30 P.M. room 7C13, the Elmer Staats Briefing Room, of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss:

- The process for developing Technical Bulletins.
- National Defense PP&E.
- Major Acquisition Programs.
- Amendments to Direct Loans and Loan Guarantee Accounting.
- Other topics as needed.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 6814, Washington, D.C. 20548, or call (202) 512–0730.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: January 24, 2000.

Wendy M. Comes,

Executive Director.

[FR Doc. 00–1981 Filed 1–26–00; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency information collection activities; proposed collections; comment request

The Department of Health and Human Services; Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

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

Proposed Project 1. HHS Acquisition Regulations—HHSAR Subpart 315 Solicitations and Receipt of Proposals and Quotations—0990–0139—Extension with no change—Subpart 315.4 is needed to ensure consistency in all Departmental solicitations and to ensure that all solicitations describe all of the information which an offeror would need to submit an acceptable proposal. Respondents: State and local government, Businesses or other for-profit organizations, non-profit institutions, small businesses; Total Number of Respondents: 6,645; Frequency of Response: one time; Average Burden per Response: 2 hours; Estimated Annual Burden 13,290 hours.

Send comments to Cynthia Agnes Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, SW.,

Washington, DC 20201. Written comments should be received within 60 days of this notice.

Dated: January 18, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–1884 Filed 1–26–00 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

NAME: National Committee on Vital and Health Statistics (NCVHS).

TIME AND DATE: 1:30–3:30 EST, February 2, 2000.

PLACE: Conference Call, Participants Dial-in Number: 1–888–422–7105, Participants Code: 348362.

STATUS: Open.

PURPOSE: During this conference call, the Committee will discuss the Notice of Proposed Rule Making (NPRM) issued by HHS on Standards for Privacy of Individually Identifiable Health Information and review draft comments on the NPRM developed by the Subcommittee on Privacy.

NOTICE: This conference call is open to the public using the participants' dial-in telephone number and participants' code, but access may be limited by the number of available telephone lines.

CONTACT PERSON FOR MORE INFORMATION: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Gail Horlick, M.S.W., J.D., Lead Staff Person for the NCVHS Subcommittee on Privacy and Confidentiality, Program Analyst, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop E–62, Atlanta, Georgia 30333, telephone (404)–639–8345; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where further information will be posted when available.

Dated: January 19, 2000.

James Scanlon,

Director, Division of Data Policy Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 00–1885 Filed 1–26–00; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0852]

Determination of Regulatory Review Period for Purposes of Patent Extension; Maxalt®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Maxalt® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Maxalt® (rizatriptan benzoate). Maxalt® is indicated for the acute treatment of migraine attacks, with or without aura in adults. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Maxalt® (U.S. Patent No. 5,298,520) from Merck & Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 11, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Maxalt® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Maxalt® is 2,099 days. Of this time, 1,734 days occurred during the testing phase of the regulatory review period, while 365 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* October 1, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 1, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* June 30, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Maxalt® (NDA 20–864) was initially submitted on June 30, 1997.

3. *The date the application was approved:* June 29, 1998. FDA has

verified the applicant's claim that NDA 20–864 was approved on June 29, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 153 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1865 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99E–0118]

Determination of Regulatory Review Period for Purposes of Patent Extension; Arava®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Arava® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Arava® (leflunomide). Arava® is indicated in adults for the treatment of active rheumatoid arthritis to reduce signs and symptoms and to retard structural damage as evidenced by X-ray erosions and joint space narrowing. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Arava® (U.S. Patent No. 4,284,786) from Hoechst Aktiengesellschaft, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 17, 1999, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Arava® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Arava® is 2,032 days. Of this time, 1,908 days occurred during the testing phase of the regulatory review period, while 124 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* February 18, 1993. The applicant claims February 14, 1993, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was February 18, 1993, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* May 10, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for Arava® (NDA 20–905) was initially submitted on May 10, 1998.

3. *The date the application was approved:* September 10, 1998. FDA has verified the applicant's claim that NDA 20–905 was approved on September 10, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,110 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition

must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1867 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0860]

Determination of Regulatory Review Period for Purposes of Patent Extension; Plavix®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Plavix® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Plavix® (clopidogrel bisulfate). Plavix® is indicated for the reduction of atherosclerotic events (myocardial infarction, stroke, and vascular death) in patients with atherosclerosis documented by recent stroke, recent myocardial infarction, or established peripheral arterial disease. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Plavix® (U.S. Patent No. 4,847,265) from Sanofi Pharmaceuticals, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 16, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Plavix® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Plavix® is 2,755 days. Of this time, 2,551 days occurred during the testing phase of the regulatory review period, while 204 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* May 5, 1990. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on May 5, 1990.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* April 28, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Plavix® (NDA 20–839) was initially submitted on April 28, 1997.

3. *The date the application was approved:* November 17, 1997. FDA has verified the applicant's claim that NDA 20–839 was approved on November 17, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,374 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1868 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0782]

Determination of Regulatory Review Period for Purposes of Patent Extension; Refludan®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Refludan® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Refludan® (lepirudin). Refludan® is indicated for anticoagulation in patients with heparin-induced thrombocytopenia and associated thromboembolic disease in order to prevent further thromboembolic complications. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Refludan® (U.S. Patent No. 5,180,668) from Hoechst AG, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 11, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Refludan® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Refludan® is 1,149 days. Of this time, 718 days occurred during the testing phase of the regulatory review period, while 431 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective: January 14, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 14, 1995.

2. The date the application was initially submitted with respect to the human drug product under section 505 of the act: December 31, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Refludan® (NDA 20–807) was initially submitted on December 31, 1996.

3. The date the application was approved: March 6, 1998. FDA has verified the applicant's claim that NDA 20–807 was approved on March 6, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 777 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1870 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99E–1114]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ziagen™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ziagen™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food

and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Ziagen™ (abacavir). Ziagen™ is indicated for the treatment of HIV–1 infection. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Ziagen™ (U.S. Patent No. 5,034,394) from Glaxo Wellcome, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 10, 1999, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Ziagen™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Ziagen™ is 1,632 days. Of this time, 1,455 days occurred during the testing phase of the regulatory review period, while 177 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* July 1, 1994. The applicant claims June 28, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 1, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* June 24, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for Ziagen™ (NDA 20–977) was initially submitted on June 24, 1998.

3. *The date the application was approved:* December 17, 1998. FDA has verified the applicant's claim that NDA 20–977 was approved on December 17, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 906 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 25, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1871 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0853]

Determination of Regulatory Review Period for Purposes of Patent Extension; GlucaGen®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for GlucaGen® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug

products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product GlucaGen® (glucagon (rDNA origin)). GlucaGen® is indicated for the treatment of hypoglycemia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for GlucaGen® (U.S. Patent No. 4,826,763) from Novo Nordisk A/S, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 27, 1999, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of GlucaGen® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for GlucaGen® is 2,569 days. Of this time, 2,296 days occurred during the testing phase of the regulatory review period, while 273 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* June 12, 1991. The applicant claims June 13, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 12, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* September 23, 1997. The applicant claims September 18, 1997, as the date the new drug application (NDA) for GlucaGen® (NDA 20–918) was initially submitted. However, FDA records indicate that NDA 20–918 was submitted on September 23, 1997.

3. *The date the application was approved:* June 22, 1998. FDA has verified the applicant's claim that NDA 20–918 was approved on June 22, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,423 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 21, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1872 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99E–0119]

Determination of Regulatory Review Period for Purposes of Patent Extension; Sentinel Model 2000/2010®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Sentinel Model 2000/2010® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Sentinel Model 2000/2010®. Sentinel Model 2000/2010® is indicated for use in patients with documented ventricular fibrillation and/or ventricular tachycardia, or in

patients who are at high risk of sudden cardiac death. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Sentinel Model 2000/2010® (U.S. Patent No. 5,405,363) from Angieon Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 9, 1999, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Sentinel Model 2000/2010® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Sentinel Model 2000/2010® is 1,030 days. Of this time, 603 days occurred during the testing phase of the regulatory review period, while 427 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun:* October 26, 1995. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on September 28, 1995. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on October 26, 1995, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e):* June 19, 1997. FDA has verified the applicant's claim that the premarket approval application (PMA) for Sentinel Model 2000/2010® (PMA P970024) was initially submitted June 19, 1997.

3. *The date the application was approved:* August 19, 1998. FDA has verified the applicant's claim that PMA P970024 was approved on August 19, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 132 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1873 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–1222]

Determination of Regulatory Review Period for Purposes of Patent Extension; Vitravene™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Vitravene™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Vitravene™ (fomivirsen sodium). Vitravene™ is indicated for the local treatment of cytomegalovirus (CMV) retinitis in patients with acquired immunodeficiency syndrome who are intolerant or have a contraindication to other treatments for CMV retinitis or who were insufficiently responsive to previous treatment(s) for CMV retinitis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Vitravene™ (U.S. Patent No. 4,689,320) from Isis Pharmaceuticals, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 17, 1999, FDA advised the Patent and

Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Vitravene™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Vitravene™ is 1,738 days. Of this time, 1,598 days occurred during the testing phase of the regulatory review period, while 140 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* November 24, 1993. The applicant claims October 25, 1993, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 24, 1993, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* April 9, 1998. The applicant claims April 6, 1998, as the date the new drug application (NDA) for Vitravene™ (NDA 30–961) was initially submitted. However, FDA records indicate that NDA 30–961 was submitted on April 9, 1998.

3. *The date the application was approved:* August 26, 1998. FDA has verified the applicant's claim that NDA 30–961 was approved on August 26, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 954 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1874 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0837]

Determination of Regulatory Review Period for Purposes of Patent Extension; Azopt™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Azopt™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Azopt™ (brinzolamide). Azopt™ is indicated for the treatment of elevated intraocular pressure in patients with ocular hypertension or open-angle glaucoma. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Azopt™ (U.S. Patent No. 5,378,703) from Alcon Laboratories, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 11, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Azopt™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Azopt™ is 2,049 days. Of this time, 1,620 days occurred during the testing phase of the regulatory review period, while 429 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* August 23, 1992. The applicant claims July 24, 1992, as the date the investigational new drug

application (IND) became effective. However, FDA records indicate that the IND effective date was August 23, 1992, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* January 28, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Azopt™ (NDA 20–816) was initially submitted on January 28, 1997.

3. *The date the application was approved:* April 1, 1998. FDA has verified the applicant's claim that NDA 20–816 was approved on April 1, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 579 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 27, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 25, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–1875 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Quality of Life Subcommittee of the Oncologic Drugs 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). The meeting will be open to the public.

Name of Committee: Quality of Life Subcommittee of the Oncologic Drugs 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 February 10, 2000, 8 a.m. to 4 p.m.

Location: Ramada Inn, Embassy Ballroom, 8400 Wisconsin Ave., Bethesda, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The Quality of Life Subcommittee of the Oncologic Drugs Advisory Committee will discuss issues related to the study of quality of life for patients enrolled in cancer trials. Specific potential areas for discussion include definition of patient centered outcomes, clinical significance and interpretation of study results, and approaches to the statistical analysis of data.

Procedure: 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 February 3, 2000. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 8:45 a.m., and between approximately 12:45 p.m. and 1:15 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 3, 2000, 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. After the scientific presentations, a 30-minute open public session may be conducted for interested persons who have submitted their request to speak by February 3, 2000, to address issues specific to the topic before the committee.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 18, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–1866 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–5333]

Plans to Develop Guidance on Submitting an Archival Copy of an ANDA in Electronic Format; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA's) Office of Generic Drugs (OGD), within its Center for Drug Evaluation and Research, is announcing plans to develop guidance on submitting an archival copy of a complete abbreviated new drug application (ANDA) in electronic format. OGD has encouraged the electronic submission of some types of data on a voluntary basis since 1997. However, these submissions are not archivable and are made in addition to a complete paper submission. OGD plans to expand its electronic data submission program to include all parts of the ANDA, so that the archivable electronic submission can replace the paper submission as the ANDA of record. OGD is soliciting comments from the public on its current program so it can consider these comments as it develops guidance for industry on the submission of complete, archivable ANDA's in electronic format. A draft guidance will be developed and made available for public comment. The ANDA electronic submission guidance will be one in a series of guidances the agency is developing to enable sponsors to submit archivable regulatory submissions in electronic format.

DATES: Submit written comments by March 27, 2000. General comments are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the guidance describing OGD's current program entitled ''Preparing Data for Electronic Submission of ANDA's'' are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Additional information can be found on the Internet at http://www.fda.gov/cder/OGD.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Cook, Center for Drug Evaluation and Research (HFA–358), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5683.

SUPPLEMENTARY INFORMATION: As part of the Prescription Drug User Fee Act, as amended by the Food and Drug Administration Modernization Act of 1997, the agency stated its plans to develop and update its information management capabilities to allow electronic submissions by 2002. In the **Federal Register** of January 28, 1999 (63 FR 4433 and 4432), the agency announced the availability of two guidances for industry entitled ''Providing Regulatory Submissions in Electronic Format—General Considerations'' and ''Providing Regulatory Submissions in Electronic Format—NDA's.'' These guidances are the first in a series of guidances for industry on submitting archivable regulatory submissions in electronic format. In the 1999 guidance on general considerations, the agency stated that guidance would be forthcoming on other submission types, including investigational new drug applications, ANDA's, and product licensing applications. As part of that effort, OGD is announcing plans to develop guidance on submitting an archival copy of an ANDA in electronic format. As soon as a draft guidance has been developed, it will be made available for public comment.

OGD has accepted submission of some types of electronic data in ANDA's since 1997. During 1998, OGD received 32 electronic submissions for bioequivalence data and 44 electronic submissions for chemistry, manufacturing, and control data representing 58 distinct ANDA's from 24 different companies. The OGD program has been voluntary with the paper submission serving as the archivable regulatory basis for review decisions. OGD plans to expand its electronic data submission program to include all parts of the ANDA, so that the archivable electronic submission can replace the paper submission as the ANDA of record.

Submission of an ANDA in electronic format is expected to yield many benefits to industry and FDA, including a more consistent submission, a more consistent and rapid review, and, in the future, reduction in archiving and storage space.

Electronic data files described in existing agency guidance and in more detail on the OGD program's Internet site will form the basis for paperless ANDA submissions. ANDA information not contained in the structured data submission (*e.g.,* narratives and graphics) will be submitted in Portable Document Format (PDF), consistent with agency policy recommendations about filing PDF text and other files explained in the 1999 general considerations guidance.

Pending completion of OGD's guidance on submitting archivable ANDA's in electronic format and in the absence of archiving capability, a complete paper ANDA submission is still required.

FDA is seeking input from interested parties on its current program for submitting electronic data to OGD. The agency would like to consider the public's comments as it develops guidance for industry on electronic submission of archivable ANDA's. A guidance for industry entitled ''Preparing Data for Electronic Submission of ANDA's'' describes OGD's current program.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the agency's current program and plans to develop guidance for industry on submitting complete, archivable ANDA's in electronic format. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997), which provides for early public participation in the guidance development process.

Dated: January 11, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–1869 Filed 1–26–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–841–853]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity and Supporting Regulations in 42 CFR, Section 407.18 and 410.1;

Form No.: HCFA–841–853 (OMB# 0938–0679);

Use: A Certificate of Medical Necessity is a standardized format used to communicate information provided by an attending physician and a supplier of medical equipment and supplies. The information is used by carriers to determine the medical necessity of an item or service covered by the Medicare program and being used for the treatment of the Medicare beneficiary's condition. The CMNs being submitted for OMB review are necessary in order for HCFA to

determine the medical necessity of the item or service. The information needed to make this determination requires application of medical judgement that can only be provided by a physician or other clinician who is familiar with the condition of the beneficiary;

Frequency: On occasion;

Affected Public: Business or other for-profit, and Federal Government;

Number of Respondents: 140,000;

Total Annual Responses: 6.8 million;

Total Annual Hours: 1.13 to 1.7 million.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 16, 2000

John Parmigiani,

Manager,

HCFA Office of Information Services Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–1978 Filed 1–26–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–96]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Emergency and Foreign Hospital Services—Beneficiary Statement in Canadian Travel Claims and Supporting Regulations in 42 CFR, Section 424.123;

Form No.: HCFA–R–0096 (OMB# 0938–0484);

Use: Payment may be made for certain Part A inpatient hospital services and Part B outpatient hospital services provided in a nonparticipating U.S. or foreign hospital when services are necessary to prevent the death or serious impairment of the health of the individual. In these situations, the threat to the life or health of the individual necessitates the use of the most accessible hospital available and equipped to furnish such services. Section 3698.4, requires a beneficiary statement indication that after a medical emergency occurred, the beneficiary was traveling between Alaska and another State through Canada by the most direct route without unreasonable delay to acquire medical care;

Frequency: On occasion;

Affected Public: Individuals or Households;

Number of Respondents: 1,100;

Total Annual Responses: 1,100;

Total Annual Hours: 275.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 3, 2000.

John Parmigiani,

Manager, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–1979 Filed 1–26–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF JUSTICE

Notice of lodging of consent decree pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that a proposed consent decree in *In re: Cuyahoga Equipment Corporation, et al.,* Case Nos. 86–12206, *et al.* (PCB) (Jointly Administered) (Bkcy. S.D.N.Y.), was lodged on January 11, 2000, with the United States Bankruptcy Court for the Southern District of New York. The proposed consent decree would settle a claim asserted in this Chapter 11 bankruptcy proceeding by the United States on behalf of the United States Environmental Protection Agency (''EPA'') for reimbursement of post-petition administrative expenses in the nature of environmental response costs incurred with respect to the Publicker Industries, Inc. Superfund Site in Philadelphia, Pennsylvania (the ''Publicker Site''). The United States, on behalf of EPA, alleged in a separate federal court action that Cuyahoga Wrecking Corporation and Overland Corporation, two of the debtors involved in the bankruptcy proceeding, were liable as owners and/or operators of the Publicker Site under Section 107(a)(1) and (2) of the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA''), 42 U.S.C. § 9607(a)(1), (2) for, *inter alia,* reimbursement of the United States' response costs incurred in connection with the Publicker Site. *United States and Commonwealth of Pennsylvania* v. *Publicker Industries, Inc., et al.,* Civ. No. 90–7984 (E.D. Pa.). Through that litigation and other cost recovery efforts, the United States previously recovered and expects to recover $16.85 million of the $21.4 million in costs it incurred at the Site, leaving unreimbursed costs, exclusive of prejudgment interest, of approximately $4.55 million.

Under the terms of the proposed consent decree, the United States will recover from the Chapter 11 bankruptcy trustee for the debtors' estate the sum of $1 million, to be paid to the EPA Hazardous Substances Superfund.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *In re: Cuyahoga Equipment Corporation, et al.,* DOJ Ref. No. 90–11–3–442. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973(d).

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of New York, 100 Church Street, 19th Floor, New York, New York 10007; the Region III Office of the Environmental Protection Agency, located at 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed consent order may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1880 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department policy, 28 C.F.C. § 50.7, 38 Fed. Reg. 19029, and 42 U.S.C. § 9622(d), on October 26 1999 (64 Fed. Reg. 576), notice was given that a proposed consent decree in *United States* v. *General Electric Company*, Civil Action No. 99–30225–MAP, was lodged with the United States District Court for the District of Massachusetts. The proposed consent decree resolves certain claims against General Electric Company (''GE'') under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. §§ 9606 and 9607; Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. § 6973; and Section 309 of the Clean Water Act, 33 U.S.C. § 1319, regarding the disposal, release and/or threat of release of hazardous substances and/or wastes from the GE facility in Pittsfield, Massachusetts and related areas.

Pursuant to requests from interested persons, the Department of Justice extended the period for comments relating to the proposed consent decree to January 25, 2000. 64 Fed. Reg. 68374 (December 7, 1999). The Department of Justice is extending the comment period on final time to and including February 23, 2000. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *General Electric Company*, Civil Action No. 99–30225–MAP, D.J. Ref. 90–11–3–1479, and 90–11–3–1479z.

The proposed consent decree may be examined at either of the following locations: (1) The Springfield Office of the United States Attorney, District of Massachusetts, 1550 Main Street, Suite 310, Springfield, Massachusetts, 01103; or (2) Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203. A copy of the consent decree can be obtained by mail (without attachments) from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the consent decree (without attachments), please enclose a check in the amount of $102.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1878 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Koch Industries, Inc. et al.*, Civil Action No. H 95–1118 (S.D. Tx.), and *United States* v. *Koch Industries, Inc. et al.*, Civil Action No. 97 CV 687 B(E) (N.D.Ok.), was lodged with the United States District Court for the Southern District of Texas on January 13, 2000. The proposed Consent Decree settles the civil claims of the United States on behalf of the United States Environmental Protection Agency and United States Coast Guard, and the State of Texas, against Koch Industries, Inc. and a number of subsidiaries (''Koch''), in both of these actions.

In these actions, the United States alleged that, on numerous occasions, Koch violated Section 311(b) and (c) of the Clean Water Act, 33 U.S.C. § 1321(b) and (d), through the discharge of oil and related petroleum products in numerous spills from Koch oil and refined petroleum product pipelines and related pipeline facilities. The State of Texas intervened as co-plaintiff against Koch in both actions.

The proposed Consent Decree requires Koch Industries Inc. to pay $30,000,000 million in civil penalties, $15 million to the United States and $15 million to the State of Texas. The proposed Consent Decree also requires Koch to perform injunctive relief consisting of enhancements to its leak prevention programs on pipelines that are still operated by Koch. Koch will also expend at least $5 million to perform a number of environmental projects under the proposed Consent Decree in Oklahoma, Texas and Kansas, the States most affected by the subject discharges. These environmental projects include: a pipeline safety study; acquisition and preservation of wildlife habitat; other wetlands and water quality enhancement projects; and an emergency planning and response project.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States* v. *Koch Industries, Inc. et al.*, D.J. Ref. #90–5–1–1–4109.

The Consent Decree may be examined at the following offices: United States Attorney's Office, Southern District of Texas, 910 Travis, Suite 1500, Houston, Texas 770208; United States Attorney's Office, Northern District of Oklahoma, 3900 U.S. Courthouse, 333 W. 4th Street, Tulsa, Oklahoma 74103; United States Environmental Projection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 750202–2733; United States Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101. A copy of the Consent Decree may be obtained by mail from the Consent Decree Library, Department of Justice, P.O. Box 7611, Washington, D.C. 20044. In requesting a complete copy with all Attachments, please enclose a check in the amount of $11.75 (25 cents per page reproduction

cost) payable to the Consent Decree Library. In requesting a copy of the Consent Decree without Attachments, please enclose a check in the amount of $10.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 00–1881 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in the case of *United States* v. *Las Vegas Paving Corp.,* Civil Action No. CVS–00–0049–DWH–LRL (D. Nevada), was lodged with the United States District Court for the District of Nevada on January 10, 2000.

The proposed consent decree resolves claims that the United States asserted against Las Vegas Paving Corp. (LVPC) in a civil complaint filed concurrently with the lodging of the consent decree. The complaint alleges that LVPC installed and operated five internal combustion engines at its Lone Mountain facility in Clark County, Nevada, in violation of permitting requirements of the Nevada State Implementation Plan for Clark County, and that LVPC installed and operated affected facilities at its Apex facility in Clark County, Nevada, and failed to comply with notification and performance test requirements of the New Source Performance Standards of 40 C.F.R. Part 60 Subparts A, I, and OOO.

The proposed consent decree requires defendant to pay a civil penalty of $82,500. In addition, defendant is required to apply timing retardation to one engine and conduct a source test on that engine, apply for permits for two engines, and cease the operation of three engines unless it applies for permits.

The Department of Justice will accept comments relating to this consent decree for a period of thirty (30) days from the date of this publication. Address your comments to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and send a copy to the Environmental Enforcement Section, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105. Your comments should refer to *United States* v. *Las Vegas Paving Corp.,* Civil Action No. CVS–00–0049–DWH–LRL (D. Nevada), and DOJ No. 90–5–2–1–2220.

You may examine the proposed consent decree at the office of the United States Attorney, District of Nevada, 701 East Bridger Avenue, Suite 600, Las Vegas, Nevada 89101. You may also obtain a copy of the consent decree by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. Your request for a copy of the consent decree should refer to *United States* v. *Las Vegas Paving Corp.,* Civil Action No. CVS–00–0049–DWH–LRL (D. Nevada), and DOJ No. 90–5–2–1–2220, and must include a check for $4.25 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1877 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Clean Water Act

Notice is hereby given that proposed consent decrees embodying settlements in *United States and State of California* v. *City of Los Angeles and City of Burbank, et al.,* Civ No. 77–3047–HP were lodged on December 30, 1999, with the United States District Court for the Central District of California.

The Third Amended and Supplemental Complaint filed jointly by the United States and the State of California alleged, among other things, that the cities of Los Angeles and Burbank had violated the pretreatment requirements established under section 307(b) of the Clean Water Act, 33 U.S.C. § 1317(b). Specifically, the complaint alleged that the cities failed to adequately implement their required pretreatment programs, in that they failed to ensure that industrial dischargers to the cities' treatment works complied with the discharge and monitoring requirements of the pretreatment regulations. The State pled parallel claims under the California Water Code. The complaint sought civil penalties and injunctive relief against the cities.

The proposed consent decree resolves the liability of the cities for the violations alleged in the complaint. Under the decree, Los Angeles will pay a civil penalty of $236,000 and perform Supplemental Environmental Projects (water reclamation and low-flow storm discharge diversion) projected to cost at least $15 million. Burbank will pay a civil penalty of $137,000 and perform a Supplemental Environmental Project (advanced secondary treatment upgrades) estimated to cost at least $2.1 million.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States and State of California* v. *City of Los Angeles and City of Burbank, et al.,* DOJ Ref. No. 90–5–1–1–809B.

The proposed consent decree may be examined at the office of the United States Attorney, Central District of California, Federal Building, Room 7516, 300 North Los Angeles Street, Los Angeles, California 90012; and at the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. A copy of the Consent Decree may be also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.75 for the Los Angeles decree and $6.00 for the Burbank decree (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1879 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Resources Conservation and Recovery Act Sections 3008 and 7003 and Safe Drinking Water Act Section 1431

Notice is hereby given that on January 18, 2000, the United States lodged a proposed Consent Decree with the United States District Court for the District of New Mexico in the civil actions consolidated as *Albuquerque* v. *Sparton Technology, Inc.,* No. CV 97 0206. The proposed Consent Decree resolves civil claims in the consolidated actions including the action filed by the United States, *United States* v. *Sparton Technology, Inc.,* No. CV 97 0210 (D.N.M.), related to soil and groundwater contamination emanating from the Sparton Technology, Inc.

(''Sparton'') manufacturing facility on Coors Road in Albuquerque, NM (''the Facility''). In this action, the United States alleged claims pursuant to Resource Conservation and Recovery Act (''RCRA'') Sections 3008 and 7003, 42 U.S.C. §§ 6928 and 6973, and Safe Drinking Water Act (''SDWA'') Section 1431, 42 U.S.C. § 300i. Under the proposed Consent Decree, Sparton will perform comprehensive corrective action to address groundwater and soil affected by contamination emanating from the Facility. Sparton will also pay a total of $1.675 million consisting of a civil penalty of $475,000 to be shared by the United States and the New Mexico Environment Department, a payment of natural resources damages of $1 million to the State of New Mexico, and $200,000 to the City of Albuquerque, the New Mexico Environment Department, and the New Mexico Attorney General's Office for litigation costs. The proposed Consent Decree also dismisses with prejudice *Sparton Technology, Inc.* v. *Environmental Protection Agency,* No. CV 97 0981 (D.N.M.)—one of the consolidated actions—and provides the United States a full release with respect to the agency actions challenged by Sparton in that case.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *Albuquerque* v. *Sparton Technology, Inc.,* No. CV 97 0206 (D.N.M.), DOJ No. 90–7–1–875. The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of New Mexico, 200 3rd Street, NW., Ste 900, Albuquerque, New Mexico 87102 and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. When requesting a copy, please enclose a check for reproduction costs for the Consent Decree (at 25 cents per page) in the amount of $153.75, payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1876 Filed 1–26–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF OF JUSTICE

[AAG/A Order No. 190–2000]

Privacy Act of 1974 as Amended by The Computer Matching and Privacy Protection Act of 1988; Computer Matching Programs

This notice is published in the **Federal Register** in accordance with the requirements of the Privacy Act (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (CMPPA) (Public Law 100–503) (5 U.S.C. 552a(e)(12)). The Immigration and Naturalization Service (INS), Department of Justice (the source agency), is participating in computer matching programs with the District of Columbia and seven State agencies (all designated as recipient agencies). These matching activities will permit the recipient agencies to confirm the immigration status of alien applicants for, or recipients of, Federal benefits assistance under the ''Systematic Alien Verification for Entitlements (SAVE)'' program as required by the Immigration Reform and Control Act (IRCA) of 1986 (Pub. L. 99–603).[1]

Specifically, the matching activities will permit the following eligibility determinations:

(1) The District of Columbia Department of Employment Services, the New York State Department of Labor, the New Jersey Department of Labor, the Texas Workforce Commission and the Massachusetts Department of Employment and Training will be able to determine eligibility for unemployment compensation;

(2) The California Department of Social Services will be able to determine eligibility status for the TANF program and the Food Stamps program;

(3) The California Department of Health Services will be able to determine eligibility status for the Medicaid program;

The Colorado Department of Human Services[2] will be able to determine the eligibility status for the Medicaid, TANF, and Food Stamps programs.

Section 121(c) of the Immigration Reform and Control Act (IRCA) of 1986 amends Section 1137 of the Social Security and other statutes to require agencies which administer the Federal entitlement benefits programs designated within IRCA as amended, to use the INS verifications system to determine eligibility. Accordingly, through the use of user identification codes and passwords, authorized persons from these agencies may electronically access the database of an INS system of records entitled ''Alien Status Verification Index, Justice/INS–009''. From its automated records system, any agency (named above) participating in these matching programs may enter electronically into the INS database the alien registration number of the applicant or recipient. This action will initiate a search of the INS database for a corresponding alien registration number. Where such number is located, the agency will receive electronically from the INS database the following data upon which to determine eligibility; alien registration number, last name, first name, data of birth, country of birth (not nationality), social security number (if available), date of entry, immigration status data, and employment eligibility data. In accordance with 5 U.S.C. 552(p), such agencies will provide the alien applicant with 30 days notice and an opportunity to contest any adverse finding before final action is taken against that alien because of ineligible immigration status as established through the computer match.

The original effective date of the matching programs (with the exception of the matching agreement with Massachusetts Department of Employment and Training) was January 29, 1990, for which notice was published in the **Federal Register** on December 28, 1989 (54 FR 53382). The original effective date of the Massachusetts matching program was February 28, 1990, for which notice was published in the **Federal Register** on January 29, 1990 (55 FR 2890). The programs have continued to date under the authority of a series of new approvals as required by the CMPPA. The CMPPA provides that based upon approval by agency Data Integrity Boards of a new computer matching agreement, computer matching activities may be conducted for 18 months and, contingent upon specific conditions, may be similarly extended by the Board for an additional year without the necessity of a new agreement. The most recent one-year extension for those

[1] Effective July 1, 1997, IRCA was amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), Pub. L. 104–193, 110 Stat. 2168 (1996). The PRWORA amend IRCA by replacing the reference to ''Aid to Families with Dependent Children'' (AFDC), with a reference to its successor program, ''Temporary Assistance for Needy Families'' (TANF). As was the case with AFDC, states and the District of Columbia are required to verify through SAVE that an applicant or recipient is in an eligible alien status for TANF benefits. In addition, Section 840 of the PRWORA makes verification for eligibility under the Food Stamps Program voluntary on the part of the State/District of Columbia agency rather than mandatory.

[2] Identified in previous computer matching notices as the Colorado Department of Social Services.

programs listed in items (1) through (4) above will expire on March 1, 2000, except that the agreement with the Massachusetts Department of Employment and Training will expire on March 12, 2000. The Department's Data Integrity Board has approved new agreements to permit the above-named computer matching programs to continue for another 18 month period from the expiration data or after the notification period (described below) is satisfied, whichever is later.

Matching activities under the new agreements will be effective 30 days after publication of this computer matching notice in the **Federal Register**, or 40 days after a report concerning the computer matching program has been transmitted to the Office of Management and Budget (OMB), and transmitted to Congress along with a copy of the agreements, whichever is later.

The agreements (and matching activities) will continue for a period of 18 months from the effective date, unless, within 3 month prior to the expiration of the agreement, the Data Integrity Board approves a one-year extension pursuant to 5 U.S.C. 552a(o)(2)(D).

In accordance with 5 U.S.C. 552a(o)(2)(A) and (r), the required report is being provided to the OMB, and to the Congress together with a copy of the agreements.

Inquiries may be addressed to Kay Brinkmeyer, Program Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530.

Dated: January 21, 2000.

Janis A. Sposato,

Deputy Assistant Attorney General, Law and Policy.

[FR Doc. 00–1987; 1–26–00; 8:45 am]

BILLING CODE 4410–CJ–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 91–38

ACTION: Notice.

SUMMARY: The Department of Labor (Department), 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 collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of the Prohibited Transaction Class Exemption 91–38. A copy of the Information Collection Request (ICR) may be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the addresses section below on or before March 27, 2000.

ADDRESSES: Gerald B. Lindrew, Office or Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, D.C. 20210. Telephone: (202) 219–4782; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 91–38 provides an exemption from the prohibited transaction provisions of ERISA for certain transactions between a bank collective investment fund and persons who are parties in interest with respect to a plan as long as the plan's participation in the collective investment fund does not exceed a specified percentage of the total assets in the collective investment fund. In order to ensure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that compliance with the exemption's conditions are taking place, the Department has required that records regarding the exempted transaction be maintained six years.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- 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.

III. Current Action

This existing collection of information should be continued because without the exemption, individuals or entities which are parties in interest of a plan that invests in a bank collective investment fund would not be able to engage in transactions with the collective investment fund, thus creating potential financial hardships for those affected. For the Department to grant an exemption, however, it must ensure that the beneficiaries are protected. It, therefore, included certain conditions in the exemption, and required that records be kept for six years from the date of the transaction so that it can be determined whether these conditions have been met. Without such records, the Department and other interested parties, such as participants, would be unable to effectively enforce the terms of the exemption and ensure user compliance.

Type of Review: Extension of a currently approved collections of information.

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

Titles: Prohibited Transaction Class Exemption 91–38.

OMB Number: 1210–0082.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Estimated total burden hours: 90.

Respondents: 1,074.

Frequency of Response: On occasion.

Responses: 1,074.

Estimated Total Burden Hours: 5 minutes.

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

Dated: January 21, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–1973 Filed 1–26–00; 8:45 am]

BILLING CODE 4510–29

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (00–008)]

Notice of Prospective Copyright License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective copyright license.

SUMMARY: NASA hereby gives notice that Micro Timer & Controls, Inc., of Gainesville, Florida, has applied for an exclusive copyright license in the United States, Mexico and Colombia in NASA Software entitled ''RD–40 Fire Inspection Scheduling and Reporting,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Melanie R. Chan, Licensing & Dual Use Manager, John F. Kennedy Space Center.

DATES: Responses to this Notice must be received on or before March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Melanie R. Chan, Licensing and Dual Use Manager, John F. Kennedy Space Center, Mail Code MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6367.

Dated: January 19, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1887 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (00–009)]

Notice of Prospective Copyright License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective copyright license.

SUMMARY: NASA hereby gives notice that Safeguards International, Inc. of Yonkers, NY, has applied for an exclusive copyright license in the United States, Canada, and Mexico in NASA Software entitled ''RD–40 Fire Inspection Scheduling and Reporting,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Melanie R. Chan, Licensing & Dual Use Manager, John F. Kennedy Space Center.

DATES: Responses to this Notice must be received on or before March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Melanie R. Chan, Licensing and Dual Use Manager, John F. Kennedy Space Center, Mail Code: MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6367.

Dated: January 19, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1888 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–013]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that BARCO, Inc. Display Systems, of Duluth, Georgia, has applied for a coexclusive license to practice the invention disclosed in NASA Case No. MFS–31243–1 entitled ''Video Image Stabilization and Registration (VISAR)'' which has been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The license will be limited to the field of use of developing and selling electronic hardware products that execute the VISAR algorithm in real-time, or approach real-time execution of VISAR, or are at least on order of magnitude faster in execution of the VISAR algorithm than any VISAR commercial software products. Written objections to the prospective grant of a license should be sent to Mr. James J. McGroary, Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812.

DATE: Responses to this notice must be received by March 27, 2000.

FOR FURTHER INFORMATON CONTACT: Mr. Sammy Nabors, Technology Transfer Department/CD30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226.

January 20, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1938 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–010]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Phoenix Systems International, Inc. of McDonald, OH, has applied for an exclusive patent license in the United States and Asia to practice the invention disclosed in NASA Case No. KSC–11884 entitled ''Process and Equipment for Nitrogen Oxide Waste Conversion to Fertilizer,'' for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Melanie R. Chan, Licensing & Dual Use Manager, John F. Kennedy Space Center.

DATES: Responses to this Notice must be received on or before March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Melanie R. Chan, Licensing and Dual Use Manager, John F. Kennedy Space Center, Mail Code: MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6367.

Dated: January 19, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1889 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–011]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Strategic Planning Group, Inc. of Castle Rock Colorado, has applied for an exclusive license to practice the inventions disclosed in NASA Case No. MSC–23089–1, ''Improved Circularly Polarized Microstrip Antenna,'' for which a U.S. Patent Application was filed and U.S. Patent No. 5,661,494 entitled, ''High Performance Circularly Polarized Microstrip Antenna,'' NASA Case No. MSC–21982–1, both of which are assigned to the United States of

America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the proposed grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code: HA, Houston, Texas 77058–3696, telephone (281) 483–1003.

Dated: January 20, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1890 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–012]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that VisiCom, of San Diego, California, has applied for a coexclusive license to practice the invention disclosed in NASA Case No. MFS–31243–1 entitled ''Video Image Stabilization and Registration (VISAR)'' which has been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The license will be limited to the field of use of developing and selling electronic hardware products that execute the VISAR algorithm in real-time, or approach real-time execution of VISAR, or are at least on order of magnitude faster in execution of the VISAR algorithm than any VISAR commercial software products. Written objections to the prospective grant of a license should be sent to Mr. James J. McGroary, Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812.

DATE: Responses to this notice must be received by March 27, 2000.

FOR FURTHER INFORMATON CONTACT: Mr. Sammy Nabors, Technology Transfer Department/CD30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226.

January 20, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–1939 Filed 1–26–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 13, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Health and Human Services, National Institutes of Health (N1–443–00–2, 2 items, 2 temporary items). Background and general information relating to the Loan Repayment and Scholarship Program, including electronic copies of documents created using electronic mail and word processing. The records include routine program announcements, procedures, instructions to evaluators, lists of evaluators, and compilations of application ratings. This schedule reduces the retention period for recordkeeping copies of these files, which were previously approved for disposal.

2. Department of Labor, Office of Inspector General (N1–174–99–1, 8 items, 8 temporary items). Records relating to audits. Included are audit case files dealing with internal audits of agency programs, grantees, and contractors. Also included is the Audit Information Reporting System that is used to track cases and produce periodic reports as well as electronic copies of documents created using electronic mail and word processing.

3. Environmental Protection Agency, Office of Air and Radiation (N1–412–99–5, 3 items, 3 temporary items). Software programs, electronic data, and supporting documentation associated with the Ann Arbor In-Use Test Data System (IUTD). IUTD is an electronic information system that organizes and stores a variety of mobile source emission test and associated data, primarily on passenger cars and trucks. Input documents and outputs were previously scheduled.

4. Environmental Protection Agency, Office of Air and Radiation (N1–412–99–6, 3 items, 3 temporary items). Software programs, electronic data, and supporting documentation associated with the Trends Report System. This electronic system compiles data from the Aerometric Information Retrieval System (AIRS) to provide data for the annual National Air Quality and Trends Report. Input documents and outputs were previously scheduled. Electronic data from AIRS was previously approved for permanent retention.

5. Environmental Protection Agency, Agency-wide (N1–412–99–17, 2 items, 2 temporary items). Records relating to research and development programs involving multilateral organizations such as the United Nations Environmental Program and the World Health Organization. Files include correspondence, meeting minutes, conference documentation, and electronic copies of records created using electronic mail and word processing.

6. Environmental Protection Agency, Agency-wide (N1–412–99–18, 2 items, 2 temporary items). Records relating to reviews of contracts and grants and to audits. Records include correspondence, reports, and electronic copies of documents created using electronic mail and word processing.

