

9. CP00-40-000	3/31/00	Lauren O'Donnell.
10. CP99-392-000	4/3/00	John Wisniewski.
Prohibited:		
1. CP97-315-000, <i>et al.</i>	3/31/00	Ed Gilliard.
2. Project No. 9974-040	4/5/00	Phyllis Gerth.
3. Project No. 9974-040	4/5/00	Dean Reichert.
4. Project No. 9974-040	4/5/00	Patricia & Bert Hesse.
5. Project No. 9974-040	4/5/00	Kenneth J. Robillard and Brenda H. Robillard.
6. Project No. 9974-040	4/5/00	Earl J. Weihert.

David P. Boergers,

Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6576-8]

Slotted Guidepoles at Certain Petroleum and Organic Liquid Storage Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of storage tank emission reduction partnership program.

SUMMARY: The United States Environmental Protection Agency ("EPA") is today announcing an opportunity for the regulated community to participate in the Storage Tank Emission Reduction Partnership Program described in this notice.

DATES: Companies electing to participate in this program must submit a notice of intent by June 12, 2000, and an executed partnership agreement by December 11, 2000.

ADDRESSES: Both the notice of intent and executed partnership agreement should be sent to: Storage Tank Emission Reduction Partnership Program, Air Enforcement Division (Mail Code 2242A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. James K. Jackson, Air Enforcement Division (2242A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW Washington, DC 20460, telephone (202) 564-2002.

SUPPLEMENTARY INFORMATION: Slotted guidepoles are hollow poles with holes or "slots" that perforate the length of the pole and that are typically a foot-long and 1-2 inches wide. Where the pole passes through a floating roof, there is an opening in the roof and a gap between the pole and the roof. These holes, slots and gaps have exactly the same emissions effect as any other roof opening: they constitute a pathway for

evaporative product losses and volatile organic compound (VOC) emissions. VOCs include a wide variety of hydrocarbons, some of which are hazardous air pollutants (*e.g.*, benzene, toluene, xylene and ethyl benzene). Depending on the size, location and contents of a tank, uncontrolled emissions from the use of slotted guidepoles can exceed 25,000 pounds per year. Simple and inexpensive solutions exist to minimize these emissions and reduce evaporative losses.

A substantial but undetermined number of NSPS Subpart Ka/Kb tanks have slotted guidepoles. They may be found at any facility that stores substantial quantities of volatile organic liquids, including petroleum products (*e.g.*, refineries, gasoline distribution terminals, chemical plants and other facilities). EPA previously determined and recently reaffirmed that uncontrolled slotted guidepoles do not comply with the "no visible gap" requirement in NSPS Subparts Ka and Kb. See 65 FR 2336 (January 14, 2000). In the interests of promoting fast, efficient and widespread emission reductions from slotted guidepoles, EPA is today offering to enter into agreements with those companies that have installed or will install controls to reduce their slotted guidepole emissions at NSPS Subpart Ka/Kb tanks.

EPA solicited public comment on a proposed program that had been developed in cooperation with the American Petroleum Institute. 65 FR 2391 (January 14, 2000). EPA discussed its proposal with State and Territorial Air Pollution Program Administrators/ Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) and received twelve comments (*e.g.*, companies, trade associations and equipment vendors), all of which supported establishing a program. The more salient features of the Storage Tank Emission Reduction Partnership Program announced today are summarized below:

- Each company intending to participate must notify EPA of its intent to participate within 60 days and there identify each facility it intends to

include under this program, using its unique EPA Identification Number.

- Participating companies must assess all of their NSPS Subpart Ka/Kb external floating roof tanks with slotted guidepoles and are encouraged to assess all of their NSPS Subpart Ka/Kb internal floating roof tanks with slotted guidepoles. See discussion *infra*.

- Acceptable slotted guidepole controls under this program are identified. See Appendix I. Use of such controls does not affect other regulatory obligations that may exist under state or federal law (*e.g.*, to sample tank contents for compliance with other regulatory programs).

- EPA is not requiring that penalties be paid as a condition of program participation, but if a participating company fails to implement its agreed-to controls in a timely manner, stipulated penalties would be imposed.

- The terms and conditions for program participation are specified in the participation agreement that each participant must execute. See Appendix II and Appendix III.

- Each participating company must submit an executed participation agreement, including a complete Annex A, within 240 days. Annex A must provide a facility listing (using its EPA identification Number) that identifies its NSPS Subpart Ka/Kb external floating roof tanks with slotted guidepoles and those of its NSPS Subpart Ka/Kb internal floating roof tanks that it intends to include under this program. Annex A must also specify the controls that were or will be installed, as well as predict the emission reductions that will be achieved after these controls are installed.

Today's final program incorporates certain technical changes that had been recommended by commenters, but it is essentially the same as the program that had been earlier proposed. The major points raised during the comment period are summarized and discussed below.

Clarification of Facility Coverage: Some commenters expressed uncertainty as to whether participation could be on facility-by-facility or operating division-by-operating division

basis. Program participation may be on any basis so long as all NSPS Subpart Ka and Kb storage vessels with slotted guidepoles at each identified facility are included. Accordingly and to be effective, both the notice of intent to participate and Annex A to the participation agreement must separately identify each of the facilities covered by name, address and EPA Identification Number.