7. Environmental Protection Agency, Agency-wide (N1–412–99–19, 2 items, 2 temporary items). Records relating to strategies and plans for announcing and disseminating agency issuances. The file for each issuance includes the communication/ distribution plan with comments, background documents, transmittal memoranda and letters, press releases, and **Federal Register** reprints. Also included are electronic copies of records created using electronic mail and word processing.

8. Environmental Protection Agency, Superfund Program (N1–412–99–23, 5 items, 2 temporary items). Paper copies of records relating to activities conducted at remedial sites that have been microfilmed. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are microfilm copies of records and paper copies of records that have not been microfilmed.

9. Environmental Protection Agency, Agency-wide (N1–412–99–24, 9 items, 9 temporary items). Criminal investigation case files and criminal enforcement counsel case files including electronic copies of documents created using electronic mail and word processing. Criminal investigation case files include search warrants, interview reports, lab analyses, indictments, plea agreements, and related records. Criminal enforcement counsel case files contain agency legal advice on specific environmental and related criminal cases managed by the agency or the Department of Justice as well as legal advice regarding the development and application of environmental criminal laws, regulations, and policies in general, including the management and functions of the agency's Office of Criminal Enforcement, Forensics, and Training.

10. United States Agency for International Development, Bureau for Administrative Services (N1–286–00–1, 4 items, 4 temporary items). System data, input documents, and documentation for an electronic system used to provide intranet access to agency notices for agency personnel. Also included are electronic copies of input documents created using electronic mail and word processing.

11. United States Agency for International Development, Bureau for Humanitarian Response (N1–286–00–2, 1 item, 1 temporary item). An electronic system used to provide intranet and internet access to current information on registered Private Voluntary Organizations eligible to compete for economic assistance administered by the agency.

12. National Aeronautics and Space Administration, Agency-wide (N1–255–00–1, 18 items, 13 temporary items). Real property records including construction files, work authorization packages, inventory reports, duplicate copies of installation master plans, and electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are such records as construction files relating to unique facilities, maps and drawings, and installation master plans.

13. National Credit Union Administration, Office of the Inspector General (N1–413–00–1, 7 items, 5 temporary items). Investigations of fraud, abuse, and violations of laws or regulations, external and internal agency audits, and records relating to allegations and complaints. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of case files of significant value and final audit reports are proposed for permanent retention.

14. Federal Energy Regulatory Commission, Agency-wide (N1–138–00–1, 2 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing relating to formal investigations into violations of the Natural Gas Act. Included are electronic copies of such records as orders instituting investigations, responses to orders, motions to dismiss or terminate investigations, applications for rehearing, and petitions to quash subpoenas. Paper copies of these documents were previously approved for disposal.

15. Federal Energy Regulatory Commission, Agency-wide (N1–138–00–2, 2 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing relating to formal investigations. Included are electronic copies of such records as orders instituting investigations, responses to orders, motions to dismiss or terminate investigations, applications for rehearing, petitions to quash subpoenas, and reports on fuel and energy purchase

practices. Paper copies of these documents were previously approved for disposal.

16. Federal Energy Regulatory Commission, Office of Electric Power Regulation (N1–138–00–3, 3 items, 3 temporary items). Electronically filed copies of monthly reports submitted by electric utilities containing information on origin, cost, and quality of fuel received at generating plants. Paper copies of these documents were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

17. Federal Energy Regulatory Commission, Office of Electric Power Regulation (N1–138–00–4, 3 items, 3 temporary items). Electronically filed copies of annual power system reports submitted by electric utilities containing information on generating capacity, transmission facilities, loads, and related information. Paper copies of these documents were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

18. Federal Energy Regulatory Commission, Office of the Secretary (N1–138–99–8, 5 items, 5 temporary items). Records containing names of participants to Commission proceedings who must be provided with copies of documents filed in dockets. Included are an electronic database, outputs, systems documentation, and electronic copies of documents created using electronic mail and word processing.

19. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards (N1–431–00–13, 114 items, 80 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Office of Nuclear Material Safety and Safeguards, including electronic copies of records created using office automation tools and records that are used to create ADAMS portable document format files. The electronic recordkeeping copies of documents related to funding methods for financial assurance for decommissioning and files documenting the management and implementation of NRC's internal radiation protection program are proposed for disposal as are paper copies of these records that pre-date ADAMS. Also proposed for disposal are electronic record-keeping copies of case files (excluding decommissioning) and independent spent fuel storage installation docket files that are not selected for permanent retention, program correspondence accumulated below the Office director level, routine program correspondence files accumulated at all organizational levels, licensee mismanagement files, personnel exposure files, process operator license files, and case files covering licensees where licensing jurisdiction is transferred to a State. Paper copies of these records were previously approved for disposal. Records proposed for permanent retention include recordkeeping copies of such files as docket files for the disposal of high-level radioactive wastes in geologic repositories, docket files for the land disposal of radioactive wastes, uranium recovery docket files, and selected independent spent fuel storage installation docket files. This schedule also proposes minor changes in the disposition instructions for paper copies of such files as allegation case files, committee and conference records, special nuclear material docket files, international safeguards program office files, Part 71 safety evaluation reports and quality assurance files, personal dosimetry processing reports, regulatory history files for proposed and final rulemaking, and sealed source and device review files. These records were previously scheduled.

20. Nuclear Regulatory Commission, Office of Congressional Affairs and International Programs (N1–431–00–14, 8 items, 8 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Office of Congressional Affairs and International Programs, including electronic copies of records created using office automation tools and records that are used to create ADAMS portable document format files. The electronic recordkeeping copies of congressional hearing testimony and transcript files and representation fund files are proposed for disposal as are paper files that pre-date ADAMS.

Dated: January 14, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–1886 Filed 1–26–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement to Create Greater Public Awareness of Universal Design

AGENCY: National Endowment for the Arts.

ACTION: Notification of Availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to one (1) award of a Cooperative Agreement for a project with the goal of creating greater public awareness of and demand for universal designed environments. The successful proposal should include educational efforts targeted to designers, consumers, and decision makers, and involve collaboration with the targeted audiences, as well as the use of innovative strategies to bring the benefits of universal design into the mainstream. Endowment funding is limited to $75,000. A one-to-one match is required. Those interested in receiving the solicitation package should reference Program Solicitation PS 00–02 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored. It is anticipated that the Program Solicitation will also be posted on the Endowment's Web site at http://www.arts.endow.gov.

DATES: Program Solicitation PS 00–02 is scheduled for release approximately February 14, 2000 with proposals due on March 27, 2000.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Grants, Contracts Office, Room 618, 1100 Pennsylvania Ave., NW, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW, Washington, D.C. 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 00–1980 Filed 1–26–00; 8:45 am]

BILLING CODE 7536–01–M

U.S. NUCLEAR REGULATORY COMMISSION

[Public Service Electric & Gas Company Atlantic City Electric Company Docket No. 50–354]

Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Public Service Electric and Gas Company (the licensee) to withdraw its May 17, 1999, application as supplemented November 16, 1999, for proposed amendment to Facility Operating License No. NPF–57

for the Hope Creek Generating Station, located in Salem County, New Jersey.

The proposed amendment would have modified the facility technical specifications associated with the enabling of the Oscillation Power Range Monitor (OPRM) reactor protection system (RPS) trip function. The OPRM is designed to detect the onset of reactor core power oscillations resulting from thermal-hydraulic instability and suppresses them by initiating a reactor scram via the RPS trip logic. The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 16, 1999 (64 FR 32289). However, by letter dated January 7, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 17, 1999, as supplemented November 16, 1999, and the licensee's letter dated January 7, 2000, 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 accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 19th day of January 2000.

For The Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–1940 Filed 1–26–00; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Meeting of the Subcommittee on Plant License Renewal Revised

The ACRS Subcommittee meeting on Plant License Renewal scheduled for February 24, 2000, 8:00 a.m. until 1:00 p.m. at the Madren Conference Center at Clemson University, Room III & IV, 100 Madren Center Drive, Clemson, South Carolina, has been extended to include a closed session scheduled for February 23, 2000, 2:00 p.m., in Room 1075 of the Oconee Complex, Seneca, South Carolina. This session will be closed pursuant to 5 U.S.C. 552b(c)(4) to review proprietary information pertinent to the Oconee license renewal application. Notice of this meeting was published in the **Federal Register** on Thursday, January 13, 2000 (64 FR 2204). All other items pertaining to this meeting remain the same as previously published.

FOR FURTHER INFORMATION CONTACT: Mr. Noel F. Dudley, cognizant ACRS staff engineer, (telephone: 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: January 21, 2000.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–1941 Filed 1–26–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Draft Report to Congress on the Costs and Benefits of Federal Regulations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of extension of public comment period.

SUMMARY: On January 7, 2000, OMB published a notice of availability of the Draft Report to Congress on the Costs and Benefits of Federal Regulations. The comment period was scheduled to end on January 21, 2000. This notice extends the public comment period on the draft report to February 22, 2000.

DATES: *Comment Due Date:* February 22, 2000.

ADDRESSES: Comments on this draft report should be addressed to John Morrall, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW, Washington, DC 20503.

You may submit comments by regular mail, by facsimile to (202) 395–6974, or by electronic mail to *jmorrall@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: You can review the Report on the Internet at: ''*http://www.whitehouse.gov/omb/inforeg/index.html*''. You may also request a copy from John Morrall, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW, Washington, DC 20503. Telephone: (202) 395–7316. E-mail: jmorrall@omb.eop.gov.

SUPPLEMENTARY INFORMATION: On January 7, 2000, OMB published in the **Federal Register** (65 FR 1296) a notice of availability of the Draft Report to Congress on the Costs and Benefits of Federal Regulations. The comment period on the draft report was scheduled to end January 21, 2000. Members of the public and Congress have asked for additional time to allow the public a better opportunity to participate in the comment process. Accordingly, OMB has decided to extend the public comment period on the draft report to February 22, 2000.

John T. Spotila,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 00–1860 Filed 1–26–00 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24258; International Series Release No. 1212; 812–11306]

The Toronto-Dominion Bank, et al.; Notice of Application

January 20, 2000.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain finance subsidiaries of The Toronto-Dominion Bank (''TD'') to sell certain debt securities and use the proceeds to finance the business activities of their parent company, TD, and certain of its subsidiaries. The requested order would supersede an existing order.

APPLICANTS: TD, Toronto-Dominion Holdings (U.S.C.), Inc. (''TD Holdings''), and TD Capital Funding L.P. (''TD Capital'').

FILING DATES: The application was filed on September 16, 1998 and amended on November 18, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 14, 2000, and

should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Attention: Marc L. Baum, 31 West 52nd Street, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief, at (202) 942–0564, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

APPLICANTS' REPRESENTATIONS:

1. TD is a chartered bank governed by the Bank Act of Canada and offers a range of financial services to individuals, corporate and commercial enterprises, financial institutions and governments in Canada. In the United States, TD offers a range of services to corporations, financial institutions and governments, as well as discount brokerage services through a wholly-owned subsidiary. TD also conducts operations outside North America.

2. TD Holdings, a Delaware corporation, is wholly owned by TD and acts as a holding company for most of TD's United States subsidiaries. TD Holdings is also a finance subsidiary and engages in funding activities for TD and certain of its subsidiaries in reliance on a previously-granted Commission order (''Prior Order'').[1] The requested order would supersede the Prior Order.

3. TD Capital is a Delaware limited partnership. TD Capital's general partner is TD Capital Group Limited (''TDCG''), a corporation organized under the laws of Canada, which holds a one percent general partnership interest in TD Capital. TD is the sole limited partner of TD Capital and holds a 99% limited partnership interest in TD Capital.[2] TD also owns 100% of the outstanding common stock of TDCG. TDCG has no outstanding securities other than the common stock owned by TD. TDCG relies on the exclusion from the definition of investment company in sections 3(c)(1) and 3(c)(7) of the Act.

4. Applicants also request relief for finance subsidiaries that may be created by TD in the future (''Other Finance Subsidiaries,'' and together with TD Holdings and TD Capital, the ''Finance Subsidiaries''). The Finance Subsidiaries are or will be organized to issue debt securities and lend the proceeds to or invest the proceeds in TD and other companies that, after giving effect to the requested order, will be companies controlled by TD within the meaning of paragraph (b) of rule 3a–5 under the Act as discussed below (each a ''Controlled Company,'' and collectively, ''Controlled

6. Pursuant to the requested order, TD Capital would be able to invest the net proceeds of its offerings in its wholly-owned subsidiary, TD (Nova Scotia) Company, a Nova Scotia corporation (''TD Nova Scotia''). TD Nova Scotia is a special purpose vehicle relying on section 3(e)(7) of the Act and engages in no activities other than making equity investments in Controlled Companies. Applicants state that this conduit structure exists to clarify Canadian tax treatment of distributions to TD Capital. TD Nova Scotia would meet the definition of a ''finance subsidiary'' under rule 3a-5 but for the fact that (i) its securities are wholly-owned by TD Capital, which does not meet the definition of a ''parent company'' or a ''company controlled by its parent company,'' because it would be exempted from the Act by the requested order and (ii) TD Nova Scotia makes loans to and investments in entities that do not meet the definition of ''company controlled by the parent company'' solely because they rely on section 3(c) of the Act. If the requested order is granted, TD Nova Scotia will use all of the moneys it receives from TD Capital to make investments or loans within six months after TD Capital receives the proceeds from its financing activities.

Applicants' Legal Analysis

1. Applicants request an order under section 6(e) of the Act for an exemption from all provisions of the Act, Rule 3a–5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a–5(b)(3)(i) in relevant part defines a ''company controlled by the parent company'' to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a). TD Capital and Other Finance Subsidiaries may not meet the definitions of a finance subsidiary under the rule.

3. TDCG does not meet the definition of a company controlled by the parent company under rule 3a–5(b)(3)(i) because it is excluded from the definition of investment company by either section 3(c)(1) or 3(c)(7) of the Act. Since TDCG holds a one percent general partnership interest in TD Capital, applicants state that not all of the outstanding securities of TD Capital are owned by its parent company or a company controlled by the parent company as required by rule 3a–5(b)(3)(i). Applicants state that this ownership structure does not raise the concerns that the requirement in rule 3a–5(b)(3)(i) was designed to address.

4. To the extent a Finance Subsidiary invests in or makes loans to a direct or indirect subsidiary of TD that relies on the exclusion from the definition of investment company under section 3(c) of the Act, that Finance Subsidiary would not meet the definition of a finance subsidiary under the rule because it is financing an entity that does not meet the definition of a company controlled by the parent company in rule 3a–5(b)(3)(i) because it is excluded from the definition of investment company by section 3(c) of the Act. Applicants state that neither TD, the Controlled Companies nor the Finance Subsidiaries engage primarily in investment company activities.

5. Pursuant to the requested order, a Finance Subsidiary may also invest in equity securities of unaffiliated companies in an amount that does not exceed four percent of the Finance Subsidiary's assets. Applicants state that ownership of such shares by a Finance Subsidiary prevents the imposition of withholding taxes on the dividends received on such shares, as the ability of a U.S. subsidiary of a non-U.S. entity to hold equity securities free of U.S. withholding taxes is well-established as a matter of tax law. Applicants further state that these holdings will be immaterial to the Finance Subsidiary.

6. Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from

[1] Investment Company Act Release Nos. 22934 (Dec. 10, 1999) (Notice) and 22993 (Jan. 6, 1998) (Order).

[2] Applicants state that TD Capital was structured as a limited partnership because this structure would result in a lower after-tax cost of funds.

any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested relief meets the standards set out in section 6(c) of the Act.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

Applicants will comply with all of the provisions of rule 3a–5 under the Act, except:

(1) a one percent general partnership interest in a Finance Subsidiary may be owned by a wholly-owned subsidiary of TD that does not meet the definition of ''company controlled by the parent company'' in rule 3a–5(b)(3)(i) solely because it is excluded from the definition of investment company by section 3(c) of the Act;

(2) a Finance Subsidiary may invest in or make loans to corporations, partnerships, and joint ventures that do not meet the portion of the definition of ''company controlled by the parent company'' in rule 3a–5(b)(3)(i) solely because they are excluded from the definition of investment company by section 3(c)(1), (2), (3), (4), (5), (6) or (7) of the Act, provided that any such entity that relies on the exclusion from the definition of investment company;

(a) under section 3(c)(1) or section 3(c)(7) will be either:

(i) engaged solely in lending, leasing or related activities (such as entering into credit derivatives to manage the credit risk exposures of its lending and leasing activities) and will not be structured as a means of avoiding regulation under the Act, or

(ii) a special purpose vehicle directly or indirectly wholly owned by TD that complies with the requirements of rule 3a–5 for finance subsidiaries to the same extent as permitted by the order for TD Capital;

(b) under section 3(c)(5) of the Act will fall within section 3(c)(5)(A) or 3(c)(5)(B) solely by reason of its holding of accounts receivable of either its own customers or of the customers of other TD subsidiaries, or by reason of loans made by it to such subsidiaries or customers; and

(c) under section 3(c)(6) of the Act will not be engaged primarily, directly or indirectly, in one or more of the businesses described in section 3(c)(5) of the Act (except as permitted in (b) above); and

(3) a Finance Subsidiary may be invest in, reinvest in, own, hold or trade in equity securities of unaffiliated companies with an aggregate purchase price not in excess of four percent of the Finance Subsidiary's assets.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1909 Filed 1–26–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24259; 812–11856

First American Investment Funds, Inc. and U.S. Bank National Association; Notice of Application

January 21, 2000.

AGENCY: Securities and Exchange Commission (''Commission'')

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of a registered open-end management investment company to acquire all of the assets, subject to the liabilities, of certain other series of the investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: First American Investment Funds, Inc. (''FAIF'') and U.S. Bank National Association (''U.S. Bank'').

FILING DATES: The application was filed on November 17, 1999 and amended on January 20, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 15, 2000 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicants: c/o Thomas A. Berreman, Esq., U.S. Bank National Association, U.S. Bank Place, MPFP 2016, 601 Second Avenue South, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

APPLICANTS' REPRESENTATIONS:

1. FAIF, a Maryland corporation, is registered under the Act as an open-end management investment company and is currently comprised of 30 series, including Intermediate Government Bond Fund, Adjustable Rate Mortgage Securities Fund, Regional Equity Fund, and Micro Cap Value Fund (the ''Acquired Funds''), and Intermediate Term Income Fund, Limited Term Income Fund, and Small Cap Value Fund (the ''Acquiring Funds'' and together with the Acquired Funds, the ''Funds'').[1]

2. U.S. Bank is the investment adviser for the Funds. U.S. Bank is a national banking association and currently is exempt from registration as an investment adviser under the Investment Advisers Act of 1940. U.S. Bank is a wholly-owned subsidiary of U.S. Bancorp, a bank holding company. U.S. Bank Trust National Association (''U.S. Bank Trust'' and together with U.S. Bank and their affiliates, ''U.S. Bancorp Affiliates'') is also a wholly-owned subsidiary of U.S. Bancorp. U.S. Bancorp Affiliates, directly or through a nominee, are record holders of more than 5% of the outstanding shares of each Acquiring Fund and certain Acquired Funds, and they hold or share voting discretion with respect to a portion of these Fund shares, or have a funding obligation to defined benefit plans which own 5% or more of the outstanding shares. The Fund shares held of record by U.S. Bancorp Affiliates are held for the benefit of others in a

[1] Acquired Funds and their corresponding Acquiring Funds are: Intermediate Government Bond Fund and Intermediate Term Income Fund; Adjustable Rate Mortgage Securities Fund and Limited Term Income Fund; Regional Equity Fund and Small Cap Value Fund; and Micro Cap Value Fund and Small Cap Value Fund.

trust, agency, custodial or other fiduciary capacity.

3. On September 8, 1999, the board of directors of FAIF (the ''Board''), including all of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Disinterested Directors''), unanimously approved the proposed reorganizations of the respective Acquired Funds with and into the corresponding Acquiring Funds (the ''Reorganization Agreements'' and the transactions, the ''Reorganizations''). The Reorganizations are expected to occur on or about February 25, 2000. The Reorganization Agreements provide for: (a) the transfer of all of the assets and liabilities of each of the Acquired Funds to the corresponding Acquiring Fund in exchange for shares of designated classes of the corresponding Acquiring Fund; and (b) the distribution of these Acquiring Fund shares to the shareholders of each of the Acquired Funds in liquidation of the Acquired Funds. In each Reorganization, Acquired Fund shareholders will receive Acquiring Fund shares of the class which corresponds to that of their class of Acquired Fund shares, and which have an aggregate net asset value equal, at the effective time of the Reorganization (the ''Effective Time''), to the aggregate net asset value of their Acquired Fund shares. The value of the assets of the Funds will be determined in the manner set forth in the Funds' then current prospectuses and statements of additional information.

4. Applicants state that the investment objectives of each Acquired Fund and its corresponding Acquiring Fund are similar. Class A shares of the Acquiring Funds are subject to a front-end sales charge of 2.5% for Limited Term Income Fund and Intermediate Term Income Fund, and 5.25% for the Small Cap Value Fund for purchases of $50,000 or less. Class A shares redeemed within 18 months also may be subject to a contingent deferred sales charge (''CDSC'') of 1.00%. Class A shares are subject to a .25% service fee adopted under a rule 12b–1 distribution plan. Class B shares of the Small Cap Value Fund are sold without a front-end sales charge. Class B shares are subject to a rule 12b–1 fee of 1.00%. If Class B shares are redeemed within six years after purchase, they are subject to a CDSC declining from 5.00% in the first year to zero after six years. Class B shares automatically convert into Class A shares approximately eight years after purchase. Class Y shares of the Funds are sold without any front-end sales charge or CDSC. For purposes of calculating CDSCs on Class A and Class B shares, shareholders of Class A and Class B shares of the Acquired Funds will be deemed to have held Class A and Class B shares of the Acquiring Funds since the date the shareholders initially purchased the shares of the Acquired Funds. Shareholders of the Acquired Funds will not incur any sales charges in connection with the Reorganization. U.S. Bank will pay the expenses of the Reorganizations.

5. The Board, on behalf of each Acquired Fund, found that the Reorganization is in the best interests of each Acquired Fund, and that the interests of existing shareholders of each Acquired Fund will not be diluted as a result of the Reorganization. The Board considered, among other things: (a) the advantages which may be realized by the Funds, economies of scale resulting from Fund growth, and facilitation of portfolio management; (b) the tax-free nature of the Reorganizations; (c) the terms and conditions of the Reorganization Agreements; and (d) the agreement of U.S. Bank to bear the costs associated with the Reorganizations.

6. Each Reorganization is subject to a number of conditions, including: (a) Approval of the Reorganization Agreement by the shareholders of the Acquired Fund; (b) the receipt of an opinion of counsel with respect to the tax-free nature of the Reorganization; (c) the applicants will have received exemptive relief from the Commission; and (d) the parties' performance in all material respects of their respective agreements and undertaking in the Reorganization Agreement. Each Reorganization Agreement provides that the Reorganization may be abandoned at any time prior to the Effective Time upon the mutual consent of the respective Acquired Fund and Acquiring Fund, or if determined by the Board that proceeding with the Reorganization is inadvisable. Applicants agree not to make any material changes to the Reorganization Agreements without prior approval of the Commission.

7. Registration statements on Form N–14, each containing a combined prospectus/proxy statement, were filed with the Commission on October 20, 1999 and were mailed to shareholders of the respective Acquired Funds on December 1, 1999 in connection with the solicitation of their proxies for the shareholders meeting scheduled for January 14, 2000.

APPLICANTS' LEGAL ANALYSIS:

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person: (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Funds may be deemed affiliated persons and thus the Reorganizations may be prohibited by section 17(a).

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that they may not rely on rule 17a–8 because the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. U.S. Bancorp Affiliates hold of record 5% or more of the outstanding shares of certain Acquiring and Acquired Funds, and hold or share voting power and/or investment discretion with respect to a portion of these Fund shares, or have a funding obligation to defined benefit plans which own 5% or more of the outstanding shares of certain Funds.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit applicants to consummate the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state

that the Board has found that participation in the Reorganizations is in the best interests of each Fund, and that the interests of the existing shareholders will not be diluted as a result of the Reorganizations. In addition, applicants state that the exchange of Acquired Funds' shares for Acquiring Funds' shares will be based on net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1910 Filed 1–26–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42347; File No. SR–BSE–99–15]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Relating to Listing Standards for Trust Issued Receipts

January 13, 2000.

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 November 22, 1999, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to 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 Exchange seeks to adopt listing standards for trust issued receipts. Once these listing standards have been approved, the Exchange intends to trade Internet Holding Company Depository Receipts (''Internet HOLDRs''), a trust issued receipt, pursuant to unlisted trading privilege (''UTP''). The text of the proposed rule change is available at the Office of the Secretary, BSE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to add a new rule to Chapter XXIV–A *et seq.*, of the Exchange's rules to adopt new listing standards to allow the Exchange to list trust issued receipts, and to trade Internet HOLDRs, a type of trust issued receipt, pursuant to UTP.

a. Trust Issued Receipts Generally

Description. Trust issued receipts are negotiable receipts which are issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts are designed to allow investors to hold securities investments from a variety of companies throughout a particular industry in a single, exchange-listed and traded instrument that represents their beneficial ownership in the deposited securities. Holders of trust issued receipts maintain beneficial ownership of each of the deposited securities evidenced by trust issued receipts. Holders may cancel their trust issued receipts at any time to receive the deposited securities.

Beneficial owners of the receipts will have the same rights, privileges and obligations as they would have if they beneficially owned the deposited securities outside of the trust issued receipt program. Holders of the receipts have the right to instruct the trustee to vote the deposited securities evidenced by the receipts; will receive reports, proxies and other information distributed by the issuers of the deposited securities to their security holders; and will receive dividends and other distributions declared and paid by the issuers of the deposited securities to the trustee.

Creation of a Trust. Trust issued receipts will be issued by a trust created pursuant to a depository trust agreement. After the initial offering, the trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities with the trust. An investor in trust issued receipts will be permitted to withdraw his or her deposited securities upon delivery to the trustee of one or more round-lots of 100 trust issued receipts and to deposit such securities to receive trust issued receipts.

b. Criteria for Initial and Continued Listing

The Exchange believes that the listing criteria proposed in its new rule are generally consistent with the listing standards for ''Hybrid Securities,'' currently found in Article XXVII of the Exchange Rules, as well as the trust issued receipt listing criteria currently used by the American Stock Exchange (''Amex'').[3]

Initial Listing. If trust issued receipts are to be listed on Exchange, the Exchange will establish a minimum number of receipts that must be outstanding at the time trading commences on the Exchange, and such minimum number will be included in any required submission to the Commission.

Continued Listing. In connection with continued listing, the Exchange will consider the suspension of trading in, or removal from listing of, a trust upon which a series of trust issued receipts is based when any of the following circumstances arise: (1) If the trust has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the trust issued receipts for 30 or more consecutive trading days; (2) if the trust has fewer than 50,000 receipts issued and outstanding; (3) if the market value of all receipts issued and outstanding is less than $1 million; or (4) if such other event occurs or conditions exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. These flexible criteria allow the Exchange to avoid delisting trust issued receipts (leading to a possible termination of the trust) because of relatively brief fluctuations in market conditions that may cause the number of holders to vary.

The Exchange will not, however, be required to suspend or delist from trading, based on the above factors, any trust issued receipts for a period of one

[3] The Amex listing criteria were approved by the Commission on September 21, 1999. *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999)

year after the initial listing of such trust issued receipts for trading on the Exchange. In addition, if the number of companies represented by the deposited securities drops to less than nine, and each time thereafter the number of companies is reduced, the Exchange will consult with the Commission to confirm the appropriateness of continued listing of the trust issued receipts.

c. Exchange Rules Applicable to the Trading of Trust Issued Receipts

Trust issued receipts are considered ''securities'' under the Rules of the Exchange and are subject to all applicable trading rules, including the provisions of Chapter XXXI, Section 4, Trade-Throughs and Locked Markets, which prohibit Exchange members from initiating trade-throughs for ITS securities, as well as rules governing priority, parity and precedence of orders, market volatility-related trading halt provisions and responsibilities of the assigned specialist firm [4] Exchange equity margin rules will apply.

Trust issued receipts are currently traded on the Amex at a minimum variation of 1/16th of $1.00 for trust issued receipts selling at or above $.25, and 1/32nd of $1.00 for those selling below $.25. Thus, the Exchange is proposing the same minimum fractional increments for the trading of trust issued receipts on the Exchange, until such time as decimal increments are approved. It is anticipated that some time after July, 2000, the industry minimum-price variations will be converted from fractions to decimals.

The Exchange's surveillance procedure for trust issued receipts will be similar to the procedures used for portfolio depository receipts and will incorporate and rely upon existing BSE surveillance systems.

Prior to the commencement of trading in trust issued receipts, the Exchange will issue a circular to members highlighting the characteristics of trust issued receipts including that trust issued receipts are not individually redeemable. In addition, the circular will inform members of Exchange policies about trading halts in such securities. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in BSE Chapter II, Section 34 B have been reached. Second, the circular will advise that, in addition to other factors that may be relevant, the Exchange may consider factors such as the extent to which trading is not occurring in an underlying security(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

d. Disclosure to Customers

The Exchange will require its members to provide all purchasers of newly issued trust issued receipts with a prospectus for that series of trust issued receipts.

e. Trading of Internet HOLDRs

As mentioned above, upon approval of the BSE's listing standards for trust issued receipts, the Exchange intends to begin trading a particular series of trust issued receipts, Internet HOLDRs pursuant to UTP privileges. The following section of this submission contains information about Internet HOLDRs. This information is based on upon descriptions included in the Internet HOLDRs prospectus, the Amex submissions relating to its trust issued receipt listing proposal, and the Commission's order approving the Amex proposal.[5]

Creation of Internet HOLDRs. The Internet HOLDRs are being issued by the Internet HOLDRs trust, which was created pursuant to a depository trust agreement dated September 2, 1999, among The Bank of New York, as trustee, Merrill Lynch Pierce Fenner & Smith Incorporated, other depositors and the owners of the Internet HOLDRs. As of September 22, 1999, the date of the prospectus, 3,766,700 Internet HOLDRs were sold by the Trust.

As of September 22, 1999, the deposited securities underlying Internet HOLDRs were: American Online (AOL), Yahoo Inc. (YAHOO), Amazon.com Inc. (AMZN), EBay Inc. (EBAY), At Home Corp. (ATHM), Priceline.Com.Inc (PCLN), CMGI Inc. (CMGI), Inktomi Corporation (INKT), RealNetworks, Inc. (RNWK), Exodus Corporation, Inc. (EXDS), E*TRADE Group Inc. (EGRP), DoubleClick Inc. (DCLK), Ameritrade Holding Corp. (AMTD), Lycos Inc. (LCOS), CNET, Inc. (CNET), PSINet Inc. (PSIX), Network Associates, Inc. (NETA), Earthlink Network, Inc. (ELNK), MindSpring Enterprises, Inc. (MSPG), and Go2Net, Inc. (GNET).

The twenty companies represented by the securities in the portfolio underlying the Internet HOLDRs trust were required to meet the following minimum criteria when they were selected on August 31, 1999: (1) The companies' common stock must have been registered under Section 12 of the Exchange Act; (2) the minimum public float of each company included in the portfolio must have been at least $150 million; (3) each security was either listed on a national securities exchange or traded through the facilities of Nasdaq and be a reported national market system security; (4) the average daily trading volume for each security was at least 100,000 shares during the preceding sixty-day trading period; and (5) the average daily dollar value of the shares traded during the preceding sixty-day trading period was at least $1 million. The initial weighting of each security in the portfolio was based on its market capitalization; however, if on the date such weighting was determined, a security represented more than 20% of the overall value of the receipt, then the amount of such security was to be reduced to no more than 20% of the receipt value. The Exchange anticipates that 150,000 trust issued receipts will be issued in connection with the initial distribution of the Internet HOLDRs.

In addition, each of the companies whose common stock is included in the Internet HOLDRs also met the following criteria: (1) The market capitalization for each company was equal to or greater than $1 billion; (2) the average daily trading volume for each security was at least 1.2 million shares over the 60 trading days prior to August 31, 1999; (3) the average daily dollar volume of the shares traded for each company during the sixty-day trading period prior to August 31, 1999 was at least $60 million; and (4) each company was traded on a national securities exchange or Nasdaq/National Market for at least ninety days prior to August 31, 1999.

Trading Issues. A round-lot of 100 trust issued receipts represents a holder's individual and undivided beneficial ownership interest in the whole number of securities represented by the receipt. The amount of deposited securities for each round-lot of 100 trust issued receipts will be determined at the beginning of the marketing period and will be disclosed in the prospectus to investors. Trust issued receipts may be acquired, held or transferred only in round-lot amounts (or round-lot multiples) of 100 receipts. Orders for less than a round-lot will be rejected, while orders for greater than a round-lot, but not a round-lot multiple, will be executed to the extent of the largest

[4] There are two possible exceptions to this general rule. First, if trust issued receipts are traded only in round lots (or round-lot multiples), the Exchange's rules relating to odd-lot executions will not apply. Additionally, the Exchange understands that the Commission has provided an exemption from the short sale rule, Rule 10a-1 under the Act, for transactions in Internet HOLDRs. 17 CFR 240. 10a-1. The Exchange will issue a notice to its members detailing the terms of the exemption.

[5] *See supra,* note 3.

round-lot multiple, rejecting the remaining odd-lot.[6]

The Exchange believes that trust issued receipts will not trade at a material discount or premium to the assets held by the issuing trust. The exchange represents that the arbitrage process—which provides the opportunity to profit from differences in prices of the same or similar securities (*e.g.,* the trust issued receipts and the portfolio of deposited securities), increases the efficiency of the markets and serves to prevent potentially manipulative efforts—should promote correlative pricing between the trust issued receipts and the deposited securities. If the price of the trust issued receipt deviates enough from the portfolio of deposited securities to create a material discount or premium, an arbitrage opportunity is created allowing the arbitrageur to either buy the trust issued receipt at a discount, immediately cancel them in exchange for the deposited securities and sell the shares in the cash market at a profit, or sell the trust issued receipts short at a premium and buy the securities represented by the receipts to deposit in exchange for the trust issued receipts to deliver against the short position. In both instances, the arbitrageur locks in a profit and the markets move back into line.

Maintenance of the Internet HOLDRs Portfolio. Except when a reconstitution event occurs, as described below, the securities represented by a trust issued receipt will not change.[7] According to the Internet HOLDRs prospectus, under no circumstances will a new company be added to the group of issuers of the underlying securities and weightings of component securities will not be adjusted after they are initially set.

Reconstitution Events. As described in the Internet HOLDRs prospectus, the securities underlying the trust issued receipts will be automatically distributed to the beneficial owners of the receipts in four circumstances:

(1) If the issuer of the underlying securities no longer has a class of common stock registered under Section 12 of the Act, then its securities will no longer be an underlying security and the trustee will distribute the securities of that company to the owners of the trust issued receipts;

(2) If the Commission finds that an issuer of underlying securities should be registered as an investment company under the investment Company Act of 1940, and the trustee has actual knowledge of the Commission's finding, then the trustee will distribute the shares of that company to the owners of the trust issued receipts;

(3) If the underlying securities of an issuer cease to be outstanding as a result of a merger, consolidation or other corporate combination, the trustee will distribute the consideration paid by and received from the acquiring company to the beneficial owners of the trust issued receipts, unless the acquiring company's securities are already included in the trust issued receipt as deposited securities, in which case such additional securities will be deposited into the trust; and

(4) If an issuer's underlying securities are delisted [8] from trading on a national securities exchange or Nasdaq and are not listed for trading on another national securities exchange or through Nasdaq within five business days from the date the deposited securities are delisted.

As described in the prospectus, if a reconstitution event occurs, the trustee will deliver the deposited security to the investor as promptly as practicable after the date that the trustee has knowledge of the occurrence of a reconstitution event.

Issuance and Cancellation of Internet HOLDRs. The trust will issue and cancel, and an investor may obtain, hold, trade or surrender, Internet HOLDRs only in a round-lot of 100 trust issued receipts and round-lot multiples. While investors will be able to acquire, hold, transfer and surrender a round-lot of 100 trust issued receipts, the bid and asked prices will be quoted on a per receipt basis. The trust will issue additional receipts on a continuous basis when an investor deposits the required securities with the trust.

An investor may obtain trust issued receipts by either purchasing them on an exchange or by delivering to the trustee the underlying securities evidencing a round lot of trust issued receipts. The trustee will charge an issuance fee of up to $10.00 per 100 trust issued receipts. An investor may cancel trust issued receipts and withdraw the deposited securities by delivering a round lot or round-lot multiple of the trust issued receipts to the trustee, during normal business hours. The trustee will charge a cancellation fee of up to $10.00 per 100 trust issued receipts. Lower charges may be assigned for bulk issuances and cancellations. According to the prospectus, the trustee expects that, in most cases, it will deliver the deposited securities within one business day of the withdrawal request.

Termination of the Trust. The trust shall terminate upon the earlier of: (1) the removal of the receipts from amex listing if they are not listed for trading on another national securities exchange or through Nasdaq within five business days from the date the receipts are delisted; (2) the trustee resigns and no successor trustee is appointed within 60 days from the date the trustee provides notice to the initial depositor of its intent to resign; (3) 75% of the beneficial owners of outstanding trust issued receipts (other than Merrill Lynch, Pierce, Fenner & Smith Incorporated) vote to dissolve and liquidate the trust; or (4) December 31, 2039. If a termination event occurs, the trustee will distribute the underlying securities to the beneficial owners as promptly as practicable after the termination event.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) [9] of the Act in that is it designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[6] For example, an order for 50 trust issued receipts will be rejected, while an order for 1,050 trust issued receipts, will be executed in part (1,000) and rejected in part (50).

[7] Even if a reconstitution event does not occur, the number of each security represented in a receipt may change due to certain corporate events such as stock splits or reverse stock splits on the deposited securities and the relative weightings among the deposited securities may change based on the current market price of the deposited securities.

[8] This provision is designed for the purpose of permitting a deposited security to move its listing between, *e.g.,* the Amex and Nasdaq, without requiring the automatic distribution of the deposited security to beneficial owners of the receipts. Should deposited securities be moved to a market other than a national securities exchange or Nasdaq, (*e.g.,* the OTC Bulletin Board) such securities will be automatically distributed to the beneficial owners of the receipts.

[9] 15 U.S.C. 78f(b)(5).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies 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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–99–15 and should be submitted by February 17, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

A. Generally

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [10] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds, as it did in the Amex and CHX orders approving the listing and trading of trust issued receipts and Internet HOLDRs,[11] that the proposal establishing listing standards for trust issued receipts and to trade Internet HOLDRs will provide investors with a convenient and less expensive way of participating in the securities markets. The proposal should advance the public interest by providing investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day. Accordingly, the Commission finds that the proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[12]

As noted in the Amex approval order, the Commission believes that trust issued receipts will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade trust issued receipts representing a portfolio of securities continuously throughout the business day in secondary market transactions at negotiated prices. Trust issued receipts will allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transaction costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the trust issued receipts.

Although trust issued receipts are not leveraged instruments, and, therefore, do not possess any of the attributes of stock index options, their prices will be derived and based upon the securities held in their respective trusts. Accordingly, the level of risk involved in the purchase or sale of trust issued receipts is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for trust issued receipts is based on a basket of securities.[13] Nevertheless, the Commission believes that the unique nature of trust issued receipts raises certain product design, disclosure, trading, and other issues.

B. Trading of Trust Issued Receipts—Listing and UTP

The Commission finds that the BSE's proposal contains adequate rules and procedures to govern the trading of trust issued receipts whether by listing or pursuant to UTP. Trust issued receipts are equity securities that will be subject to the full panoply of BSE rules governing the trading of equity securities on the BSE, including, among others, rules governing the priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability requirements, and the election of a stop or limit order.[14]

In addition, the BSE has developed specific listing and delisting criteria for trust issued receipts that will help to ensure that a minimum level of liquidity will exist for trust issued receipts to allow for the maintenance of fair and orderly markets. The delisting criteria also allows the BSE to consider the suspension of trading and the delisting of a trust issued receipt if an event occurred that made further dealings in such securities inadvisable. This will give the BSE flexibility to delist trust issued receipts if circumstances warrant such action. BSE's proposal also provides procedures to halt trading in trust issued receipts in certain enumerated circumstances.

Moreover, in approving this proposal, the Commission notes the Exchange's belief that trust issued receipts will not trade at a material discount or premium in relation to the overall value of the trusts' assets because of potential arbitrage opportunities. The Exchange represents that the potential for arbitrage should keep the market price of a trust issued receipt comparable to the overall value of the deposited securities.