Additional Acceptable Control Options: Several Commenters suggested that two additional options be identified as acceptable for purposes of this program (*i.e.*, replacing slotted guidepoles with solid guidepoles and installing flexible covers over the entire slotted guidepole). Based upon the information provided, EPA believes these alternatives eliminate visible gaps and can reduce emissions to a level comparable to that achievable with a pole float system. Both alternatives are now included in Appendix I.

Although other control options may be suggested, interested parties should be aware that any such suggestion will require that showings be made, see APPENDIX-2, and that it be reviewed and approved by EPA before it can be relied upon by a participating company. To expedite EPA consideration, a complete copy of any request for an additional acceptable control option under APPENDIX I should also be sent to Sally Shaver, Director, Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

Inclusion of Internal Floating Roof Tanks: Several Commenters questioned the environmental need for installing controls on slotted guidepoles at NSPS Subpart Ka/Kb internal floating roof tanks. EPA indicated in its notice of a proposed program that the views of the Office of Air Quality Planning and Standards ("OAQPS") had been solicited on whether to exempt these fittings from otherwise applicable requirements. EPA has concluded that such an exemption would require notice and comment rulemaking, *cf.* 65 FR 2336 (January 14, 2000). Accordingly and for purposes of this program, participating companies are encouraged (but not required) to identify NSPS Subpart Ka/Kb internal floating roof tanks. If included, participants may elect to utilize a combination of deck fitting controls as the identified acceptable control, as permitted under APPENDIX-2.

Newly Acquired Tanks: Some comments suggested that participating companies be permitted to include newly acquired tanks under this program (*e.g.*, tanks acquired after

executing and entering into a partnership agreement). EPA notes that such may be possible by a consensual amendment to the partnership agreement's Annex A. Factors that will then be considered by EPA include when the tank(s) were acquired, where they are located, whether controls on the newly acquired tank(s) had been installed and, if not, when they will be installed.

Facilities with Controls Already Installed: It was suggested during the comment period that the program include simplified procedures for those facilities that previously installed identified, acceptable controls. EPA agrees. Simplified procedures are available for a facility that installed controls identified in Appendix I prior January 14, 2000 on all its NSPS Subpart Ka/Kb external floating roof tanks with slotted guidepoles. To participate, a company must submit a notice of intent to participate within 60 days and a Certification and Agreement (as specified in Appendix III) within 240 days. Upon receipt, EPA will either sign and return the Certification and Agreement or identify deficiencies which must be corrected. If corrected within 30 days, EPA will then sign and return the corrected Certification and Agreement.

EPA believes that the above-described program is an inexpensive, efficient, cost-effective way to achieve immediate environmental improvements. EPA is encouraging companies and facilities to go beyond the terms of this agreement and to reduce emissions further by installing tank fitting controls whenever and wherever possible. For example, EPA urges companies to install controls identified in Appendix I at non-NSPS Subpart Ka/Kb storage vessels, as well as at NSPS Subpart Ka/Kb tanks that are not under this program because they are not currently subject to equipment design requirements based on the materials stored and their vapor pressure(s). In addition to obvious environmental benefits and depending on individual circumstances, such may reduce reportable emissions and fees and create emission offsets/credits.

This notice 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, 64 FR 43255 (August 10, 1999). Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

Dated: April 4, 2000.

Eric V. Schaeffer,

Director, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance.

Appendix I

Acceptable Controls for Slotted Guidepoles Under the Storage Tank Emissions Reduction Partnership Program

1. **Pole Float System:** Each opening through the deck of the floating roof for a slotted guidepole shall be equipped with a deck cover, a pole wiper and a pole float. The deck cover shall also be equipped with a gasket between the cover and deck. The wiper or seal of the pole float shall be at or above the height of the pole wiper.

2. **Alternate Control Technologies and Combinations:** The following will inform EPA's determination of whether an alternate control technology is acceptable for use under the Storage Tank Emissions Reduction Partnership Program. An alternate control technology must be shown to have an emission factor less than or equal to the emission factor for the above-identified control system. Tests to determine emission factors for an alternate control technology shall accurately simulate conditions representative of the conditions under which the technology will/would operate (*e.g.*, wind, temperature and barometric pressure). Such tests may utilize the methods listed in American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 19, Section 3, Part A (Wind Tunnel test Method for the Measurement of Deck-Fitting Loss Factors for External Floating-Roof Tanks) or Part E (Weight Loss Test Method for the Measurement of Deck-Fitting Loss Factors for Internal Floating-Roof Tanks). A combination of technologies and devices to control emissions from slotted guidepoles and deck fittings may be acceptable under the Storage Tank Emissions Reduction Partnership Program if such alternate emits no more than the above-identified control system plus the same combination of deck fittings (equipped as required under NSPS Subpart Kb), as determined using AP-42. The emissions from an alternate combination of control technologies and devices shall be determined using AP-42 and/or as specified above.

3. **Pole Sleeve System:** Each opening through the deck of the floating roof for a slotted guidepole shall be equipped with a deck cover, a pole wiper and a pole sleeve. The deck cover shall be equipped with a gasket between the cover and the deck. The sleeve extends into the stored liquid.