Furthermore, the Commission believes that the Exchange's proposal to trade trust issued receipts in minimum fractional increments of 1/16th of $1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in trust issued receipts.

Finally, the BSE will apply surveillance procedures for trust issued receipts that will be similar to the procedures used for portfolio depositary receipts and will incorporate and rely upon existing BSE surveillance procedures governing equities. The Commission believes that these surveillance procedures are adequate to address concerns associated with listing

[10] 15 U.S.C. 78f(b)(5)

[11] *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on the Amex) and Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on the CHX pursuant to UTP).

[12] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] The Commission has concerns about continued trading of the trust issued receipts whether listed or pursuant to UTP, if the number of component securities falls to a level below nine securities, because the receipts may no longer adequately reflect a cross section of the selected industry. Accordingly, the BSE has agreed to consult the Commission concerning continued trading, once the trust has fewer than nine component securities, and for each subsequent loss of a security thereafter.

[14] Trading rules pertaining to the availability of odd-lot trading do not apply because trust issued receipts only can be traded in round-lots.

and trading trust issued receipts, including any concerns associated with purchasing and redeeming round-lots of 100 receipts. Accordingly, the Commission believes that the rules governing the trading of trust issued receipts provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

C. Disclosure and Dissemination of Information

The Commission believes that the Exchange's proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading trust issued receipts. The prospectus will address the special characteristics of a particular trust issued receipt basket, including a statement regarding its redeemability and method of creation. The Commission notes that all investors in trust issued receipts who purchase in the initial offering will receive a prospectus. In addition, anyone purchasing a trust issued receipt directly from the trust (by delivering the underlying securities to the trust) will also receive a prospectus. Finally, all BSE member firms who purchase trust issued receipts from the trust for resale to customers must deliver a prospectus to such customers.

The Commission also notes that upon the initial listing of any trust issued receipts, the Exchange will issue a circular to its members explaining the unique characteristics and risks of this type of security. The circular also will note the Exchange members' prospectus delivery requirements, and highlight the characteristics of purchases in trust issued receipts. The circular also will inform members of Exchange policies regarding trading halts in trust issued receipts.

D. Accelerated Approval

BSE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the Exchange's proposal to trade trust issued receipts, and specifically Internet HOLDRs pursuant to UTP privileges, will provide investors with a convenient and less expensive way of participating in the securities markets. The Commission believes that the proposed rule change could produce added benefits to investors through the increased competition between other market centers trading the product. Specifically, the Commission believes that by increasing the availability of trust issued receipts, and in particular Internet HOLDRs, as an investment tool, the BSE's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day. The Commission notes, however, that notwithstanding approval of the listing standards for trust issued receipts, other similarly structured products, including trust issued receipts based on other industries, will require review by the Commission prior to being traded on the Exchange. Additional series cannot be listed by the Exchange prior to contacting Division staff. In addition, the BSE may be required to submit a rule filing prior to trading a new issue or series on the Exchange.

As noted above, the Commission has approved the listing and trading of trust issued receipts, including Internet HOLDRs, at the Amex, under rules that are substantially similar to BSE Chapter XXIV–A. The trading requirements of trust issued receipts at the BSE will be substantially similar to the trading requirements of trust issued receipts at the Amex and the CHX. The Commission published those rules in the **Federal Register** for the full notice and comment period. No comments were received on the proposed rules, and the Commission found them consistent with the Act [15] The Commission does not believe that trading of this product raises novel regulatory issues that were not addressed in the previous filing. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–BSE–99–15), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1972 Filed 1–26–00; 8:45 am]

BILLING CODE 8010–01–M

[15] *See supra,* note 11.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42352; File No. SR–CSE–99–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Cincinnati Stock Exchange Enabling Members to Trade NASDAQ/NM Securities

January 20, 2000.

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 December 10, 1999, the Cincinnati Stock Exchange, Inc, (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to enable members to trade NASDAQ National Market (''NASDAQ/NM'') securities on the Exchange pursuant to unlisted trading privileges (''UTP'') under Section 12(f) of the Act. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A. B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the CSE Rules to permit members to trade NASDAQ/NM

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

securities on an UTP basis. This filing is made in conjunction with the Exchange joining the Unlisted Trading Privileges Plan (''UTP Plan'') governing the collection, consolidation and dissemination of quotation and transaction information for NASDAQ/NM securities.[3] The majority of the proposed rule change relates to amendments to CSE Rules to accommodate the trading of NASDAQ securities, however, certain rule changes are housekeeping in nature.

The following is a list of the substantive rule changes to Chapter XI, ''Trading Rules,'' along with a statement of the purpose for the proposed change:

1. Rule 11.1, ''Hours of Trading'' The changes to Rule 11.1 convert the hours of trading on the Exchange from Cincinnati local time to Chicago local time and provide in subparagraphs (b) and (c) for the inclusion of securities traded on a national securities association in the determination of trading hours for dually or multiply-traded securities.

2. Rule 11.2. ''Unit of Trading'' The changes to Rule 11.2 reflect the inclusion of securities trading on a national securities association in determining the appropriate unit of trading.

3. Rule 11.3. ''Price Variations'' The changes amend the stated minimum variation to reflect the current primary market practice, *i.e.*, 1/16 of $1.00 per share in stocks trading at or above $.50 per share and 1/32 of $1.00 per share in stocks trading below $.50 per share. These variations will be revisited in any proposed rule changes to accommodate decimal pricing. The changes also include securities traded on a national securities association in determining the appropriate variation.

4. Rule 11.4. ''Trading Ex-Dividend, Etc.'' The changes include securities traded on a national securities association in the exception language of the rule.

5. Rule 11.5. ''Orders to be Reduced and Increased on Ex-Date'' The changes include securities traded on a national securities association in the exception language of the rule.

6. Rule 11.7. ''Cabinet Trading'' The change amends the rule to reflect that the facilities are now located in Chicago, Illinois.

7. Rule 11.9. ''National Securities Trading System'' (''System'')

(a) The amendments to this subparagraph define the terms ''NASDAQ/NM Security,'' ''NASDAQ System,'' and ''NASDAQ System BBO'' and include the term ''national securities association'' in the definition of ''Approved Dealer.''

(c) The changes to this subparagraph add the term ''NASDAQ System BBO'' to the definition of marketable limit order, except NASDAQ/NM securities from the opening guarantee of 1099 shares, and implement a NASDAQ/NM opening guarantee up to 1099 shares at an opening price that is on or between the first unlocked/uncrossed NASDAQ System BBO.

(e) The changes to this subparagraph add specialists or market makers on other national securities associations to the entities that may submit bids or offers to the System.

(h) The changes to this subparagraph ensure that the System displays the NASDAQ System BBO and permits NASDAQ System market makers telephonic, or other such access to the System as may be established between the Exchange and the NASDAQ System, and conversely, permits Designated Dealers to send orders from the Exchange via telephone, or by other such access as may be established between the Exchange and the NASDAQ System, to NASDAQ market makers.

(j) This subparagraph is amended to include the NASDAQ System and the NASDAQ System BBO in the prohibition of executing a limit order only after a regular way transaction occurs in another market at a price equal or inferior to the limit price of the order.

(n) The amendment to this subparagraph clarify that the public agency guarantee for 1099 shares at the opening price applies to securities other than NASDAQ/NM securities. However, the public agency guarantee applies to those market and marketable limit orders priced better than the first unlocked/uncrossed NASDAQ System BBO. In addition, the amendments add the NASDAQ System BBO to the obligations to execute on the basis of the ITS BBO. Finally, the amendments to this subparagraph clarify that the execution guarantees and requirements of CSE Rule 12.6, Customer Priority, apply only during the hours of trading on the Exchange (8:30 a.m. to 3:05 p.m. local Chicago time) during normal business days.

Interpretations and Policies

.01 The amendment to the Market Order Exposure Requirement clarifies that the obligations of the interpretation apply to securities other than NASDAQ/NM securities.

.02 The amendment to the Limit Order Protection Requirement clarifies that obligations of the interpretation apply to securities other than NASDAQ/NM securities.

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[4] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received any written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, 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, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[3] *See* Securities Exchange Act Release No. 42269 (December 23, 1999), 65 FR 799 (January 6, 2000).

[4] 15 U.S.C. 78f(b)(5).

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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CSE–99–05 and should be submitted by February 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1971 Filed 1–26–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42351; File No. SR–NASD–99–61]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc., Amending Its Rules for the Listing of Additional Shares

January 20, 2000.

I. Introduction and Background

On October 19, 1999, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') 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 modifies the procedures employed by the NASD in assessing fees against issuers listing additional shares on either the Nasdaq National Market (''NNM'') or Nasdaq SmallCap Market (''NSCM'').

Notice of the proposed rule change was published for comment in the **Federal Register** on December 16, 1999.[3] The Commission received no comments on the proposal.

II. Description of the Proposal

The Commission recently approved a rule change filed by the NASD to modify the fee rate structures and notification requirements applicable to issuers listing additional shares on the NNM and NSCM.[4] The rule change harmonizes the fee structures applicable to issuers of additional shares of NNM and NSCM securities, and allows issuers to file notifications of several issuances on a single form.

To further simplify the administration of the Listing of Additional Shares (''LAS'') Program, the NASD is modifying notification procedures applicable to issuers of additional shares, and Nasdaq's monitoring and assessment of fees on the listing of such additional shares.

Nasdaq staff employ the LAS Program to monitor compliance by issuers with Nasdaq listing rules governing shareholder approval, public interest concerns, reverse mergers, and voting rights. Since 1992, all Nasdaq issuers have been required to file a notification form upon the creation of a stock option, employee stock purchase, or other stock remuneration plan, or upon the issuance of additional shares of any class of securities included in Nasdaq.[5]

The NASD believes that the current LAS Program is difficult and unduly time-consuming to administer. Specifically, the NASD believes that, under the current LAS Program, it is difficult for an issuer to calculate the number of shares to be reported for LAS purposes: an issuer must track the number of shares approved by Nasdaq according to current LAS criteria (a number not otherwise monitored by issuers and which has often proved difficult for Nasdaq staff and issuers to reconcile) instead of the total number of shares outstanding reported in periodic reports required to be filed with the Commission. Furthermore, the timing of the notifications required by the current LAS Program varies depending on the nature of the action undertaken by an issuer and, as a result, has proved confusing to issuers and their counsel. This in turn has led to delays in filing or failures to comply with LAS Program notification and fee requirements.

To remedy these deficiencies, the NASD proposal makes the following changes to the current LAS Program:

1. In order to address the problem of monitoring the number of fee-assessable shares, the billing aspect of the LAS Program will be separated from required compliance reviews. Issuers will be billed each quarter for any increase in their total shares outstanding (''TSO'') as reported in publicly available periodic reports required to be filed with the Commission.[6] This modification will ensure that the LAS Program is administered based on a publicly disclosed TSO number rather than on the number of approved shares currently calculated by Nasdaq according to existing LAS criteria. This modification will thereby eliminate the current procedure of establishing a baseline number of shares upon an issuer's initial listing as well as the resultant confusion surrounding when transactions resulting in new shares being issued must be reported to Nasdaq. This modification will also permit Nasdaq staff to rely on the publicly reported TSO when performing reconciliations.

2. To address the uncertainty which has surrounded issuers' LAS notification requirements, the process of reporting to Nasdaq will be streamlined by confining issuers' notification requirements to those transactions implicated by the Nasdaq's corporate governance compliance requirements.[7] Consequently, notification will not be required, unless:

(a) a stock option plan, purchase plan or other arrangement is established without shareholder approval; or

(b) the issuer enters into a transaction that may result in a change of control; or

(c) the issuer issues common stock or a security convertible into common stock in connection with the acquisition of the stock or assets of another company, if any officer or director or substantial shareholder of the issuer has an interest of 5% or more (or if a group of such persons collectively holds an interest of 10% or more) in the company to be acquired or in the consideration to be paid; or

(d) the issuer enters into a transaction that may result in the potential issuance of common stock (or securities convertible into common stock) representing more than 10% of either the total shares outstanding or voting power outstanding on a pre-transaction basis.

Under the proposed rule change, all LAS notifications will be required to be filed 15 calendar days prior to issuance (except for stock splits and dividends

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42214 (Dec. 9, 1999), 64 FR 70309.

[4] Securities Exchange Act Release No. 42300 (Dec. 30, 1999), 65 FR 1210 (Jan. 7, 2000) (SR–NASD–99–40).

[5] *See* NASD Rules 4310(c)(17) and 4320(e)(15). The Commission granted permanent approval to the LAS Program in 1993. *See* Securities Exchange Act Release No. 31859 (February 16, 1993), 58 FR 9584 (Feb. 22, 1993) (SR–NASD–92–27).

[6] Billing for all issuers will be conducted on a calendar year basis and LAS fees will then be assessed on any increase in the TSO number set forth in an issuer's most recent periodic report filed with the Commission pursuant to Section 13 or 15(d) of the Act. Telephone conversation between Arnold Golub, Senior Attorney, Office of the General Counsel, Nasdaq, and Matthew Boesch, Paralegal, Division of Market Regulation, Commission, on December 6, 1999.

[7] *See* NASD Rules 4310(c)(25) and 4320(e)(21).

which are required to be filed 10 calendar days prior to the record date pursuant to Rule 10b–17 under the Act[8]). This requirement eliminates the numerous timing requirements under the current LAS Program and enables Nasdaq staff to consider the most current information when evaluating such transactions.

The NASD believes that these changes will improve Nasdaq's administration of the LAS Program by focusing on the TSO reported publicly in periodic reports required to be filed with the Commission instead of relying on a calculated number of approved shares. In addition, the NASD believes that the changes will streamline the filing requirements imposed on issuers by reducing the filing burden to the extent that no filings will be required for issuances that do not raise corporate governance concerns, while simultaneously streamlining the notification filing time frame. Finally, the NASD believes that the changes will allow Nasdaq staff to focus on larger and more complex transactions in its review of issuers' compliance with corporate governance rules and other continued listing standards by eliminating the requirement that issuers file information about issuances that do not raise corporate governance concerns.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD. Specifically, the Commission finds that the rule change is consistent with the provisions of Sections 15A(b)(5) and (6) of the Act.[9] Section 15A(b)(5) requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members, issuers and other persons using any facility or system which the NASD operates or controls. Section 15A(b)(6) requires in pertinent part that the rules of the NASD be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission believes that the amended rules, which affect the notification and billing processes associated with the LAS Program, are consistent with the Act because they are designed to simplify the procedures applicable to Nasdaq issuers listing additional shares on the NNM and NSCM, as well as those of Nasdaq staff monitoring such issuers. This in turn will increase the issuers' levels of compliance and the staff's surveillance effectiveness.

IV. Conclusion

The Commission finds that the rule change is consistent with the Act, in general, and in particular with Sections 15A(b)(5) and (6) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NASD 99–61) be, and hereby is, approved.[11]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1970 Filed 1–26–00; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 240.10b–17.

[9] 15 U.S.C. 780–3(b)(5) and (6).

[10] 15 U.S.C. 78s(b)(2).

[11] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3232]

State of Kentucky (Amendment #1)

In accordance with a notice received from the Federal Emergency Management Agency dated January 15, 2000, the above-numbered Declaration is hereby amended to include Hopkins County, Kentucky as a disaster area due to damages caused by tornadoes, severe storms, torrential rains, and flash flooding that occurred on January 3–4, 2000.

In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Christian and Muhlenberg in the State of Kentucky may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is March 10, 2000 and for economic injury the deadline is October 10, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 20, 2000.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–1983 Filed 1–26–00; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3233]

State of New York (And Contiguous Counties in New Jersey & Connecticut)

Westchester County and the contiguous Counties of Bronx, Orange, Putnam, and Rockland in New York, Bergen County, New Jersey and Fairfield County, Connecticut constitute a disaster area as a result of damages caused by a fire that occurred on December 29, 1999 in the Village of Ossining. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 20, 2000 and for economic injury until the close of business on Oct. 19, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:.	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	7.500
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.750
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	6.750
For Economic Injury:.	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned for physical damages are 323305 for New York, 323405 for New Jersey, and 323505 for Connecticut. For economic injury the numbers are 9G5100 for New York, 9G5200 for New Jersey, and 9G5300 for Connecticut.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 19, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–1984 Filed 1–26–00; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3212]

State of North Carolina (Amendment #5)

In accordance with information received from the Federal Emergency Management Agency dated January 18, 2000, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster from January 18, 2000 to February 17, 2000.

All other information remains the same, i.e., the deadline for filing applications for economic injury is June 16, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: 1–20–2000.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–1982 Filed 1–26–00; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

Privacy Act of 1974; Revision of Privacy Act System of Records

AGENCY: U.S. Small Business Administration.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: SBA is correcting the document published on January 10, 2000 on page 1422 to include HUD as a system location.

DATES: *Effective Date:* This correction is effective February 9, 2000.

SUPPLEMENTARY INFORMATION: The System Location for Loan Case Files—SBA 075 is corrected to read as follows:

SYSTEM LOCATION:

Area Disaster Office Managers, District Directors, Branch Managers, Loan Service Center Directors (see Appendix A for addresses) and HUD.

Dated: January 13, 2000.

Mona Koppel Mitnick,

Senior Privacy Act Official.

[FR Doc. 00–1985 Filed 1–26–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 4419

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4419, Application for Filing Information Returns Magnetically/Electronically.

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Filing Information Returns Magnetically/ Electronically.

OMB Number: 1545–0387.

Form Number: 4419.

Abstract: Under section 6011(e)(2)(a) of the Internal Revenue Code, any person, including corporations, partnerships, individuals, estates and trusts, who is required to file 250 or more information returns must file such returns magnetically or electronically. Payers required to file on magnetic media or electronically must complete Form 4419 to receive authorization to file.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, non-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 26 minutes.

Estimated Total Annual Burden Hours: 6,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1900 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 4255

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4255, Recapture of Investment Credit.

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Recapture of Investment Credit.

OMB Number: 1545–0166.

Form Number: 4255.

Abstract: Internal Revenue Code section 50(a) requires that a taxpayer's income tax be increased by the investment credit recapture tax if the taxpayer disposes of investment credit property before the close of the recapture period used in figuring the original investment credit. Form 4255 provides for the computation of the recapture tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 9 hours, 49 minutes.

Estimated Total Annual Burden Hours: 196,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 19, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1901 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 7004

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 7004, Application for Automatic Extension of Time To File Corporation Income Tax Return.

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Automatic Extension of Time To File Corporation Income Tax Return.

OMB Number: 1545–0233.

Form Number: 7004.

Abstract: Form 7004 is used by corporations and certain nonprofit institutions to request an automatic 6-month extension of time to file their income tax returns. The information is needed by IRS to determine whether Form 7004 was timely filed so as not to impose a late filing penalty in error and also to insure that the proper amount of tax was computed and deposited.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and non-profit institutions.

Estimated Number of Respondents: 1,097,748.

Estimated Time Per Respondent: 9 hours, 50 minutes.

Estimated Total Annual Burden Hours: 10,790,863.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1902 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–54–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–54–93 (TD 8554), Clear Reflection of Income in the Case of Hedging Transactions (§ 1.146–4(d)).

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Clear Reflection of Income in the Case of Hedging Transactions.

OMB Number: 1545–1412.

Regulation Project Number: FI–54–93.

Abstract: This regulation provides guidance to taxpayers regarding when gain or loss from common business hedging transactions is recognized for tax purposes and requires that the books and records maintained by a taxpayer disclose the method or methods used to account for different types of hedging transactions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 22,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 19, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1903 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–26–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–26–96 (TD 8825), Regulations Under Section 382 of the Internal Revenue Code of 1986; Application of Section 382 in Short Taxable Years and With Respect to Controlled Groups (§ 1.382–8).

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Regulations Under Section 382 of the Internal Revenue Code of 1986; Application of Section 382 in Short Taxable Years and With Respect to Controlled Groups.

OMB Number: 1545–1434.

Regulation Project Number: CO–26–96.

Abstract: Internal Revenue Code section 382 limits the amount of income that can be offset by loss carryovers after an ownership change in a loss corporation. These regulations provide rules for applying section 382 in the case of short taxable years and with respect to controlled groups of corporations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,500.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 875.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1904 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–1 and Revenue Procedure 2000–3

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–1 and Revenue Procedure 2000–3, 26 CFR 601.201—Rulings and Determination Letters.

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedures should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: 26 CFR 601.201—Rulings and Determination Letters.

OMB Number: 1545–1522.

Revenue Procedure Number: Revenue Procedure 2000–1 and Revenue Procedure 2000–3.

Abstract: The information requested in Revenue Procedure 2000–1 and Revenue Procedure 2000–3 is required to enable the Internal Revenue Service to give advice on filing letter rulings and determination letter requests and to process such requests.

Current Actions: There are no changes being made to the revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 3,800.

Estimated Time Per Respondent: 80 hours, 19 minutes

Estimated Total Annual Burden Hours: 305,230.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1905 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000-4, Revenue Procedure 2000–5, Revenue Procedure 2000–6, and Revenue Procedure 2000–8

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–4 (Letter Rulings), Revenue Procedure 2000–5 (Technical Advice), Revenue Procedure 2000–6 (Determination Letters), and Revenue Procedure 2000–8 (User Fees).

DATES: Written comments should be received on or before March 27, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedures should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure 2000–4 (Letter Rulings), Revenue Procedure 2000–5 (Technical Advice), Revenue Procedure 2000–6 (Determination Letters), and Revenue Procedure 2000–8 (User Fees).

OMB Number: 1545–1520.

Revenue Procedure Number: Revenue Procedure 2000–4, Revenue Procedure 2000–5, Revenue Procedure 2000–6, and Revenue Procedure 2000–8.

Abstract: The information requested in these revenue procedures is required to enable the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) of the Internal Revenue Service to give advice on filing letter ruling, determination letter, and technical advice requests, to process such requests, and to determine the amount of any user fees.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

Estimated Number of Respondents: 83,068.

Estimated Time Per Respondent: 2 hours, 8 minutes.

Estimated Total Annual Burden Hours: 177,986.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–1906 Filed 1–26–00; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Thursday,
January 27, 2000

Part II

Environmental Protection Agency

40 CFR Part 52

Federal Rulemaking for the FMC Facility in the Fort Hall PM–10 Nonattainment Area; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket 24–7004; FRL–6527–1]

RIN 2060–AF84

Federal Rulemaking for the FMC Facility in the Fort Hall PM–10 Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On February 12, 1999, the Environmental Protection Agency (EPA or we) published a proposed Federal Implementation Plan (February 1999 FIP proposal) to control particulate emissions from an elemental phosphorus facility owned by FMC Corporation (FMC) in southeastern Idaho (FMC facility). The FMC facility is located on the Fort Hall Indian Reservation and in the Fort Hall PM–10 nonattainment area. The purpose of the February 1999 FIP proposal was to propose a control strategy for particulate matter emissions from the FMC facility consisting of emission limits and work practice requirements that constitute reasonably available control technology (RACT) which would, in light of this area's longstanding nonattainment problem, ensure expeditious progress towards improving air quality and attaining the particulate matter standards in order to protect the public health.

EPA believes that comments and additional technical information received during the public comment period require reconsideration of several of the emission limitations and work practice requirements in the February 1999 FIP proposal. EPA is therefore issuing this supplemental proposal to revise certain limited aspects of the February 1999 FIP proposal.

DATES: Written comments, identified by the docket control number ID 24–7004, must be received by EPA on or before February 28, 2000.

ADDRESSES: Comments should be submitted (in triplicate if possible) to: Montel Livingston, SIP Manager, Environmental Protection Agency, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, Office of Air Quality (OAQ–107), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–0782.

SUPPLEMENTARY INFORMATION:

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I. General Information

A. How Can I Get Additional Information or Copies of Support Documents?

1. Electronically. You may obtain electronic copies of this document and the February 12, 1999 FIP proposal from the internet at the following address: http://www.epa.gov/r10earth/. Once there, click on ''Events.'' You can also go directly to the ''Federal Register'' listings at *http://www.epa.gov/fedrgstr/.*

2. In person or by phone. If you have any questions or need additional information about this action, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. In addition, the official record for this document, which is called the ''docket,'' has been established under docket control number ID 24–7004. The docket is available for public inspection and copying from 8:00 a.m. to 5:30 p.m. Eastern Standard Time, Monday through Friday, at EPA's Central Docket Section, Office of Air and Radiation, Room 1500 (M–6102), 401 M Street, SW., Washington, D.C. 20460, and between 8:30 a.m. and 3:30 p.m. Pacific Standard Time, at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the docket is also available for review at the Shoshone-Bannock Tribes, Office of Air Quality Program, Land Use Commission, Fort Hall Government Center, Agency and Bannock Roads, Fort Hall, Idaho 83203; the Shoshone-Bannock Library, Pima and Bannock, Fort Hall, Idaho, 83203; and the Idaho State University Library, Government Documents Dept., 850 South 9th Avenue, Pocatello, Idaho. A reasonable fee may be charged for copies.

B. How and to Whom Do I Submit Comments?

You may submit comments on this supplemental proposal through the mail or in person. Be sure to identify the appropriate docket control number (*i.e.*, ''ID–24–7004'') in your correspondence.

1. By mail. Submit written comments to: Montel Livingston, SIP Manager, Environmental Protection Agency, Office of Air quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

2. In person or by courier. Deliver written comments to: Montel Livingston, SIP Manager, Environmental Protection Agency, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Comments on the February 1999 FIP proposal are discussed in this supplemental proposal only to the extent a particular comment is relevant

to this supplemental proposal. All comments received on the February 1999 FIP proposal and on this supplemental proposal will be addressed when EPA takes final action on the Federal Implemental Plan (FIP).

C. Will There Be a Public Hearing on This Supplemental Proposal?

Very few members of the public attended the public hearing on the February 1999 FIP proposal held on March 18, 1999. Only three members of the public provided comments at the hearing and the comments were provided after extensions of time by the hearing officer. In addition, EPA hopes to expedite the issuance of the final FIP. Therefore, no public hearing will be held to discuss this supplemental proposal unless a member of the public requests in writing that a hearing be held and provides a sufficient reason for holding a hearing. If you wish to request a public hearing, you must submit a written request to Montel Livingston on or before February 11, 2000 at the address given above. If a public hearing is held, it will take place on February 28, 2000, the last day of the public comment period. If you wish to attend the hearing, if one is held, please call Steven Body at (206) 553–0782 to determine if a hearing will be held and to obtain the time and location.

II. Background

FMC produces elemental phosphorus at its facility located on the Fort Hall Indian Reservation in southeastern Idaho near Pocatello (FMC facility). The FMC facility emits over 1400 tons of particulate matter into the atmosphere each year. Numerous exceedances of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM–10), in effect as of July 1, 1987, have been and continue to be recorded at monitoring stations located in the Fort Hall PM–10 nonattainment area in the vicinity of the FMC facility (Tribal monitors).

On February 12, 1999, we published a proposed rule containing air pollution emission limitations, work practice requirements, and related monitoring, recordkeeping and reporting requirements designed to control PM–10 emissions from the FMC facility. 64 FR 7308 (February 12, 1999).[1] We held a public workshop on the Fort Hall Indian Reservation on March 4, 1999, to explain the February 1999 FIP proposal and to answer questions on the proposal. On March 18, 1999, we held a public hearing on the February 1999 FIP proposal on the Fort Hall Indian Reservation. Three members of the Shoshone-Bannock Tribes provided oral testimony at the hearing. A copy of the transcript from the public hearing is located in the docket. EPA accepted written comments on the February 1999 FIP proposal until May 13, 1999, and received written comments from six commenters, including FMC and the Shoshone-Bannock Tribes (Tribes). Copies of all written comments are in the docket.

After carefully reviewing the public comments, including additional technical and source test information provided by FMC, we have reconsidered several of the emission limits and work practice requirements in the February 1999 FIP proposal. We are therefore issuing this supplemental proposal to revise certain limited aspects of the original February 1999 FIP proposal, including revisions to mass emission limits and opacity for certain sources and minor changes to monitoring, recordkeeping, and reporting requirements.

Please note that comments on the February 1999 FIP proposal are discussed in this supplemental proposal only to the extent a particular comment is relevant to this supplemental proposal. All comments received on the February 1999 FIP proposal and on this supplemental proposal will be addressed when EPA takes final action on the FIP.

III. How is This Supplemental Proposal Affected by Changes to the Air Quality Standards

The Fort Hall PM–10 nonattainment area was designated as a nonattainment area under the 24-hour and annual PM–10 standards that were adopted on July 1, 1987 (52 FR 24672). On July 18, 1997, we published revisions to both the annual and the 24-hour PM–10 standards and also established two new standards for particulate matter, both of which apply only to particulate matter equal to or less than 2.5 microns in diameter (PM–2.5). See 62 FR 38651. These standards became effective on September 16, 1997. When EPA adopted the revised 1997 particulate matter standards, we provided that the pre-existing 1987 standards for PM–10 would remain in effect until certain conditions specified in 40 CFR § 50.6(d) had occurred. See 62 FR at 38701. Although the pre-existing 1987 PM–10 standards were therefore still in effect at the time of the February 1999 FIP proposal, EPA was in transition towards implementation of the revised particulate matter standards and, thus, anticipated that the 1987 PM–10 standards would likely be phased out and no longer be applicable by the time we took final action on the FIP proposal. Therefore, the control strategy proposed by EPA in the February 1999 FIP proposal was designed to ensure that progress towards maintenance of air quality that protected public health continued during the transition to the implementation of the revised 1997 PM–10 standards and also to assist in bringing the Fort Hall PM–10 nonattainment area into attainment with the revised particulate matter standards as quickly as possible. See 64 FR at 7308, 7310. In the February 1999 FIP proposal, EPA demonstrated that the Fort Hall PM–10 nonattainment area violates the pre-existing 1987 24-hour PM–10 standard. 64 FR at 7317. We also showed that there was a strong likelihood that the area was in violation of the pre-existing 1987 annual PM–10 standard, as well as the less-stringent, revised 1997 24-hour and annual PM–10 standards, although the Tribal monitors had not collected sufficient data at that time to make a definitive determination in that regard. 64 FR at 7317–18. EPA also demonstrated in the February 1999 FIP proposal that implementation of the proposed control strategy was expected to result in attainment of the pre-existing 1987 and revised 1997 24-hour and annual PM–10 standards. 64 FR at 7341–7342.

On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit issued an opinion in *American Trucking Associations, Inc.* v. *EPA,* 175 F.3d 1027 (''ATA''), which, among other things, vacated the revised PM–10 standards that were published on July 18, 1997 and became effective September 16, 1997. The pre-existing 1987 PM–10 standards were not at issue in this litigation, however, and the Court's decision does not affect the applicability of those pre-existing 1987 PM–10 standards. Those standards continue to be codified at 40 CFR 50.6 and remain in effect for the Fort Hall PM–10 nonattainment area.[2]

[1] EPA published a **Federal Register** notice with minor corrections to the February 1999 FIP proposal on April 13, 1999. 64 FR 17990.

[2] In its decision in *ATA* the Court requested supplemental briefing which, among other things, ''should address the possibility that the previous particulate matter standard will spring back to life in response to our decision'', *Id.* at 1057 n.8. EPA then explained to the Court that the 1987 PM–10 standards remained in effect even after promulgation of the new standards. The Court issued an Order (June 18, 1999), in which it declined to vacate the new PM–2.5 NAAQS, but was silent regarding EPA's explanation of the continued applicability of the 1987 PM–10 NAAQS. EPA believes this is an indication that the Court

Continued

IV. How Does This Supplemental Proposal Change the February 1999 FIP Proposal?

A. Emission Limitations and Work Practice Requirements

1. Mass Emission Limits for Sources Currently at RACT

As stated in the preamble to the February 1999 FIP proposal, we believe that many of the sources at FMC currently employ RACT-level controls. See 64 FR at 7311 and 7325. These include the following point sources: source 5a (east shale baghouse); source 6a (middle shale baghouse); source 7a (west shale baghouse); source 10 (calciner cooler vents); sources 12a and 12b (north and south nodule discharge baghouses); source 15a and 15b (east and west nodule discharge baghouses); source 16a (nodule reclaim baghouse); 17a (dust silo baghouse); sources 18a and 18b (furnace building east and west baghouses); source 18d, 18e, 18f, and 18g (furnace building Medussa Andersen stacks); and source 20a (coke handling baghouse). For these point sources, EPA intended to propose mass emission limits designed to keep PM–10 emissions at current levels and not to require additional controls in order to meet the FIP limits. See 64 FR at 7311 and 7325.

Based on information provided by FMC during the public comment period, we believe that the mass emission limits proposed for the above identified sources were not consistent with current emission levels. In its comments, FMC noted that the proposed mass emission limits were derived from the 1996 emission inventory, which was compiled on the basis of source tests conducted using EPA Method 5, 40 CFR part 60, appendix A (Method 5). Method 5 does not distinguish between PM–10 and total particulate matter and also does not measure condensible particulate matter. Condensible particulate is material that is in the vapor state at elevated stack sampling temperature but, at lower or ambient temperature, condenses to either liquid droplets or solid particulate. Although condensible particulate is not measured using Method 5, it can condense to particulate and be measured at air quality monitoring sites. In the February 1999 FIP proposal, we proposed EPA Methods 201/201A and 202, 40 CFR part 51 appendix M (Methods 201/201A and 202), as the reference test methods for determining compliance with the proposed mass emission limits. Method 201/201A measures all PM–10 except condensible PM–10 and Method 202 measures condensible PM–10. Thus, FMC asserted, the proposed reference test method requires the inclusion of more particulate matter (condensible PM–10) than originally considered when developing the 1996 emission inventory and establishing the proposed emission limits.

To support its contention that it cannot comply with the proposed mass emission limits for the sources identified above without installing additional controls, FMC submitted the results of source tests conducted after publication of the February 1999 FIP proposal. These source test results show that, using Methods 201/201A and 202, FMC would be in violation of many of the proposed emission limits in the February 1999 FIP proposal because of the difference in the test method used to establish the emission limits (Method 5) and the reference test method proposed in the FIP (Methods 201/201A and Method 202). This is clearly contrary to EPA's intent in proposing the mass emission limits for these sources. To address this issue, FMC requested that the reference test method be only Method 201/201A and that Method 202 be performed on each source for informational purposes only. FMC also requested that the definition of PM–10 or PM–10 emissions be revised to expressly state that it does not include condensible particulate matter, unless otherwise specified in the FIP.

Because the mass emission limits for the sources identified above were derived from an emission inventory that did not include condensible PM–10, we believe it is appropriate that the proposed mass emission limits not apply to condensible PM–10 and that the reference test method for these mass emission limits be consistent with the method used to derive the emission limits. In this supplemental proposal, we are therefore proposing to include only Method 201/201A as the reference test method for the sources identified above. We have considered the alternative approach of establishing mass emission limits for these sources that includes condensible PM–10. We have decided not to pursue this option for the reasons presented below.

The only information we have on condensible PM–10 emissions from the FMC facility is from the limited source test data recently conducted by FMC and submitted with FMC's response to comments. This information includes one stack test using Methods 201/201A and 202 consisting of three runs each for each of these sources. The test results are puzzling in some respects. We would generally expect condensible particulate to be present in emissions from hot or heated emission sources, such as combustion or furnace emission releases, but would not expect condensible particulate to be present in sources which are at ambient temperature. The source test results provided by FMC show condensible PM–10 emissions were high for most sources at FMC, including material handling of dry cold aggregate (shale, briquettes, coke, and nodules) from which no condensible particulate emissions would normally be expected because the material is already at ambient temperature. In addition, the range of reported condensible PM–10 varied considerably over the three test runs conducted for each source. EPA believes that attempting to establish emission limits that include condensible PM–10 emissions based on this limited set of data could result in less stringent limits. Because the intent of the FIP for these sources is to maintain emissions at current levels, we would need to set emission limits that would account for the wide variation in condensible emissions from these sources and set the limits at the high range of the test results.

We recognize that by establishing emission limits that do not apply to condensible PM–10 emissions, condensible PM–10 from these sources would not be directly regulated by the FIP. We nonetheless believe that this approach will not interfere with the effectiveness of the control strategy for attaining the PM–10 standard for several reasons. First, it is very unlikely that fugitive emissions from shale, briquette, coke, or nodule handling, where the material is stored at ambient temperature, contain significant condensible PM–10 because there is no further cooling process that would condense additional particulate. Second, it is not possible for FMC to change the ratio of non-condensible to condensible particulate for these sources. Therefore, establishing an emission limit that limits the amount of non-condensible PM–10 emissions from a given source to current emission levels should likewise limit condensible PM–10 emissions from that source at current levels.

We therefore believe that the more prudent course at this time is to modify the mass emission limits for these sources to exclude condensible PM–10 and to modify the reference test method so that it includes only non-condensible PM–10. In order to ensure the continued collection of information on condensible PM–10 emissions from point sources at the FMC facility and to

was unwilling to disturb that aspect of the Agency's July 18, 1997 rule.

allow for the further analysis of this data, we are proposing to require FMC to conduct Method 202 concurrently with Methods 201/201A for informational purposes. This will allow better evaluation of the extent to which condensible PM–10 is emitted from the FMC facility and whether limitations that include condensible emissions are necessary and appropriate. If we later determine that the control strategy in this FIP proposal is not sufficient to attain the PM–10 NAAQS, we will consider the extent to which condensible PM–10 emissions from the FMC facility contribute to the nonattainment problem and, if necessary and appropriate, propose additional control measures.

As stated above, FMC also commented that, for purposes of this FIP, EPA should define PM–10 emissions to include only non-condensible PM–10. FMC presumably urges this change to make absolutely clear that condensible PM–10 will not be included in determining compliance with mass emission limits for these sources. We agree with the end result sought to be accomplished by FMC, but do not agree that a change to the definition of ''PM–10'' or ''PM–10 emissions'' is appropriate because those terms are used in other contexts where condensible PM–10 emissions should be considered. To account for FMC's concern, we instead propose to revise Table 1 to make clear that the mass emission limitations for these sources do not apply to condensible particulate matter.

The source test results provided by FMC in response to the February 1999 FIP proposal also show that for some of the sources identified above, the 1996 emission inventory on which the February 1999 FIP proposal was based overestimates emissions of non-condensible PM–10. Because the emission limits for these sources in the February 1999 FIP proposal were derived from the 1996 emission inventory, the proposed emissions limits are therefore well above what the recent source tests show to be representative of actual worst case emissions of non-condensible PM–10 from these sources. As stated above, for those sources that we currently believe employ RACT-level controls, EPA intends to propose mass emission limits designed to keep PM–10 emissions at current levels. Based on the recent sources test data provided by FMC, we are therefore proposing to reduce the mass emission limits for the following sources from the levels identified in the February 1999 FIP proposal as shown below:

Source	Limit in 2/99 proposal (lbs/hr)	Proposed limit (lbs/hr)
Middle shale BH (source 6b)	0.6	0.30
N. discharge BH (source 12a)	2.7	0.20
S. discharge BH (source 12b)	2.7	0.20
E. nodule BH (source 15a)	2.0	0.50
W. nodule BH (source 15b)	1.6	0.50
Nodule reclaim BH (source 16a)	0.9	0.20
Dust silo BH (source 17a)	3.3	0.15
E. BH (furnace bldg) (source 18a)	1.5	0.75
W. BH (furnace bldg) (source 18b)	1.2	0.75
Furnace #1 MA (source 18d)	4.8	2.0
Furnace #1 MA (source 18d)	4.8	2.0
Furnace #2 MA (source 18e)	4.8	2.0
Furnace #3 MA (source 18f)	4.8	2.0
Furnace #4 MA (source 18g)	4.8	2.0

2. Calciner Scrubbers (Source 9)

The February 1999 FIP proposal proposed a mass concentration limit for the calciner scrubbers (source 9) of 0.005 grains per dry standard cubic foot (gr/dscf). During the public comment period on the February 1999 FIP proposal, FMC argued that the proposed emission limit was not achievable because the February 1999 FIP proposal underestimated existing emissions from the calciner scrubbers and underestimated the control efficiency of the existing control system. The end result, according to FMC, is an emission limit that is not achievable by FMC even after the installation of RACT-level controls and is inconsistent with the performance criteria for the calciner scrubbers agreed to by EPA and FMC in the consent decree that was lodged in the United States District Court for the District of Idaho on October 16, 1998, regarding alleged violations of the Resource Conservation and Recovery Act at the FMC facility (RCRA Consent Decree).[3] After careful consideration of the issues, we believe that the proposed emission limit for the calciner scrubbers of 0.005 gr/dscf must be revised.

[3] The RCRA Consent Decree was entered by the Court on July 14, 1999. A copy of the RCRA Consent Decree and the order of entry is in the docket.

a. Emissions Estimate

The 1996 emission inventory estimated existing emissions from the calciner scrubbers at 1204 pounds per day or 6.27 pounds per hour from each of the eight calciner scrubbing stacks.[4] This estimate was based on a grain loading of 0.013 gr/dscf from each calciner scrubber stack at a flow rate of 58,000 dscfm. This grain loading and flow rate underestimate current PM–10 emissions from the calciner scrubbers.

During the public comment period on the 1996 FIP proposal, FMC submitted information from 219 source tests of the outlet from the calciner scrubbers conducted from April 1992 to June 1998 using EPA Method 5. As discussed above, this test method does not measure condensible particulate matter. The scrubber outlet grain loading during these tests ranged from 0.009 to 0.034 gr/dscf, with an average of 0.019 gr/dscf. The flow rate ranged from 24,400 to 40,800 dscfm, with an average of 34,200 dscfm. FMC also submitted the results of 18 source tests of the inlet to the scrubbers using, EPA Method 201/201A and Method 202, and 11 tests of the outlet from the scrubbers conducted during 1998 and 1999 using EPA Method 5 and Method 202.[5] The 1998–1999 test results of the outlet from the calciner scrubbers using Method 5 only ranged from 0.014 to 0.021 gr/dscf, with an average of 0.017 gr/dscf. These results are generally consistent with the results of the source tests conducted with Method 5 from April 1992 to June 1998 (an average of 0.017 gr/dscf compared to an average of 0.019 gr/dscf), although the range of the recent tests is narrower. This narrower range is likely due to the fact that the data set of the more recent tests is smaller than for the earlier tests. The 0.013 gr/dscf used for compiling the 1996 emission inventory for the calciner scrubbers does not appear to be representative of reasonable worst case emissions from this source and in fact is not even representative of average emissions from this source.[6] Instead, it significantly underestimated reasonable worst case emissions from this source.

The flow rate of 58,000 dscfm relied on in compiling the 1996 emission inventory also was in error, which

[4] There are two calciners at FMC, each of which has two high energy John Zink scrubbers, and there are two stacks on each scrubber, adding up to eight stacks on the calciners.

[5] Method 5 is used in lieu of Method 201/201A for measuring emissions from the outlet from the calciner scrubbers because of the presence of entrained water drops. See 64 FR 7327.

[6] EPA is unable to reconstruct at this time how the 0.013 gr/dscf was settled on as the basis for the 1996 emission inventory.

appears to have resulted from an error in calculating the total number of calciner scrubber stacks and an oversight by FMC in its review of the emission inventory for accuracy. The error in the estimate of flow rate would overestimate current worst case emissions from this source. The combined effect of these errors is that the 1996 emission inventory underestimated reasonable worst case PM–10 emissions from the calciner scrubbers (excluding condensible PM–10).

Another factor that led to the underestimation of total PM–10 emissions from the calciner scrubbers in the 1996 emission inventory is that the emission estimate was based on source test data that did not measure condensible PM–10 emissions. As discussed above, the 1996 emission inventory was based on source tests conducted with EPA Method 5, which does not measure condensible PM–10 emissions. The more than 200 source tests on the calciner scrubbers conducted by FMC from April 1992 to June 1998 were also conducted with Method 5 and did not include condensible particulate matter. The more recent source tests conducted during 1998–1999 used EPA Method 202, as well as Method 5. Method 202 does measure condensible particulate matter. The test results of the outlet from the calciner scrubbers using Method 202, which for the first time measured condensible PM–10 emissions from this source, ranged from 0.006 to 0.028 gr/dscf, with an average of .012 gr/dscf. Total PM–10 emissions ranged from 0.021 to 0.043 gr/dscf, with an average of 0.029 gr/dscf. Thus, it appears that condensible PM–10 emissions account on average for approximately 40% of the total PM–10 mass from the calciner scrubbers.

After consideration of all information regarding emissions from the calciner scrubbers, including the information before EPA at the time the 1996 emission inventory was developed, the historical source test data collected by FMC from April 1992 to June 1998 using EPA Method 5, and the recent source tests conducted by FMC in 1998–1999 using EPA Method 5and Method 202, EPA believes that a more accurate estimate of current reasonable worst case of PM–10 emissions from the calciner scrubbers is 12.6 pounds per hour from each calciner scrubber, including condensible PM–10 emissions. This estimate is based on an average gas flow rate of 34,200 dscfm and on a reasonable worst case scrubber outlet grain loading of 0.043 gr/dscf using Method 5 and Method 202. This results in emissions from all eight calciner stacks of 2419 pounds per day or 200 tons per year.

b. Evaluation of Alternative Control Technology

In the February 1999 FIP proposal, EPA evaluated three alternative control technologies for increasing emission reductions from the calciner scrubbers: steam injection with high energy wet scrubbers, spray tower with hydrosonic scrubbers, and replacement of the existing scrubbing system with a baghouse. Replacement of the existing scrubbing control system with a baghouse was expected to have the highest emission reduction of any of the alternatives considered. 64 FR 7332. EPA was concerned, however, about the safety of using a baghouse on the calciner scrubbers because polonium-210 (Po–210) would be captured in the baghouse dust and retained on the baghouse walls, hoppers, and bags, creating a health and safety risk for workers. 64 FR 7332. In addition, the costs of installing baghouses was estimated to be $1.7 million with annual operating costs of up to $1.28 million, which resulted in a very high cost effectiveness. EPA continues to believe that replacement of the existing scrubbing system with a baghouse is not technologically or economically feasible and therefore does not represent RACT-level control for this source.

Of the other alternatives considered by EPA and discussed in the February 1999 FIP proposal, EPA estimated that steam injection would result in emission reductions of approximately 23% over current emissions, achieving a grain loading standard of 0.01 gr/dscf, and that a spray tower would result in emission reductions of approximately 62%, [7] achieving a grain loading standard of 0.005 gr/dscf. As discussed above, the 1996 emission inventory underestimated emissions from the calciner scrubbers. This underestimation of emissions prior to implementation of additional controls would similarly underestimate the grain loading standard that each alternative control system (steam injection or spray towers) could be expected to achieve. There is no reason to expect that steam injection would perform better than spray towers now that emissions from the calciner scrubbers are higher than originally estimated. In other words, EPA continues to believe that spray towers will be able to achieve a higher percentage of emission reductions than steam injection.[8] Therefore, EPA continues to believe that modification of the existing calciner scrubbers by installation of a spray tower represents RACT-level control for this source.

c. Emission Limit and Control Efficiency Requirements

In the February 1999 FIP proposal, EPA determined RACT-level controls (installation of spray towers in front of the hydrosonics) could achieve a grain loading of 0.005 gr/dscf at the design flow rate, estimated to be 58,000 dscfm, and proposed this emission limit as RACT for the calciner scrubbers. As discussed above, because reasonable worst case emissions from the calciner scrubbers were estimated at 0.013 gr/dscf in the 1996 emission inventory, achieving a grain loading of 0.005 gr/dscf was estimated to result in an emission reduction of 62%. In the February 1999 FIP proposal, EPA estimated the control efficiency of the current configuration of the scrubbing control system at 60%. Given that the modifications representing RACT were expected to result in a 62% reduction in emissions, the overall control efficiency of RACT-level controls was predicted to be approximately 85% (60% control efficiency of existing control system plus 62% additional reductions of the remaining 40% of emissions). As discussed in the February 1999 FIP proposal, in the RCRA Consent Decree, FMC agreed to spend $2.5 million for the purchase, installation, modification, testing, and operation of the necessary equipment for enhancing the performance of the existing scrubbing system on the calciners to achieve an overall control efficiency of 90%, with Methods 201/201A and 202 as the reference test methods. 64 FR 7332. EPA therefore determined that FMC's commitment under the RCRA Consent Decree for the calciner scrubbers would be equivalent to RACT-level controls. We continue to believe that enhancing the scrubber control system to achieve

[7] The February 1999 FIP proposal estimated the emission reductions from the addition of a spray tower at 75%. This number appears to have resulted from a calculation error. A reduction in emissions from 0.013 gr/dscf to 0.005 gr/dscf results in emission reductions of 62% over current levels.

[8] Two other alternative technologies considered by EPA and discussed in the docket, but not discussed in the February 1999 FIP proposal are lime injection and installation of waste evaporators. Lime injection has performance characteristics similar to steam injection with respect to PM–10, but has the added benefit of reducing sulfur dioxide emissions. The costs for lime injection, however, are almost three times higher than steam injection per ton of particulate removed. Installing water evaporators on the recirculated scrubber water to reduce solids content also is expected to reduce PM–10 emissions to the same extent as steam injection. As stated above, EPA believes spray towers can achieve greater emission reductions at a lower cost.

a control efficiency of at least 90% constitutes RACT-level controls.

We also believe, however, that the emission limit for the calciner scrubbers must be revised because the emission limit of 0.005 gr/dscf was based on an underestimation of current reasonable worst case PM–10 emissions from the calciner scrubbers, both because the previous estimate was based on a grain loading standard that was not representative of reasonable worst case conditions and because the estimate did not include condensible particulate matter in the exhaust. Because the performance requirement in the RCRA Consent Decree applies to all PM–10, including condensible PM–10 emissions, and because this is a high temperature combustion source, EPA believes it is appropriate that the emission limit for the calciner scrubbers apply to all PM–10, including condensibles.

In the February 1999 FIP proposal, we estimated that the current configuration of the calciner scrubbers resulted in a control efficiency of 50 to 60% based on information previously provided by FMC. Because no source tests had ever been conducted on the inlet to the calciner scrubbing system, the estimate of 50% to 60% control efficiency of the existing control system was based on best engineering judgement (of both FMC engineers and EPA), and not on actual source test data. As discussed above, the source tests conducted by FMC in 1998 and 1999 measured PM–10 emissions at both the inlet to and outlet from the calciner scrubbing system. This source test data indicates that the current scrubbing control system achieves a control efficiency of approximately 80%, much higher than previously understood. [9]

Increasing the control efficiency of the calciner scrubbing system from 80% to 90% results in an emission reduction of 50%. In proposing an emission limit for the calciner scrubbers that represents RACT, EPA believes it is appropriate that the reasonable worst case grain loading standard be reduced by 50%. The highest outlet grain loading of all PM–10, including condensibles, is 0.043 gr/dscf. A reduction of 50% would result in a grain loading of 0.022 gr/dscf. EPA therefore proposes that the calciner scrubbing system be required to achieve a grain loading standard of 0.022 gr/dscf, effective December 1, 1999, using Method 5 (with all particulate matter collected counted as PM–10) and Method 202 as the reference test methods. EPA is also proposing to establish a flow rate that is never to be exceeded based on the highest flow rate measured by FMC between 1992 and 1998 of 40,800 dscfm. These limits will are expected to achieve a reduction in emissions from the calciner scrubbers of 50% over current levels.

As discussed above and in the February 1999 FIP proposal, FMC agreed in the RCRA Consent Decree to achieve a control efficiency from the modified calciner scrubbing system of at least 90% under all operating conditions. To ensure that the modified scrubbing control system is being properly operated and maintained at all times, EPA also proposes to require that the pollution control equipment on the calciner stacks achieve a 90% control efficiency under all operating conditions, regardless of inlet loadings, production, and other variations in operations. The requirement to achieve a 90% overall control efficiency would be based on a reference test method that requires simultaneously measuring emissions at the inlet and outlet of the air pollution control equipment. The requirement for simultaneous testing is designed to reduce errors that could occur due to variability in emissions among the five test points (as stated above, there are two John Zink high energy scrubbers on each of the two calciners and two stacks per scrubber, resulting in one inlet test point and four outlet test points for each calciner). EPA proposes Methods 201 and 202 for the inlet to the calciner scrubbing system and Method 5 (with all particulate counted as PM–10) and Method 202 for the outlet from the system.

During the public comment period on the February 1999 FIP proposal, the Tribes commented that they supported the emission limitation of 0.005 gr/dscf for the outlet of the calciner scrubbing system in the February 1999 FIP proposal. The Tribes have expressed concern that, because the proposed FIP controls are based on the emission inventory, if the emission inventory has underestimated emissions by not including condensible particulate matter, revised emission limits might be inadequate to attain the particulate matter standards. For the reasons discussed above, we believe the emission limit for the calciner scrubbers of 0.005 gr/dscf proposed in the February 1999 FIP proposal is in error and must be revised. We also believe that the requirement to meet the revised limit of 90% control efficiency, but at no time to exceed 0.022 gr/dscf, represents RACT for this source. Moreover, EPA does not believe that the error in the estimation of emissions from the calciner scrubbers in the February 1999 FIP proposal and the increase in the emissions limit for the calciner scrubbers that would occur with this supplemental proposal will interfere with or delay attainment of the particulate matter standards. Rather, as discussed in more detail in section V.C. below, EPA believes that implementation of the emission limits in the February 1999 FIP proposal, as revised by this notice, will result in attainment of the PM–10 standards as expeditiously as practicable.

3. Calciner Cooler Vents (Source 10)

In the February 1999 FIP proposal, EPA stated that the calciner cooler vents currently employed RACT-level controls. We therefore proposed an emission limit for this source that we believed would keep emissions from the calciner cooler vents at current levels. 64 FR at 7324. As stated above, the emission inventory from which the proposed emission limits were derived was, for most sources, based on source tests using Method 5. Method 5 measures total suspended particulate, not just PM–10, and does not include condensible particulate matter. To determine the PM–10 emissions from the Method 5 data for a particular source for the 1996 emission inventory, EPA estimated, based on information provided by FMC, the percentage of total particulate matter from the source that was less than ten micrometers in diameter (PM–10).[10] Based on information provided by FMC, we estimated that 10% of the total particulate matter emitted from the calciner cooler vents was PM–10.[11] From this information, EPA determined that the current hourly emission rate of PM–10 from each calciner cooler vent was 2.0 pounds per hour (lb/hr) of PM–10. 64 FR at 7354 (proposed Table 1 to 40 CFR 52.676 (source 10)). EPA therefore proposed this emission rate as the emission limit for this source.

In its comments on the February 1999 FIP proposal, FMC asserted that, by estimating that only 10% of the total particulate matter from the calciner cooler vents was PM–10 in the 1996 emission inventory, EPA significantly

[9] As discussed above, EPA believes that the 1998–1999 source test results provided by FMC are reliable because the Method 5 results (excluding the condensible fraction) are consistent with the results of the 219 source tests conducted from April 1992 to June 1998, which also excluded the condensible fraction.

[10] As stated above, neither the Method 5 data, nor EPA's estimation of PM–10 emissions from the Method 5 data included condensible particulate matter.

[11] FMC had advised EPA at the time the 1996 emission inventory was prepared that only 7.5% of total particulate emissions from this source was PM–10. EPA assumed 10% to provide for a margin of error.

underestimated PM–10 emissions from this source. Based on the source tests conducted by FMC after the February 1999 FIP proposal, it appears that on average 38% of total particulate matter from the calciner cooler vents is comprised of PM–10, and that 59% of the PM–10 is condensible particulate matter. The average emission rate across the four calciner cooler vents is 2.9 lb/hr of PM–10 (excluding condensible PM–10), with a range of 2.0 to 4.0 lb/hr, depending on the stack. FMC commented that the mass emission limit for the calciner cooler stacks (source 10) must be revised because current source tests show that FMC cannot comply with the proposed emission limit for this source even when condensible PM–10 is excluded from the limit. FMC noted that EPA stated in the February 1999 FIP proposal that the calciner cooler vents currently employ RACT-level controls and that the intent of the proposed mass emission limit was to keep emissions at current levels.

After reviewing the information provided by FMC in its comments on the February 1999 FIP proposal, EPA believes that the emission limits for the calciner cooler stacks should be revised to account for this new source test data. EPA is therefore proposing an emission limit for each calciner cooler stack of 4.4 lb/hr of PM–10 (which is the maximum emission rate reported by FMC plus a margin for error), excluding condensible PM–10. Method 201/201A is proposed as the reference test method.

4. Phosphorous Loading Dock (Phos Dock) Scrubber (Source 21a)

We proposed a 0.007 gr/dscf emission limit in the February 1999 FIP proposal for the phos dock scrubber. This limit was designed to keep emissions at the levels in the 1996 emission inventory. As stated in the February 1999 FIP proposal, the additional controls FMC has agreed to undertake for the phos dock area are designed to reduce emissions due to ''upset'' conditions. Emissions from ''upset'' conditions were not included in the 1996 emission inventory as discussed in our earlier proposal. 64 FR at 7341. During the public comment period on the February 1999 FIP proposal, FMC requested that the emission limit for the phos dock scrubber exclude condensible PM–10 emissions because, as discussed above in section IV.A.1., the emission estimate for this source in the 1996 emission inventory was based on source tests conducted with Method 5. For the reasons discussed above in section IV.A.1., we agree that the emission limit for the phos dock scrubber should exclude condensible PM–10 emissions and that the reference test method for this source should be Method 201/201A. Method 202 would be required to be conducted for informational purposes.

The new source test data for the phos dock scrubbers submitted by FMC in response to comments on the February 1999 FIP proposal indicated that the worst case daily PM–10 emissions (excluding condensibles) from the phos dock scrubber were 0.003 gr/dscf. This emission rate is less than what is presented in the 1996 emission inventory. Accordingly, as also discussed above in section IV.A.1., EPA proposes that the emission limit for the phos dock scrubber be reduced from 0.007 gr/dscf to 0.004 gr/dscf with Method 201/201A as the reference test method.

5. Excess CO Burner (Source 26b)

In the RCRA Consent Decree, FMC committed to replacing the existing elevated secondary condenser flare (elevated flare) and ground flare with new technology, which is referred to as the excess CO burner. The excess CO burner will burn the phosphorus in the excess carbon monoxide (CO) gas stream in an enclosed combustion chamber and duct exhaust gasses to a scrubber to remove phosphorus pentoxide. FMC committed to achieving a 95% control efficiency for PM–10 in the RCRA Consent Decree. In the February 1999 FIP proposal, EPA stated that it believed this system constituted RACT for this source. 64 FR 7332–7333. During the summer of 1999, FMC built, operated, and tested a pilot excess CO burner demonstration project. This project is approximately 1/80 scale of the excess CO burner FMC intends to build to satisfy its obligations under the RCRA Consent Decree. Based on operating and testing of the excess CO burner pilot project, on November 1, 1999, FMC provided EPA with summary information on current emissions, problems with reference test methods, PM–10 removal efficiencies, and other performance and durability information. A summary of the discussions with FMC at the November 1, 1999, meeting, as well as a copy of the information provided by FMC to EPA at the meeting, is in the docket.

a. Emissions From the Existing Elevated Flare and Ground Flare

The existing elevated flare and ground flare, to which excess CO at the FMC facility is currently directed, emit combustible gas mixtures. There is no EPA approved test method for measuring emissions from this source and, because of the nature of the emissions, it has not previously been possible to directly measure emissions from this source. The difficulty in accurately measuring emissions from this source has been compounded by the fact that emissions from this source vary tremendously (by orders of magnitude) throughout a 24-hour period and from week to week based on plant operating conditions. The emission estimate of 3109 pounds per day (2281 from the ground flare and 828 from the elevated flare) contained in the 1996 emission inventory that served as a basis for the February 1999 FIP proposal was derived from theoretical chemical reaction calculations and assumptions of worst case operating conditions. Those calculations also accounted for the oxidation of phosphorus to phosphorus pentoxide (P205) and reported mass emissions as P2O5.

In its comments on the February 1999 FIP proposal, FMC asserted that emissions from the existing elevated flare and ground flare are far greater than estimated in the 1996 emission inventory—as much as four times higher. FMC did not provide any documentation along with its comments, however, to justify its claim that the estimate for these sources in the 1996 emission inventory was in error.

The construction of the excess CO burner pilot plant has allowed FMC for the first time to conduct actual source tests on PM–10 emissions generated from the excess CO at the facility. FMC used the results of their source testing of the inlet to the excess CO burner to estimate emission from the current elevated secondary condenser flare and CO ground flare. This recent source testing has provided more accurate information on the levels of particulate emissions from this source and shows that previous emission estimates underestimated PM–10 emissions from the excess CO because of the chemical composition of the emission stream.

Particulate in the excess CO exhaust gas consists primarily of oxidized phosphorus compounds, including phosphorus pentoxide and phosphoric acid. Phosphorus pentoxide will rapidly hydrolyze to phosphoric acid in the presence of water vapor. Phosphoric acid is a strong desiccant and its mass continues to increase when exposed to water vapor. FMC contends that this phenomenon was highlighted when they tried to equilibrate source test filters in the desiccator and weigh to a constant weight. The mass of the filter from a reference test method source test continues to increase as water is absorbed from the atmosphere, even in the desiccator and it cannot be driven off by heating the filters to 220 degrees Fahrenheit. This same phenomenon

occurs in exhaust gas streams and in the atmosphere.

Emissions in the elevated flare and ground flare while in the stack are mostly pure phosphorus. The phosphorus burns immediately upon contact with air to form P2O5 and further chemical reactions continue to occur in the atmosphere to form more complex phosphorus compounds These compounds end up on the ambient sampler filter media and are measured for determining ambient PM–10 levels. The excess CO burner takes the same phosphorus laden gas stream, burns it to P2O5, hydrolyzes to phosphoric acid, possibly undergoes other reactions, and emits a complex mixture of phosphoric acid and other compounds. Essentially the excess CO burner will contain the chemical reactions that now occur in the atmosphere and scrub them in the Andersen filter system.

Based on the information provided by FMC at the November 1, 1999, meeting, it appears that previous estimates of PM–10 emissions generated by the excess CO burned in the elevated flare and ground flare did not account for increased mass due to absorption of water vapor in the atmosphere as emissions were transported from FMC to the monitoring sites. FMC presented a chart of phosphorus and the mass conversion factor after exposure to water vapor. One pound of phosphorus can result in particulate that is 4.3 times greater in mass, or 4.3 pounds. EPA's previous estimates of emissions calculated the mass of P2O5 emitted from the elevated flare and ground flare and did not account for an increase in mass due to absorption of the water vapor.

Based on the source test data from the pilot project provided by FMC, FMC estimates worst case daily emissions from the elevated secondary condenser flare and CO ground flare of 10,543 pounds per day. This is more than three times as high as the estimate of 3109 pounds per day that EPA relied on the February 1999 FIP proposal. Both methods used the same operating conditions for calculating 24-hour worst case emissions (one calciner down and two hours of hot flush in a 24 hour period). EPA believes these new results are far superior to the original emission estimates made by EPA and presented in the February 1999 FIP proposal, because FMC's revised estimates account for some water vapor that is in the combustion air. It is important to emphasize that the revision of the emission estimate for this source does not reflect an increase in emissions from this source since 1996, but instead, reflects a more accurate estimate of what has been and is currently being emitted from the elevated flare and ground flare.

b. Mass Emission Limit and Control Efficiency Requirements

We proposed a mass emission limit for the excess CO burner of 6.5 lbs/hour in the February 1999 FIP proposal. During the public comment period on the proposal, FMC commented that the proposed limit is inconsistent with, and much more stringent than the performance criteria FMC agreed to meet for the excess CO burner in the RCRA Consent Decree. FMC contended that this inconsistency was due in part to the fact that the emission limit was derived using an incorrect baseline emission inventory which greatly underestimated current emissions from the elevated flare and ground flare that the excess CO burner will replace. The error in the estimation of emissions was compounded, according to FMC's comments on the February 1999 FIP proposal, by applying an oversimplified mathematical calculation and requiring compliance testing during worst case conditions. The end result, according to FMC, is an emission limit that is technologically infeasible. In support of this position, FMC submitted a letter from Andersen 2000, Inc, (Andersen) the manufacturer of the Andersen CHEAF scrubber, the control equipment for the excess CO burner under consideration by FMC. Andersen's May 7, 1999, letter to FMC stated that the Andersen CHEAF scrubber cannot achieve the proposed emission limit of 6.5 lbs/hour from an emission source with oxidized phosphorus present, such as the excess CO burner.

In commenting on the February 1999 FIP proposal, FMC also noted that the excess CO burner involves novel applications of existing technology and is still in the research and development stage. Because of the difficulty of estimating current emissions from the existing elevated secondary condenser flare and the existing CO ground flare and because of the difficulty of forecasting actual emissions from the excess CO burner upon completion, FMC urged EPA in its comments to establish a control efficiency requirement rather than a mass emission limit for the excess CO burner or to defer establishing any requirements for the excess CO burner until the source is constructed and tested.

In the RCRA Consent Decree, FMC committed to achieving a 95% control efficiency for PM–10 for the excess CO burner. As stated in the preamble to the February 1999 FIP proposal, we intended that the mass emission limit in the February 1999 FIP proposal for the excess CO burner be consistent with the performance measures agreed to by the United States and EPA in the RCRA Consent Decree. 64 FR at 7332–33.

Based on the information provided during the public comment period and in consultation with others at Region 10, EPA circulated a letter to all those who commented on the February 1999 FIP proposal. The letter was dated June 8, 1999, and was addressed ''To whom it may concern.'' A copy of the letter is in the docket. In the letter, EPA stated that based on our preliminary review of the public comments received with respect to two sources at the FMC facility, EPA was considering changes to the mass emission limits for the calciner scrubbers and the excess CO burner. With respect to the excess CO burner, the letter stated that EPA was considering establishing an emission limit for the excess CO burner that required FMC to achieve a control efficiency of 95% at all times, consistent with the RCRA Consent Decree. EPA further stated that it believed it was essential to establish an upper limit on emissions from the excess CO burner to ensure that an increase in production does not result in an increase in emissions that could interfere with attainment of the PM–10 NAAQS. Although the letter from Andersen stated that the excess CO burner could not achieve an emission limit of 6.5 pounds per hour, Andersen did state that it would guarantee an emission limit of 15.81 pounds per hour of PM–10 (including condensible PM–10 emissions) from the excess CO burner using Methods 201/201A and 202, based on the design parameters provided by FMC. Based on the Andersen letter, the June 8, 1999 ''To whom it may concern'' letter stated that EPA was also considering a requirement that the emissions from the excess CO burner also not exceed 15.81 pounds per hour.

As stated above, FMC conducted numerous source tests on the excess CO burn pilot plant over the course of the summer of 1999. During the November 1, 1999, meeting, FMC presented a summary of the source test results and expressed a concern that the excess CO burner would not be able to comply with a mass emission limit of 15.81 pounds per hour and might not be able to achieve a control efficiency of 95% at all times, as outlined in the June 8, 1999 ''To whom it may concern'' letter from EPA.

i. Mass Emission Limit

With respect to the mass emission limit, FMC stated that as a result of the recent source tests conducted on the inlet to the excess CO burner, current

emissions from the secondary elevated flare and CO ground flare are significantly higher than previously estimated. This issue is discussed in more detail above. The guarantee in the Andersen letter of 15.81 pounds per hour most likely did not completely anticipate the water vapor issue. Based on the data provided by FMC in the November 1, 1999, meeting it appears that the maximum emission rate from the excess CO burner will occur during a hot flush and will result in a mass loading at the inlet of the scrubber of 472 pound per hour. This calculation is based on excess CO burner design capacity, a grain loading during a hot flush of 2.0 gr/dscf. With a 95% control efficiency, the resulting maximum hourly emission rate would be 24 pounds per hour. Because the hot flush generally occurs for no more than two hours and the source test consists of three one hour runs, generally separated by a period of time necessary to set up for the next run, EPA believes that a maximum emission limitation of 24 pounds per hour, as measured by the reference test methods, along with a control efficiency requirement of 95%, represents RACT for the excess CO burner. The control efficiency requirement, discussed below, will assure that emissions are minimized on a continuous basis during normal operation of four furnaces and two calciners.

ii. Control Efficiency Requirement

With respect to the control efficiency requirement, FMC presented a table of scrubber inlet loadings comprised of 29 individual tests. FMC also presented a graph showing the test run number and the overall system PM–10 removal efficiency (%) for each run. The early runs show performance of less than 95% but are characterized by wide variability. These results are unreliable because of a problem with the test method used, which is discussed in more detail below. The last four runs presented on the graph show control efficiencies of between 90 to 95%, but the corresponding inlet and outlet loading results are not presented on this graph. The manner in which FMC conducted the source testing on the pilot plant appears to have underestimated the removal efficiency of the control device on the excess CO burner pilot project. The excess CO burner pilot project burns the CO gas in an enclosed burner with excess air. Burner exhaust passes through ducts to a water quench to cool the gas stream and which saturates the gas stream with water vapor prior to entering the Andersen scrubber. The sampling protocol has two problems. Most significantly, the sampling ports for the inlet to the scrubber are upstream of the water quench. And secondly, but of less significance, the combustion air contains water vapor and the inlet sampling ports are upstream of rather long ducting before reaching the scrubber, thus allowing residence time for any water vapor to react with the P2O5 before being sampled at the outlet. There appears to be more than 20 feet (perhaps as much as 40 feet) of ducting before the water quench and the control device. If the inlet to the control device had been sampled after the water quench, EPA believes the control efficiency would have achieved 95%. The true performance of the control device on the excess CO burner appears to have been significantly underestimated because of where FMC measured the inlet to the control system.

iii. Reference Test Methods

The information provide by FMC at the November 1, 1999, meeting also identified an apparent problem with Method 201/201A and Method 5, the reference test methods proposed in the February 1999 FIP proposal and the June 8, 1999 ''To whom it may concern'' letter for the excess CO burner. According to FMC, because of the chemical composition of the emission stream, conducting performance tests with these EPA reference test methods, without modification, are unreliable and overestimate PM–10 emissions. FMC contends that some modifications to the proposed reference test methods (Methods 201/201A and 5) are needed for the excess CO burner. As discussed above, particulate in the excess CO exhaust gas consists primarily of oxidized phosphorus compounds, including phosphorus pentoxide and phosphoric acid. Phosphorus pentoxide will rapidly hydrolyze to phosphoric acid in the presence of water vapor. Phosphoric acid is a strong desiccant and its mass continues to increase when exposed to water vapor.

Reference Method 5 and Method 201/201A provide filter handling procedures after sample collection. See 40 CFR Part 60, Appendix A, Method 5 , section 4.3, and 40 CFR Part 51, Appendix M, Method 201, section 4.2.1. This procedure requires storing filters in an enclosure with silica gel desiccant (desiccator), conditioning of filters for 24 hours before weighing, and weighing to a constant weight. It provides an alternative procedure that calls for heating the filter to 220 degrees Fahrenheit for two to three hours, cooling in the desiccator, and weighing until the weight stabilizes with no less than six hours between weighings. The particulate catch from the excess CO burner is primarily phosphorus pentoxide, which appears to be a strong desiccant and renders the silica gel ineffective in preserving the filter catch from water vapor contamination. Filter weight continues to grow in this environment. Heating filters to 220 degrees Fahrenheit and cooling in the desiccator likewise allows filter mass to increase and a constant weight cannot be achieved. It appears that filters, immediately after sampling, should be transported, stored and weighed in a water vapor free environment. In the later test runs conducted by FMC, FMC chose to use inert gas for this purpose.

These improvements in filter handling and storage in inert gas environments implemented by FMC in response to the initial problems with the source test methods would require a modification to the EPA reference test methods proposed in the February 1999 FIP proposal. As discussed in more detail in section IV.B. below, EPA is including in this supplemental proposal a provision that would allow FMC to use an alternative reference test method or a deviation from the reference test method provided certain showings are made upon the written request of FMC and the written approval of the Regional Administrator. This provision should accommodate FMC's need to modify the proposed test method for this source.

c. Opacity Limit

In the February 1999 FIP proposal, we proposed an opacity limit of 5% for the scrubber on the excess CO burner. In commenting on the February 1999 FIP proposal, FMC submitted a letter from Andersen 2000, Inc., to FMC dated May 7, 1999. In the letter, Andersen stated that at the upper range of the emissions from this source, there are trace visible emissions that could exceed 5% opacity. The letter further stated that the control equipment could not achieve 5% opacity on this source on a continuous basis, but that Andersen would guarantee an opacity limit of 10% under all operating conditions. EPA does not believe there is a more efficient control technology than the Andersen scrubber for controlling PM–10 emissions from the excess CO burner, which is dominated by phosphorus pentoxide a very small particulate that is difficult to control.

At the November 1, 1999 meeting, FMC submitted a summary of results of opacity readings conducted on the excess CO burner pilot plant conducted over the summer of 1999. Opacity was measured at the outlet of the Andersen

scrubber on the pilot plant. FMC did not submit individual data sheets for each observation; therefore independent analysis of the results presented is not possible.

The summary of results presented by FMC demonstrates that when the burner and scrubber were operating at ''design condition,'' normal opacity was zero percent. Some readings were less than or equal to 10% opacity and one reading taken during a ''heavy'' hot flush was reported at less than or equal to 20% opacity. In the oral presentation of this information by FMC at the November 1, 1999 meeting, the project manager made a statement that he believed that the completed full size project might actually perform better than the demonstration project. It appears the opacity readings were taken during the same time frame that source tests were being conducted. Unfortunately, correlation of opacity with scrubber inlet loadings was not conducted to provide information why any elevated opacity readings were observed.

Based on the information provided by FMC in response to the February 1999 FIP proposal, the information provided to EPA by FMC at the November 1, 1999 meeting, and the other information in the docket, EPA believes that the excess CO burner is capable of meeting an opacity limit of 10% and that 5% is an appropriate opacity action level. Based on the information provided by FMC at the November 1, 1999, meeting, during normal operation of the pilot project, there were no visible emissions.

d. Flare on Excess CO Burner

In its comments on the February 1999 FIP proposal, FMC asked for clarification that the requirements of proposed 40 CFR 52.676(c)(5), which prohibits the burning of furnace gas in the elevated secondary condenser flare and the ground flare, apply to the *existing* flares at the FMC facility. The design of the excess CO burner is nearing completion and the new system will require an emergency flare to prevent the possibility of explosions. We have requested information on this new source from FMC, but have yet to receive it. EPA therefore proposes that this new source be addressed by the new section of this proposal pertaining to EPA notification of the construction of new sources of PM–10 emissions at the FMC facility, as discussed in section IV.A.7.b. below . Because the excess CO burner will not be operational until January 1, 2001, there should be sufficient time to promulgate emission limits for this source once EPA is provided appropriate documentation from FMC.

6. Opacity Limits

In the February 1999 FIP proposal, we proposed limits on visible emissions from all sources except for the calciner scrubbers. The proposed opacity limits ranged from a limit of no visible emissions from certain piles and processes to 10% opacity on fugitive emissions not captured by baghouses. See 64 FR at 7325–7326. EPA did not rely on a direct correlation between opacity levels and mass emissions in supporting the opacity limits proposed in the FIP. Instead, as stated in the proposal, the control strategy is premised on ensuring that, for those sources that we believe currently employ RACT-level controls, emissions from those sources remain at current levels in the emission inventory. 64 FR at 7325. The emissions rates in the 1996 emission inventory were premised on the fact that the process and control equipment that affect a particular source are properly operated and maintained at all times. The opacity limits proposed by EPA were therefore intended to ensure that the process and control equipment are being properly operated and maintained at all times.

In commenting on the February 1999 FIP proposal, FMC contended that the opacity limits proposed in the FIP are overly stringent and not supported by the record, although FMC did concede that some enforceable limits on visible emissions should be required in the FIP. As an alternative approach, FMC suggested that the FIP should establish a facility-wide opacity limit of 20% and then establish action levels for each source below 20% that would trigger a requirement for FMC to commence an investigation and take corrective action. A source that exceeded the action level would not, however, be in violation of the opacity limit under FMC's suggested approach so long as emissions do not exceed the 20% opacity limit.

EPA does not believe that an opacity limit of 20% achieves EPA's objective of ensuring that, for those sources that we believe currently employ RACT-level controls, emissions from those sources remain at current levels in the emission inventory by ensuring that the process and control equipment are being properly operated and maintained at all times. Based on the visible emission surveys of the FMC facility conducted in December 1995–January 1996, October–November 1998, and a recent survey conducted in September 1999, an opacity limit of 20% is far above typical opacity levels for the sources at FMC and would be indicative of a source that was not being properly operated or maintained. On further reflection, however, EPA is proposing an alternative approach toward opacity that EPA believes will be easier to implement and enforce than EPA's February 1999 FIP proposal, and yet will still achieve EPA's objective of ensuring that process and control equipment is being properly operated and maintained at all times.

With a few exceptions, all of the opacity limits in the February 1999 FIP proposal were 10% or less. For the reasons discussed in the February 1999 FIP proposal and the docket accompanying the proposal, EPA continues to believe that, with the few exceptions discussed below, the identified point and fugitive sources should be able to achieve an opacity limit of 10% on a continuous basis if the process and control equipment is properly operated and maintained. EPA is therefore proposing an opacity limit of 10% for most sources. To ensure that emissions from these sources are minimized at all times, however, EPA is also proposing an opacity action level for each source. For those sources for which EPA proposed an opacity limit of no visible emissions in the February 1999 FIP proposal, such as some piles and buildings, EPA is proposing an opacity action level of ''any visible emissions.'' If visible emissions are observed from a source with an opacity action level of ''any visible emissions,'' FMC would be required to take prompt corrective action to minimize visible emissions, but would not be in violation of the opacity limit so long as the opacity level from such a source does not exceed 10%. For those sources with a proposed numerical opacity limit of 5, 7, or 10% in the February 1999 FIP proposal, such as baghouses, scrubbers, and some piles, EPA is proposing an opacity action level of 5%. For these sources, FMC would be required to take prompt corrective action to minimize visible emissions if opacity exceeded 5%, but would not be in violation of the opacity limit so long as opacity did not exceed 10%.

One commenter commented that properly operating baghouses are expected to have no visible emissions and that the baghouses at FMC should therefore be subject to a limit of no visible emissions. EPA agrees that a properly operating baghouse will generally have no visible emissions. Indeed, FMC also noted in its comments that ''Typically, baghouse stacks have zero percent opacity.'' However, most baghouse systems, including the baghouses at FMC have a self-cleaning mode in which the bags are

automatically cleaned through a pneumatic pulse where the collected dust falls into the baghouse hopper and is conveyed to the dust silo. During these cleaning episodes, one can observe occasional wisps of visible emissions. EPA therefore believes that an emission limitation of no visible emissions from the baghouse is not consistent with current operations and procedures.

In the February 1999 FIP proposal, EPA proposed an opacity limit of 20% for the furnace building until April 1, 2002, the date by which additional controls must be installed on the furnace and in the furnace building. After further consideration, EPA believes that an opacity limit of 20%, with a corrective action level of 10%, is also appropriate for certain open (*i.e.,* uncaptured) fugitive dust sources, such as certain piles and roads. These sources include the nodule pile (source 11), the nodule fines pile (source 13), the screened shale fines pile (source 14), and all roads (source 22). For these sources, EPA believes that meteorological conditions, such as high winds during dry conditions, could cause emissions in excess of 10% and therefore believes on further reflection that an opacity limit of 20% is appropriate for these sources. Under this proposal, if opacity exceeded 10% for these sources, FMC would be required to take appropriate additional work practice measures, such as additional application of dust suppressants or clean-up of spillage to reduce emissions to 10% opacity or below. Exceedances of the opacity action level would not constitute a violation, however, so long as the opacity level for such a source remains below 20% and FMC takes prompt appropriate corrective action.

EPA believes that having two opacity limits—10% or 20%—for all identified sources, with lower corrective action levels of ''any visible emissions,'' 5% or 10% will make it easier for FMC to implement the FIP requirements, and will also make it easier for regulators and citizens to monitor FMC's compliance with the FIP. The simplification of the opacity limits will also result in more streamlined procedures for the weekly inspection of sources for opacity, as discussed in section IV.C.3. below. Increasing the opacity limits for some sources should also help to allay FMC's concerns that short term increases in opacity could result in violation of the opacity limit. Including a specific requirement that FMC initiate corrective action if opacity exceeds the opacity action level will at the same time ensure that emissions are minimized.

To implement this proposal, EPA proposes to include a provision stating that exceeding an opacity action level shall require prompt corrective action to minimize emissions, as well as a definition of ''opacity action level.'' EPA also proposes to revise the operation and maintenance requirements to specifically require the operation and maintenance plan to specify, for each source, corrective measures to be taken when the source exceeds the opacity action level.