4. **Internal Sleeve Emission Control System:** An internal guidepole sleeve that eliminates the hydrocarbon vapor emission pathway from inside the tank through the guidepole slots to the outside air; a guidepole cover at the top of the guidepole; and a well cover positioned at the top of the guidepole well that seals any openings between the well cover and the guidepole (*e.g.*, pole wiper), any openings between the well cover and any other objects that pass through the well cover, and any other openings in the top of the guidepole well.

5. *Solid Guidepole System*: A solid guidepole; a guidepole cover at the top of the guidepole; and a well cover positioned at the top of the guidepole well that seals any openings between the well cover and the guidepole (e.g., pole wiper), any openings between the well cover and any other objects that pass through the well cover, and any other openings in the top of the guidepole well.

6. *Flexible Enclosure System*: A flexible device that complete encloses the slotted guidepole and eliminates the hydrocarbon vapor emission pathway from inside the tank through the guidepole slots to the outside air; a guidepole cover at the top of the guidepole; and a well cover positioned at the top of the guidepole well that seals any openings between the well cover and the guidepole (e.g., pole wiper), any openings between the well cover and any other objects that pass through the well cover, and any other openings in the top of the guidepole well.

7. *Covers on External Floating Roof Tanks*: The external floating roof tank shall be (or have been) modified by installing a fixed roof mounted on the tank above its external floating roof. Each opening through the deck for a slotted guidepole shall have its lower edge below the surface of the stored liquid.

8. *Removal of Tank from Service and Surrender of Permits*: Remove the tank from service storing liquids subject to NSPS Ka or Kb controls, surrender any and all operating permits for that tank to the appropriate state/local regulatory authority and represent to such authority that it will not be used to store petroleum liquids, as defined in 40 CFR 60.111a(b) that have a maximum true vapor pressure in the range defined in 40 CFR 60.112a(a), or volatile organic liquids, as defined in 40 CFR 60.111b(k), that have a maximum true vapor pressure in the range defined in 40 CFR 60.112b(a).

Definitions

Deck cover means a device which covers an opening in a floating roof deck. Some deck covers move horizontally relative to the deck (i.e., a sliding cover).

Pole float means a float located inside a guidepole that floats on the surface of the stored liquid. The rim of the float has a wiper or seal that extends to the inner surface of the pole.

Pole sleeve means a device which extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening. The sleeve extends into the stored liquid.

Pole wiper means a seal that extends from either the cover or the rim of an opening in a floating roof deck to the outer surface of a pole that passes through the opening.

Slotted guidepole means a guidepole or gaugepole that has slots or holes through the wall of the pole. The slots or holes allow the stored liquid to flow into the pole at liquid levels above the lowest operating level.

Solid guidepole means a guidepole or gaugepole that does not have slots or holes through the wall of the pole at or above the level of the floating roof when it is at its lowest operating level.

Appendix II

Storage Tank Emission Reduction Partnership Agreement

The United States Environmental Protection Agency ("EPA") and _____ ("Participating Company"), the parties herein, desire to enter into and be bound by the terms of this Storage Tank Emission Reduction Partnership Agreement ("Partnership Agreement" or "Agreement").

Whereas Participating Company recognizes that reducing emissions from tanks and other storage vessels with slotted guidepoles¹ can improve air quality while reducing evaporative product losses.

Whereas Participating Company is committed to environmental improvement and the cost-effective reduction of emissions.

Whereas EPA recognizes the value of cooperative emission reduction programs with industry.

Whereas Participating Company desires to participate in the Storage Tank Emission Reduction Partnership Program announced by EPA at [Insert FR page citation and (April 13, 2000)] (hereinafter referred to as "Program notice").

Now, Therefore, in consideration of the above and the mutual undertakings of each to the other, EPA and Participating Company agree as follows:

Applicability

1. The provisions of this Partnership Agreement shall apply to and be binding upon EPA and upon Participating Company, its officers, directors, agents, servants, employees, successors and assigns. Participating Company shall give notice of this Agreement to any successor in interest prior to the transfer of any ownership interest in any tank identified in Annex A.

Representations

2(a). Participating Company represents that:

a. It notified EPA of its intent to participate in the Storage Tank Emission Reduction Partnership Program within 60 days of the Program notice.

b. It assessed and evaluated all of its NSPS Subpart Ka and Kb affected facilities² that are subject to equipment design requirements³ and that have slotted

¹ A guidepole (also referred to as a gaugepole, gauge pipe or stilling well) is a vertically oriented pipe or tube that is affixed to a tank and that passes through its floating roof. Slotted guidepoles are guidepoles with slots or holes that allow stored liquids to flow into the pole, thereby enabling representative samples to be collected from within the slotted guidepole.

² NSPS Subpart Ka affected facilities are petroleum liquid storage vessels with a capacity of greater than 40,000 gallons that were constructed, reconstructed or modified after May 18, 1978, 40 CFR 60.110a; NSPS Subpart Kb affected facilities are volatile organic liquid storage vessels with a capacity of greater than 40 cubic meters that were constructed, reconstructed or modified after July 23, 1984, 40 CFR 60.110b.