7. Sources Not Identified in Table 1

a. Insignificant Sources

The February 1999 FIP proposal contained a prohibition on visible emissions from any location at the FMC facility at any time except as otherwise specifically provided in the rule. See 64 FR at 7347 (proposed 40 CFR 676(c)(1)). The intent of this provision was to ensure that sources inadvertently omitted from the emissions inventory do not go unregulated. 64 FR at 7325. During the public comment period on the February 1999 FIP proposal, FMC expressed concern because there are numerous small sources of PM–10 at the FMC facility, which are not included in Table 1 to the rule, which FMC asserts could not reasonably be expected to have a measurable impact on the PM–10 loadings on the Tribal monitors but could not meet the requirement of no visible emissions. As examples, FMC identified welding operations, grinding, sand blasting and cleaning operations, housekeeping activities, construction activities, street sweeping operations, maintenance activities, pond piping discharges, small elemental phosphorous fires from spills or releases, landfill activities, and laboratory stack vents. FMC expressed concern because such activities do, at times, have intermittent visible emissions and would be in violation of the prohibition of no visible emissions. FMC proposed that these activities be exempt from all opacity requirements and that the specific list of the exempted insignificant activities be included in FMC's title V permit application and title V permit. FMC did acknowledge that it would implement reasonable precautions to minimize visible emissions from these activities.

After further consideration, EPA is proposing to exempt from the prohibition on visible emissions certain identified sources and activities that could not reasonably be expected to have a measurable impact on the PM–10 loadings on the Tribal monitors, but that could be expected to have visible emissions on an intermittent basis. EPA does not believe, however, it is appropriate to exempt these sources and activities from all limitations on opacity. Most state implementation plans have a generally-applicable opacity limit that applies to all sources of emissions, even sources and activities that would not be expected to have a measurable impact on air quality in the area. See WAC 173–400–040(1); IDAPA 16.01.01.625. EPA is therefore proposing that these smaller sources would be exempted from the prohibition on no visible emissions, but would be subject to an opacity limit of 20% over a six minute average, with Method 9 as the reference test method.

In determining the categories of smaller sources of PM–10 at the FMC facility that have not been included in the emission inventory and that would not be expected to have a measurable impact on the PM–10 loadings at the Tribal monitors, EPA considered the list proposed by FMC and also categories of sources that have been determined by states to be ''insignificant emission units'' for purposes of the title V operating permit program. These are categories of sources that are subject only to generally applicable emission limits and that generally need not be described in the title V permit application. Based on that review, EPA proposes that the following categories of sources be exempt from the general prohibition on visible emissions and instead be subject to a general opacity limitation of 20%.

a. Brazing, welding, and welding equipment and oxygen-hydrogen cutting torches;

b. Plant upkeep, including routine housekeeping, preparation for and painting of structures;

c. Grinding, sandblasting, and cleaning operations that are not part of a routine operation or a process at FMC;

d. Cleaning and sweeping of streets and paved surfaces;

e. Lawn and landscaping activities;

f. Repair and maintenance activities;

g. Landfill operations;

h. Laboratory vent stacks; and

i. Pond piping discharges.

Under this supplemental proposal, FMC would also be required to address these sources in its operation and maintenance plan.

FMC also included in its suggested list of insignificant sources construction activities and small elemental phosphorous fires (phos fires) from spills or releases. We do not agree that such sources can be characterized as insignificant with respect to their potential emissions of PM–10.

Construction activities can involve considerable emissions of PM–10 depending on the extent of the activity. Likewise, phos fires can generate considerable emissions depending on the amount of phosphorus that is burned. The fuming (burning) of the FMC Pond 9E a few years ago is one good example of a elemental phosphorus fire that was of large extent and that continued for several weeks. Preventing spillage of elemental phosphorus should be a matter of good housekeeping and would prevent phosphorus fires.

b. New Sources

A related concern raised by FMC is that the prohibition on visible emissions from any source except as specifically authorized in Table 1 to proposed 40 CFR 52.676 presents two problems. First, it effectively prohibits the construction of new sources if the new source would have visible emissions. Second, to the extent a source of PM–10 could be constructed that would have no visible emissions, there would be no additional requirements on that source. To address this issue, FMC suggested in its comments on the February 1999 FIP proposal that the FIP include a provision requiring FMC to notify EPA if it plans to construct a new source or modify an existing source in a manner that would increase emissions of PM–10. FMC suggested that this notice be provided 10 days prior to construction or modification.

EPA, in a rulemaking process separate from this FIP for FMC, is developing a rule that would apply to the construction or modification of new minor sources in Indian Country and extending to Indian Reservations the permitting requirements of sections 172(b)(6) and 173 of the Clean Air Act and 40 CFR 51.165 for major stationary sources and also major modifications in nonattainment areas (referred to as ''Part D NSR''). The Shoshone-Bannock Tribes also have the authority to seek EPA approval of a program for reviewing the construction and modification of new sources under the Tribal Authority Rule, 40 CFR Part 49. Until such a time as EPA or the Tribes, with EPA approval, adopt a new source review program for minor sources and major sources and modifications in nonattainment areas, we are proposing to require that FMC notify EPA prior to beginning construction of any new source of PM–10 or modification of an existing source that results in an increase of PM–10 emissions. ''Begin actual construction,'' ''construction,'' and ''modification'' are based on the definitions in the regulations for state Part D NSR programs, 40 CFR 51.165(a)(1)(v), (xv), and (xviii) and the New Source Performance Standards, 40 CFR 60.2 and 40 CFR 60.14. The notice of construction or modification would be required to include a description of the source, an estimate of potential PM–10 emissions from the source, and an evaluation of any control technology considered by FMC. EPA would intend to promulgate emission limitations for the source, as necessary and appropriate, in another rulemaking. In order to provide EPA time to evaluate the new source, EPA proposes that FMC must notify EPA at least 90 days prior to the construction or modification of such a source. After 90 days, FMC would be authorized to construct the source, but the source would be subject to an opacity limit of 10%, unless EPA establishes alternative or additional emission limitations or work practice requirements for the source. FMC would also be required to address the new source in its operation and maintenance plan. The 90 day period is intended to allow EPA time to consider if additional requirements should be established for the source.

B. Reference Test Methods

As discussed above, for many of the mass emission limits identified in Table 1, EPA is proposing that only Method 201/201A be the reference test method. For these sources, FMC would still be required to conduct Method 202 concurrently with Method 201/201A but the results would be for informational purposes only.

The February 1999 FIP proposal required the reference test for the Medusa Andersen stacks on the furnace building (sources 18d, 18e, 18f, and 18g) be conducted during slag tapping. See 64 FR at 7347 (proposed 40 CFR 676(d)(2)(viii)). In its comments on the February 1999 FIP proposal, FMC noted that each furnace has two slag tap holes and two metal tap holes and that, during normal operation, slag is tapped from a given furnace one side at a time for 20 minutes on each side during any given hour. A metal tap is conducted from one side of each furnace once each shift. Because each of the three required test runs lasts for at least 60 minutes, FMC points out that any given stack test will include a slag tap or metal tap, but that tapping will not be continuous throughout the source test. FMC therefore requested that the language be revised to state that the source tests on the furnace stacks be conducted during periods that include slag tapping or metal tapping, but not exclusively during tapping. EPA is proposing to revise the source testing requirements to include this language.

The February 1999 FIP proposal required the performance test for the excess CO burner (source 26b) be conducted during either a mini-flush or hot-flush. See 64 FR at 7347 (proposed 40 CFR 676(d)(2)(ix)). In its comments on the February 1999 FIP proposal, FMC noted mini-flushes typically last 21 minutes, with a recent maximum of 1.5 hours. Because each of the three required test runs lasts for at least 60 minutes, FMC points out that a mini-flush might have to be extended if the entire test were to be conducted during a mini-flush. FMC also commented that requiring sampling during a mini-flush or a hot-flush would greatly overestimate hourly emissions because such events last at most four hours in a given day and the PM–10 NAAQS includes a 24-hour standard. FMC therefore requested that the language be revised to provide that at least one of the three test runs must be conducted during a mini-flush or a hot-flush.

Devising the appropriate source testing conditions for the excess CO burner is difficult because this source is subject to intermittent processes that can significantly increase emissions for short periods of time. EPA agrees that requiring source testing to be conducted only under these conditions would overestimate emissions on a 24-hour basis. After further consideration of this issue, EPA believes it is appropriate to require that only one of the source test runs be conducted during a mini-flush or a hot-flush but that the mini-flush or hot flush last for at least thirty minutes of the one hour run. EPA arrived at this number by assuming that maximum 24-hour emissions would occur on a day on which a hot flush lasted for approximately four hours, or one-sixth of the day. One half hour equates to one sixth of three one hour source tests.

The February 1999 FIP proposal provided for some minor adjustments to reference test methods with EPA approval, such as using Method 5 in place of Method 201 or 201A for a particular point source. *See, e.g.*, 64 FR at 7347 (proposed 40 CFR 52.676(d)(3)). During its comments on the February 1999 FIP proposal, FMC requested that the FIP be revised to include additional flexibility with respect to reference test methods. Specifically, FMC requested that the FIP include a provision specifically allowing FMC to request EPA to approve alternative test methods or to deviate from the prescribed test method. 40 CFR 51.212(c)(2), which sets forth the requirements for testing for state implementation plans, authorizes the use of alternative test methods

following the review and approval of EPA. EPA believes it is appropriate to provide FMC this same flexibility in this FIP and has therefore included language authorizing the use of alternative methods approved by the Regional Administrator. EPA has used the procedure for requesting alternative test methods under 40 CFR part 63 as a guide in determining appropriate procedures for requesting an alternative test method under the FIP. *See* 40 CFR 63.7(f).

C. Monitoring, Recordkeeping, and Reporting Requirements

1. Periodic Source Testing

The FIP proposed that FMC be required to conduct annual source tests on each point source, requiring the first annual test for each source to be conducted within 12 months of the effective date of the FIP and that subsequent annual tests be completed within 12 months of the most recent previous test. See 64 FR at 7347 (proposed 40 CFR 52.676(e)(1)(i)). For the sources with emission limits that become effective after the effective date of the FIP, the February 1999 FIP proposal proposed that the first annual test be conducted 60 days after the effective date of the emission limit. In FMC's comments on the February 1999 FIP proposal, FMC requested that it be allowed 15 months in which to conduct the first annual tests and that subsequent tests be conducted thereafter within 15 months of the most recent previous test. For sources with later effective dates, FMC requested 180 days, rather than 60 days, in which to conduct the initial source test.

EPA agrees that, for the first annual tests, additional time may be needed to complete the tests on all sources, because of the number of requirements that become effective within the first year of the effective date of the FIP. EPA therefore proposes to allow 15 months within which to conduct the first annual source tests for sources with limits that become effective within 60 days of the effective date of the FIP. For the calciner scrubbers, the phos dock Anderson scrubber and the excess CO burner, EPA believes some additional time is necessary for conducting the first annual test, but does not believe the 180 days recommended by FMC is appropriate. For these sources, EPA is proposing that the first annual test be required within 90 days after the effective date of the emission limit for these sources. EPA continues to believe that subsequent annual tests should be conducted within 12 months of the previous test, but proposes to include a provision allowing FMC to request an extension of up to 90 days for any source test for good cause. The extension request must be submitted to EPA at least 30 days before the source test is otherwise required to be conducted under the rules. EPA also proposes to include a provision allowing source tests to be conducted for a particular source every other year, instead of every year if, after two consecutive years, the emissions from that source are less than 80% of the emission limit. The frequency of source testing for a particular source would revert to every year if the emissions are at any time found to be greater than or equal to 80% of the applicable emission limit. Such ''tiered'' monitoring provisions have been used with increasing frequency in rules and title V permits, and EPA believes it is appropriate to provide FMC with similar flexibility. Finally, EPA proposes to include a provision relieving FMC from the requirement to submit a proposed test plan if the plan is unchanged from the plan submitted to EPA in connection with the immediately preceding source test.

2. Pressure Relief Vents

In the February 1999 FIP proposal, EPA proposed that the pressure relief vents be subject to an opacity limit of no visible emissions except during a ''pressure release.'' *See* 64 FR at 7355 (proposed Table 1 to 40 CFR 52.676 (source 24)). We also proposed to require FMC to install monitoring devices to continuously measure and continuously record the temperature of the gases in the pressure relief vent downstream of the pressure relief valve. A ''pressure release'' was defined as an excursion of the temperature above the approved temperature range. EPA also proposed to require that the release point on each pressure relief vent be maintained at 18 inches of water. After the occurrence of each pressure release, we proposed to require that FMC inspect the valve to ensure it was properly sealed, to inspect the water level, and to then conduct a visible emissions observation to ensure there were no visible emissions. *See* 64 FR at 7348–7349 (proposed 40 CFR 52.676(e)(6)).

During the public comment period on the February 1999 FIP proposal, FMC commented that a limit of no visible emissions, except during a pressure release, is not attainable because there are minor phosphorus pentoxide emissions that can occur even when the pressure relief vents are not releasing and the valves are properly operated and maintained. FMC also noted that it had recently installed new pressure relief valves with a new design, including devices that monitor not only temperature, but also water level and pressure. FMC stated that it was currently monitoring temperature, water level, and pressure and was evaluating the data to determine the most reliable operating parameters. Because of the new monitoring devices, FMC commented that the requirement to conduct a visible emissions observation following each pressure release was not necessary to ensure proper operation.

In light of the new pressure relief valves and related monitoring devices installed by FMC, we believe revisions to the proposed requirements for the pressure relief vents are appropriate. We first propose to require that FMC install, calibrate, maintain, and operate devices to continuously measure and continuously record the pressure and water level, in addition to temperature. Similarly, we now propose that a ''pressure release'' be defined in terms of an excursion outside of the approved parameter ranges for pressure and water level, in addition to temperature. EPA also proposes that, in light of the additional monitoring devices and the new valves, FMC not be required to conduct a visible emissions observation following each pressure release, but instead be required to only inspect the valve to ensure it is properly sealed and verify that all operating parameters are within their approved range.

3. Weekly Visible Emission Observations

The February 1999 FIP proposal proposed to require that FMC conduct weekly visible emission observations of all sources subject to opacity limits once each week during a regularly scheduled time. 64 FR at 7349–7350 (proposed 40 CFR 52.676(e)(8) and (9)). During the public comment period, FMC objected to the requirement that the observations occur at ''a regularly scheduled time,'' stating that random checks once each week would be more indicative of actual operation and would give FMC more flexibility for scheduling. After further consideration, we believe that, because of the number of sources FMC is required to observe for visible emissions each week, requiring the observations to be conducted at a regularly scheduled time is too burdensome for FMC. We therefore now propose to delete the requirement that the weekly observations be conducted at a ''regularly scheduled time.''

EPA has also revised the proposed procedure for the weekly inspections to reflect the changes to the opacity limits and the addition of opacity action

levels. Under this proposal, FMC would be required to conduct a visual observation of each source each week for the presence of visible emissions. If visible emissions are detected during the observation period, FMC would be required to conduct prompt corrective action to minimize emissions. The corrective action would include, but would not be limited to, the corrective action identified in the operation and maintenance plan for the source. After completing the corrective action, FMC would be required to conduct another reading of the source using the reference test method identified for the applicable opacity action level. Additional corrective action would be required if emissions exceeded the opacity action level. In lieu of this procedure, FMC could instead conduct the initial weekly reading using the reference test method identified for the applicable opacity action level, in which case corrective action would be required only if opacity exceeded the opacity action level.

4. Moisture Content Requirement

In the February 1999 FIP proposal, EPA proposed to require that FMC maintain the moisture content of the main shale pile (source 2) and the emergency/contingency raw ore shale pile (source 3) at 11% and that FMC monitor for this requirement once each week by taking a representative sample. See 64 FR at 7350 and 7353 (proposed Table 1 to 40 CFR 52.676 (sources 2 and 3) and proposed 40 CFR 52.676(e)(10)). During the public comment period on the February 1999 FIP proposal, FMC commented that the control of the shale moisture content is not currently possible or practicable because it is affected by the moisture content of the shale as it is extracted from the earth and by meteorological conditions. FMC further stated that application of water to the shale to meet the 11% moisture content requirement would reduce the effectiveness of the application of the latex to the piles, which is also required as a control and work practice measure. After further consideration of the technical information provided by FMC, we believe it is appropriate to delete the requirement that FMC maintain the moisture content of the shale at 11% as well as the related monitoring requirements. The requirement to apply latex to these sources, along with the additional work practice requirements that will be contained in the operation and maintenance plan, should adequately ensure that PM–10 emissions from the main shale pile and the emergency/contingency raw ore shale pile are minimized.

5. Future Revisions to Monitoring, Recordkeeping, and Reporting Requirements

In its comments on the February 1999 FIP proposal, FMC expressed concern that including extensive monitoring, recordkeeping, and reporting requirements in the FIP would unnecessarily complicate the process of making appropriate revisions and modifications to these requirements in the future. To make any such changes, FMC continued, both the FIP and FMC's title V permit would need to be revised. For many other sources, FMC commented, monitoring, recordkeeping, and reporting requirements are not included as part of the applicable emission limits and work practice requirements but are instead established only in the title V permit. FMC continued that including the monitoring, recordkeeping, and reporting requirements in the FIP gives FMC less flexibility than provided to facilities that can change monitoring, recordkeeping, and reporting requirements by simply revising the facility's title V permit.

Monitoring, recordkeeping, and reporting may be established in title V permits under the authority of the periodic monitoring rule at 40 CFR 70.6(a)(3)(i)(B) and 40 CFR 70.6(a)(3)(i)(B). Such periodic monitoring is a necessary addition to title V permits where an existing applicable requirements's monitoring, recordkeeping, and reporting fail to assure compliance with those requirements, by failing to provide monitoring, recordkeeping, and reporting sufficient to yield reliable data from the relevant time period that are representative of the facility's compliance. Newly created applicable requirements, however, should establish adequate monitoring, recordkeeping, and reporting that will assure compliance with emission limits and work practice requirements.

In this regard, EPA notes that New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants promulgated by EPA since 1990 have included extensive monitoring, recordkeeping, and reporting requirements that also serve as enhanced monitoring under the Clean Air Act and are presumed to be sufficient for title V periodic monitoring. *See generally* 62 FR 54900, 54918 (Oct. 22, 1997); 40 CFR 64.2(b)(1)(i) (1998). EPA expects that other new applicable requirements, such as SIP requirements or SIP preconstruction permit conditions, should also establish adequate monitoring, recordkeeping, and reporting upon the creation of the applicable requirement.

EPA does not believe it is appropriate to establish new applicable requirements—in the form of FIP requirements, here—that are purposely lacking and deficient with respect to compliance-assuring monitoring, recordkeeping, and reporting, with the express aim of correcting such deficiencies through the title V permit process. EPA continues to believe that it is appropriate to establish monitoring, recordkeeping, and reporting requirements in this source-specific FIP rule.

Nonetheless, EPA recognizes that revisions to the proposed monitoring, recordkeeping, and reporting requirements may prove to be necessary once the FIP is in place and over time. Several of the sources and processes at the FMC facility are unique to the elemental phosphorous industry (which consists of FMC and one other source) and FMC will be required to install new process and control equipment in response to the FIP. EPA believes it can establish monitoring, recordkeeping, and reporting requirements in the FIP proposal and at the same time, accommodate FMC's request to streamline the procedures for revising the monitoring, recordkeeping, and reporting requirements in the FIP and the public's right to notice and an opportunity to comment on any changes to the FIP requirements.

In providing guidance to states on the implementation of the title V operating permits program, EPA provided guidance on how states could revise their state implementation plans to provide for the establishment of equally stringent alternative requirements in title V permits. See *White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program,* Attachment B (March 5, 1996) (White Paper 2). Consistent with that guidance, EPA proposes to include in the FIP a provision authorizing revisions to the requirements of 40 CFR 52.676(e)[monitoring], (f) [recordkeeping], and (g)[reporting] to be accomplished through issuance, renewal, or significant permit modification of a title V operating permit to the FMC facility, provided that certain substantive and procedural requirements are met.

First, any alternative monitoring, recordkeeping, or reporting requirements that revise pre-existing FIP requirements must be sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the

requirements of 40 CFR 52.676(c) [emission limits and work practice requirements] and must provide no less compliance assurance than the pre-existing requirements of 40 CFR 52.676(e), (f), or (g) that the alternative requirements would replace. Second, FMC's permit application must include the proposed alternative monitoring, recordkeeping, or reporting terms, identify the specific provisions of 40 CFR 52.676(e), (f), or (g) being revised, and include the supporting documentation to establish that the alternative terms meet the substantive criteria for alternative monitoring, recordkeeping, and reporting terms. These documents all become part of the administrative record for EPA's approval of the alternative requirements. Third, the draft and final title V operating permit or permit modification would identify the specific provisions of 40 CFR 52.676(e), (f), or (g) being revised. Fourth, in the event a revision to 40 CFR 52.676(e), (f), or (g) is accomplished through a permit modification to FMC's title V operating permit or in the event the alternative title V permit terms are later revised, the permit modification must be accomplished using the significant permit modification or revision procedures of the part 71 program. This is essential because each such title V permit action is in effect a rulemaking that revises the FIP. There must therefore be a full opportunity for public review and challenge of the title V permit terms that will substitute for the pre-existing requirements regarding whether they meet the substantive criteria for establishing the alternative monitoring, recordkeeping, and reporting requirements. This is consistent with the White Paper 2 as well as the current regulations governing revisions to title V permits, which require that any change to a case-by-case determination of a standard be processed as a significant modification with full EPA and public review. See 40 CFR 71.7(e)(1)(i)(A)(3). Finally, the FIP would specifically state that, upon issuance or renewal of FMC's title V permit or a modification thereto that revises a requirement of 40 CFR 52.676(e), (f), or (g), the revision shall remain in effect as a requirement of the FIP notwithstanding expiration, termination, or revocation of FMC's title V operating permit.

Because this FIP is a federal requirement promulgated by EPA, EPA believes it is appropriate to allow revisions to the monitoring, recordkeeping, and reporting requirements of the FIP to be accomplished through FMC's title V permit only where EPA is the permit issuing authority under 40 CFR part 71. If the Shoshone-Bannock Tribes later apply for and receive approval of a title V operating permit program under 40 CFR part 70 and a PM–10 nonattainment Tribal Implementation Plan for FMC that corresponds to the proposed FIP, the Tribal Implementation Plan could include a comparable provision authorizing revisions to monitoring, recordkeeping, and reporting in the Tribal Implementation Plan to be implemented through FMC's title V permit issued by the Tribes under 40 CFR part 70.

D. Definitions

Several proposed changes to definitions or newly-proposed definitions have already been discussed above. In addition, EPA is proposing the following revisions to definitions.

1. Excursion

EPA proposes to revise this definition to be consistent with the definition of ''excursion'' in the Compliance Assurance Monitoring (CAM) rule, 40 CFR 64.1, by adding the phrase ''consistent with any averaging period specified for averaging the results of monitoring.''

2. Road

EPA proposed to define ''road'' to include any portion of the FMC facility on which a motorized vehicle has reasonable access for movement or for which there is visible evidence of previous vehicle access. See 64 FR at 7345 (proposed 40 CFR 52.676(b)). During the public comment period on the proposal, FMC expressed concern that the definition was too broad and could include almost the entire FMC facility. FMC suggested an alternative definition that included all roads or established vehicle paths that are in any way used or maintained for vehicle movement. EPA proposes to use FMC's suggested definition of ''road'' because it appears to be sufficiently broad to include all sources that should be considered roads.

3. Slag Pit Area

In the February 1999 FIP proposal, EPA proposed to define the ''slag pit area'' as the area within 100 yards of the furnace building at the FMC facility. See 64 FR at 7345 (proposed 40 CFR 52.676(b)). This is the area to which the prohibition on the discharge of molten slag and the digging of slag would apply after November 1, 2000. In its comments on the February 1999 FIP proposal, FMC asked that the slag pit area be defined with reference to its current location, which is limited to the south side of the furnace building. EPA is proposing to revise the definition of ''slag pit area'' as the area of the FMC facility immediately bordering the south side of the furnace building extending out 100 yards.

V. What Is the Impact of This Supplemental Proposal on Air Quality in the Area?

A. Emission Inventory

As discussed above, in commenting on the February 1999 FIP proposal, FMC submitted additional source test results for most point sources at the FMC facility in May 1999 and submitted additional source test data and other technical information for the excess CO burner in November 1999. Although the results of these recent source tests are consistent with the emission estimates in the 1996 base-year emissions inventory for some sources, for other sources the recent source test results indicate that emissions are higher or lower than presented in the 1996 base-year emission inventory relied on in the February 1999 FIP proposal. After reviewing the recent source test reports submitted by FMC, EPA is proposing revising the 1996 base-year emission inventory. The additional FMC source test data provides emissions in pounds per hour. For these new emission estimates, EPA proposes to use the new hourly emission rates provided by FMC and multiply the hourly emissions rate by 24 hours to estimate a daily emissions rate. Annual emissions for each source are calculated by taking the ratio of ''daily emissions to annual emissions'' in Table 4 of the February 1999 FIP proposal and applying that ratio to the new daily emissions estimate for the source. This approach accounts for processes that do not operate daily throughout the year.

The most significant changes in the emission inventory relate to the estimate of current emissions from the calciners and the elevated flare and ground flare. As discussed in section IV.A.2.a. above, FMC provided additional source test information for the calciner scrubbers which includes condensible particulate as measured by Method 202. EPA has used this additional information to revise the estimate of current emissions from the calciner scrubbers and believes it more accurately reflects current reasonable worst case emissions from the calciners. As discussed above, the revised emission estimate is based on a grain loading of 0.043 gr/dscf and a flow rate of 34,200 dscfm. As a result, emissions from the calciners are increased from 1204 pounds per day to

2419 pounds per day and from 100 tons per year to 200 tons per year.

As discussed in section IV.A.5.a. above, FMC also provided new emission information based on source tests conducted over the summer of 1999 on the excess CO burner pilot project. We believe that this new emission information more accurately reflects the mass emission rates from the existing flares for two reasons. First, the results are based on actual source tests instead of theoretical calculations of furnace gas composition and phosphorus removal rates in the condensers. Secondly, the testing to a limited extent accounts for the increase in mass due to water vapor in the atmosphere. The same operating assumptions were used to calculate the revised emission estimate for the elevated and ground flare as were used in the February 1999 FIP proposal: four furnaces operating, one calciner down for repair and therefore not available for consumption of excess CO and scrubbing in the calciner scrubber, and two hours of mini-flush. The revised combined emissions from the elevated secondary flare and CO ground flare are 10,543 pounds per day of PM–10. This estimate is based on 22 hours at normal operations (i.e., when no mini-flush is occurring), emissions at a grain loading of 1.106 gr/dscf and flow rate of 44,470 dscfm (421.6 pounds per hour), and two hours of mini-flush at an elevated emission rate of 633.9 pounds per hour. These emissions make the elevated condenser and ground flare the largest sources of PM–10 at FMC. This conclusion is consistent with the Source Apportionment Study, discussed in section V.B. below. Daily emissions after control, assuming a 95% reduction in emissions from the excess CO burner of 506 pounds per day (421.6 x 24 hours x 0.05) and one CO flare event when a calciner goes down of 13.4 pounds per event (FMC estimate of flare event), are 519 pounds per day.

Based on the additional data provided by FMC, EPA has also revised the emission estimates for the baghouses, reducing baghouse emissions from 446 pounds per day to 106 pounds per day and from 49 tons per year to 12 tons per year. Emissions from the four furnace building Medusa Andersen scrubbers are reduced from 269 pounds per day to 69 pounds per day and from 43 tons per year to 11 tons per year. Emissions from the calciner coolers are increased from 188 pounds per day to 278 pounds per day and from 27 tons per year to 39 tons per year.

Table I below shows the difference between the emissions inventory estimates in the February 1999 FIP proposal and how EPA proposes to revise the 1996 base-year emission inventory based on the additional source test data.

TABLE I.—REVISED FMC CURRENT WORST CASE DAILY AND ANNUAL PM–10 EMISSIONS SUMMARY

Source name	Old (lb/day)	New (lb/day)	Old ton/yr	New ton/yr
Point Sources:				
Ground Flare and Elevated CO Flare	3109	10543	259	903
Calciners	1204	2419	100	200
All Other Baghouses	446	106	49	12
Medusa Anderson	269	69	43	11
Calciner Coolers Vents	188	278	27	39
Pressure Relief Vents	99	99	1	1
Cooling Tower	96	96	18	18
Phos Dock	34	34	6	6
Boilers	13	13	2	2
Emergency CO Flares	12	12	0	0
Subtotal Point Sources	5470	13669	505	1192
Process and Other Fugitives:				
Slag Handling	1045	1045	165	165
All Roads	190	190	25	25
All Piles	163	163	23	23
Dry Fines Recycle	33	33	6	6
Nod Fines Truck Load	12	12	2	2
Nod Fines Pile	7	7	1	1
Fugitive Subtotal	1450	1450	222	222
Grand Total	6920	15119	727	1414

B. Source Apportionment Study

EPA, Region 10 sponsored the EPA, Office of Research and Development (ORD), National Exposure Research Laboratory, to conduct a source apportionment study of particulate matter collected on the filters of the three Tribal monitors (Source Apportionment Study). The study covered data collected from October 1996 through November 1998, with short term intensive sampling conducted during the overall study time frame. Significant additional sampling, monitoring, and filter analysis were conducted for the duration of this study. A complete report of the study protocol and results can be found in the docket to this action. The conclusions from the Source Apportionment Study support the control strategy proposed in the February 1999 FIP proposal and this supplemental proposal and show that the proposed control measures are necessary, yet adequate, to bring about attainment of the particulate standards. Those findings include the following:

1. PM–10 data, wind data, and dichotomus sampler (dichot) chemistry all indicate that the PM–10 exceedances recorded on the Tribal monitors are local in nature and point conclusively to FMC as the source of the exceedances.

2. The PM–10 collected on the filters during exceedances appears to be dominated by fine mode (*i.e.,* particluate matter of less than 2.5 micrometers in diameter) aerosol during exceedances, with a fine to coarse mass ratio of approximately three to two. However, both fine and coarse (*i.e.,* particulate matter with diameter of between 2.5 and 10 micrometers) mode contributions are needed to cause an

exceedance. PM–10 mass during exceedances is split approximately evenly between fine phosphate (P2O5 to PO4) and coarse calcium (Ca) and silicon (Si) rich dust, with 22–32% of the PM–10 mass that cannot be attributed to any specific source.

3. Fine phosphate accounts for 30 to 40% of the PM–10 mass during exceedances. Preliminary wind direction analyses and scanning electron microscope (SCM) analyses suggest the most likely sources of the fine phosphate are the elevated flare and ground flare, with some additional contribution from the calciner stacks and furnace tapping operations. Mini-flushes were the most concentrated source of fine phosphorus but are believed to have minor impact on PM–10 exceedances because of their infrequency and short duration. Significant quantities of water may be bound to the phosphorus rich particles, which is consistent with the recent source tests conducted by FMC on the excess CO burner pilot project. Calciner stack emissions and furnace tapping emissions are each estimated to contribute less than 9% of the average fine mass during exceedances.

4. The coarse fraction aerosol is highly enriched in calcium compared to the earths crustal composition, characteristic of the slag produced as a byproduct at FMC, and point to slag handling as the source of the coarse fraction aerosol. Calcium and silicon together with their associated oxygen account for about 50% of the coarse mass during exceedances.

This report supports the conclusion that there is no one source at FMC, that when controlled, would bring about attainment of the PM–10 NAAQS. Rather, controls on a number of sources are necessary to achieve the standards. The sources emitting fine-mode particles that must be controlled to attain the standard include the elevated flare, the ground flare, the calciner scrubbers, and furnace tapping fumes. The sources emitting coarse-mode particles that must be controlled to attain the standard include slag handling and fugitive dust.

C. Recent Air Quality Data

We continue to receive additional ambient particulate matter air quality data from the continued operation of the Tribal monitors.[12] As indicated in Table II below, the Tribal monitors continued to record exceedances of the 24-hour PM–10 standard during 1998 and 1999 (with data reported through the second quarter of 1999), demonstrating the need for a comprehensive control strategy for FMC.

Because the annual PM–10 NAAQS is based on a three calendar year average, there is still insufficient monitoring data from the Tribal monitors at this time to determine whether a violation of the pre-existing 1987 annual PM–10 NAAQS has occurred. The air quality data, however, strongly suggest that the Fort Hall PM–10 nonattainment area is also in violation of the annual standard.

TABLE II.—FORT HALL PM–10 MONITORING DATA—JANUARY 1994 THROUGH JUNE 1999

Site	Year	Number of exceedances	Expected exceedances	3 year average
Primary	1994	No data	Assume 0	Assume 0
	1995	No data	Assume 0	Assume 0
	1996	18	20.96	7.0
	1997	19	20.1	13.69
	1998	9	18.9	19.99
	1999	10*	20.86*	19.95*
Sho-Ban	1994	No data	Assume 0	Assume 0
	1995	No data	Assume 0	Assume 0
	1996	9	11.34	3.78
	1997	12	14	8.4
	1998	5	10.59	11.98
	1999	1*	6.92*	10.5*
Background Site	1994	No data	Assume 0	Assume 0
	1995	No data	Assume 0	Assume 0
	1996	0	0.00	0.00
	1997	1	1.05	0.35
	1998	0	0.00	0.35*
	1999	0	0.00	0.35*

*Data/calculations through June 30, 1999.

D. Effectivess of the Control Strategy

EPA believes that the emission limitations and work practice requirements in the February 1999 FIP proposal, as modified by this supplemental proposal, will result in attainment of the PM–10 NAAQS as expeditiously as practicable, notwithstanding the revisions to the emission inventory and the changes to the proposed emission limits in this supplemental proposal

As discussed in the February 1999 FIP proposal, measured ambient air quality serves as the basis for determining the level of control necessary to attain the PM–10 standards. 64 FR at 7341. Attainment of the pre-existing 24-hour standard requires that the expected number of exceedances of the NAAQS be less than or equal to one per year. Attainment of the annual standard requires that the expected annual PM–10 concentration be less than or equal to the level of the annual NAAQS. As stated in the February 1999 FIP proposal, in order for the Fort Hall PM–10 nonattainment area to attain the 24-hour standard, daily PM–10 emissions from the FMC facility must be reduced by approximately 65%. Annual PM–10 emissions must be reduced by approximately 25%. 64 FR 7342.

Table III below sets forth a revised analysis of the effectiveness of the control strategy for attaining the 24-hour

[12] Beginning April 1998, the sampling frequency of the Tribal monitors was reduced from daily sampling to once every six days because it had already been established that the area was in violation of the PM–10 standards, and because of the costs associated with daily sampling and analysis. Because of the reduction in sampling frequency, each exceedance recorded at the Tribal monitors is counted as six exceedances, in accordance with 40 CFR part 50, appendix K.

PM–10 NAAQS. Table IV below sets forth the revised analysis of the effectiveness of the control strategy for attaining the annual PM–10 NAAQS.

TABLE III.—ATTAINMENT DEMONSTRATION 24-HOUR PM–10 STANDARD FMC 1996 ACTUAL WORST CASE PM–10 EMISSIONS SUMMARY FULL IMPLEMENTATION OF PROPOSED CONTROL STRATEGY

[Pounds/day]

Source name	PM–10 emissions before control	PM–10 emissions after control
Point Sources:		
Ground Flare & Elevated CO Flare	10,543	527
Calciners	2,419	1,210
All Other Baghouses	106	106
Medusa Andersens	69	69
Calciner Coolers	278	278
Pressure Relief Vents	99	99
Cooling Tower	96	96
Phos Dock	34	34
Boilers	13	13
Emergency Flares	12	12
Subtotal Point Sources	13,669	2,444
Fugitive Sources:		
Slag Handling	1,045	146
All Roads	190	190
All Piles	163	163
Dry Fines Recycle Material	33	33
Nodule Fines Truck Loading	12	12
Nodule Fines Stockpile	7	7
Subtotal Fugitives	1,450	551
Grand total	15,119	2,995

TABLE IV.—ATTAINMENT DEMONSTRATION ANNUAL PM–10 STANDARD FMC 1996 ACTUAL WORST CASE PM–10 EMISSIONS SUMMARY FULL IMPLEMENTATION OF PROPOSED CONTROL STRATEGY

[Tons/year]

Source name	PM–10 emissions before control	PM–10 emissions after control
Point Sources:		
Ground Flare & Elevated CO flare	903	45
Calciners	200	100
All Other Baghouses	12	12
Medusa Andersens	11	11
Calciner Coolers	39	39
Pressure Relief Vents	1	1
Cooling Tower	18	18
Phos Dock	6	6
Boilers	2	2
Emergency Flares	0	0
Subtotal Point Sources	1,192	234
Fugitive Sources:		
Slag Handling	165	23
All Roads	25	25
All Piles	23	23
Dry Fines Recycle Material	6	6
Nodule Fines Truck Loading	2	2
Nodule Fines Stockpile	1	1
Subtotal Fugitives	222	80
Grand Total	1,414	314

With the exception of the excess CO burner, emissions ''after control'' for all sources represent the allowable emission limitations for those sources. As discussed above, for the excess CO burner, EPA has proposed emission limits of 95% control efficiency at all times, but not to exceed 24 pounds per hour. As discussed above in section IV.A.5., EPA has calculated emissions ''after control'' based on an assumption of 95% control efficiency. EPA does not believe it is appropriate to use the pounds-per-hour emission limit to estimate emissions from the excess CO burner (after implementation of controls) on a 24-hour or annual basis, because the hourly emissions rate is a peak emissions design rate that would be expected to occur for the duration of a mini-flush or a hot flush, but would not be expected to be maintained over a 24-hour period.

As discussed in section V.A. above, the emissions estimates for all baghouses, the four furnaces (Medusa Andersen), and the calciner coolers have been revised based on the additional source test data provided by FMC. Because the control strategy for these sources is designed to keep emissions from these sources at current levels, however, there is no change in the emissions estimates for these sources before and after implementation of the control strategy.

Estimated emissions following full implementation of the control strategy has been revised for the calciner scrubbers. As discussed in section IV.A.2., the February 1999 FIP proposal over-estimated the reduction in emissions from the calciner scrubbers following implementation of the controls. EPA now expects a 50% reduction in emissions from the calciner scrubbers.

EPA believes the control strategy proposed in the February 1999 FIP proposal, as modified by this supplemental proposal, will result in a 80% reduction of daily worst-case PM–10 emissions from FMC on a facility-wide basis, a reduction of 12,124 pounds per day. The sources for which EPA believes emissions reductions will be necessary to meet the proposed emissions limitations—slag handling, the calciner scrubbers, the furnace building, the phos dock, and the elevated secondary condenser and ground flares—are not seasonal in nature. Emissions from these sources remain relatively constant throughout the year. Thus, EPA expects that the emissions reductions will occur throughout the year and will produce sufficient reductions in annual emissions to achieve the annual standard. EPA anticipates a 78% reduction in annual PM–10 emissions after full implementation of the control strategy, a reduction of 1100 tons per year. As discussed above, so long as the proposed control strategy achieves overall emission reductions from the FMC facility of 65%, we believe the proposed control strategy should result in attainment of the pre-existing 24-hour and annual PM–10 standards.

VI. How Do I Comment on This Action?

We are soliciting public comment on all aspects of this supplemental proposal only. The period of comment has closed for the February 12, 1999 FIP proposal. Thus, at this time, we will consider comments only on those portions of the February 12, 1999 proposal that would be affected if EPA were to take action approving this supplemental proposal. Comments on the February 1999 FIP proposal are discussed in this supplemental proposal only to the extent a particular comment is relevant to this supplemental proposal. All comments received on the February 1999 FIP proposal and on this supplemental proposal will be addressed when EPA takes final action on the Federal Implemental Plan (FIP).

To comment on today's supplemental proposal, you should submit comments by mail or in person (in triplicate if possible) to the address listed in the front of this notice. Be sure to identify the appropriate docket control number (*i.e.,* ''ID–24–7004'') in your correspondence. Your comments must be postmarked by February 28, 2000 to be considered in the final action taken by EPA.

You may also comment on this supplemental proposal by attending the public hearing if one is held and providing oral comments. If EPA determines that a hearing should be held, the time and date will be announced in local papers. You may also call Steven Body at (206) 553–0782 to determine if a hearing will be held and to obtain the time and location.

VII. Do Any of the Regulatory Assessment Requirements Apply to This Action?

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), all ''regulatory actions'' that are ''significant'' are subject to Office of Management and Budget review and the requirements of the Executive Order. As discussed in the February 1999 FIP proposal, the proposed FIP, including this supplemental proposal, is not a rule of general applicability and therefore is not a ''regulatory action'' under Executive Order 12866. See 64 FR at 7342–7343.