³ The equipment design requirements for floating roof tanks apply only to certain NSPS Subpart Ka and Kb affected facilities. See 40 CFR 60.112a and 60.112b.

guidepoles⁴ (hereinafter referred to as "Tanks") at each facility/location identified in Annex A.

c. It is submitting this executed Partnership Agreement to EPA within 240 days of the Program notice.

d. Annex A (attached hereto and incorporated by reference herein) is a true, accurate and complete identification of:

i. each Tank;

ii. the date(s) by which controls were or will be installed at each Tank, provided that if controls were installed before January 14, 2000, the year of installation may be used; and

iii. predicted emission reductions at each Tank that will install controls hereunder.

e. The controls identified in Annex A were either specified in APPENDIX I to the Program notice (Acceptable Controls for Tanks with Slotted Guidepoles Under the Storage Tank Emission Reduction Partnership Program), attached hereto and incorporated by reference herein, or expressly determined by EPA to be acceptable for purposes of the Storage Tank Emission Reduction Partnership Program under Appendix I-2.

f. The predicted emission reductions reflected in Annex A were calculated and derived through the proper use of either EPA's TANKS software (version 3.1 or later) or an alternative methodology expressly determined to be acceptable for this purpose by EPA.

g. The undersigned is a duly authorized representative of Participating Company, with full powers to make these representations, enter into this Agreement and bind Participating Company to the terms hereof.

(b). The undersigned EPA representative is authorized to enter into this Agreement and bind EPA to the terms hereof.

Participating Company Undertakings

3. Participating Company shall install slotted guidepole controls on Tanks identified in Annex A as expeditiously as possible (e.g., when the Tank is next taken out of service) but not later than:

a. Twenty-six (26) months after issuance of the Program notice; or

b. One hundred and twenty months (120) of the Program notice if a Tank must be taken out of service in order to instal such controls, provided Annex A describes why such Tank(s) must be taken out of service and either identifies the date(s) by which appropriate interim controls will be installed (i.e., a self-aligning float equipped with at least one wiper seal gasket that is maintained at or above the height of the pole wiper) or describes why such Tank(s) must be taken out of service in order to instal interim controls.

4. Participating Company shall properly operate and maintain all slotted guidepole controls required under Paragraph 3 in the manner specified in Attachment 1 and shall include such controls and this requirement

⁴ A slotted guidepole is a guidepole (or gaugepole) that has slots or holes through the wall of the pole. The slots or holes allow the stored liquid to flow into the pole at liquid levels above the lowest operating level.

in federally enforceable permits issued by appropriate permitting authorities.

5. Participating Company shall not seek or obtain emission reduction credits for emission reductions that result from installing slotted guidepole controls under Paragraph 3 or from the work required under Paragraph 4 of this section, nor shall it use such reductions to offset or net against other emission increases in any permitting or enforcement action required by or taken pursuant to state or federal law.

6. Participating Company agrees and by entering into this Agreement consents to EPA's issuance of an order under and as specified in Paragraph 9.

EPA Undertakings

7. Compliance with the requirements set forth herein, including Paragraphs 3–6, shall be deemed and will, therefore, constitute full settlement and satisfaction by EPA of those violations of the Standards of Performance for New Sources, Subparts Ka and Kb, that could be or could have been alleged in civil actions or proceedings brought by EPA or the United States concerning Participating Company's use of slotted guidepoles at Tanks identified in Annex A.

8. Within sixty (60) days of its receipt of this Partnership Agreement, EPA will promptly review and either sign and return a fully executed copy of that Agreement to Participating Company or identify deficiencies in Annex A. If deficiencies identified by EPA are not corrected and a revised Annex A is not submitted within thirty (30) days of Participating Company's receipt of such identification by EPA, Participating Company's opportunity to participate under the Storage Tank Emission Reduction Partnership Program shall then cease and all its rights, expectations, obligations and undertakings (if any) under that program and this Agreement shall terminate and be deemed a nullity.

9. If and after EPA executes this Agreement as specified in Paragraph 8, it will issue an order to Participating Company in the form provided at Attachment 2.

Publicity

10. Participating Company may publicize that it is partnering with EPA under the Storage Tank Emission Reduction Partnership Program.

11. Upon request, EPA will recognize and acknowledge Participating Company's participation under this Partnership Program and/or industry's leadership and assistance in identifying controls for slotted guidepoles.

Access and Inspection

12. Without prior notice, any authorized representative of EPA (including a designated contractor), upon presentation of credentials where Tanks are located, may enter such location(s) at reasonable times to determine compliance with the requirements, terms and conditions of this Agreement. To make such a determination, EPA's authorized representative(s) shall have full and complete access to inspect, photograph, or videotape any Tank and to copy such records related to Participating Company's undertakings under this Agreement that EPA's representative(s) may deem necessary,

provided such is consistent with EPA's authority under applicable laws, permits and regulations. Access under this Paragraph is subject to the normal health and safety requirements in effect at such locations. This Paragraph is in addition to, and not in limitation of, EPA's authority to investigate, inspect or enter premises pursuant to applicable laws, permits and regulations.