B. Regulatory Flexibility Act (RFA)

Under the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, EPA generally must prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. Secs. 603, 604 and 605(b). As discussed in the February 1999 FIP proposal, because FMC has more than 1,000 employees, it is not a small entity under the RFA. Therefore, pursuant to 5 U.S.C. section 605(b), I certify that the proposed FIP, including this supplemental proposal, will not have a significant economic impact on a substantial number of small entities. See 64 FR at 7343.

C. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 04–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. For the reasons discussed in the February 1999 FIP proposal, the proposed FIP, including this supplemental proposal, does not impose any enforceable duties or contain any unfunded mandate on state, local or tribal governments, or impose any significant or unique impact on small governments as described in UMRA. Moreover, the proposed FIP, including this supplemental proposal, is not likely to result in the expenditure of $100 million or more by the private sector in any one year. Therefore, the requirements of UMRA do not apply. See 64 FR at 7343.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons.* * * '' 44 U.S.C. 3502(3)(A). Because the proposed FIP only applies to one company, the Paperwork Reduction Act does not apply.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This executive order applies to any rule that: (1) Is determined to be ''economically significant'' as that term

is defined in 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. A rule is economically significant if it is likely to 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. As discussed in the February 1999 FIP proposal, the costs to FMC of complying with the FIP are expected to be less than $50 million dollars. 64 FR at 7343. In addition, EPA does not believe the FIP will 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. Accordingly, EPA has determined that the FIP proposal, including this supplemental proposal, is not economically significant and thus not subject to Executive Order 13045.

F. Executive Orders 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless EPA consults with state and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with state and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of state and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Neither the February 1999 FIP proposal nor this supplemental proposal will 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, as specified in Executive Order 13132. This rule only prescribes standards appropriate for one facility on an Indian Reservation, and thus does not directly affect any state. Moreover, it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Nonetheless, as discussed in the February 1999 FIP proposal, EPA worked closely with representatives of the Tribes during the development of the proposed FIP. See 64 FR at 7312. EPA has continued to work with the Tribes in developing this supplemental proposal.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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.'' This Executive Order is discussed in more detail in the February 1999 FIP proposal. See 64 FR at 7312.

The proposed FIP, including this supplemental proposal, imposes obligations only on the owner or operator of FMC, and does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. As discussed in the February 1999 FIP proposal, EPA worked closely with representatives of the Shoshone-Bannock Tribes during the development of the FIP proposal. See 64 FR at 7312. EPA has continued to work with the Tribes in developing this supplemental proposal.

H. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of NTTAA, Pub. L. No. 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, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary standards.

The supplemental proposal does not propose any new reference test methods for the emissions limitations and work practice requirements in the FIP proposal. Therefore, EPA is relying on the analysis of potentially applicable voluntary consensus standards contained in the February 1999 FIP proposal. See 64 FR at 7344.

List of Subjects in 40 CFR Part 52

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

Dated: January 13, 2000.

Carol M Browner,

Administrator.

40 CFR part 52 is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart N—Idaho

2. Section 52.676, which was proposed to be added to subpart N on February 12, 1999 (64 FR 7308) is proposed to be amended as follows:

a. In paragraph (b), by revising the definitions of ''Excursion,'' ''Road,'' and ''Slag Pit Area'' and adding definitions of ''Begin Actual Construction,'' ''Construction,'' ''Modification,'' and ''Opacity Action Level'' in alphabetical order;

b. In paragraph (c), by revising paragraphs (c)(1), (c)(5)(i), and (c)(6) and adding new paragraphs (c)(10) and (c)(11);

c. In paragraph (d), by revising paragraphs (d)(1), (d)(2) introductory text, (d)(2)(ii), (d)(2)(vii), (d)(2)(viii), (d)(2)(ix), and (d)(5); redesignating paragraph (d)(6) as (d)(7); and adding a new paragraph (d)(6);

d. In paragraph (e), by revising paragraphs (e)(1)(i) and (e)(1)(ii); adding a new paragraph (e)(1)(vi); revising paragraphs (e)(6) introductory text, (e)(6)(ii), and (e)(6)(iv); removing paragraph (e)(6)(v); revising paragraph (e)(7) introductory text; adding a new paragraph (e)(7)(iii)(I); revising paragraph (e)(8); removing paragraphs (e)(9) and (e)(10); and redesignating paragraphs (e)(11) through (e)(13) as paragraphs (e)(9) through (e)(11);

e. In paragraph (f), by revising paragraph (f)(10);

f. In paragraph (h), by redesignating the existing text as paragraph (h)(1) and adding a new paragraph (h)(2);

g. Revising Table 1 to this section; and

h. Adding a new Table 2 to this section.

§ 52.676 Control Strategy: Fort Hall PM–10 Nonattainment Area, Fort Hall Indian Reservation, Idaho.

* * * * *

(b) * * *

Begin Actual Construction means, in general, initiation of physical on-site construction activities on a source which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

* * * * *

Construction means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.

* * * * *

Excursion means a departure from a parameter range approved under paragraphs (e)(3) or (g)(1) of this section, consistent with any averaging period specified for averaging the results of monitoring.

* * * * *

Modification means any physical change in or a change in the method of operation of, an existing source which increases the amount of particulate matter emitted by that source. The activities described in 40 CFR 60.14(e) shall not, by themselves, be considered modifications.

* * * * *

Opacity Action Level means the level of opacity of emissions from a source requiring the owner or operator of the FMC facility to take prompt corrective action to minimize emissions, including without limitation those actions described in the approved operation and maintenance plan.

* * * * *

Road means access and haul roads, driveways or established vehicle paths, permanent or temporary, which are graded, constructed, used, reconstructed, improved, or maintained for use in vehicle movement throughout the FMC facility.

* * * * *

Slag Pit Area means the area of the FMC facility immediately bordering the south side of the furnace building extending out 100 yards.

(c) * * *

(1)(i) Except as otherwise provided in paragraphs (c)(1)(ii), (c)(1)(iii); and (c)(2) of this section, there shall be no visible emissions from any location at the FMC facility at any time, as determined by a visual observation.

(ii) Emissions from the following equipment, activities, processes, or sources shall not exceed 20% opacity over a six minute average. Method 9 is the reference test method for this requirement.

(A) Brazing, welding, and welding equipment and oxygen-hydrogen cutting torches;

(B) Plant upkeep, including routine housekeeping, preparation for and painting of structures;

(C) Grinding, sandblasting, and cleaning operations that are not part of a routine operation or a process at the FMC facility;

(D) Cleaning and sweeping of streets and paved surfaces;

(E) Lawn and landscaping activities;

(F) Repair and maintenance activities;

(G) Landfill operations;

(H) Laboratory vent stacks; and

(I) Pond piping discharges.

(iii) Except as otherwise provided in paragraph (c)(1)(ii) of this section, emissions from equipment, activities, processes, or sources not identified in Table 1 to this section shall not exceed 10% opacity over a six minute average provided that FMC has complied with the requirements of paragraph (c)(11) of this section and provided further that a more stringent opacity limit has not been established for the source in this section. Method 9 is the reference test method for this requirement.

* * * * *

(5)(i) Beginning January 1, 2001, no furnace gas shall be burned in the existing elevated secondary condenser flare or the existing ground flare (source 26a).

* * * * *

(6) At all times, including periods of startup, shutdown, malfunction, or emergency, the owner or operator of the FMC facility shall, to the extent practicable, maintain and operate each source of PM–10 at the FMC facility, including without limitation those sources identified in Column II of Table 1 to this section and associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

* * * * *

(10) For each source identified in Column II of Table 2 to this section, the owner or operator of the FMC facility shall take appropriate actions to reduce visible emissions from the source if opacity exceeds the opacity action level for that source identified in Column III of Table 2. Such actions shall be commenced as soon as possible but not to exceed 24 hours after an exceedance of the opacity action level is first identified and shall be completed as soon as possible. Such actions shall include, but not be limited to those actions identified in the operation and maintenance plan for the source. Exceedance of an opacity action level does not constitute a violation of this section, but failure to take appropriate corrective action as identified in this paragraph (c)(10) does constitute a violation of this section.

(11) The owner or operator of the FMC facility shall notify EPA prior to the construction of a new source of PM–10 at the FMC facility or the modification of an existing source at the FMC facility in a manner that increases emissions of PM–10 as follows:

(i) Such notification shall be submitted to EPA at least 90 days prior to commencement of the construction or modification.

(ii) Such notification shall include the following information:

(A) A description of the source and any modification thereto;

(B) An estimate of potential PM–10 emissions from source on a 24-hour basis, both with and without any proposed air pollution control equipment;

(C) The expected daily hours of operation of the source or emission release from the source, including any seasonal variation; and

(D) A description of any PM–10 control technology to be implemented at the source along with an analysis of alternative control technologies considered but rejected.

(iii) Any source identified in this section shall continue to be subject to the requirements of this section notwithstanding the modification of the source.

(iv) The requirement of this paragraph (e)(11) is in addition to any other requirement to obtain a permit pursuant to 40 CFR parts 49 or 52.

(v) This paragraph (e)(11) shall cease to apply if either of the following events occur:

(A) EPA promulgates a new source review program for PM–10 that applies to the FMC facility; or

(B) The Tribes promulgate a new source review program for PM–10 that applies to the FMC facility and EPA approves the Tribes' program under 40 CFR part 49.

(d) * * *

(1) For each source identified in Column II of Table 1 to this section, the reference test method for the corresponding emission limitation in Column III of Table 1 to this section for that source is identified in Column IV of Table 1 to this section. For each source identified in Column II of Table 2 to this section, the reference test method for the corresponding opacity action level in Column III of Table 2 to this section for that source is identified in Column IV of Table 2 to this section.

(2) When Method 201/201A or Methods 201/201A and 202 are specified as the reference test methods, the testing shall be conducted in accordance with the identified test methods and the following additional requirements:

* * * * *

(ii) Method 202 shall be run concurrently with Method 201 or Method 201A. Unless Method 202 is specifically designated as part of the reference test method, Method 202 shall be performed on each source for informational purposes only and the results from the Method 202 test shall not be included in determining compliance with the mass emission limit for the source.

* * * * *

(vii) The mass emission rate of PM–10 shall be determined as follows: (A)(1) Where Method 201/201A is identified as the reference test method, the mass emission rate of PM–10 shall be determined by taking the results of the Method 201/201A test and then multiplying by the average hourly volumetric flow rate for the run.

(*2*) Where Methods 201/201A and 202 are identified as the reference test methods, the mass emission rate of PM–10 shall be determined by first adding the PM–10 concentrations from Methods 201/201A and 202, and then multiplying by the average hourly volumetric flow rate for the run.

(B) The average of the three required runs shall be compared to the emission standard for purposes of determining compliance.

(viii) Source testing of the Medusa Andersen stacks on the furnace building (sources 18d, 18e, 18f, and 18g) shall be conducted during periods which include slag tapping or metal tapping.

(ix) At least one of the three runs from a source test of the excess CO burner (source 26b) shall be conducted during either a mini-flush or hot-flush that lasts for at least 30 minutes.

* * * * *

(5) Where Method 202 is identified as part of the reference test method for a particular source, Method 202 shall not be required for that source provided that:

(i) The owner or operator of the FMC facility submits a written request to the Regional Administrator which demonstrates that the contribution of condensible particulate matter to total PM–10 emissions is insignificant for such source; and

(ii) The Regional Administrator approves the request in writing.

(6)(i)An alternative reference test method or a deviation from a reference test method identified in this section may be approved as follows:

(A) The owner or operator of the FMC facility must submit a written request to the Regional Administrator at least 60 days before the performance test is scheduled to begin which includes the reasons why the alternative or deviation is needed and the rationale and data to demonstrate that the alternative test method or deviation from the reference test method:

(*1*) Provides equal or improved accuracy and precision as compared to the specified reference test method; and

(*2*) Does not decrease the stringency of the standard as compared to the specified reference test method.

(B) If requested by EPA, the demonstration referred to in paragraph (d)(6)(i)(A) of this section must use Method 301 in 40 CFR part 63, Appendix A to validate the alternative test method or deviation.

(C) The Regional Administrator must approve the request in writing.

(ii) Until the Regional Administrator has given written approval to use an alternative test method or to deviate from the reference test method, the owner or operator of the FMC facility is required to use the reference test method when conducting a performance test pursuant to paragraph (e)(1) of this section.

(e) * * *

(1) * * *

* * * * *

(i) The first annual test for each source shall be completed within 15 months of the effective date of this section, except that the first annual test for the calciner scrubbers (source 9), the phos dock Andersen scrubber (source 21a), and the excess CO burner (source 26b) shall be conducted within 90 days after the date on which the PM–10 emission limitations become applicable to those sources. Subsequent annual tests shall be completed within 12 months of the most recent previous test. The time period for conducting any annual source test may be extended by a period of up to 90 days provided that:

(A) The owner or operator of the FMC facility submits a written request to the Regional Administrator which demonstrates the need for the extension; and

(B) The Regional Administrator approves the request in writing.

(ii) The owner or operator of the FMC facility shall provide the Regional Administrator a proposed test plan at least 30 days in advance of each scheduled source test. If the proposed test plan is unchanged for the next scheduled source test on the source, the owner or operator of the FMC facility shall not be required to resubmit a source test plan. FMC shall submit a new source test plan to EPA in accordance with this paragraph (d)(1)(ii)

if the proposed test plan will be different than the immediately preceding source test plan that had been submitted to EPA.

* * * * *

(vi) If, after conducting annual source tests for a particular source for two consecutive years, the emissions from that source are less than 80% of the applicable emission limit, then the frequency of source testing for that source may be reduced to every other year. The frequency of source testing shall revert to annual if the emissions from any source test on the source are greater than or equal to 80% of the applicable emission limit.

* * * * *

(6) For each of the pressure relief vents on the furnaces (source 24), FMC shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications, devices to continuously measure and continuously record the temperature and pressure of gases in the relief vent downstream of the pressure relief valve and the water level of the pressure relief valve.

* * * * *

(ii) A ''pressure release'' is defined as an excursion of the temperature, pressure, or water level outside of the parameters approved in accordance with paragraph (g)(1) of this section. Until EPA approval of the acceptable range of parameters for the pressure release vents, a ''pressure release'' is defined as an excursion of the temperature, pressure, or water level outside of the parameters proposed by the owner or operator of the FMC facility for the pressure relief vents, as provided in paragraph (g)(1) of this section.

* * * * *

(iv) When a pressure release through a pressure relief vent is detected, the owner or operator of the FMC facility shall, within 30 minutes of the beginning of the pressure release, inspect the pressure relief valve to ensure that it has properly sealed and verify that at least 18 inches of water seal pressure is maintained.

(7) The owner or operator of the FMC facility shall develop and implement a written operations and maintenance (O&M) plan covering all sources of PM–10 at the FMC facility, including without limitation, each source identified in Column II of Table 1 to this section and uncaptured fugitive and general fugitive emissions of PM–10 from each source.

* * * * *

(iii) * * * (I) For each source identified in Column II of Table 2 to this section, additional control measures or other actions to be taken if the emissions from the source exceed the opacity action level identified in Column III of Table 2 to this section.

(8) For each source identified in Column II of Table 1 to this section, the owner or operator of the FMC facility shall conduct a visual observation of each source at least once during each calendar week.

(i) If visible emissions are observed for any period of time during the observation period, the owner or operator of the FMC facility shall immediately, but no later than within 24 hours of discovery, take corrective action to minimize visible emissions from the source. Such actions shall include, but not be limited to, those actions identified in the operation and maintenance plan for the source. Immediately upon completion of the corrective action, a certified observer shall conduct a visible emissions observation of the source using the reference test method for the opacity action level with an observation duration of at least six minutes. If opacity exceeds the opacity action level, the owner or operator of the FMC facility shall take prompt corrective action. This process shall be repeated until opacity returns to below the opacity action level.

(ii) In lieu of the periodic visual observation under this paragraph (e)(8), the owner or operator of the FMC facility may conduct a visible emission observation of any source subject to the requirements of this paragraph (e)(8) using the reference test method for the opacity action level, in which case corrective action must be taken only if opacity exceeds the opacity action level.

(iii) Should, for good cause, the visible emissions reading not be conducted on schedule, the owner or operator of the FMC facility shall record the reason observations were not conducted. Visible emissions observations shall be conducted immediately upon the return of conditions suitable for visible emissions observations.

(iv) If, after conducting weekly visible emissions observations for a given source for more than one year and detecting no visible emissions from that source for 52 consecutive weeks, the frequency of observations may be reduced to monthly. The frequency of observations for such source shall revert to weekly if visible emissions are detected from that source during any monthly observation or at any other time.

(f) * * *

* * * * *

(10) The owner or operator of the FMC facility shall keep the following records with respect to the main shale pile (source 2) and emergency/contingency raw ore shale pile (source 3):

(i) The date and time of each reforming of the pile or portion of the pile.

(ii) The date, time, and quantity of latex applied.

* * * * *

(h) *Title V permit.* (1) * * *

(2) (i) A requirement of paragraph (e), (f), or (g) of this section may be revised through issuance or renewal of a title V operating permit by EPA to the FMC facility under 40 CFR part 71 or through a significant permit modification thereto, provided that:

(A) Any alternative monitoring, recordkeeping, or reporting requirements that revise requirements of paragraphs (e), (f), or (g) of this section:

(*1*) Are sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the requirements of paragraph (c) of this section; and

(*2*) Provide no less compliance assurance than the requirements of paragraphs (e), (f), or (g) of this section that the alternative requirements would replace.

(B) In the event the alternative monitoring, recordkeeping, or reporting requirements are requested by the owner or operator of the FMC facility, FMC's application for its title V operating permit or significant permit modification must include:

(*1*) The proposed alternative monitoring, recordkeeping, or reporting permit terms or conditions;

(*2*) The specific provisions of paragraphs (e), (f), or (g) of this section the owner or operator of the FMC facility is seeking to revise; and

(*3*) The supporting documentation to establish that the alternative permit terms or conditions meet the requirements of paragraph (h)(2)(i)(A) of this section.

(C) The draft and final title V operating permit or significant permit modification identifies the specific provisions of paragraphs (e), (f), or (g) of this section being revised;

(D) In the event a revision to paragraphs (e), (f), or (g) of this section is accomplished through a significant modification to FMC's title V operating permit, it is accomplished using the significant permit modification procedures of 40 CFR part 71; and

(ii) Upon issuance or renewal of FMC's title V permit or a significant permit modification thereto that revises

a requirement of paragraphs (e), (f), or (g) of this section, the revision shall remain in effect as a requirement of this section not withstanding expiration, termination, or revocation of FMC's title V operating permit.

* * * * *

TABLE 1 TO § 52.676

I. Source No.	II. Source description	III. Emission limitations and work practice requirements	IV. Reference test method
1	Railcar unloading of shale (ore) into underground hopper.	Opacity shall not exceed 10% over a 6 minute average.	Method 9.
2	Main shale pile (portion located on Fort Hall Indian Reservation).	Opacity shall not exceed 10% over a 6 minute average.. Latex shall be applied after each reforming of pile or portion of pile.	Method 9.
3	Emergency/contingency raw ore shale pile.	Opacity shall not exceed 10% over a 6 minute average.. Latex shall be applied after each reforming of pile or portion of pile.	Method 9.
4	Stacker and reclaimer	Opacity shall not exceed 10% over a 6 minute average.	Method 9.
5a	East shale baghouse	a. Emissions shall not exceed 0.10 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A. Method 9.
5b	East shale baghouse building	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	b. Method 9.
6a	Middle shale baghouse	a Emissions shall not exceed 0.30 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A. Method 9.
6b	Middle shale baghouse building	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	b. Method 9.
6c	Middle shale baghouse outside capture hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	c. Method 9.
7a	West shale baghouse	a. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A. Method 9.
7b	West shale baghouse building	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	b. Method 9.
7c	West shale baghouse outside capture hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	c. Method 9.
8a	a. Slag handling: slag pit area and pot rooms.	a. Until November 1, 2000, emissions from the slag pit area and the pot rooms shall be exempt from opacity limitations. Effective November 1, 2000, opacity of emissions in the slag pit area and from pot rooms shall not exceed 10% over a 6 minute average. Exemption: Fuming of molten slag in transport pots during transport are exempt provided the pots remain in the pot room for at least 3 minutes after the flow of molten slag to the pots has ceased. *See also* 40 CFR 52.676(c)(4).	a. Method 9.
8b	b. Recycle material pile	b. Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
8c	c. Dump to slag pile	c. Fuming of molten slag during dump to slag pile shall be exempt from opacity limitations.	
9	Calciner scrubbers	Effective December 1, 2000, the calciner scrubbing chain (air pollution control equipment) shall achieve an overall control efficiency* of at least 90% for PM–10 (including condensible PM–10) under all operating conditions. Emissions from any one calciner scrubber exhaust stack shall not exceed 0.022 grains per dry standard cubic foot PM–10 (including condensible PM–10). Total gas flow rate through any one outlet stack shall not exceed 40,800 dry standard cubic feet per minute. The calciner scrubbers shall be exempt from opacity limitations.	Method 5 (all particulate collected shall be counted as PM–10) and Method 202 at the scrubber outlet. Method 201A and Method 202 at the inlet to the scrubber systems. Method 5 (all particulate collected shall be counted as PM–10) and Method 202 at the scrubber outlet. Method 2.

TABLE 1 TO § 52.676—Continued

I. Source No.	II. Source description	III. Emission limitations and work practice requirements	IV. Reference test method
10	Calciner cooler vents	Emissions from any one calciner cooler vent shall not exceed 4.4 lb. PM–10/hr (excluding condensible PM–10).	Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
11	Nodule pile	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
12a	North nodule discharge baghouse	a. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10).	a. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
12b	South nodule discharge baghouse	b. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10).	b. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
12c	North and south nodule discharge baghouse outside caputure hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	c. Method 9.
13	Nodule fines pile	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
14	Screened shale fines pile adjacent to the West shale building.	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
15a	Proportioning building—a. East nodule baghouse.	a. Emissions shall not exceed 0.50 lb. PM–10/hr (excluding condensible PM–10).	a. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
15b	b. West nodule baghouse	b. Emissions shall not exceed 0.50 lb. PM–10/hr (excluding condensible PM–10).	b. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
15c	c. Proportioning building—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	c. Method 9.
16a	Nodule reclaim baghouse	a. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10).	a. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
16b	Nodule reclaim baghouse outside caputrue hood—fugitive emissions.	b. Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
17a	Dust silo baghouse	a. Emissions shall not exceed 0.15 lb. PM–10/hr (excluding condensible PM–10).	a. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
17b	Dust silo fugitive emissions and pneumatic dust handling system.	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the dust silo or pneumatic dust handling system.	b. Method 9.
18a	Furnace building— a. East baghouse.	a. Emissions shall not exceed .75 lb. PM–10/hr (excluding condensible PM–10).	a. Methods 201/201A.
18b	b. West baghouse	b. Emissions shall not exceed .75 lb. PM–10/hr (excluding condensible PM–10).	b. Methods 201/201A.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
18c	c. Furnace building; any emission point except 18a, 18b, 18d, 18e, 18f, or 18g.	c. Until April 1, 2002, opacity shall not exceed 20% over a 6 minute average.	c. Method 9.
		Effective April 1, 2002, opacity shall not exceed 10% over a 6 minute average.	Method 9.
18d	d. Furnace #1 Medusa Andersen	d,e,f,g: PM–10 emissions from any one Medusa Andersen shall not exceed 2.0 lb/hr (excluding condensible PM–10).	d,e,f,g: Methods 201/201A.
18e	e. Furnance #2 Medusa Andersen.		
18f	f. Furnace #3 Medusa Andersen	Opacity from any one Medusa Andersen shall not exceed 10% over a 6 minute average.	Method 9.
18g	g. Furnace #4 Medusa Andersen		
19	Briquetting building	Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	Method 9.
20a	a. Coke handling baghouse	a. Emissions shall not exceed 1.7 lb. PM–10/hr. (excluding condensible PM–10).	a. Methods 201/201A.

TABLE 1 TO § 52.676—Continued

I. Source No.	II. Source description	III. Emission limitations and work practice requirements	IV. Reference test method
		Opacity shall not exceed 10% over a 6 minute average.	Method 9.
20b	b. Coke unloading building	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the coke unloading building.	b. Method 9.
21a	a. Phosphorous loading dock (phos dock), Andersen Scrubber.	a. Effective November 1, 1999, emissions shall not exceed 0.004 grains per dry standard cubic foot PM–10 (excluding condensible PM–10).	a. Methods 201/201A.
		Effective November 1, 1999, flow rate (throughput to the control device) shall not exceed manufacturer's design specification.	Method 2.
		Effective November 1, 1999, opacity shall not exceed 10% over a 6 minute average.	Method 9.
21b	b. Phosphorous loading dock—fugitive emissions.	b. Effective November 1, 1999, opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
22	All roads	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
23	Boilers	Emissions from any one boiler shall not exceed 0.09 lb. PM–10/hr (excluding condensible PM–10).	Methods 201/201A.
		Opacity from any one boiler shall not exceed 10% over a 6 minute average.	Method 9.
24	Pressure relief vents	Opacity shall not exceed 10% over a 6 minute average except during a pressure release, as defined in 40 CFR 52.676(e)(6)(ii).	Method 9.
		Pressure release point shall be maintained at 18 inches of water pressure at all times. Emissions during a pressure release, as defined in 40 CFR 52.676(e)(6)(ii) are exempt from opacity limitations.	Inspection of pressure release vent and monitoring device.
25	Furnace CO emergency flares	Except during an emergency flaring caused by an emergency as defined in 40 CFR 52.626(b), opacity shall not exceed 10% over a six minute average. Emissions during an emergency flaring caused by an emergency are exempt from opacity limitations.	Method 9.
26a	a. Existing elevated secondary condenser flare and ground flare.	a. *See* 40 CFR 52.676(c)(5)	
26b	b. Excess CO burner (to be built to replace the existing elevated secondary consenser flare and ground flare).	b. Effective January 1, 2001, i. The control efficiency* of the air pollution control equipment shall achieve an overall control efficiency of at least 95% for PM–10 (including condensible PM–10) under all operating conditions.	i. Methods 201/201A and Method 202 for the inlet (sampling locations to be determined). Method 201/201A (Method 5 if gas stream contains condensed water vapor) and Method 202 for the outlet.
		ii. The total excess CO burner particulate emission loadings (including condensible PM–10) shall not exceed 24 lb. PM–10/hr.	ii. Method 201/201A (Method 5 if gas stream contains condensed water vapor) and Method 202 for the outlet.
		Effective January 1, 2001, opacity shall not exceed 10% over a 6 minute average.	Method 9.

*The control efficiency (as a percentage) of the air pollution control equipment shall be determined by the following equation:
CE (%) = 100 {1-([Fho + Bho] / [Fhi + Bhi])}
Where CE = Control efficiency.
Fhi is the front half emissions for the inlet.
Bhi is the back half emissions for the inlet.
Fho is the sum of the front half emissions from each stack for the outlet.
Bho is the sum of the back half emissions from each stack for the outlet.
Inlet and all outlet stacks to be sampled simultaneously for required testing.

TABLE 2 TO § 52.676

I. Source No.	II. Source description	III. Opacity action level	IV. Reference test method
1	Railcar unloading of shale (ore) into underground hopper.	Any visible emissions	Visual observation.
2	Main shale pile (portion located on Fort Hall Indian Reservation).	Any visible emissions	Visual observation.
3	Emergency/contingency raw ore shale pile.	Any visible emissions	Visual observation.

TABLE 2 TO § 52.676—Continued

I. Source No.	II. Source description	III. Opacity action level	IV. Reference test method
4	Stacker and reclaimer	Any visible emissions	Visual observation.
5a	East shale baghouse	a. 5% over a 6 minute average	a. Method 9.
5b	East shale baghouse building	b. Any visible emissions	b. Visual observation.
6a	Middle shale baghouse	a. 5% over a 6 minute average	a. Method 9.
6b	Middle shale baghouse building	b. Any visible emissions	b. Visual observation.
6c	Middle shale baghouse outside capture hood—fugitive emissions.	c. 5% over a 6 minute average	c. Method 9.
7a	West shale baghouse	a. 5% over a 6 minute average	a. Method 9.
7b	West shale baghouse building	b. Any visible emissions	b. Visual observation.
7c	West shale baghouse outside capture hood fugitive emissions.	c. 5% over a 6 minute average	c. Method 9.
8a	a. Slag handling: slag pit area and pot rooms.	a. Until November 1, 2000, emissions from the slag pit area and the pot rooms shall be exempt from opacity limitations. Effective November 1, 2000, the opacity action level for this source shall 5% over a 6 minute average. *Exemption:* Fuming of molten slag in transport pots during transport are exempt from opacity action levels and opacity limits provided the pots remain in the pot room for at least 3 minutes after the flow of molten slag to the pots has ceased. *See also* 40 CFR 52.676(c)(4).	Method 9.
8b	b. Recycle material pile	b. Any visible emissions	b. Visual observation.
8c	c. Dump to slag pile.	c. Fuming of molten slag during dump to slag pile shall be exempt from opacity action levels.	
9	Calciner scrubbers	The calciner scrubbers shall be exempt from opacity action levels and opacity limits.	
10	Calciner cooler vents	5% over a 6 minute average	Method 9.
11	Nodule pile	10% over a 6 minute average	Method 9.
12a	North nodule discharge baghouse.	a. 5% over a 6 minute average	a. Method 9.
12b	South nodule discharge baghouse.	b. 5% over a 6 minute average	b. Method 9.
12c	North and south nodule discharge baghouse outside capture hood fugitive emissions.	c. 5% over a 6 minute average	c. Method 9.
13	Nodule fines pile	10% over a 6 minute average	Method 9.
14	Screened shale fines pile adjacent to the West shale building.	10% over a 6 minute average	Method 9.
15a	Proportioning building a. East nodule baghouse.	a. 5% over a 6 minute average	a. Method 9.
15b	b. West nodule baghouse	b. 5% over a 6 minute average	b. Method 9.
15c	c. Proportioning building—fugitive emissions.	c. Any visible emissions	c. Visual observation.
16a	Nodule reclaim baghouse	a. 5% over a 6 minute average	a. Method 9.
16b	Nodule reclaim baghouse outside capture hood—dash; fugitive emissions.	b. 5% over a 6 minute average	b. Method 9.
17a	Dust silo baghouse	a. 5% over a 6 minute average	a. Method 9.
17b	Dust silo fugitive emissions and pneumatic dust handling system.	b. Any visible emissions	b. Visual observation.
18a	Furnace building a. East baghouse.	a. 5% over a 6 minute average	a. Method 9.
18b	b. West baghouse	b. 5% over a 6 minute average	b. Method 9.
18c	c. Furnace building; any emission point except 18a, 18b, 18d, 18e, 18f, or 18g.	c. Until April 1, 2002, 10% over a 6 minute average. Effective April 1, 2002, 5% over a 6 minute average.	c. Method 9.
18d	d. Furnace #1 Medusa Andersen	d,e,f,g: 5% over a 6 minute average	d,e,f,g: Method 9.
18e	e. Furnace #2 Medusa Andersen.		
18f	f. Furnace #3 Medusa Andersen.		
18g	g. Furnace #4 Medusa Anderson.		
19	Briquetting building	Any visible emissions	Visual observation.
20a	a. Coke handling baghouse	a. 5% over a 6 minute average	a. Method 9.
20b	b. Coke unloading building	b. Any visible emissions	b. Visual observation.
21a	a. Phosphorous loading dock (phos dock), Andersen Scrubber.	a. Effective November 1, 1999, 5% over a 6 minute average.	a. Method 9.

TABLE 2 TO § 52.676—Continued

I. Source No.	II. Source description	III. Opacity action level	IV. Reference test method
21b	b. Phosphorous loading dock—fugitive emissions.	b. Effective November 1, 1999, 5% over a 6 minute average.	b. Method 9.
22	All roads	10% over a 6 minute average	Method 9.
23	Boilers	5% over a 6 minute average	Method 9.
24	Pressure relief vents	5% over a 6 minute average	Method 9.
25	Furnace CO emergency flares	Any visible emissions except during an emergency flaring caused by an emergency as defined in 40 CFR 52.626(b). Emissions during an emergency flaring caused by an emergency are exempt from opacity action level.	Visual observation.
26a	a. Existing elevated secondary condenser flare and ground flare.	a. Exempt from opacity limitations and opacity action level.	
26b	b. Excess CO burner (to be built to replace the elevated secondary condenser flare and ground flare).	5% opacity over a 6 minute average	Method 9.

[FR Doc. 00–1361 Filed 1–26–00; 8:45 am]
BILLING CODE 6560–50–P

Federal Register

Thursday,
January 27, 2000

Part III

Department of Health and Human Services

Administration for Children and Families

Fiscal Year 2000 Discretionary Announcement of the availability of funds and request for applications for Field Initiated Child Care Research Projects, Child Care Policy Research Partnerships, Child Care Research Scholars, and the Child Care Research Fellowship Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF–PA–CC–2000–01]

Fiscal Year 2000 Discretionary Announcement of the availability of funds and request for applications for Field Initiated Child Care Research Projects, Child Care Policy Research Partnerships, Child Care Research Scholars, and the Child Care Research Fellowship Program.

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Notice.

SUMMARY: The fiscal year (FY) 1999 Omnibus Consolidated and Emergency Supplemental Appropriation Act (P.L. 105–277) provides $10 million in FY 2000 funds for child care research, demonstration, and evaluation activities to be used directly or through grants or contracts. This first-ever appropriation for child care research occurred at the request of President Clinton and reflects Congressional recognition of the importance of child care issues. In this notice, ACF announces the availability of these funds and requests child care research applications. It is anticipated that approximately $4.3 million will be distributed through this Announcement. Universities and colleges, public agencies, non-profit organizations, and for-profit organizations agreeing to waive their fees are invited to submit applications for Field Initiated Child Care Research Projects, Child Care Policy Research Partnerships, and implementation of the Child Care Research Fellowship Program. Accredited universities and colleges may submit a Child Care Research Scholar application on behalf of a doctoral candidate who has a dissertation proposal approved by their doctoral committee.

This solicitation announces competition for funding in four priority areas: (1) Field Initiated Child Care Research Projects; (2) Child Care Policy Research Partnerships; (3) Child Care Research Scholars; and (4) the Child Care Research Fellowship Program. Projects funded under each of these priority areas are expected to address critical questions with implications for children and families, especially low-income working families and families transitioning off welfare. In addition, projects will contribute to a comprehensive research agenda designed to increase the capacity for child care research at the national, State, and local levels and promote better linkages among research, policy, practice, and outcomes for children and families.

The Child Care Bureau's research agenda is designed to help answer five key questions:

(1) What does child care look like today? What are the variations in child care by type, quality, number and ages of children in care, cost, availability of subsidies, early childhood workforce, family-work issues, and community supports? How do child care demand and supply interact? How do the major variations relate to quality and outcomes for children and families? How are Federal subsidy and quality funds being used?

(2) How do the variations in child care including quality, cost, types of care, administrative strategies, and characteristics of the child care workforce influence children's development and well-being, including school readiness?

(3) How do the variations in child care including types of care, cost, quality, availability of subsidies, and flexibility relate to the ability of parents to provide for their families and successfully manage family and work responsibilities? Do difficulties in paying for child care affect family well-being in other areas such as housing, health care, and employment stability?

(4) How do the answers to these broad questions translate into specific child care policies and program choices at national, State and local levels? What is the interaction between subsidy utilization rates and policies related to eligibility, rates, and co-payments? What effects do policy innovations involving provider compensation, training, and incentives for quality (such as tiered reimbursement rates and licensing) have on improving the quality and availability of care for children and families?

(5) How do the answers to all of these questions differ for key sub-groups of children and families? Current research suggests that certain sub-groups of families (for instance, low-income, non-English speaking, and those that include an infant or a child with special needs) may have differing child care preferences or face extraordinary challenges as compared to other families. What are these variations and challenges and how do they affect children and families? What are the policy and programmatic implications?

FOR FURTHER INFORMATION: For questions regarding application requirements of this program announcement, please contact the ACYF Operations Center Technical Assistance Team at 1–800–351–2293 or send an Email to *ccb@lcg.com.* For programmatic questions, please contact Dr. Patricia L. Divine, Program Specialist, Child Care Bureau at 202–690–6705 or Karen Tvedt, Policy Division Director, Child Care Bureau at 202–401–5130, or send an Email to *pdivine@acf.dhhs.gov.*

SUPPLEMENTARY INFORMATION: This Announcement includes the instructions needed to apply for: (1) Field Initiated Child Care Research Projects; (2) Child Care Policy Research Partnerships; (3) Child Care Research Scholars; or (4) the Child Care Research Fellowship Program. The Standard Federal Forms that must be included in applications can be downloaded from the Internet *http://www.acf.dhhs.gov/programs/ofs/form.htm.* For each priority area, the required Standard Federal Forms are identified under ''Project Description and Application Requirements.''

This Announcement includes five parts. Part I provides information about the Child Care Bureau, its research agenda and strategies, priority areas to be funded under this Announcement, and instructions for submitting an application. Part II describes key research questions in the Child Care Bureau's broad research agenda. Part III provides background information, instructions for completing applications, evaluation criteria, and funding procedures for Field Initiated Child Care Research Projects (Priority Area 1) and Child Care Policy Research Partnerships (Priority Area 2). Part IV provides background information, instructions for completing applications, and evaluation criteria and funding procedures for Child Care Research Scholars (Priority Area 3). Part V provides background information, instructions for completing applications, and evaluation criteria and funding procedures for implementation of the Child Care Research Fellowship Program (Priority Area 4). The contents are outlined below:

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Part I. General Information

A. Purpose

The child care research grants to be funded under this Announcement will increase the capacity for child care research at national, State, and local levels while simultaneously answering critical questions with implications for children and families, particularly low-income working families and families transitioning off welfare.

B. Context

These child care research grants are being funded at a time when more than half of infants, toddlers, and preschool children are in child care and only 14 percent of children stay at home full time with their primary caregivers during their first three years (NICHD). In 1998, 96 percent of fathers and 65 percent of mothers with children under the age of six worked. During this same period, nearly 78 percent of mothers with children between the ages of six and 17 were in the paid labor force full or part-time. Welfare reform and the consistently strong and growing economy have contributed to dramatic increases in the number of low-income mothers in the paid labor market. The percentage of single mothers with incomes under 200 percent of the Federal Poverty Level who are employed rose from 44 percent in 1992 to 57 percent in 1999 (U.S. Bureau of the Census). As increasing numbers of parents work and children experience non-parental care at younger and younger ages, questions about the availability, quality, and cost of child care and their effects on child care family outcomes take on new urgency.

The projects to be funded under this Announcement build on significant child care research already in progress with support from the Department of Health and Human Services (DHHS), the Administration for Children and Families (ACF), and other funding agencies. ''A National Study of Child Care for Low-Income Families,'' being conducted by Abt Associates in cooperation with the National Center for Children in Poverty at Columbia University is but one example of important studies now in progress. This study will provide information about the employment and child care decisions of low-income families, the characteristics and functioning of family child care, the experiences children and families have with family child care, and the effects of policies and programs on the child care market. The Child Care Bureau's Child Care Policy Research Consortium, comprised of five currently-funded Child Care Policy Research Partnerships and ten states, is actively engaged in research, much of which involves analysis of administrative data. These studies are designed to address issues such as unmet need, subsidies, TANF, the working poor, waiting lists, and quality of care. Information about these and other studies is available at *http://www.aspe.hhs.gov/hsp/cyp/ccresinv.htm.*

Additional studies being conducted with ACF participation include ''The Role of Child Care in Low Income Families' Labor Force Participation,'' the ''Study of Infant Care under Welfare Reform'' (both being conducted by Mathematica Policy Research), the ''Early Childhood Longitudinal Study—Birth Cohort (ECLS–B),'' and the National Institute of Child Health and Human Development's ''Study of Early Child Care.'' In addition, DHHS is supporting efforts by States to monitor the well-being of children in the context of welfare reform, child care, and other policy changes. In the ''Project on State-Level Child Outcomes,'' ACF and the DHHS Office of the Assistant Secretary for Planning and Evaluation (ASPE) are supporting efforts in five States to improve the measurement of family and child health and well-being in State welfare evaluations. Technical assistance to States in conducting these evaluations is being provided through Child Trends, Inc. In addition to the child impact projects, ACF and ASPE have funded a separate, complementary project in 13 states called, ''Advancing States' Child Indicator Initiatives,'' which supports the development and use of indicators for children's health and well-being in areas such as child care and school readiness. For a description of these State projects, visit *http://www.aspe.hhs.gov/hsp/cyp/cindicators.htm.*

While important child care research has been conducted over the past two decades and important research is now in progress, some studies need to be updated and new studies are required to examine the emerging child care landscape. Welfare reform and increased federal child care funding provide further urgency to building the child care research infrastructure and being able to answer important questions about child care and its impact on children and families. For example, information is limited with regard to unregulated care, quality and quality incentives, and child care and its relationship to specific sub-groups of families such as non-English-speaking families and families which include a child with special needs.

C. The Child Care Bureau

The Child Care Bureau was established by ACF in 1994 to provide leadership to efforts to enhance the quality, affordability, and supply of child care available for all families. The

Child Care Bureau administers the Child Care and Development Fund (CCDF), a $3.5 billion child care program which includes funding for child care subsidies and activities to improve the quality and availability of child care. (CCDF was created after amendments to ACF child care programs by Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and consolidated four Federal child care funding streams including the Child Care and Development Block Grant, AFDC/JOBS Child Care, Transitional Child Care, and At-Risk Child Care.) The Bureau works closely with ACF Regions, States, Territories, and Tribes to assist with, oversee, and document implementation of new policies and programs in support of State, local, and private sector administration of child care services and systems. In addition, the Bureau collaborates extensively with other offices throughout the Federal government to promote integrated, family-focused services and coordinated child care delivery systems. In all of these activities, the Bureau seeks to enhance the quality, availability, and affordability of child care services, support children's healthy growth and development in safe child care environments, enhance parental choice and involvement in their children's care, and facilitate the linkage of child care with other community services.

D. Need for Child Care Research

Child care research and evaluation are critical to understanding child care and its implications for children and families. Under Federal legislation governing welfare and child care, States have the opportunity to craft programs directly suited to their citizens; however, they are also faced with unprecedented challenges in meeting the needs of low-income, under-served, and other vulnerable populations. Public agencies are under enormous pressure to use their child care dollars as effectively as possible. Yet, research and administrative data need to be expanded to address additional policy and planning issues. For example, there is a need for a more detailed understanding of how the child care market operates within the context of changing policies and population dynamics, or what outcomes for children and families can be achieved under new policy opportunities and constraints. There is, therefore, a growing consensus about the critical need for more timely and broadly representative knowledge to guide child care services, inform policy debates, and assist in developing solutions to complex child care issues.

E. Research Agenda

The fiscal year (FY) 1999 Omnibus Consolidated and Emergency Supplemental Appropriation Act (P. L. 105–277) provides $10 million in FY 2000 funds for child care research, demonstration, and evaluation activities. This appropriation is particularly significant as the first federal funding specifically designated for child care research. These funds provide the catalyst for the research agenda that frames the goals and priorities contained in this Announcement. Developed by the Child Care Bureau, the Office of Planning, Research and Evaluation (OPRE), and other offices within ACF, this agenda is the result of a collaborative planning process which includes other Federal partners, State and local agencies, researchers, professional organizations, and other stakeholders.

Instrumental to the development of the research agenda was a two-day Child Care Research Leadership Forum in which researchers, policy-makers and practitioners considered what is currently known and what needs to be learned about critical child care issues. Forum participants identified an urgent need for immediate short-term answers to policy questions, intermediate-term research on the complexities of child care in different kinds of markets, and longitudinal studies to determine macro trends and long-range outcomes for children, families and communities.

Following the Child Care Research Forum, the Child Care Bureau and OPRE jointly sent letters to more than 700 individuals and organizations to further identify critical information gaps and policy research needs. Responses were received from 21 universities, colleges, and research organizations as well as many child care and human service agencies, national professional organizations, child care resource and referral agencies, and individuals. Among those commenting, 58 percent noted the need to better understand the dynamics of child care quality, cost, and availability. Forty-nine percent argued for strengthening the research infrastructure, and 37 percent mentioned the importance of developing an improved understanding of the interrelationships among child care, employment, and self-sufficiency.

This process affirmed the need for better descriptions of local child care populations, services, and outcomes; development of interactive models to understand complex causal relationships; updated national profiles of child care supply and demand; and greater attention to specific policy questions in the arena of State child care regulations, subsidy programs, and welfare reform. ACF was urged to fund projects that will contribute to an increased national capacity for research and help build a sound infrastructure for emerging knowledge. At the same time, we were encouraged to fund studies that will provide short-term answers to pressing questions and yield timely, useful information for policy makers.

F. Research Goals

The Child Care Bureau's research agenda is characterized by two major goals. These goals reflect the need to be able to answer critical questions while simultaneously developing a sound research infrastructure for new knowledge. All research funded in FY 2000 will support both goals. Several of these efforts will be carried out through projects described in this Announcement. Others will be funded through separate contracts, grants, interagency agreements, or other appropriate funding mechanisms.

Goal 1. Answering Critical Questions

Our first goal for child care research is to address immediate information needs. Organizations and individual scholars will conduct research activities to provide timely answers to critical questions, improve the quality of knowledge within the child care field, and promote a more integrated understanding of the interrelationships among research, policy, practice, and outcomes for children and families. Research initiatives to be undertaken as part of the Child Care Bureau?s research agenda are designed to address the five key questions outlined in the Summary and detailed in Part II of this Announcement.

Goal 2. Capacity Building

Our goal for capacity building includes a broad range of objectives to be addressed at national, state, and local levels. In particular we hope to:

(1) Increase the comparability of administrative data and expand the analysis of policy variables (e.g., types of care, quality of care, number of families and children using care, family payments for care, subsidy amounts and duration, and characteristics of the child care workforce).

(2) Ensure that researchers have easy access to data for a wide variety of analyses.

(3) Stimulate growth in the field, including the recruitment and training of additional researchers.

(4) Develop the partnerships among researchers, practitioners, and

academics that are critical to success in this research.

(5) Ensure that the research infrastructure supports national, state, and local studies.

G. Research Activities

The Child Care Bureau plans to undertake an array of activities to achieve its research goals including the initiatives covered by this Announcement and other activities to be funded through separate procurement processes. The priorities covered under this Announcement include Field Initiated Child Care Research Projects, Child Care Policy Research Partnerships, Child Care Research Scholars, and the Child Care Research Fellowship Program. In addition, ACF anticipates funding additional activities toward building the research infrastructure as well as other Federal early childhood research projects. Activities likely to be funded separately from this Announcement include:

• Provide Additional Support to Developing the Research Infrastructure

The Bureau intends to promote access to data, provide technical assistance, perform special analyses, and track Federally-and non Federally-funded child care research. This initiative will create a national child care data archive, assist researchers with secondary analyses of completed data sets, contribute to research dissemination, and coordinate sharing of research information among Child Care Bureau grantees.

• Support Other Federal Early Childhood Research

Some FY 2000 child care research funds will be used for interagency agreements to support other Federal research related to child care and early childhood issues. Partnerships are being explored with the Department of Education, National Center for Educational Statistics and the DHHS National Institute for Child Health and Human Development.

H. Priority Areas to be Funded Under This Announcement

Projects funded under each priority area will contribute to the Child Care Bureau's research goals, provide timely answers to critical questions, and expand research capacity. The four priority areas identified for this Announcement include:

(1) *Field Initiated Child Care Research Projects* are being funded to stimulate research that is responsive to the consultation we received through the leadership forum and comment process, including the need to support studies that examine interrelationships within child care systems. Projects will support the Bureau's research agenda and provide timely and relevant data on issues faced by policy makers, practitioners, parents, and the general public. While projects may involve analysis of national or State data sets, we expect that most of these studies will address community issues. Since child care markets are local, there is a need to understand market dynamics, how child care demand and supply interact, how child care arrangements intersect with family, work, school, and other institutions in the community and how these factors relate to outcomes.

The following are issues of special priority for Field Initiated Child Care Research Projects: culturally and ethnically diverse populations and cultural influences on child care; child care for infants and toddlers; child care for children with disabilities, chronic illnesses, and other special needs; issues related to children's out-of-school time; informal care provided by relatives, friends, neighbors, and other community caregivers operating outside the formal system; issues related to health, safety, and quality of care; children's development and well-being in care; and, social and emotional supports needed for a healthy child care environment. Applications dealing with other important issues are also invited.

(2) *Child Care Policy Research Partnerships* expand on a strategy that has proven successful in facilitating cross-state research and providing rapid responses to State child care administrators' questions. The Child Care Bureau has funded two waves of Child Care Research Partnerships which operate as a Child Care Policy Research Consortium. New partnerships will be funded to build collaboration and systemic links among researchers, policy makers and practitioners toward addressing complex problems concerning child care quality, outcomes, and unmet needs. Other areas of special priority for new Child Care Policy Research Partnerships are subsidies, waiting lists, duration of care, quality initiatives, low-income families, and families transitioning off welfare, and partnerships among child care, Head Start, and State pre-kindergarten programs toward providing full-day, full-year services. The new partnerships will participate with earlier partnerships in the activities of the Child Care Policy Research Consortium.

(3) *Child Care Research Scholars* will provide support for doctoral candidates in conducting dissertation research on child care issues under the auspices of the Child Care Bureau and the educational institution in which the student is enrolled. Dissertation applications must have been approved by the student's doctoral committee by the time the scholarship is awarded and the dissertation expected to be completed within the two year scholarship period. Issues of special priority for Child Care Research Scholarships include those listed for Field Initiated Child Care Research Projects and Child Care Policy Research Partnerships.

(4) *The Child Care Fellowship Program* will bring early-to-mid career professionals in the fields of child care, early childhood education, and research to the Child Care Bureau. Through this Announcement, we intend to select an organization to work in partnership with the Child Care Bureau to design and implement the Child Care Fellowship Program. This program will promote integrated leadership in child care research and policy through intensive involvement with Child Care Bureau and Senior ACF officials, State-level policy makers, members of Federally-funded research projects, and others with a role in national issues for child care research. Fellows will work on assignments designed to further their potential as researchers in the areas of child care, child development, child care policy, and administration of subsidy programs.

I. Submission of Applications

(1) *Number of Applications:* Only one priority area may be included in each application. Applicants, depending on eligibility requirements for the specific priority area, may apply for more than one priority area with separate applications. However, applicants submitting more than one priority area will be eligible for only one award. The cover letter for each application must state all priority areas in which applications are being submitted.

(2) *Notice of Intent to Submit an Application:* In order to anticipate workload, including the number of outside reviewers required, ACF would appreciate an early estimate of the number of applications to be expected. If you intend to submit an application, please notify the ACYF Operations Center eight weeks prior to the submission deadline. (This information will also be used to update mailing lists for future announcements.) In the notification, please include the following information:

(a) Announcement Number, Title and Priority Area

(b) Primary Contact Person (Project Director or Principal investigator)
(c) Organization
(d) Street address
(e) Mailing address
(f) E-mail address
(g) Phone number
(h) Fax number

If the primary contact person is difficult to reach, please include an alternate contact. Your notification may be through e-mail at *CCB@LCGNET.COM,* telephone (1–800–351–2293), or postcard to the ACYF Operations Center, Laurel Consulting Group, 1825 Fort Myer Drive, Suite 300, Arlington, Virginia 22209: Attention Child Care Research.

(3) *Deadline:* The closing time and date for *receipt* of applications is 4:30 p.m. (Eastern Standard Time) on *March 31, 2000.*

(4) *Late Applications:* If your application is received by the ACYF Operations Center after the deadline, it will be classified as late and eliminated from the competition. Applicants whose packages arrive late will be notified.

(5) *Extension of Deadlines:* ACF may extend the deadline for all applicants because of acts of God such as floods or hurricanes or when there is wide disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not extend the deadline for any applicant.

(6) *Address for Submission:* All applications must be delivered to the following address: ACYF Operations Center, Laurel Consulting Group, 1825 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, Attention: Child Care Research, Priority Area, Phone: 1–800–351–2293.

(7) *Method of Submission:* (a) Mailed Submissions: Applications sent first class or priority mail should be sent well in advance to ensure that applications are *received* by the ACYF Operations Center on or before the deadline. When mailed applications are received after the closing date, *date of postmark will not be considered as meeting the deadline.*

(b) Hand Delivered Submissions: Applications hand carried by applicants, their representatives, couriers, or overnight mail services must be received on or before the deadline by the ACYF Operations Center. Applications will be accepted between the hours of 8:00 a.m. and 4:30 p.m. Eastern Time, Monday through Friday (excluding Federal Holidays). Applicants are cautioned that overnight and express mail services do not always deliver as promised. Failure of a delivery service to meet the deadline will cause an application to be classified as late and eliminated from competition.

(c) Electronic Submissions: ACYF cannot accommodate transmission of applications by fax, e-mail attachment, or other electronic media. Therefore, applications transmitted electronically will not be accepted, regardless of date or time of submission and receipt.

(8) *Notification of Receipt:* Applicants will be notified automatically about the receipt and status of their application. Applications that are received on or before the deadline will be assigned a four-digit identification number. This number and the priority area must be included in all subsequent communication concerning the application. If you do not receive acknowledgment of your application within eight weeks after the deadline date, please notify the ACYF Operations Center by telephone at 1–800–351–2293.

J. Citations

(1) *Statutory Authority:* Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1999 (Pub. L. 105–277).

(2) *Catalog of Federal Domestic Assistance:* The Catalog of Federal Domestic Assistance number for all priority areas is 93.647.

(3) *State Single Point of Contact:* This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 5, 1999 the following jurisdictions have elected NOT to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by Federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a, and submit a copy of the letter along with its application to OCS.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

The SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official state process recommendations which they intend to trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/ACYF, 330 C Street SW., Washington, DC 20447.

A list of Single Points of Contact for each State and Territory can be found at: *http://www.hhs.gov/progorg/grantsnet/laws-reg/spoc999.htm.*

(4) *Paperwork Reduction Act of 1995 (Pub. L. 104–13):* Public reporting burden for this collection of information is estimated to average 15 hours per response for the Field Initiated Child Care Research Projects, 20 hours per response for the Child Care Policy Research Partnerships, 5 hours per response for the Child Care Research Scholars, and 10 hours per response for the Child Care Research Fellowship Program. These estimates include the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The project description is approved under OMB Control Number 0970–0213. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. Number of Awards, Duration, and Funding Levels

Approximately 19–23 grants, for all priority areas, will be awarded in Fiscal Year 2000 (ending September 30, 2000), subject to results of the competitive review process and availability of funds. Continuation of grants beyond the initial budget period will depend strongly on the specific reauthorization of child care research funds for FY 2001. Should additional funds be available in FY 2001, ACF also reserves the right to

fund additional projects from among the applications received through this announcement.

(1) *Priority Area 1, Field Initiated Child Care Research Projects.* This priority area is soliciting applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the three year project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government.

Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee. Approximately 8 to 10 grants will be awarded for an initial budget period of twelve months. Funding for Field Initiated Child Care Research Projects will range between $150,000 and $300,000 for the first budget period and up to $200,000 per year (12 months) in subsequent periods.

(2) *Priority Area 2, Child Care Policy Research Partnership Projects.* This priority area is soliciting applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the three year project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government. Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee. Approximately 4 to 6 grants will be awarded for an initial budget period of twelve months. Funding for Child Care Policy Research Partnership Projects will be up to $300,000 for the first budget period and up to $200,000 per year (12 months) in subsequent periods.

(3) *Priority Area 3, Child Care Research Scholars.* This priority area is soliciting applications for project periods up to two years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for two years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the two year project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government. Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee. Approximately six grants will be awarded to institutions of higher learning for an initial budget period of twelve months. Funding for Child Care Policy Research Partnership Projects will be up to $40,000 for the first budget period with the possibility of up to $30,000 for one additional year (12 months).

(4) *Priority Area 4, Child Care Research Fellowship Program.* Through a cooperative agreement, ACF anticipates funding an organization to work in partnership with the Child Care Bureau to design and implement the Child Care Research Fellowship Program. This program will enable mid-career professionals to participate in research fellowships with the Child Care Bureau. During the first budget period, an anticipated three to five fellows will be chosen to participate. This priority area is soliciting applications for a project period up to three years. Award, on a competitive basis, will be for a one-year budget period, although the project period may be for three years. Application for a continuation grant funded under this award beyond the one-year budget period but within the three year project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government. One grant will be awarded for an initial budget period of twelve months. Funding for the cooperative agreement will be up to $500,000 for the first budget period with the possibility of up to $375,000 per year for two subsequent years.

Part II. Research Questions and Priorities

As a result of major social change, shifting cultural patterns, and new legislation, child care has changed dramatically over the past decade. It is now apparent that child care markets are local, but influenced by State and national policies and trends. In addition, child care now touches many different aspects of contemporary life with implications for children, parents, educators, employers, communities, and society as a whole. Nonetheless, current knowledge in this area remains largely fragmented and piecemeal; there is little integration of information emerging from the various academic disciplines and child care sectors.

In our consultations with experts in the field, we were told that it is crucial to understand the interplay between child care supply and demand in different communities, population groups, and policy contexts. As more knowledge is gained about child development and well-being in contemporary environments, there is a need for better understanding of how child care affects the growing child. As more is known about the growing diversity in family values, child rearing strategies, preferences, and needs, questions arise as to how child care policies and programs affect the ability of parents to make wise decisions for their children. Better understanding of child care is also critical to employment goals for adults, particularly in the arena of welfare reform and economic self-reliance. In addition, there is a need for better information about how child care can help parents manage the difficulties of balancing work and family life, especially when resources are scarce.

This section describes five broad research questions that the Child Care Bureau's research agenda seeks to address. These questions are designed to provide descriptive profiles of child care supply and demand, examine major variations and their outcomes, explore the interrelationships among child care market forces, policies and programs, and determine how these factors play out among different populations of children and families.

1. What does child care look like today?

2. How do the variations in child care affect children?

3. How do the variations in child care affect parents?

4. How do the answers to these broad questions translate into specific policy and program choices at the state and local levels?

5. How do the answers to all the questions above differ for sub-groups of children and families?

These five questions and their sub-questions were developed from the comments and suggestions of researchers, policy makers, and practitioners during the development of the research agenda. We are particularly interested in these questions as they relate to low-income families, including those who are transitioning from welfare to work, working families who were formerly on welfare, and working families who have not been a part of the

welfare system. We are also concerned with the many issues of unmet need, quality of care, policy relevance, and outcomes as these themes play out in different social, cultural, and linguistic contexts.

Each question contains several illustrative sub-questions. No individual research project will address all of these questions; a project may focus on a particular, essential issue or explore a more complex set. However, each project should contribute to the larger context of interrelated child care issues.

Question 1. What Does Child Care Look Like Today?

The first research question is intended to broadly describe child care today. What types of care do families use? What quality of care do children receive? What does child care cost and how much do parents pay? Who are the providers of child care and what are their characteristics? The answers to these descriptive questions will form the basis for more detailed exploration of interrelationships among child care market forces, social and cultural influences, policies, programs, and outcomes.

Types of Care

- How many families rely exclusively on their own members for the care of children at different ages? How many parents provide all of the care for their children? How may rely on other adult relatives including grandparents? How many allow children to care for themselves or their younger siblings? How many families rely largely on care in the community? How many use some combination of care within the family and the community? Are there common usage patterns or transitions between family and community care?

- How is the community supply of care distributed across different types of care: child care centers and other early childhood programs, group child care homes, family child care homes, and arrangements in the child's own home (nannies or sitters)?

- Within the formal child care sector, how is the supply of care distributed across regulated family child care homes and center-based programs? To what extent do family child care homes operate as part of networks? Within the informal care sector, how is the supply distributed among relatives (kin), individuals within close social networks (kith), legally operating non-regulated care offered in the community, and ''underground'' or illegally operating services?

Quality of Care

- What are the elements of quality in the care of infants, toddlers, and preschoolers? What constitutes quality in programs serving six-to-twelve year old children during their out-of-school time? How do child care professionals and informal providers define high-quality and low-quality care? How do parents define quality? What do school-age children have to say about their own needs and preferences in the use of out-of-school time? How do the same or similar dimensions of quality change when applied to children in different developmental stages?

- What are the key indicators of high quality in different types of environments? Of low quality? How does structural quality (*e.g.,* caregiver-to-child ratios, group size, professional qualifications, continuity of care and provider retention) relate to process quality (what happens in the child care environment) and quality as measured by interviews with parents, providers or other professionals?

- What is the range of quality within a given type of care according to a variety of approaches and measures? What aspects of quality appear to be most prevalent or lacking in center-based settings and home-based environments? In formal care programs and informal arrangements? What practices best support the cognitive, social and emotional development of children?

- How do variables related to the distribution of child care relate to families and their experiences? For example, how many and what types of care do children experience throughout the day? How many arrangements do they have over the course of a year? How do elements of care stability, continuity, and transition affect the quality of their care in different types of settings?

Costs of Care and Subsidies

- What are the costs of care provided in different types of settings? What does care actually cost to provide? What do providers charge? How much do parents pay?

- To what extent are subsidies available and accessible to eligible families and children? To what extent are subsidies used? Which eligible families use subsidies and which do not? What do eligible families do when subsidies are not available?

- How do child care subsidies affect the price of care purchased by low-income parents? Do parents who receive child care subsidies make different choices than low-income parents without subsidies? What is the quality of care purchased by families with the help of subsidies?

- How does the utilization of subsidized child care shift during the transition from welfare-to-work? How does use of subsidies vary among current TANF recipients, former TANF recipients, and other working poor families? What are the interrelationships among welfare status, employment, child care subsidy, price of care, and family income?

- Do subsidies affect the likelihood of working, the number of hours worked, the types of jobs obtained, or the level of earnings? Do subsidies affect the stability and progression of employment and earnings?

- What are the interrelationships among child care cost, subsidy, and quality? Do subsidies affect the quality, safety, and stability of care that children receive?

Characteristics of the Child Care Workforce

- Who is caring for children? How do characteristics of the child care workforce vary by type of care, regulatory status, demographic characteristics of the population, type of neighborhood, and other important variables?

- What are the demographic characteristics, professional characteristics, and motivations of individuals who work in child care and early education programs? What is the current salary and benefit structure for child care center staff, preschool teachers and other early childhood professionals? How do provider education, training, experience affect salaries and benefits?

- What factors make a difference for staff turnover, continuity of care, and the quality of services provided? What are the challenges to retention of qualified staff? What is the effectiveness of approaches to improve retention? How do quality enhancements such as accreditation affect the quality of services received? Do accredited programs maintain higher levels of quality over time?

- What are the demographic characteristics, background, training, skills, and motivations of licensed family child care providers, license-exempt caregivers, and other unregulated providers in the community? What types of supports are available and used by caregivers who are part of a formal system and those who operate informally?

Question 2. How do the major variations in child care affect children?

• This set of questions examines how children develop in different care environments, how various features of child care affect children, and how child care relates to other important factors such as school readiness and achievement.

• What components of healthy development are most affected by child care? How do emotional, cognitive, and social variables interact in the developing child? How do early experiences in child care help to shape development? What are the implications of different aspects and levels of child care quality for growth and development throughout childhood?

• How do structural variables of quality (regulatory status, staff/child ratio, group size, caregiver training, etc.) relate to caregiver behaviors and outcomes for children? For example, do informal caregivers provide safety, stability, continuity, and developmentally appropriate experiences?

• How do other features of child care environments, such as type of care, cost, administrative strategies, and characteristics of the child care workforce affect outcomes in children?

• What are the interrelationships among types of setting, quality of child care and school readiness? What are the linkages between child care, children's development, school readiness, and later school performance? How do programs serving older children during out-of-school time influence their academic performance and developmental well-being?

• How many children are in high-quality care environments that promote their healthy development? How many are in poor quality settings that threaten to impair their development? What are the most important factors?

• Are there important interrelationships between child care quality and the quality of children's other environments? For example, does the availability of high child care quality mitigate against violence in the home and community? Does a generally low level of child care quality care increase the risk? In what ways?

Question 3. How do the major variations in child care affect parents?

• This set of questions examines the interrelationships among market forces, workplace factors, child care policies and programs, community supports, and outcomes for parents.

• What is the relationship between parents' perceptions of quality care, their goals around child literacy, and the child care decisions they make? Do they choose care that is consistent with their values and expectations?

• Do families with more choices receive better quality? Do those with fewer choices receive care of lower quality? What is the impact on parents when they can't find or afford high quality care for their children?

• What do parents know about the availability of child care options, subsidies and other resources in their community? Are there groups of parents who are better informed than others? How do resource and referral services or other community supports influence the choices and quality of care experienced by families. How does information influence decision-making?

• Is there an unmet need for subsidies? Which factors appear to influence subsidy use when subsidies are available? What happens to eligible families when child care subsidies are not available? What are the cultural, social, economic and institutional constraints on the demand for child care subsidies?

• To what extent do child care problems and instability affect workplace productivity, absenteeism, tardiness, and turnover? How are employers dealing with these problems? To what extent do employers provide assistance for child care through on- or near-site programs, dependent care plans, purchase of slots? What is the impact of Federal and State efforts aimed at encouraging employers to support child care?

• To what extent do workplace policies and personnel practices affect parents' ability to successfully work and care for their children? How do parents deal with tensions and conflict between child care and work demands?

• How do variations in type of care, quality, cost, use of subsidy, characteristics of the child care workforce, and other important features affect the ability of families to meet basic needs? What are the effects on employment, earnings, family income and career progression?

• How do policies and practices concerning flexibility of child care interact with workplace policies concerning flexibility for workers and flexibility within the family? How do particular patterns of flexibility and rigidity enhance or limit the ability of parents to successfully manage family and work responsibilities? Where do parents find the flexibility they need?

• How affordable is child care for low-income parents? What proportion of family income goes for child care in various types of families?

• What trade-offs do parents make among child care cost, quality and flexibility or convenience? How do they make these decisions? What are the most important elements in formulating complex choices?

Question 4. How do the answers to these broad questions translate into specific policy and program choices at State and local levels?

This set of questions explores interrelationships among market forces, policies, and programs carried out by states and local communities, along with the outcomes of these factors for children and families.

• How are the roles of local stakeholders (advocates, providers, parents, schools, businesses, etc.) in child care changing? Are the stakeholders changing? If so, how? How do changing roles affect the overall child care system?

• What roles do resource and referral programs play? Does the presence of resource and referral services influence the supply of care? In areas where no such program is available, how do providers and parents learn about resources such as training, subsidies, and the community supply of care?

• What roles do employers play? To what extent do employers participate in the community infrastructure for support of the child care industry through resource and referral, training or technical assistance for providers, parent education and consumer information, or transportation for children?

• How do child care regulations, subsidies and other policies affect the availability of care in low-income neighborhoods? What is the relationship between the overall supply of care in a community and the care used by subsidized families?

• What are the interrelationships among local market rates, child care subsidies, and what parents pay? How do child care subsidies and co-payment rates affect the cost of care in local markets? How do required co-payments and additional fees charged by providers affect subsidy utilization and choices made by parents? Does participation in other Federal programs (e.g., Child and Adult Care Food Program) reduce costs to parents?

• What are the interrelationships among parents' judgments, providers' judgments, professional observations of care environments, and children's experiences? Are there innovative methods that States and communities can use to identify need, improve responsiveness to families, leverage

resources, and improve the quality of services?

• Within the specific types of care, what aspects need improvement? How can States assess and improve the quality of care within each type?

• How do public and private child care programs, Head Start, kindergarten and pre-kindergarten programs, before- and after-school programs, and other child development programs fit into the community-level infrastructure? To what extent do community child care centers, Head Start programs, State pre-kindergarten programs and other early childhood programs collaborate? What are the challenges to collaboration? Are there successful models of statewide or local collaboration? Are there specific policies that make a difference?

• How do States and localities fund child care and other early childhood education programs? What innovations are being explored? What are the funding barriers to a seamless system? How are funds being blended at the State and local levels? How do various financing strategies affect the availability and access to high quality care in different communities?

• How do State and local regulations affect quality in various child care settings? How is this process mediated by institutional and community factors? How have States used their quality improvement funds? What are the results of these initiatives? Have they made a difference for children and families?

• How do State and local policy variations affect the utilization of subsidized care? Why don't some eligible families apply for subsidies? What happens to eligible families who apply for but do not receive subsidized care?

• How do child care policies affect welfare families, those moving off welfare, and the working poor who are not part of the welfare system? How are working class and middle-income families affected by child care policies?

• How do child care subsidy policies affect the availability and quality of care? For example how do eligibility requirements, co-payment requirements and reimbursement rates interact to affect supply of care in local markets? Are market rate surveys useful in assessing the cost of care and the appropriate levels of reimbursement? To what extent do market rate surveys reward the more affluent urban providers while penalizing providers in poorer counties? Do differences in how subsidies and licensing are administered influence child care supply and demand and the use of subsidies?

Question 5. How do the answers to all the questions above differ for sub-groups of children and families?

This set of questions examines how different groups of children and families are being affected by the major variations in child care market structures, policies and programs in the light of social and cultural trends.

Family Structure and Characteristics of Children

• What are the variations in services and outcomes when viewed through the lens of family structure and child characteristics?

• Do different types of providers serve different child populations? What services are available and utilized for the care for infants, toddlers, and preschoolers, young school-age children and those in the upper elementary grades? For children with disabilities or chronic illness? Abused and neglected children?

• Do single parents, two parent families and extended families make different arrangements for the care of their children?

Demographic and Cultural Factors

• What demographic, cultural and linguistic factors influence the availability, utilization, cost, and quality of care? How are population demographics changing in local communities, and how does increasing ethnic and linguistic diversity affect child care services?

• How do demographic, cultural and linguistic factors affect parental selection and utilization patterns? What are the determinants of parental choice in different cultural and ethnic groups? What family- and community-level factors shape the type and quality of care selected by low-income parents in different cultural and linguistic contexts?

• Do parents with different personal characteristics, family structures, financial resources, and employment patterns make different child care choices? Do some families have more or better options? Are some families able to make better use of their perceived options? How do geographic, community or cultural factors affect parent's decisions, utilization patterns and outcomes?

• What is the availability, accessibility, cost and quality of care for children from various ethnic groups, especially Native American children, recent immigrants, and non-English speaking children? Are there shortages of care for children in some age groups, ethnic groups, or special circumstances? What are the outcomes for these different groups of children?

Community and Neighborhood Factors

• What are the major variations when viewed through the lens of community and neighborhood? How does the availability of care vary in different types of communities and neighborhoods? Is the distribution of care different in neighborhoods with large welfare populations, neighborhoods with large numbers of low-income working families, and more affluent neighborhoods?

• What community factors are important? How do child care market forces, policies, programs and outcomes vary in different kinds of communities, including rural areas, inner cities, small towns, and economically distressed neighborhoods?

Policy Variations in the Social and Cultural Context

• How do State and local child care policies and programs affect the choices parents make and are able to sustain?

• How do state and local policies affect child care availability, accessibility, affordability, utilization and outcomes for current TANF recipients, former TANF recipients, low-income families who are not part of the welfare system?

• How do policies and programs affect teen parents, recent immigrants, families who work non-standard hours, single parents, parents with significant health problems and others for whom child care can make a critical difference?

• What are the outcomes for different groups of parents in terms of education, employment, wage progression and job stability? What are their outcomes in terms of family variables?

Part III. Field Initiated Child Care Research Projects and Child Care Policy Research Partnerships

Part III includes descriptions and requirements for Field Initiated Child Care Research Projects (Priority Area 1) and Child Care Policy Research Partnerships (Priority Area 2). Instructions for completing applications are included, as are evaluation criteria and funding procedures.

Priority Area I. Field Initiated Research Projects

A. Purpose

The purpose of this priority area is to stimulate child care research that helps States, communities, and the Child Care Bureau respond to emerging issues and questions in a timely and direct manner. Projects funded under this priority area

must contribute significantly to the overall research agenda, help build the research infrastructure, and lay the foundation for informed policy and practices. Grantees will be expected to produce significant findings by the end of the first budget period.

B. Priorities

Field Initiated Child Care Research Projects are expected to focus on one or more of the questions included in Part II. These questions were developed from input received from researchers, policy makers and practitioners during the research planning process described in Part I.

There is the particular need to study important issues faced by local communities in order to understand the characteristics of child care today. Child care markets operate at the local level. We want to better understand market dynamics, how child care demand and supply interact, and how child care intersects with family, work, school, and other community institutions.

Field Initiated Child Care Research Projects will focus largely on local-level issues in order to understand the intricacies of child care demand, supply, quality and unmet need in different types of communities, cultural contexts, policy contexts, and populations. Projects may be stand-alone studies or may link with other studies to add sites, expand samples, add study components, add populations, or conduct special analyses. In addition, Field Initiated Child Care Research Projects may involve secondary analyses of completed data sets, including those from state or national studies when appropriate. Partnerships are not required for projects in this category but are encouraged if the resulting research will be more significant or complete than could be accomplished by a single organization. Projects will also be encouraged to take advantage of ''natural experiments'' to better understand how changes in state and local child care policy (such as devolution of responsibility for subsidy programs to local offices) may be affecting child care patterns and outcomes in different policy contexts.

The Child Care Bureau is especially interested in funding projects that address local issues of national significance where information is particularly lacking. For example, there is very limited information about informal care provided by relatives, friends, neighbors, and other community caregivers operating outside the formal system. Very little is known about the characteristics of providers in all types of facilities, how they view their work, or the nature of children's care experiences. Additionally, some populations of children and families are underrepresented in existing research.

The following are issues of special priority for Field Initiated Child Care Research Projects: culturally and linguistically diverse populations and cultural influences on child care; child care for infants and toddlers; child care for children with disabilities, chronic illnesses, and other special needs; issues related to children's out-of-school time; informal care provided by relatives, friends, neighbors, and other community caregivers operating outside the formal system; issues related to health, safety, and quality of care; children's development and well-being in care; social and emotional supports needed for a healthy child care environment; and, the impact of Federal and State efforts to improve the quality of care. Applications dealing with other important issues are also invited.

C. Number of Awards

Approximately 8–10 Field Initiated Research Projects will be funded in Fiscal Year 2000, subject to the availability of funds and results of the evaluation process.

D. Project Duration, Funding Levels and Budget Periods

Field Initiated Child Care Research Projects will be awarded for project periods of up to three years. The Child Care Bureau expects to invest an average of $225,000 per project for the initial 12-month budget period, with a range of approximately $150,000—$300,000 for each project. Non-competitive applications for continuation of Field Initiated Child Care Research Projects will be considered in fiscal years 2002 and 2003 with up to $200,000 per project being available for a twelve-month period. Applications for continuation grants funded beyond the 12-month budget period, but within the 36-month project period, will be entertained in the subsequent year on a noncompetitive basis, subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the government.

E. Federal Share

To maximize the Federal investment in Field Initiated Child Care Research Projects and in the interest of project sustainability, a financial commitment by the applicant organization (or other participating entities) is required. The Federal share may comprise no more than 80 percent of total project costs. Grantee contributions may be in cash or in-kind contributions of staff time, employee benefits, facilities, utilities, equipment, materials, supplies or other forms of project support.

F. Eligible Applicants

Eligible applicants include public agencies, non-profit organizations, and for-profit entities that agree to waive their fees.

(1) Public agencies include state or local child care agencies; education agencies, welfare or other human services agencies, public schools, colleges and universities; and other public agencies with an interest in child care.

(2) Non-profit agencies include, but are not limited to, community child care and early childhood programs, child care resource and referral programs, professional organizations, schools, colleges and universities, civic and community groups, and foundations.

(3) For-profit entities include, but are not limited to, child care businesses, private research corporations, and other profit-making organizations. These entities are only eligible to receive a grant directly if they agree to waive their fees. However, they may participate in projects as partners without such a waiver.

G. Data Ownership

Raw data are the property of the agency or organization where the data reside (for instance, the State agency or resource and referral entity.) Working data files constructed for research belong to the grantee carrying-out the research, but analyses of those data cannot be released without the approval of the agency that owns the original data. Once a study has been completed and released, clean, documented public use files must be prepared and archived according to specifications supplied by the Child Care Bureau. These public use data files will be the property of the Federal government and will remain in the public domain for secondary analysis by other researchers.

Priority Area 2. Child Care Policy Research Partnerships

A. Purpose

The Child Care Policy Research Partnerships expand upon a strategy that has proven successful in stimulating collaboration among researchers, policy makers and practitioners, facilitating interdisciplinary approaches and cross-state research on critical issues, and providing rapid responses to State child care administrators' questions.

The Child Care Bureau has funded two waves of Child Care Research Partnerships which collectively operate as the Child Care Policy Research Consortium. The purpose of the Consortium is to increase and strengthen the capacity for cross-cutting research on critical child care issues. Partners are working to better understand issues concerning: (1) The child care needs, utilization patterns, and outcomes for low-income families, including welfare recipients, those moving from welfare to work, and the working poor; (2) the child care opportunities and constraints which affect low-income families and children under new welfare policies, changing State and local child care systems, and emerging market conditions; and (3) the availability, cost, quality, and other critical features of subsidized child care services. Information about the Consortium, including project descriptions and publications, can be found on the Child Care Bureau's web page at *http://www.acf.dhhs.gov/programs/ccb.*

The new Child Care Policy Research Partnerships will expand the Child Care Policy Research Consortium and contribute to ongoing activities. This approach is intended to help the Child Care Bureau build a sound research infrastructure, identify and respond to critical issues from a variety of professional perspectives, and develop cross-cutting strategies for research. Partnerships funded under this priority area must also contribute significantly to the broader research agenda and help lay the foundation for informed policy and practice. Grantees will be expected to produce significant findings by the end of their first 12-month budget period.

B. Priorities

The Child Care Bureau is particularly interested in partnerships that can help address important policy issues faced by State administrators who must make immediate decisions regarding the allocation of child care resources, achieve employment-related goals for parents, and meet growing needs. Applicants are referred to the key questions in Part II and asked to develop their applications around statewide or cross-state issues such as unmet need or quality.

The second goal for the new partnerships is to stimulate greater collaboration and interdisciplinary research on critical issues for child care policies, programs and outcomes affecting children and families. For example, two or more states might produce comparable analyses to better understand child care in inner cities, rural areas, or selected populations, or to address some other cross-cutting theme. A third goal is to develop longitudinal data sets from child care subsidy programs, regulatory information systems, resource and referral data systems, and other administrative systems. It is hoped that these new partnerships will also help increase the comparability of information made available through different data systems and improve methods for linkage and secondary analysis of completed data sets.

Ongoing studies might also be replicated, expanded, linked, or otherwise utilized in the development of a comprehensive and cohesive research strategy. Among the existing partnerships, for example, a Florida study looked at where parents receiving child care assistance work (Griesinger, Chipty and Witte and Lee, Ohlandt & Witte). This study led to the creation of a program in Florida in which funds were appropriated to match employer child care contributions. Alabama, California, Massachusetts, Oregon, and Washington, D.C. have replicated this study. Other studies being carried out within the consortium are exploring child care availability, quality, and unmet need in different States and communities. References and project descriptions are contained in the Child Care Policy Research Consortium Executive Summary on the Child Care Bureau's web page.

New partnerships may also take on new data collection activities and efforts to improve research methods and measures. Other areas of special priority for new Child Care Policy Research Partnerships are subsidies, waiting lists, duration of care, quality initiatives, low-income families, and families transitioning off welfare, and partnerships among child care, Head Start, and State pre-kindergarten programs toward providing full-day, full-year services.

C. Number of Awards

Four-to-six Child Care Policy Research Projects will be funded in Fiscal Year 2000, subject to the availability of funds and results of the evaluation process.

D. Project Duration, Funding Levels and Budget Periods

Child Care Policy Research Projects will be awarded for project periods of up to three years. The Child Care Bureau expects to invest up to $300,000 during the initial 12-month funding period for each project. Initial grant awards will be for a 12-month budget period. Non-competitive applications for continuation of Child Care Policy Research Projects will be considered for in fiscal years 2002 and 2003 with up to $200,000 per project being available for a 12-month period. Applications for continuation grants funded beyond the 12-month budget period, but within the 36-month project period, will be entertained in the subsequent year on a noncompetitive basis, subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the government.

E. Federal Share

To maximize the Federal investment in Child Care Policy Research Partnership Projects and in the interest of project sustainability, a financial commitment by the applicant organization (or other participating entities) is required. The Federal share may comprise no more than 80 percent of total project costs. Grantee contributions may be in cash or in-kind contributions of staff time, employee benefits, facilities, utilities, equipment, materials, supplies or other forms of project support.