Force Majeure

13. If any event occurs that causes or may cause a delay in Participating Company's compliance with Paragraphs 3 or 4 of this Agreement, Participating Company shall notify EPA within thirty (30) days after Participating Company becomes aware of such event. This notice shall reasonably describe the anticipated length of the delay, the reason(s) for the delay, measures Participating Company has taken and will take to prevent or minimize the delay, and the timetable by which these measures have been or will be implemented. Increased costs or expenses associated with the implementation of this Agreement shall not be the sole or primary basis for a change in its terms or an extension of time. Participating Company shall adopt reasonable measures to avoid or minimize any such delay.

14. If the parties agree that the delay or anticipated delay in compliance with Paragraph 3 of this Agreement has been or will be caused by circumstances beyond the reasonable control of Participating Company and its contractors as under Paragraph 20, the time for performance hereunder shall be extended for a period no longer than the length of the delay caused by such circumstances. The parties shall also then seek to agree on the period of such extension as under Paragraph 20, but if they cannot so agree, the determination by EPA shall control unless Participating Company invokes the formal Dispute Resolution provisions of Paragraph 21.

15. If EPA determines that such delay, anticipated delay or any identified portion thereof was caused by circumstances within the reasonable control of Participating Company and its contractors, Participating Company shall be in breach of this Agreement and subject to stipulated noncompliance penalties as set forth in Paragraph 16 unless Participating Company invokes the Dispute Resolution provisions of this Agreement (Paragraphs 20–21).

Stipulated Noncompliance Penalties

16. If Participating Company fails to comply with the requirements of Paragraphs 3 (including Annex A), 4 or 5, it shall pay up to \$1,000 per day for the first thirty (30) days of noncompliance and up to \$2,500 per day for each day of noncompliance thereafter until compliance is demonstrated. Stipulated penalties are to be determined for each Tank, provided that stipulated penalties for all noncompliance occurring on the same day shall not exceed \$10,000 per facility at which such noncompliance exists or occurs and \$25,000 per participating company. Payment of stipulated penalties shall be by cashier's check, certified check or wire transfer, payable to "Treasurer, United States of America" and delivered to EPA.

17(a). If any noncompliance with Paragraphs 3, 4 or 5 is discovered by Participating Company, it shall so notify EPA and provide a written statement describing such noncompliance by the last day of the month following the month in which such noncompliance was identified by Participating Company.

(b). If any noncompliance with Paragraphs 3, 4 or 5 is discovered by EPA, it shall so notify Participating Company and there describe such noncompliance.

18. After an opportunity to informally resolve issues under Paragraph 20, EPA will demand payment of such stipulated penalties as it determines are appropriate under the circumstance and permitted under Paragraph 16. Stipulated penalties shall be paid by the last day of the month following the month in which such demand is made unless Participating Company invokes the formal Dispute Resolution provisions of Paragraph 21.

19. For any noncompliance that is or could be subject to stipulated noncompliance penalties hereunder, EPA expressly reserves the right to seek any other relief to which it may be entitled under law, including but not limited to specific performance of this Agreement, injunctive relief under the Act and such other relief as may be available under any federal statute or the common law.

Dispute Resolution

20. *Informal.* If Participating Company disputes any determination made by EPA pursuant to Paragraphs 14–15 (Force Majeure), Paragraph 18 (Stipulated Noncompliance Penalties), Paragraphs 32–33 (Termination) or Appendix I (Alternate Control Technologies) but only if such alternate was requested by Participating Company, it shall send a written notice to EPA outlining the nature of the dispute/ disagreement and requesting informal negotiations to resolve the dispute. Such period of informal negotiations shall not extend beyond thirty (30) days from the date when the notice was received unless the parties expressly agree otherwise in writing.

21. *Formal.* If informal negotiations are unsuccessful, either party may request and both parties shall then attempt to reach agreement on a process and procedure for resolving the dispute by formal means using a neutral third party. Such process and procedures may include, but need not be limited to, mediation, nonbinding arbitration and binding arbitration (but only if and to the extent binding arbitration is then authorized and expressly permitted by EPA policy and the Administrative Dispute Resolution Act of 1996). If an agreement on process and procedure is not reached within sixty (60) days from the date notice was received under Paragraph 20 or as otherwise provided in this Agreement, either party may then assert whatever rights they may have hereunder in an appropriate federal court.

Notification

22. All notices, records and submissions required under this Agreement shall be maintained where each Tank is located or where such Tank's records are normally maintained, provided they can be made

available by facsimile (or otherwise) upon request during an inspection under Paragraph 12.

23. All notices, submissions and certifications required of Participating Company under this Agreement shall be in writing and postmarked or hand delivered to: U.S. Environmental Protection Agency, Storage Tank Emission Reduction Partnership Program, Air Enforcement Division—Station Source Enforcement Branch, Mail Code 2242A, Washington, DC 20460.

All notices required of EPA and all EPA determinations under this Agreement shall be in writing and postmarked or hand delivered to:

24. Upon completion of its obligations and undertakings under this Agreement, Participating Company shall provide a written certification of its compliance with this Agreement to EPA, including a description of the work performed under Paragraph 3, the date such work was completed and an identification of such permit(s) that were or will be issued under Paragraph 4. Such certification shall be signed by a responsible official and contain the following language:

I certify under penalty of law that the information contained in and accompanying this document (if applicable) is true, accurate, and complete to the best of my knowledge, information and belief after reasonable inquiry.