F. Eligible Applicants

Eligible applicants include public agencies, non-profit organizations, and for-profit entities that agree to waive their fees. The State agency that administers the Child Care and Development Fund must be included in the partnership. Additionally, at least one member must be a research group affiliated with an accredited university or four-year college. Broadly-based partnerships are encouraged. For example, the following entities may be included: (1) Child care regulatory agencies and agencies that administer child care programs for low-income children and families; (2) resource and referral organizations which collect and maintain an ongoing data base of local or statewide information on child care demand and supply; (3) planning councils, commissions, advisory groups, and other organizations that participate in child care planning and policy making; (4) non-academic research organizations that conduct studies on child care markets, populations, services, policies or other relevant aspects of child care; (5) Tribal, county or local agencies that administer child care subsidy programs; (6) early childhood programs such as public or private child care centers or Head Start; (7) family child care providers or networks of family child care homes; (8) professional organizations and

associations; (9) providers or supportive services such as provider training, technical assistance, or consumer education; (10) civic groups and community organizations; (11) foundations and charitable organizations; and (12) other appropriate organizations and individuals.

G. Data Ownership

Raw data are the property of the agency or organization where the data reside (for instance, the State agency or resource and referral entity.) Working data files constructed for research belong to the grantee that is carrying-out the research, but analyses of those data may not be released without the approval of the agency that owns the original data. Once a study has been completed and released, clean, documented public use files must be prepared and archived according to specifications supplied by the Child Care Bureau. These public use data files will be the property of the Federal government and will remain in the public domain for secondary analysis by other researchers.

Project Description and Application Requirements

This section contains requirements for both Field Initiated Research Projects (Priority Area 1) and Child Care Policy Research Partnerships (Priority Area 2). Applicants in each of these priority areas should follow the same set of formatting instructions, but tailor their Project Narrative Statements to the specific priority area in which they are submitting an application.

A. Contents and Format of the Application

Applicants are cautioned to include all required forms and materials, organized according to the required format. The application packet must include the following items in order:

A cover letter that includes the announcement number, priority area and contact information.

(1) Standard Federal Forms

(a) Standard Application for Federal Assistance (SF 424 face sheet and SF 424A) must be included with the application.

(b) Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

(c) Certifications Regarding Lobbying. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications.

(d) Disclosure of Lobbying Activities. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

(e) Certification Regarding Drug-Free Workplace Requirements. Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(f) Certification Regarding Debarment, Suspension, and Other Responsibility Matters. Applicants must make the appropriate certification that they are not presently debarred, suspended, or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(g) Protection of Human Subjects: Assurance, Identification, Certification, and Declaration.

(h) Certification Regarding Environmental Tobacco Smoke. Applicants must make the appropriate certification of their compliance. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(2) For-profit entities wishing to receive a grant directly must provide a letter indicating their willingness to waive their fees. Non-profit organizations must submit proof of non-profit status in the application at the time of submission. The applicant can demonstrate proof of non-profit status in any one of three ways:

(a) By providing a copy of the organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c3) of the IRS code;

(b) By providing a copy of the currently valid IRS tax exemption certificate; or

(c) By providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

(3) Executive Order 12372—Single Point of Contact. Where appropriate, include a competed SPOC certification with the date of SPOC contact entered on page 1, line 16 of the SF424 face sheet.

(4) Table of Contents

(5) Project Abstract (not to exceed one page) for use in official briefings, decision packages, and public announcement of awards

(6) Project Narrative Statement

(a) Issues, Objectives and Significance
(b) Research Design and Methodology
(c) Management Plan
(d) Staff Qualifications and Commitment
(e) Organizational Capability
(f) Fiscal Resources and Project Budget

(7) Appendices: All supporting materials and documents should be organized into appropriate appendices and securely bound in to the application package. Applicants are reminded that the total page limitation applies to both narrative text and supporting materials.

(a) Contact Information for all Key Staff
(b) Resumes
(c) Letters of Support, if appropriate
(d) Other

(8) Number of Copies and Binding: An original and two copies of the complete application packet must be submitted. Each copy of the application should be securely stapled in the upper left-hand corner, clipped, or enclosed in a quick-release binder. Because each application will be duplicated for the review panel, do not use non-removable binders. Do not include tabs, plastic inserts, brochures, videos, or any other items that cannot be photocopied.

B. Project Narrative Statement

The Project Narrative Statement contains most of the information on which applications will be competitively reviewed. The Project Narrative should be carefully developed in accordance with the research goals and expectations described for the priority area in which the applicant is submitting a proposal, the requirements described in this section, and the evaluation criteria and selection factors described below.

The Project Narrative sets forth the technical proposal and describes how it will be carried out. This statement should be organized as follows: (1) Issues, Objectives, and Significance; (2) Research Design and Methodology; (3) Management Plan; (4) Staff Qualifications and Commitment; (5) Organizational Capability; and (6) Fiscal Resources and Project Budget.

Clarity and conciseness are of utmost importance. ACYF strongly encourages applicants to limit their applications to 200 pages, double-spaced, with standard one-inch margins and 12 point fonts. This includes the entire Project

Narrative Statement including text, tables, charts, graphs, resumes, corporate statements and appendices.

(1) Issues, Objectives, and Significance

In this section, applicants demonstrate their understanding of the relevant literature on critical issues and existing knowledge, describe their objectives, and demonstrate the significance of their proposal.

Applicants are expected to show how their proposal will address the Child Care Bureau's research agenda, answer key questions, and contribute to the child care research infrastructure. Specifically, applicants are expected to demonstrate a command of the policy and research literature in child care, as well as emerging issues. The proposal is expected to demonstrate understanding of current policies and programs, to show how the proposed research would further understanding, and to suggest practical applications which might be derived from the findings.

Applications should clearly show how the research would build on the current knowledge base and contribute to policy, practice and future research. Applicants are asked to consider the significance, reliability, and validity of existing data pertaining to key questions. In addition, applicants should identify important gaps in the literature and areas in which findings are contradictory or ambiguous. It will also be important to consider what demographic, economic, and social data are available as a context for the proposed child care research. A bibliography of relevant literature must be supplied.

(2) Research Design and Methodology

This section of the Project Narrative Statement requires that the applicant describe the technical approach for addressing issues and achieving objectives described in the previous section (B.1). In this section the applicant should clearly demonstrate their ability to produce significant and usable results within the first 12-month budget period in the event that Federal funding is not available for subsequent periods. How these early findings would influence decisions about subsequent stages of the research and contribute to an ongoing project should be addressed.

The methodological discussion must include technical details of the proposed research design, including (as relevant): (a) Conceptual framework for the research; (b) research questions, hypotheses, and variables; (c) data sources and sampling plan; (d) new data on human subjects; (e) administrative data; (f) secondary analysis of existing data sets; (g) linkages with other research; (h) data collection; (i) data processing and statistical analysis; and, (j) product development and information dissemination. Qualitative studies with well-defined methodology are invited as well as those that use quantitative methodology. As part of the design section, applicants should discuss the strengths and limitations of all proposed approaches and techniques. Applicants are also asked to provide a flow chart or table showing interrelationships among the proposed research issues, questions, variables, and data elements.

(a) Conceptual Framework for the Research

Based on the issues and objectives described in B.1, present the conceptual framework for the proposed research, including the approach to be taken and why this approach was chosen.

(b) Research Questions, Hypotheses and Variables

Based on the conceptual framework for the research, present: (a) Areas of inquiry to be explored; (b) specific research questions and hypotheses; and (c) research variables and constructs. This discussion should relate back to the earlier discussion of Issues, Objectives and Significance (B.1) and lead into the design elements that follow.

(c) Data Sources and Sampling Plan

This section should include a detailed plan for identifying data sources and obtaining an appropriate sample to achieve objectives of the proposed research.

(d) New Data on Human Subjects

If new data are to be collected on human subjects, either independently or in conjunction with another ongoing study (e.g., by adding a new sample or an additional measure), describe the characteristics of the target population and provide a rationale for any sample stratification based on personal characteristics of individuals (such as ethnicity, income, marital status, or age of child.)

(e) Administrative Data

If data would be compiled from service delivery records of State or local agencies, from resource and referral files, from records maintained by child care facilities, or from other primary data sources, describe the nature of the data and how they would be accessed, characteristics of the sample and how it would be constructed, and how confidentiality of individual records would be maintained.

(f) Secondary Analysis of Existing Data Sets

If secondary analyses would be conducted on completed data sets, describe the original research, its appropriateness and limitations for this study. Describe the nature, scope and representativeness of the original sample and characteristics of the data (including data quality). Applicants who propose to conduct secondary analyses on large data sets, such as those from the Census Bureau, Bureau of Labor Statistics, and other statistical organizations are expected to discuss how their analyses could be used to help profile national, regional or state-level child care market parameters and trends. If data sets from completed child care studies are to be analyzed, applicants are asked to suggest ways in which such data could be used by others to amplify or extend the proposed research.

(g) Linkages With Other Research

If the proposed project would involve linkage with ongoing research, describe the ongoing research design and status, how the proposed study would benefit from and contribute to it, how the technical aspects of the linkage would be structured and carried out, and how the linked studies would address the goals of this announcement. Describe how the proposed research will make a distinct contribution while building on ongoing research. Include a letter of cooperation from the individual/organization conducting the research which details the status of the data collection, procedures to ensure data quality, timeliness of data availability and applicant access.

(h) Data Collection

Describe data collection procedures and safeguards for data quality. Discuss procedures to protect human subjects, to maintain confidentiality of data, and to obtain consent for participation (if applicable).

(i) Data Processing and Statistical Analysis

Include a detailed plan for processing and analyzing data from all sources which illustrates how the analyses will meet the goals of this research. Discuss the procedures which would be used to clean data, ensure data quality, and prepare data tapes. Discuss plans for the analysis of data, including units of analysis, analytic techniques to be used with various types of data, statistical considerations including, but not

limited to power analysis, attrition, response rates, etc., and the linkage of data sets, where appropriate. Describe documentation of the final data set and preparation of data for archiving by the Child Care Bureau.

(j) Product Development and Information Dissemination

Include a product development schedule and information dissemination plan which describes the products to be generated during the course of this research (such as technical papers or reports, summaries, briefings, conference presentations, doctoral dissertations, journal articles, internet applications, software and public use data tapes, and the final report). Describe the audiences for various products and the dissemination strategies that will be employed. Discuss which products might be collaboratively developed or disseminated to intended audiences.

(3) Management Plan

(a) The Management Plan is expected to describe a sound and workable plan of action for how the proposed project will be carried out. This section should detail how the project will be structured and managed, how the timeliness of activities will be ensured, how quality control will be maintained, and how costs will be controlled. Applicants should discuss their management of the project as a whole, and the management and coordinating roles of any partners.

(b) Provide a diagram showing the organizational structure of the project and the functional relationships among components.

(c) If the project is a partnership, describe how the project will be managed by the lead organization to ensure that members of the partnership operate as a cohesive research team and that cross-cutting goals of the project are carried out efficiently and cost-effectively.

(d) Describe the make-up and role of any steering or management committees, technical work groups, advisory panels, and other coordinating bodies.

(e) Produce a project management chart that lays out sequence and timing of the major tasks and subtasks, responsibilities and time commitments of staff, important milestones, reports, and completion dates.

(f) Discuss potential problems or difficulties with the proposed management approach, including factors which may affect the quality of the research or its outcomes, may undermine the ability of partners to collaborate effectively, and may hinder the early sharing, review and dissemination of information.

(4) Staff Qualifications and Commitment

In this section, applicants must provide evidence that project staff have the experience, expertise and commitment of sufficient time to carry out the proposed project on time, within budget, and with a high degree of quality.

(a) Identify all key staff positions for this project, the professional requirements for each, the proportion of time staff holding these positions will be committed to the project, the period of time they will be employed, and whether their continued employment will be dependent solely on the funds to be awarded under this announcement.

(b) Provide evidence that individuals proposed for key positions have the necessary technical skill and experience to successfully carry out their assigned roles.

(c) Where key positions are currently vacant, include a position description outlining the qualifications necessary to carry out the duties and responsibilities of each. Include letters of commitment from any key individuals who have been selected but not yet hired.

(d) If a data collection team must be assembled, describe the makeup of the team, what expertise will be represented, and how individuals will be selected.

(e) Identify all proposed consultants or advisors, document their expertise, and describe how their services will be utilized. Include letters of commitment or intent if possible.

(f) Identify the authors of the proposal and describe their continuing role in the project if funded.

(5) Organizational Capacity and Fiscal Resources

In this section, the applicant must demonstrate that the official grantee has the organizational capacity and fiscal resources to successfully carry-out the project on time and to a high standard of quality, including the capacity to resolve a wide variety of technical and management problems that may occur.

(a) Provide evidence of sufficient organizational resources to ensure successful project management, compliance with terms and conditions of the grant, and oversight of the proper use of Federal funds.

(b) If the project is a partnership, provide evidence that all partners have the ability, willingness and flexibility to collaborate effectively with one another in carrying out the proposed project, and that the partnership as a whole could effectively participate in a larger research consortium. Include examples of past or current partnerships that demonstrate the ability to carry out collaborative research. Describe how each partner was included in the planning of the project. Include letters of specific commitment or support from each partner. Describe all cooperative agreements, subcontracts and other formal relationships within the partnership. Partners who will provide access to data or records must provide a letter stipulating the terms of their agreement with the researchers. Describe the future commitment each partner will make to ensure success of the collaboration as it evolves.

(c) Include a separate two-page organizational capability statement for each participating organization which documents the partner's ability to carry out its assigned roles and functions.

(d) Describe the relationship between this project and other relevant work planned, anticipated or underway by the applicant or its partners. Include funding sources for work in progress.

(e) Provide a list of research and financial partners including the name and address of each organization, the names of its director and primary contact for this proposal, and the telephone, fax and internet numbers of each.

(6) Fiscal Resources and Project Budget

(a) Describe the nature and extent of financial participation from all sources.

(b) Present a detailed budget to demonstrate that the project will have adequate resources to carry out the work on time and with a high degree of quality.

(c) Include a detailed budget narrative which describes and justifies line item expenses within the budget categories listed on the Standard Form 424 and 424A. (Line item allocations and justification are required for both Federal and non-Federal funds.) If project funds will be subcontracted, a detailed budget for the use of those funds must be also included. The budget should include funds to allow key representatives from Field Initiated Child Care Research Projects and Child Care Policy Research Partnerships to participate in an annual meeting of the Child Care Policy Research Consortium in Washington, D.C.

(d) Describe the extent to which funds, staff time, in-kind services, and other resources have been committed to the research effort during the planning period.

(e) Describe what other resources are expected to help support the proposed research, including existing

commitments and negotiations in progress. Describe anticipated efforts to obtain other funding partners throughout the project.

Evaluation and Selection

A. Screening and Panel Review

Each application will be screened to determine whether the applicant organization is eligible as specified in each of the priority areas. Applications from ineligible organizations will be excluded from the review.

(1) The review will be conducted in Washington, D.C. Expert reviewers will include researchers, Federal or State staff, child care administrators and other individuals experienced in the study of child care demand and supply, child care delivery systems, welfare and supportive services, early child development and education, parental choice and involvement, and other relevant areas.

(2) A panel of at least three reviewers will evaluate each application to determine the strengths and weaknesses of the proposal in terms of the Bureau's research goals and expectations for the priority area under consideration, requirements for the Project Narrative Statement, and the evaluation criteria listed below.

(3) Panelists will provide written comments and assign numerical scores for each application. The indicated point value for each criterion is the maximum numerical score for that criterion. The assigned scores for each criterion will be summed to yield a total evaluation score for the proposal.

(4) In addition to the panel review, the Bureau may solicit comments from other Federal offices and agencies, from the states, from relevant non-governmental organizations, and from individuals whose particular expertise is identified as necessary for the consideration of technical issues arising during the review. Their comments, along with those of the panelists, will be considered by the Bureau in making funding decisions. The Bureau will also take into account the best combination of proposed projects to meet overall research goals.

B. Evaluation Criteria

Eligible applications will be scored competitively against the published evaluation criteria described below. These criteria will be used in conjunction with other expectations, priorities and requirements set forth throughout this announcement to evaluate how well each proposal addresses the goals and priorities for funding.

(1) Significance, Issues and Objectives (maximum of 10 points)

(a) The extent to which the application reflects a solid understanding of critical issues, information needs, and research goals.

(b) The extent to which the proposed project framework is appropriate, feasible, and would significantly contribute to the importance, comprehensiveness, and quality of the proposed research.

(c) The effectiveness with which the discussion articulates the current state of knowledge relative to issues being addressed, including: (1) critical child care issues and the complex interrelationships among major variables; (2) the significance of these issues and variables for child care policies and programs; (3) how current knowledge would be brought to bear on the proposed research; and (4) how the research would benefit various audiences.

(d) The importance of research priorities identified for the first budget period, the degree to which early findings would be useful for policy and practice, and the significance of these data for the ongoing research goals if the project is continued beyond the first 12-month period.

(2) Research Design and Methodology (maximum of 40 points)

The extent to which the applicant's proposed Research Design:

(a) Appropriately links critical research issues, questions, variables, data sources, samples, and analyses;

(b) Employs technically sound and appropriate approaches, design elements and procedures;

(c) Reflects sensitivity to technical, logistical, cultural and ethical issues that may arise;

(d) Includes realistic strategies for the resolution of difficulties;

(e) Adequately protects human subjects, confidentiality of data, and consent procedures, as appropriate;

(f) Includes an effective plan for the dissemination and utilization of information by researchers, policy-makers, and practitioners in the field; and

(g) Effectively utilizes collaborative strategies, as appropriate to the project goals and design.

(3) Management Plan (maximum of 10 points)

The extent to which the Management Plan:

(a) Presents a sound, workable and cohesive plan of action demonstrating how the work would be carried out on time, within budget and with a high degree of quality;

(b) Includes a reasonable schedule of target dates and accomplishments;

(c) Presents a sound administrative framework for maintaining quality control over the implementation and ongoing operations of the study;

(d) Presents a sound plan for coordination of activities carried out by partners and demonstrates an effective approach to team-building among project staff, consultants and advisors, and partnering organizations; and

(e) Demonstrates the ability to gain access to necessary organizations, subjects, and data.

(4) Staff Qualifications and Commitment (maximum of 20 points)

(a) The extent to which key staff, consultants, data collectors and other necessary personnel demonstrate competence in areas addressed by the proposed research, including relevant background, experience, training and work on related research or similar projects.

(b) The extent to which staffing is adequate for research design, sampling, field work, data processing, statistical analysis, reporting, collaboration with other researchers, and information dissemination.

(5) Organizational Capacity (maximum of 10 points)

(a) The extent to which (1) the applicant's facilities and organizational experience are adequate to carry out the tasks of the proposed project; (2) the applicant can effectively and efficiently administer a project of the proposed size, complexity and scope; (3) the applicant has the capacity to coordinate activities with other organizations for the successful accomplishment of project objectives; and (4) the applicant has the capacity to carry out all proposed functions and roles.

(b) If the project is a partnership, the extent to which; (1) the partnership is well structured, with important and relevant roles for participating organizations; (2) partners are appropriate and significantly committed to research goals; (3) partners have the ability to carry out collaborative research, both within the proposed Partnership and as a member of the larger Consortium; (4) the partners will contribute adequate organizational resources; and (5) the partnership has significant fiscal commitment and support.

(6) Fiscal Resources and Project Budget (maximum of 10 points)

(a) The extent to which proposed project costs are reasonable, the funds are appropriately allocated across component areas, and the budget is sufficient to accomplish the objectives.

(b) The extent to which the applicant has sufficient fiscal capacity within the organization to ensure that unanticipated problems can be resolved and that the project will be completed on time and with a high degree of quality.

(c) The extent to which the applicant will contribute to the project cost and to which the project can be sustained in the event that future funding is not available through ACF.

C. The Selection Process

The Associate Commissioner, Child Care Bureau, Administration on Children, Youth and Families, will make the final selection of the applicants to be funded. Applications may be funded in whole or in part depending on: (1) the rank order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects which best meets the Bureau's research objectives; (4) the funds available; and (5) other relevant considerations.

Selected applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the cooperative agreement, the effective date of the award, the budget period for which support is given, and the total project period for which support is provided.

D. Funding Date

It is anticipated that successful applications for Field Initiated Child Care Research Projects and Child Care Policy Research Partnerships will be awarded by June 1, 2000.

Part IV. Priority Area 3: Child Care Research Scholars

A. Purpose

This priority is intended to strengthen the child care research infrastructure by supporting the development of researchers with a grasp of child care research and its implications to policies and programs. Under this priority area, support will be provided to doctoral candidates in conducting dissertation research on child care issues under the auspices of the Child Care Bureau and the educational institution in which the student is enrolled. Dissertation research under this priority must support the Bureau's research agenda including addressing important questions about child care that have implications to families and children. The student is expected to gain experience and expertise in theories and methods related to child care, child development, early childhood education, child care program administration, or child care policy.

B. Number of Awards

Up to six scholarships will be awarded. No individual educational institution will be funded for more than one candidate unless six applications from different universities or colleges do not qualify for support.

C. Project Period

Competitive awards will be for a 12-month budget period although project periods may be for up to 24 months. Subsequent year awards (12 months) will be considered on a non-competitive basis subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the government. Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee. A subsequent year award will not be approved if the student has graduated by the end of the first year.

D. Funding Levels

Up to $40,000 will be awarded to each successful applicant for a 12-month budget period. If the applicant expects to receive a doctorate by the end of the first one-year budget period, the application should request funding for a single grant period.

E. Matching Requirements and Non-Federal Share

There are no matching requirements.

F. Maximum Federal Share

(1) The maximum federal share is $40,000 for the first 12-month budget period and $30,000 for one subsequent 12-month period, subject to the availability of funds from future appropriations.

(2) All monies must be used for the dissertation research including required personnel costs, travel, and other expenses directly related to the research.

G. Eligible Applicants

(1) Eligible applicants include universities or colleges on behalf of doctoral candidates who have a dissertation proposal approved by their doctoral committee and who anticipate completing a child care-related dissertation within the two-year scholarship period.

(2) To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education. Although the faculty advisor will be listed as the Principal Investigator, this grant is intended for dissertation work being conducted by a doctoral candidate. Information about both the graduate student and the student's faculty advisor is required as part of this application. *Any resultant grant award is not transferable to another student.*

H. Additional Requirements

(1) Research projects may include independent studies conducted by the doctoral candidate or well-defined portions of a larger study being conducted by a principal investigator holding a faculty position or senior research position and for which the graduate student will have primary responsibility.

(2) The student must be the author of the proposal.

(3) Research projects must use sound quantitative or qualitative research methodologies or some combination of the two.

(4) Given the size of these grants, sponsoring universities and colleges are encouraged to waive their customary indirect charges.

I. Project Description and Application Requirements

Applicants are cautioned to include all required forms and materials, organized according to the required format. The application packet must include the following items in order:

(1) A cover letter that includes the Announcement number, priority area, and contact information.

(2) Standard Federal Forms.

(a) Standard Application for Federal Assistance (SF 424 face sheet and SF 424A) must be included with the application.

(b) Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

(c) Certification Regarding Lobbying. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications.

(d) Disclosure of Lobbying Activities. Applicants must disclose lobbying

activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

(e) Certification Regarding Drug-Free Workplace Requirements. Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(f) Certification Regarding Debarment, Suspension, and Other Responsibility Matters. Applicants must make the appropriate certification that they are not presently debarred, suspended, or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(g) Protection of Human Subjects: Assurance, Identification, Certification, and Declaration.

(h) Certification Regarding Environmental Tobacco Smoke. Applicants must make the appropriate certification of their compliance. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(3) Table of Contents.

(4) Project abstract (not to exceed one page) for use in official briefings, decision packages, and public announcement of awards.

(5) The student's approved dissertation proposal, demonstrating an understanding of current child care issues, presenting a conceptual framework for the proposed research, and detailing the research design and implementation plan, will serve as the basic project description for purposes of the application.

(6) A project summary that includes an overview of the proposed research and a management plan detailing how the work will be accomplished. The management plan will include quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity. The project summary should include a statement of how the proposed research will relate to the research agenda, goals, and priorities of the Child Care Bureau, the significant results to be achieved within the first budget period, and how research findings will be disseminated to colleagues and the public. This section should be no more than twenty double-spaced pages with one-inch margins and 12-point font.

(7) Staff and Position Data. A curriculum vitae should be provided for both the student and faculty advisor. An official transcript should be included for the student that reflects courses completed at the Masters and Ph.D levels.

(8) Faculty advisor letter. The application must include a letter from the faculty advisor stating that he or she has reviewed and approved the proposal, certifying the status of the student as a doctoral candidate with an approved dissertation proposal, the project as dissertation research, and describing how the advisor will monitor the student's work.

An original and two copies of the full application packet must be submitted. All supporting materials and documents should be organized into appropriate appendices and securely bound in the application package. Each copy of the application should be securely stapled in the upper left-hand corner, clipped, or enclosed in a quick-release binder. Because each application will be duplicated for the review panel, do not use non-removable binders. Do not include tabs, plastic inserts, brochures, videos, or any other items that cannot be photocopied.

J. Evaluation and Selection

(1) Each application will be screened to determine whether the applicant organization is eligible as specified in Part IV, Section G, above. Applications from ineligible organizations will be excluded from the review.

(2) Panel Review.

(a) The review will be conducted in Washington, D.C. Expert reviewers will include researchers, Federal or State staff, child care administrators and/or other individuals experienced in the study of child care demand and supply, child care delivery systems, welfare and supportive services, early child development and education, parental choice and involvement, and other relevant areas.

(b) A panel of at least three reviewers will evaluate each application to determine the strengths and weaknesses of the proposal in terms of the Bureau's research agenda, application requirements, and evaluation criteria listed in this section.

(c) Panelists will provide written comments and assign numerical scores for each application. The indicated point value for each criterion is the maximum numerical score for that criterion. The assigned scores for each criterion will be summed to yield a total evaluation score for the proposal.

(3) In addition to the panel review, the Bureau may solicit comments from other Federal offices and agencies, from the States, from relevant non-governmental organizations, and from individuals whose particular expertise is identified as necessary for the consideration of technical issues arising during the review. Their comments, along with those of the panelists, will be considered by the Bureau in making funding decisions. The Bureau will also take into account the best combination of proposed projects to meet overall research goals.

K. Evaluation Criteria

Eligible applications will be scored competitively against the published evaluation criteria described below. These criteria will be used in conjunction with the other expectations, priorities and requirements set forth in this Announcement to evaluate how well each proposal addresses the Bureau's research agenda and the goals.

(1) Significance, Issues and Objectives (maximum of 20 points)

(a) The extent to which the application reflects a solid understanding of critical issues, information needs, and research goals.

(b) The extent to which the conceptual model, research issues, objectives and hypotheses are significant, well formulated and appropriately linked, reflect the Child Care Bureau's research agenda, and will contribute new knowledge and understanding.

(c) The extent to which the proposed project framework is appropriate, feasible, and would significantly contribute to the importance, comprehensiveness, and quality of the proposed research.

(d) The effectiveness with which the proposal articulates the current state of knowledge relative to issues being addressed, including: critical child care issues and the complex interrelationships among major variables; the significance of these issues and variables for child care policies and programs; how current knowledge would be brought to bear on the proposed research; and how the research would benefit various audiences.

(e) The importance of research priorities identified for the first budget period, the degree to which early findings would be useful for policy and practice, and the significance of these data for the ongoing research goals if the

project is continued beyond the first 12-month period.

(2) Technical Approach (maximum of 40 points)

The extent to which the applicant's proposed Research Design:

(a) Appropriately links critical research issues, questions, variables, data sources, samples, and analyses;

(b) Employs technically sound and appropriate approaches, design elements and procedures;

(c) Reflects sensitivity to technical, logistical, cultural and ethical issues that may arise;

(d) Includes realistic strategies for the resolution of difficulties;

(e) Adequately protects human subjects, confidentiality of data, and consent procedures, as appropriate;

(f) Includes an effective plan for the dissemination and utilization of information by researchers, policy-makers, and practitioners in the field; and,

(g) Effectively utilizes collaborative strategies, as appropriate to the project goals and design.

(3) Management Plan (maximum of 20 points)

The extent to which the project summary provides a management plan that:

(a) Presents a sound, workable and cohesive plan of action demonstrating how the work would be carried out on time, within budget and with a high degree of quality;

(b) Includes a reasonable schedule of target dates and accomplishments;

(c) Presents a sound administrative framework for maintaining quality control over the implementation and ongoing operations of the study; and,

(d) Demonstrates the ability to gain access to necessary organizations, subjects, and data.

(4) Applicant Qualifications and Commitment (maximum of 10 points)

The extent to which the applicant:

(1) Demonstrates competence in areas addressed by the proposed research, including relevant background, experience, training and work on related research or similar projects; and

(2) Demonstrates necessary expertise in research design, sampling, field work, data processing, statistical analysis, reporting and information dissemination.

(5) Budget (maximum of 10 points)

The extent to which proposed project costs are reasonable, the funds are appropriately allocated across component areas, and the budget is sufficient to accomplish the objectives.

L. The Selection Process

The Associate Commissioner, Child Care Bureau, Administration on Children, Youth and Families, will make the final selection of the applicants to be funded. Applications may be funded in whole or in part depending on: (1) the rank order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects which best meets the Bureau's research objectives; (4) the funds available; and (5) other relevant considerations.

Selected applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the cooperative agreement, the effective date of the award, the budget period for which support is given, and the total project period for which support is provided.

M. Funding Date

Anticipated date of funding is prior to June 1, 2000.

Part V. Priority Area 4: Child Care Research Fellowship Program

A. Purpose

The purpose of this priority area is to provide funding, through a cooperative agreement, to a partner organization that will work cooperatively with the Child Care Bureau to design and implement the Child Care Research Fellowship Program. We are seeking applications from organizations with experience in child care and research issues.

The primary purpose of the Fellowship Program is to strengthen the child care research infrastructure by supporting the development of researchers toward a thorough understanding of child care research and its implications to policies and programs including the Child Care and Development Fund. Individuals chosen to serve as Fellows will work with Child Care Bureau and Senior ACF officials, State-level policy-makers, members of federally-funded research projects, and others involved in child care research. In addition to a significant policy-related research assignment within the Child Care Bureau, Fellows will take part in educational and leadership development programs.

B. Priorities

The project under this priority area will be funded as a cooperative agreement in which substantial Federal participation is anticipated. The partner organization will work closely with Federal staff. The specific responsibilities of the Federal staff and the awardee will be negotiated prior to award of the cooperative agreement.

The development of the Fellowship Program will require an initial planning period in order to create an effective program that meets the goals of the Child Care Bureau. We anticipate that approximately three to five Fellows will be involved in the program each year (subject to the availability of funds from future appropriations), with each Fellowship lasting up to two years. Fellows should possess paid experience in some aspect of the child care or early childhood field, an interest and aptitude in research and research methods, and the desire to develop their knowledge and skills in the area of child care research and policy. Desirable qualifications include a degree with relevance to child care and early childhood services and five years of progressively responsible work experience related to child care or early childhood programs.

The partner organization will work collaboratively with the Child Care Bureau on, among other things:

(1) Conceptualization of the Fellowship Program and development of the overall project plan for implementation;

(2) Development of policies and procedures to govern the Fellowship Program;

(3) Establishment of recruitment strategies, screening, selection, and compensation/logistical support criteria;

(4) Management of the application and rating processes and recommendations for selection of individual Fellows; and

(5) Design and implementation of an orientation program and other group learning and developmental activities for the Fellows. These activities will include support to Fellows in determining a policy-related research project and in designing and carrying-out this project.

C. Number of Awards

The Bureau anticipates selecting one organization.

D. Project Period

The project period will be up to three years. The Child Care Bureau expects to invest up to $500,000 for an initial 12-month funding period. A non-competitive application for continuation will be considered in fiscal years 2002 and 2003 with up to $375,000 being available for a 12-month period. Applications for continuation grants funded beyond the 12-month budget period, but within the 36-month project period, will be entertained in the

subsequent years on a noncompetitive basis, subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the government.

E. Funding Levels

The expected funding level is $500,000 for the first 12-month funding period and $375,000 for subsequent 12-month periods (subject to the availability of funds from future appropriations).

F. Matching Requirements and Non-Federal Share

There is no matching requirement.

G. Maximum Federal Share

The maximum Federal share is not to exceed $500,000 for the first 12-month budget period.

H. Eligible Applicants

Universities and colleges, public agencies, non-profit organizations, and for-profit organizations agreeing to waive their fees.

I. Project Description and Application Requirements

In order to successfully compete under this priority area, applicants are cautioned to include all required materials, organized according to the required format. The application must include the following items in order:

(1) A cover letter that includes the Announcement number, priority area, and contact information.

(2) Standard Federal Forms.

(a) Standard Application for Federal Assistance (SF 424 face sheet and 424A); must be included with the application.

(b) Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

(c) Certification Regarding Lobbying. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications.

(d) Disclosure of Lobbying Activities. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

(e) Certification Regarding Debarment, Suspension, and Other Responsibility Matters. Applicants must make the appropriate certification that they are not presently debarred, suspended, or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(f) Certification Regarding Environmental Tobacco Smoke. Applicants must make the appropriate certification of their compliance. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

(3) For-profit entities wishing to receive a grant directly must provide a letter indicating their willingness to waive their fees. Non-profit organizations must submit proof of non-profit status in the application at the time of submission. The applicant can demonstrate proof of non-profit status in any one of three ways: by providing a copy of the organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c3) of the IRS code; by providing a copy of the currently valid IRS tax exemption certificate; or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

(4) Executive Order 12372—Single Point of Contact. Where appropriate, a competed SPOC certification should be completed with the date of SPOC contact entered on page 1, line 16 of the SF424 face sheet.

(5) Table of Contents.

(6) Project abstract (not to exceed one page) for use in official briefings, decision packages, and public announcement of awards.

(7) Project Narrative Statement. The Project Narrative Statement contains most of the information on which Applications will be competitively reviewed. The Project Narrative should be carefully developed in accordance with the research goals and expectations, the requirements described in this section, and the evaluation criteria and selection factors described below. The Project Narrative should be organized as follows:

(a) Issues, Objectives and Significance. In this section, applicants demonstrate their understanding of current child care and child care research issues, describe their objectives, and demonstrate the significance of their proposal. Include a description of the applicant's understanding of the goals and purposes for the Fellowship Program.

(b) Approach. This section should include a sound and workable plan of action for how the proposed project will be carried out. Include a description of the approach and strategies that would be taken to design the program, to recruit potential participants, to support the implementation and maintenance of the Fellowship Program, and to evaluate the program's effectiveness.

(c) Management Plan. This section should detail how the project will be structured and managed, how the timeliness of activities will be ensured, how quality control will be maintained, and how costs will be controlled. Applicants should discuss their management of the project as a whole, and the management and coordinating roles of any partners.

(d) Staff Qualifications and Commitment. In this section, applicants must provide evidence that project staff have the experience, expertise and commitment of sufficient time to carry out the proposed project on time, within budget, and with a high degree of quality. Identify all key staff positions for this project, the professional requirements for each, the proportion of time staff holding these positions will be committed to the project, the period of time they will be employed, and whether their continued employment will be dependent solely on the funds to be awarded under this announcement. Provide evidence that individuals proposed for key positions have the necessary technical skill and experience to successfully carry out their assigned roles. Where key positions are currently vacant, include a position description outlining the qualifications necessary to carry out the duties and responsibilities of each. Identify the authors of the proposal and describe their continuing role in the project if funded. Include a staffing plan and assurances that the Project Director or another appropriate staff member will attend four meetings annually in Washington, DC to meet with Federal staff to discuss issues related to Fellowship Program implementation.

(e) Organizational Capability. In this section, the applicant must demonstrate that the official grantee has the organizational capacity and fiscal resources to successfully carry out the project on time and to a high standard of quality, including the capacity to resolve a wide variety of technical and management problems that may occur. Include a description of the applicant's experience that relates to programs of the kind envisioned in this announcement. Also describe the

mission of the applicant's organization as it relates to the fields of child care and research, and how the Fellowship Program fits within that mission. Provide evidence of sufficient organizational resources to ensure successful project management, compliance with terms and conditions of the grant, and oversight of the proper use of Federal funds. Describe the relationship between this project and other relevant work planned, anticipated or underway by the applicant. Include funding sources for work in progress.

(f) Fiscal Resources and Project Budget. Present a detailed budget to demonstrate that the project will have adequate resources to carry out the work on time and with a high degree of quality. Include a detailed budget narrative which describes and justifies line item expenses within the budget categories listed on the Standard Form 424. (Line item allocations and justification are required for both Federal and non-Federal funds.) If project funds will be subcontracted, a detailed budget for the use of those funds must be also included. The budget should delineate between project administration costs as opposed to direct support to the Fellows individually and as a group. The budget should include stipends to Fellows. The stipend should be tiered to accommodate a range of education and experience and would parallel the Federal GS 12–14 range. Stipends should include funds to support fringe benefits. The average stipend and total amount of the budget which will be used for stipends for the Fellows should be delineated. It is anticipated that the major portion of the budget would be used for stipends and direct costs of the Fellows. The other expenses to support participation of the Fellows should also be described and budgeted within the budget.

(8) Appendices: All supporting materials and documents should be organized into appropriate appendices and securely bound in to the application package. Included should be contact information for all key staff, resumes', and letters of support.

(9) Other: An original and two copies of the complete application packet must be submitted. Each copy of the application should be securely stapled in the upper left-hand corner, clipped, or enclosed in a quick-release binder. Because each application will be duplicated for the review panel, do not use non-removable binders. Do not include tabs, plastic inserts, brochures, videos, or any other items that cannot be photocopied.

J. Evaluation and Selection

(1) Screening. Applications will be screened to ensure that applicants meet eligibility requirements and that application packets are complete. Incomplete application packets and applications from ineligible applicants will be eliminated from further consideration.

(2) Panel Review. The review will be conducted in Washington, D.C. Expert reviewers will include researchers, federal or state staff, child care administrators and/or other individuals with expertise in child care and early childhood services. A panel of at least three reviewers will evaluate each application to determine the strengths and weaknesses of the proposal based on the Bureau's research agenda and goals as well as the application requirements and the evaluation criteria listed herein. Panelists will provide written comments and assign numerical scores for each application. The indicated point value for each criterion is the maximum numerical score for that criterion. The assigned scores for each criterion will be summed to yield a total evaluation score for the proposal.

(3) In addition to the panel review, the Bureau may solicit comments from other federal offices and agencies, from the States, from relevant non-governmental organizations, and from individuals whose particular expertise is identified as necessary for the consideration of technical issues arising during the review. Their comments, along with those of the panelists, will be considered by the Bureau in making funding decisions. The Bureau will also take into account the best combination of proposed projects to meet overall research goals.

K. Evaluation Criteria

Eligible applications will be scored competitively against the published evaluation criteria described below.

(1) Objectives and Understanding (maximum of 20 points)

(a) The extent to which the application clearly states the principal and subordinate objectives for the project.

(b) The extent to which the application reflects a solid understanding of critical child care and early childhood education issues and information needs, as well as the goals and purposes of the Fellowship Program.

(2) Approach (maximum of 40 points)

The extent to which the applicant outlines an appropriate, feasible plan of action pertaining to the scope of the project and details how the proposed work will be accomplished and lists each organization, consultant, and other key individuals who will work on the project. The approach should plan for resolution of logistical issues and other challenges that may arise.

(3) Staff Background and Organization's Experience (maximum of 20 points)

The extent to which the qualifications of the organization and staff are sufficient to administer the project. The application must identify the background of the project director and key project staff (including name, address, training, most relevant educational background and other qualifying experiences along with resumes and a short description of their responsibilities or contribution to the applicant's work plan), the experience of the applicant in administering a project like the one proposed, the applicant's knowledge of child care issues, and the applicant's ability to effectively and efficiently administer the project.

(4) Budget Appropriateness and Reasonableness (maximum of 20 points)

The extent to which the project's costs are reasonable in view of the activities to be carried out, and the budget is sufficient to accomplish the objectives. The extent to which the applicant has sufficient fiscal capacity within the organization to ensure that unanticipated problems can be resolved and that the project will be completed on time and with a high degree of quality.

L. The Selection Process

The Associate Commissioner, Child Care Bureau, Administration on Children, Youth and Families, will make the final selection of the applicant to be funded. Applications will be funded depending on: (1) the rank order of applicants resulting from the competitive review; (2) staff review and consultations; (3) the combination of projects which best meets the Bureau's research objectives; (4) the funds available; and (5) other relevant considerations.

Selected applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the cooperative agreement, the effective date of the award, the budget period for which support is given, and the total project period for which support is provided.

M. Funding Date

It is anticipated that the successful applications will be funded by June 1, 2000.

Dated: January 19, 2000.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 00–1883 Filed 1–26–00; 8:45 am]

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Vol. 65, No. 18

Thursday, January 27, 2000

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A Cumulative List of Public Laws for the first session of the 106th Congress will be published in the **Federal Register** on December 30, 1999.

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