For purposes of this Paragraph, a "responsible official" means the president, secretary, treasurer, or a vice-president of Participating Company, its senior management representative(s) where such Tanks are located, or any person who performs similar policy or decision-making functions for Participating Company.

Miscellaneous Provisions

25. Participating Company agrees to accept service from EPA by mail with respect to all matters relating to or arising under this Agreement at the address listed below (if different from Paragraph 23):

EPA agrees to accept service from Participating by mail with respect to all matters relating to or arising under this Agreement at the address listed below (if different from Paragraph 23):

26. Annex A of this Participation Agreement may be modified only if EPA and Participating Company agree and consent to such modification in writing.

27. This Agreement does not modify or affect in any way Participating Company's responsibility to achieve and maintain compliance with all other applicable federal, state and local laws, regulations and permits.

28. Each party shall bear its own costs, attorney's fees and disbursements in this matter.

29. This document, including its attached Annex A, Appendix I and Attachments 1 and 2, encompasses the entire agreement of the parties with respect to the subject matter hereof and totally supersedes all prior agreements and understandings, whether oral or in writing.

Termination

30. When Participating Company has complied with Paragraph 3, is in compliance with Paragraph 4 and has certified compliance under Paragraph 24, Participating Company may notify EPA of its intent to terminate this Agreement. EPA may object to such termination only on the grounds that Participating Company has not complied with this Agreement.

31. If EPA does not object to Participating Company's notice of intent to terminate, this Agreement will terminate ninety (90) days after the date of EPA's receipt of such notice of intent to terminate. Notwithstanding such termination of this Participation Agreement, the obligations of Paragraphs 3, 4, 5 and 7 shall continue indefinitely.

32. If EPA objects to Participating Company's notice of intent to terminate, it must do so in writing within sixty (60) days of its receipt of such notice. If EPA objects to Participating Company's notice of intent to terminate, Participating Company may invoke the Dispute Resolution provisions of this Agreement (Paragraphs 20–21). In resolving any dispute regarding termination of this Agreement, Participating Company shall have the burden of proving that it is, was and has been in compliance with this Agreement.

33. If EPA determines that Participating Company is in material breach of this Agreement (e.g., evinces a pattern and practice of noncompliance with its terms and conditions), it shall give notice of such breach and may give notice of its intent to terminate this Agreement. If Participating Company objects to EPA's determination and/or notice of intent to terminate, Participating Company may invoke the Dispute Resolution provisions of this Agreement (Paragraphs 20–21). If then terminated, Participating Company's opportunity to participate under the Storage Tank Emission Reduction Partnership Program shall then cease and all its rights, expectations, obligations and undertakings (if any) under that program and this Agreement shall terminate and be deemed a nullity.

Reservation of Rights

34. By entering into the Agreement, EPA understands that Participating Company neither agrees nor concedes that its use of slotted guidepoles without the controls specified in Appendix I violate or violated any Clean Air Act requirement. Similarly, Participating Company understands that EPA neither agrees nor concedes that Participating Company's prior use of slotted guidepoles without such controls was acceptable or excused in any way or on any basis whatsoever. With respect to any tank(s) other than a Tank identified in Annex A, each

party reserves all rights they may have to contest or otherwise litigate any issue arising out of any use of slotted guidepoles.

Effective Date

35. This Participation Agreement shall be effective when signed by both Participating Company and EPA.

By _____
[Participating Company]

Date: _____

By: _____

U.S. Environmental protection agency.

Date: _____

Attachment 1

Operating and Maintenance Requirements for Slotted Guidepole Controls Under the Storage Tank Emissions Reduction Partnership Program

The sliding cover shall be in place over the slotted-guidepole opening through the floating roof at all times except when the sliding cover must be removed for access. If the control technology used includes a guidepole float, the float shall be floating within the guidepole at all times except when it must be removed for access to the stored liquid or when the tank is empty.

Visually inspect the deck fitting for the slotted guidepole at least once every 10 years and each time the vessel is emptied and degassed. If the slotted guidepole deck fitting or control devices have defects, or if a gap of more than 0.32 centimeters (1/8 inch) exists between any gasket required for control of the slotted guidepole deck fitting and any surface that it is intended to seal, such items shall be repaired before filling or refilling the storage vessel with regulated material.

Tanks taken out of hydrocarbon service, for any reason, do not have to have any controls in place during the time they are out of service.

Attachment 2

Form Compliance Order

United States Environmental Protection Agency

In the Matter of: [Participating Company] Respondent.

Storage Tank Emission Reduction Partnership Program, Agreement No. ____

Findings and Order

Pursuant to Section 113(a)(3) of the Clean Air Act ("CAA"), consistent with the Storage Tank Emission Reduction Partnership Agreement identified above and entered into between the United States Environmental Protection Agency ("EPA") and Respondent, and based upon available information, EPA hereby makes and issues the following Findings and Order:

Findings

1. Respondent is a Participating Company under above-identified Storage Tank Emission Reduction Partnership Agreement.

2. EPA promulgated New Source Performance Standards ("NSPS") for Petroleum Liquid Storage Vessels and for Volatile Organic Liquid Storage Vessels, appearing in 40 CFR Part 60, Subparts Ka and Kb.

3. Respondent owns or operates certain "affected facilities" under NSPS Subpart Ka and/or Kb that have or had floating roofs with slotted guidepoles, as identified in Annex A.

Order

4. Respondent shall install, maintain and operate properly those controls specified in Annex A by the date(s) there indicated and shall include or seek to include such controls and this requirement in federally enforceable permits issued by appropriate permitting authorities.

5. Respondent shall not seek or obtain emission reduction credits for emission reductions that result from its compliance with this order, nor shall it use such reductions to offset or net against other emission increases in any permitting or enforcement action required by or taken pursuant to state or federal law.

6. Pursuant to Section 113(a) of the CAA, failure to comply with this Order may lead to a civil action to obtain compliance or an action for civil or criminal penalties.

Issued this _____ day of _____, 2000.

U.S. Environmental Protection Agency.

Appendix III

Storage Tank Emission Reduction Partnership Certification and Agreement

CERTIFICATION

_____ ("Participating Company"), by _____, a responsible corporate official of Participating Company, certifies that:

1. Participating Company notified the United States Environmental Protection Agency ("EPA") of its intent to participate in the Storage Tank Emission Reduction Partnership Program within 60 days of the Program notice announced at [insert FR page citation (April 13, 2000)].

2. Participating Company assessed and evaluated all of its NSPS Subpart Ka and Kb affected facilities¹ that are subject to equipment design requirements² and that have slotted guidepoles³ (hereinafter referred to as "Tanks") at each facility/location identified in Annex A.

3. Annex A (attached hereto and incorporated by reference herein) is a true, accurate and complete identification of:

- i. each Tank; and
- ii. the year in which controls were installed at each Tank; and

¹ NSPS Subpart Ka affected facilities are petroleum liquid storage vessels with a capacity of greater than 40,000 gallons that were constructed, reconstructed or modified after May 18, 1978, 40 CFR 60.110a; NSPS Subpart Kb affected facilities are volatile organic liquid storage vessels with a capacity of greater than 40 cubic meters that were constructed, reconstructed or modified after July 23, 1984, 40 CFR 60.110b.

² The equipment design requirements for floating roof tanks apply only to certain NSPS Subpart Ka and Kb affected facilities. See 40 CFR 60.112a and 60.112b.

³ A slotted guidepole is a guidepole (or gaugepole) that has slots or holes through the wall of the pole. The slots or holes allow the stored liquid to flow into the pole at liquid levels above the lowest operating level.

4. The controls identified in Annex A were either specified in APPENDIX I to the Program notice (Acceptable Controls for Tanks with Slotted Guidepoles Under the Storage Tank Emission Reduction Partnership Program), attached hereto and incorporated by reference herein, or expressly determined by EPA to be acceptable for purposes of the Storage Tank Emission Reduction Partnership Program under APPENDIX I-2.

I certify under penalty of law that the foregoing and the attached, including Annex A, is true, accurate, and complete to the best of my knowledge, information and belief after reasonable inquiry.

[NAME]

[TITLE]

Agreement

The United States Environmental Protection Agency ("EPA") and _____ ("Participating Company"), the parties herein, desire to enter into and be bound by the terms of this Storage Tank Emission Reduction Partnership Agreement ("Partnership Agreement" or "Agreement").

Whereas Participating Company recognizes that reducing emissions from tanks and other storage vessels with slotted guidepoles¹ can improve air quality while reducing evaporative product losses.

Whereas Participating Company is committed to environmental improvement and the cost-effective reduction of emissions.

Whereas EPA recognizes the value of cooperative emission reduction programs with industry.

Whereas Participating Company desires to participate in the Storage Tank Emission Reduction Partnership Program announced by EPA at 65 FR [insert 1st page number of FR this notice appears in] (April 13, 2000) (hereinafter referred to as "Program notice").

Whereas Participating Company certified that it had complied with the requirements of the Storage Tank Emission Reduction Partnership Program.

Now, therefore, in consideration of the above and the mutual undertakings of each to the other, EPA and Participating Company agree as follows:

Applicability

1. The provisions of this Partnership Agreement shall apply to and be binding upon EPA and upon Participating Company, its officers, directors, agents, servants, employees, successors and assigns. Participating Company shall give notice of this Agreement to any successor in interest prior to the transfer of any ownership interest in any tank identified in Annex A.

Representations

2(a). Participating Company represents that:

¹ A guidepole (also referred to as a gaugepole, gauge pipe or stilling well) is a vertically oriented pipe or tube that is affixed to a tank and that passes through its floating roof. Slotted guidepoles are guidepoles with slots or holes that allow stored liquids to flow into the pole, thereby enabling representative samples to be collected from within the slotted guidepole.

a. Participating Company's Certification was made by a "responsible official" (i.e., the president, secretary, treasurer, or a vice-president of Participating Company, Participating Company's senior management representative(s) where such Tanks are located, or any other person who performs similar policy or decision-making functions for Participating Company.

b. The undersigned is a duly authorized representative of Participating Company, with full powers to make these representations, enter into this Agreement and bind Participating Company to the terms hereof.

(b). The undersigned EPA representative is authorized to enter into this Agreement and bind EPA to the terms hereof.

Participating Company Undertakings

3. Participating Company shall properly operate and maintain all slotted guidepole controls identified on Annex A in the manner specified in Attachment 1 and shall include such controls and this requirement in federally enforceable permits issued by appropriate permitting authorities.

4. Participating Company shall not seek or obtain emission reduction credits for emission reductions that result from installing slotted guidepole controls or from the work required under Paragraph 3 of this section, nor shall it use such reductions to offset or net against other emission increases in any permitting or enforcement action required by or taken pursuant to state or federal law.

EPA Undertakings

5. Compliance with the requirements set forth herein shall be deemed and will, therefore, constitute full settlement and satisfaction by EPA of those violations of the Standards of Performance for New Sources, Subparts Ka and Kb, that could be or could have been alleged in civil actions or proceedings brought by EPA or the United States concerning Participating Company's use of slotted guidepoles at Tanks identified in Annex A.

6. Within sixty (60) days of its receipt of this Partnership Agreement, EPA will promptly review and either sign and return a fully executed copy of that Agreement to Participating Company or identify deficiencies in Annex A. If deficiencies identified by EPA are not corrected and a revised Annex A submitted within thirty (30) days of Participating Company's receipt of such identification by EPA, Participating Company's opportunity to participate under the Storage Tank Emission Reduction Partnership Program shall then cease and all its rights, expectations, obligations and undertakings (if any) under that program and this Agreement shall terminate and be deemed a nullity.

Miscellaneous Provisions

7. Participating Company agrees to accept service from EPA by mail with respect to all matters relating to or arising under this Agreement at the address listed below:

8. Annex A of this Participation Agreement may be modified only if EPA and Participating Company agree and consent to such modification in writing.

9. This Agreement does not modify or affect in any way Participating Company's responsibility to achieve and maintain compliance with all other applicable federal, state and local laws, regulations and permits.

10. Each party shall bear its own costs, attorney's fees and disbursements in this matter.

11. This document, including its Annex A, encompasses the entire agreement of the parties with respect to the subject matter hereof and totally supersedes all prior agreements and understandings, whether oral or in writing.

Reservation of Rights

12. By entering into the Agreement, EPA understands that Participating Company neither agrees nor concedes that its use of slotted guidepoles without the controls specified in Appendix I violate or violated any Clean Air Act requirement. Similarly, Participating Company understands that EPA neither agrees nor concedes that Participating Company's prior use of slotted guidepoles without such controls was acceptable or excused in any way or on any basis whatsoever. With respect to any tank(s) other than a Tank identified in Annex A, each party reserves all rights they may have to contest or otherwise litigate any issue arising out of any use of slotted guidepoles.

Effective Date

13. This Participation Agreement shall be effective when signed by both Participating Company and EPA.

By: _____
[Participating Company]

Date: _____

By: _____
U.S. Environmental Protection Agency

Date: _____

Attachment 1

Operating and Maintenance Requirements for Slotted Guidepole Controls Under the Storage Tank Emissions Reduction Partnership Program

The sliding cover shall be in place over the slotted-guidepole opening through the floating roof at all times except when the sliding cover must be removed for access. If the control technology used includes a guidepole float, the float shall be floating within the guidepole at all times except when it must be removed for access to the stored liquid or when the tank is empty.

Visually inspect the deck fitting for the slotted guidepole at least once every 10 years and each time the vessel is emptied and degassed. If the slotted guidepole deck fitting or control devices have defects, or if a gap of more than 0.32 centimeters (1/8 inch) exists between any gasket required for control of the slotted guidepole deck fitting and any surface that it is intended to seal, such items shall be repaired before filling or refilling the storage vessel with regulated material.

Tanks taken out of hydrocarbon service, for any reason, do not have to have any controls

in place during the time they are out of service.

[FR Doc. 00-9091 Filed 4-12-00; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6578-7]

Lyman Dyeing and Finishing Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement for the partial reimbursement of past response costs with Springs Industries, Inc. pursuant to section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(h)(1) concerning the Lyman Dyeing and Finishing Superfund Site (Site) located in Lyman, Spartanburg County, South Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4, (WMD-CPSB), 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562-8887. Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: March 29, 2000.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 00-9237 Filed 4-12-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92-237; DA 00-734]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 7, 2000, the Commission released a public notice announcing the April 25 and 26, 2000,

meeting and agenda of the North American Numbering Council (NANC). For reasons described below, a portion of the meeting will be closed to the public on Wednesday, February 23, from 8:30 a.m. until 11 a.m. The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes at (202) 418-2320 or jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, S.W., Suite 6A320, Washington, DC 20554. The fax number is: (202) 418-2345. The TTY number is: (202) 418-0484.

SUPPLEMENTARY INFORMATION: Released: April 7, 2000.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, April 25, 2000, from 8:30 a.m. until 5:00 p.m., and on Wednesday, April 26, from 8:30 a.m. until 12 noon. The meeting will be held at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW, Room TW-C305, Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda—Tuesday, April 25, 2000

1. Approval of March 21-22, 2000 meeting minutes.
2. Review FCC Numbering Resource Optimization Report and Order and Further Notice of Proposed Rulemaking, CC Docket 99-200, released March 31, 2000.

A. NANC action items: Uniform definitions for secondary categories of number usage within 120 days (paragraphs 14 and 36). Work with NANP administration to develop reporting form within 15 days